

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

**BUDGET COMMITTEE ON GOVERNMENT SERVICES**

Wednesday and Thursday, September 21-22, 2005

Cass County Jail, Fargo, North Dakota

James River Correctional Center and State Hospital, Jamestown, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 10:00 a.m. at the Cass County Jail in Fargo.

**Members present:** Representatives Al Carlson, Randy Boehning, Ron Carlisle, Kari Conrad, Duane DeKrey, Jeff Delzer, Glen Froseth, Eliot Glassheim, Bette B. Grande, Joe Kroeber, Ralph Metcalf, Darrell D. Nottestad, Blair Thoreson, Dave Weiler, Alon C. Wieland; Senators Duaine C. Espgaard, Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Stanley W. Lyson, Dave Nething

**Members absent:** Representatives James Kerzman, Ken Svedjan

**Others present:** John O. Syverson, State Senator, Fargo

Donald L. Clark, State Representative, Fargo  
Ronald A. Iverson, State Representative, Fargo  
See Appendix A for additional persons present.

**It was moved by Representative Grande, seconded by Representative Carlisle, and carried on a voice vote that the minutes of the August 25, 2005, meeting be approved as distributed.**

**NORTH DAKOTA ASSOCIATION OF COUNTIES - SURVEY OF COUNTY JAIL FACILITIES**

At the request of Chairman Carlson, Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, presented information regarding county responses to a survey of county jail facilities conducted by the Association of Counties, including information on capacities, populations, treatment programs, future expansion plans, and the ability to contract for state or federal inmates. A copy of the information presented is on file in the Legislative Council office. Mr. Traynor said the Association of Counties prepared the survey and requested each county and multicounty jail to complete it; however, data from the Dakota Women's Correctional and Rehabilitation Center in New England is not included in the analysis.

Mr. Traynor said North Dakota's 53 counties collectively operate 26 jails--15 jails are classified as Grade 1 facilities which can house prisoners up to 1 year, 8 jails are classified as Grade 2 facilities which can house prisoners up to 30 days, and 3 jails are

classified as Grade 3 facilities which can house prisoners up to 96 hours. He said the 26 jails have bed space for a total of 1,099 adult prisoners and that on August 31, 2005, there were 959 prisoners incarcerated, of which 85 percent were males. He said although there were 140 beds available in county jails on August 31, 2005, many of the facilities were essentially full when considering that those 140 beds are spread throughout the state and when factoring in the classification requirements provided in North Dakota Century Code (NDCC) Section 12-44.1-09. He said the county jail system is running close enough to capacity that significant time and expense is devoted to shifting inmates among the facilities.

Mr. Traynor said the Department of Corrections and Rehabilitation has contracts to house state inmates with 10 Grade 1 facilities and 5 Grade 2 facilities; however, the time limitations on Grade 2 facilities to house prisoners greatly limits their use by the department. He said the 15 Grade 1 facilities in the state manage a total of 971 beds for adult prisoners and that on August 31, 2005, a total of 894 of those beds were occupied. Mr. Traynor said the annual average usage of Grade 1 facility beds over the past year was 74 percent (720 beds) for county prisoners, approximately 5 percent (45 beds) for state-contracted prisoners, approximately 14 percent (130 beds) for federal agency prisoners, and the remaining 7 percent (76 beds) were unoccupied. He said the survey results indicated that currently there is little existing capacity for expanded state contracts with county jails to house state inmates and the relatively low reimbursement rate offered by the state discourages counties from dedicating bed space that could possibly be used for county needs or federal prisoners that result in higher reimbursement rates.

Mr. Traynor said several county correctional facilities have plans for expansion as follows:

Facility	Proposed Plan	Status/ Construction Dates
Pierce County	New 129-bed regional jail to replace 8 beds	June 2005- November 2006
Grand Forks County	New 228-bed county jail to replace 86 beds	June 2005- November 2006
Cass County	96-bed expansion to existing facility	May 2006- June 2007

Facility	Proposed Plan	Status/ Construction Dates
Barnes/south-east counties	New 80-bed regional jail to replace 30 beds	Spring 2006- Spring 2007
Williams County	New 100-bed regional jail to replace 37 beds	Citizen vote scheduled for November 2006
McLean County	New county jail to replace old jail	Initial community meetings
Burleigh County	Add bed capacity	Planning proposal

Mr. Traynor said by the end of the 2005-07 biennium, the new jail construction projects for Pierce and Grand Forks Counties and the jail addition to Cass County will result in a net increase of 359 beds, which are tentatively anticipated to be used for county prisoners (160 beds), state prisoners (25 beds), and state treatment placements (40 beds) at Pierce County; federal prisoners (70 beds); and additional beds for future growth in Cass and Grand Forks County facilities (64 beds).

Mr. Traynor said county jail administrators and sheriffs expressed concerns regarding rising medical costs. He said most administrators have also experienced difficulty in complying with the legislative restrictions on the distribution of prescription and over-the-counter medications to inmates. He said another concern of administrators is the length of time between arrest and final disposition for felony offenders which results in state prisoners being housed at county facilities at the county's expense for long periods of time.

In response to a question from Representative DeKrey, Mr. Traynor said he will provide information to the committee regarding the legislation that requires the dispensing of medications to inmates to be done by a registered nurse or a doctor.

In response to a question from Senator Krauter, Mr. Traynor said the federal contracts vary between the different county facilities and he will provide information to the committee regarding the services provided to inmates under the federal contracts.

In response to a question from Representative Kroeber, Mr. Traynor said he will provide information to the committee regarding the security levels for the new beds that are being added at county facilities.

In response to a question from Representative Delzer, Mr. Traynor said he will provide information to the committee regarding the construction costs for the new county correctional facilities being built and whether the projects are on time and on budget.

**CASS COUNTY JAIL**

At the request of Chairman Carlson, Ms. Bonnie Johnson, Cass County Coordinator, presented information regarding the Cass County Jail facilities. A copy of the information presented is on file in the Legislative Council office.

Ms. Johnson introduced Cass County Commissioners Vern Bennett, Robyn Sorum, and Ken Pawluk who were present at the meeting.

Ms. Johnson said the new Cass County Jail, which opened on September 7, 2002, cost approximately \$18 million to build, with an additional \$1 million for furniture, fixtures, and equipment. She said the funding for the new facility is from a half-cent sales tax increase that was implemented for up to four years. She said the Cass County Jail had 256 beds when it opened and that the design of the jail allows for expansion to a total of 600 beds. She said a 96-bed expansion project will begin in spring 2006 consisting of the addition of two 48-bed pods. She said the addition will cost approximately \$4.2 million and the additional 96 beds will be minimum security beds.

In response to a question from Representative Froseth, Ms. Johnson said the cost for a maximum security pod, or 48 beds, at the time the Cass County Jail was constructed was approximately \$5 million.

In response to a question from Senator Krauter, Ms. Johnson said she will provide the committee with the salary schedule for the Cass County correctional officers.

In response to a question from Senator Krauter, Ms. Johnson said the Cass County Jail has 10 beds for federal prisoners at the daily rate of \$60 per day and the jail does not provide many treatment programs for inmates.

Chairman Carlson called on Mr. Glenn Ellingsberg, Cass County Jail Administrator, to present information regarding the Cass County Jail facilities. A copy of the information presented is on file in the Legislative Council office. Mr. Ellingsberg said the average daily inmate population at the jail for 2005 to date is 210 inmates. He said as of September 21, 2005, there were 244 inmates at the jail, of which 39 were females. He said the jail has contracts to house federal prisoners at a current rate of \$50 per day which will be increasing to \$60 per day as of October 1, 2005. He said from 2002 through 2004, the top three offenses committed by prisoners at the jail were drug-related offenses, driving under suspension, and driving under the influence. He said some programs available to the inmates at the jail include general educational development (GED) classes, Alcoholics Anonymous, and counseling services.

Mr. Ellingsberg said reasons the Cass County Jail does not contract with the Department of Corrections and Rehabilitation to house state inmates include that the state's daily rate of \$50 per day is not enough to cover the actual housing costs and the county would be responsible for the first \$150 of medical expenses per inmate per month. He said reasons why the jail contracts to house federal inmates include that the federal contracts guarantee a set daily rate for three years, federal agencies are responsible for all medical costs, and federal agencies provide transportation for the federal inmates.

Mr. Ellingsberg said the following are suggestions that he believes the Legislative Assembly should consider:

- Appropriate funds to provide local access to programs offered by the Department of Corrections and Rehabilitation.
- Provide interactive video for state inmates' court appearances.
- Encourage and provide incentives for state agencies to work with local jails to provide services for inmates.
- Provide funds for the actual costs of housing inmates.
- Decriminalize most driving under suspension offenses.
- Provide additional funds for housing, treatment, and counseling of drug, mental health, and co-occurring disorders.

In response to a question from Senator Krauter, Mr. Ellingsberg said he believes that the Legislative Assembly should change the maximum time allowed for which mental health assistance can be provided to inmates by local mental health agencies from 90 to 365 days.

Senator Krauter requested the committee receive a presentation at a future meeting from representatives of the Department of Human Services and the Department of Corrections and Rehabilitation regarding mental health services provided to inmates by local mental health agencies.

In response to a question from Representative Carlisle, Mr. Ellingsberg said as of September 21, 2005, 41 of the 244 inmates at the Cass County Jail are parole violators that are waiting to be transferred to a Department of Corrections and Rehabilitation facility.

In response to a question from Representative Conrad, Mr. Ellingsberg said the majority of the beds at the Cass County Jail are minimum security beds.

**COMMENTS BY LOCAL GOVERNMENT OFFICIALS**  
**Cass County State's Attorney**

Chairman Carlson called on Mr. Birch Burdick, Cass County State's Attorney, to provide comments relating to the committee's study of the Department of Corrections and Rehabilitation incarceration and correctional facility needs. Mr. Burdick said since January 1999, when he became the Cass County State's Attorney, the number of cases has increased by 50 to 60 percent and the number of drug-related cases has doubled in which methamphetamine-related cases have been the most significant reason for the increase. He said most of his drug-related cases are due to two drugs--marijuana and methamphetamine. He said that mandatory minimum sentences imposed on certain crimes is putting a strain on the Department of Corrections and Rehabilitation resources. He said a concern that he has as a

prosecutor relates to the amount of a prison sentence that an offender actually serves in prison. He said he is concerned that the State Penitentiary does not have room available to house the offenders that he is sentencing and that inmates will be released early to make room for new inmates.

Representative Carlson requested Mr. Burdick to provide written comments to the committee regarding his suggested changes to the state's sentencing and incarceration guidelines. Senator Krauter requested that Mr. Burdick include information on the financial impacts of his suggested changes when he submits them to the committee.

The committee recessed for lunch at the Cass County Jail from 11:55 a.m. to 1:00 p.m.

**Centre, Inc.**

At the request of Chairman Carlson, Mr. Keith Gilleshammer, Executive Director, Centre, Inc., presented information regarding the programs and services available through Centre, Inc. A copy of the information presented is on file in the Legislative Council office. Mr. Gilleshammer said Centre, Inc., is a North Dakota nonprofit correctional agency that was formed in the mid-1970s to assist the court and public agencies in providing community-based offender and client treatment services to establish halfway houses as a cost-effective intermediate sanction as well as an adjunct to parole and probation supervision. He said the role of Centre, Inc., has been to provide for public safety by offering specialized programs in the state that can effectively monitor and house offenders outside the institutions and jails. He said Centre, Inc., programming focuses on treating criminogenic behavior and thinking, with services tailored to offender needs. He said addiction programming is mandatory for substance-dependent individuals and vocational counseling, job training, and job placement are priority program objectives for all clients.

Mr. Gilleshammer said Centre, Inc., operates the following programs at the following locations:

Program	Locations
Residential living	Bismarck, Fargo, and Grand Forks
Electronic monitoring services	Bismarck, Fargo, and Grand Forks
Day reporting	Bismarck, Fargo, and Grand Forks
Anger management group	Bismarck, Fargo, and Grand Forks
Intensive outpatient chemical dependency treatment	Bismarck and Fargo
Chemical dependency aftercare	Bismarck and Fargo
Drug education	Bismarck and Fargo
Living skills groups (parenting, money management, and wellness)	Bismarck and Fargo
Social detoxification	Fargo
Drug intervention program	Fargo

Program	Locations
Cognitive restructuring group	Bismarck and Fargo
Misdemeanor probation	Bismarck area and surrounding communities
Community service program	Bismarck area

In response to a question from Senator Lyson, Mr. Josh Helmer, Director of Operations, Centre, Inc., said that Centre, Inc., provides services for approximately 600 individuals from the Department of Corrections and Rehabilitation every day. Mr. Helmer said there are approximately 70 to 75 individuals per day from the Department of Corrections and Rehabilitation that are in a Centre, Inc., residential living facility. He said the daily cost for an individual to stay in a residential living facility is approximately \$50 per day and the Department of Corrections and Rehabilitation is responsible for all medical costs for its residents while they are in the Centre, Inc., residential facility.

In response to a question from Senator Krauter, Mr. Gilleshammer said in addition to the Department of Corrections and Rehabilitation, other entities that contract with Centre, Inc., for programs and services include the Federal Bureau of Prisons, the federal court systems, human service centers, Cass County, Fargo Municipal Court, and West Fargo Municipal Court.

In response to a question from Representative Conrad, Mr. Gilleshammer said the Federal Bureau of Prisons contract rate with Centre, Inc., is \$83 per day and the daily rate paid by the Department of Corrections and Rehabilitation is between \$50 and \$65, depending on the program. Mr. Gilleshammer said one reason the federal daily rate is higher than the state daily rate is because of some federal government requirements, including minimum salary and benefit guidelines that the federal government reimburses to Centre, Inc.

In response to a question from Senator Kringstad, Mr. Gilleshammer said the average length of substance abuse treatment for Department of Corrections and Rehabilitation placements is 60 to 120 days. He said the length of treatment varies and federal judges can sentence an individual for up to 18 months.

In response to a question from Representative Delzer, Mr. Gilleshammer said the Centre, Inc., contract with the Department of Corrections and Rehabilitation is usually for a two-year period; however, the contract the Department of Corrections and Rehabilitation currently has with Centre, Inc., is only through March 2006.

In response to a question from Representative Metcalf, Mr. Gilleshammer said Centre, Inc., sets parameters related to the types of individuals it will admit into its programs. Mr. Gilleshammer said that Centre, Inc., has rules and regulations that residents must follow in order to stay in the programs.

In response to a question from Representative Glasheim, Mr. Gilleshammer said that Centre, Inc.,

has an outcome study to measure the success of its programs and he will provide a copy of the outcome study to the committee.

Mr. Gilleshammer said he believes the key items that are necessary for treatment to be successful include to have more community correction beds available, more treatment, and more long-term aftercare.

Representative Carlson requested Mr. Gilleshammer to provide any additional comments or recommendations he may have to the committee in writing.

### Valley City Commission

Chairman Carlson called on Mr. Jon Wagar, Valley City Commissioner, to present comments regarding the committee's study of the Department of Corrections and Rehabilitation incarceration and correctional facility needs. Mr. Wagar said he is the chairman of a jail exploration committee from Barnes County. He said the committee is considering a multicounty jail facility and has hired a consultant, completed a feasibility study, and a business plan. He said a six-entity consortium, consisting of Barnes, Steele, Griggs, Ransom, and Dickey Counties and the city of Valley City, has formed and has agreed to contribute money for a regional jail to be built in Valley City. Mr. Wagar said the regional jail committee would like input from the state and assurance that the facility would be able to house a certain percentage of the Department of Corrections and Rehabilitation inmates that are currently being housed in the private prison in Appleton, Minnesota. Mr. Wagar said the regional jail committee anticipates housing 35 state inmates at a rate of \$65 per day.

In response to a question from Representative Delzer, Mr. Wagar said the proposed regional facility is anticipated to have 80 beds--10 beds for federal prisoners, 35 beds for state inmates, and 35 beds for county inmates. He said the proposed facility will be a pod design so additional beds can be added as necessary.

In response to a question from Representative Delzer, Mr. Wagar said the anticipated daily rate of \$65 per state inmate does not include any treatment services.

In response to a comment from Senator Nething that the facility needs to be aware of state requirements and whether state prisoners would soon be available, Mr. Wagar said the regional jail committee would like to know what needs to be in place at the proposed facility so it will be qualified to house state inmates.

Representative Delzer said he believes the committee should receive information from the Department of Corrections and Rehabilitation regarding the state requirements necessary for other facilities to be eligible to house state inmates.

Representative Grande requested the Department of Corrections and Rehabilitation to provide the request for proposal for contract housing state female inmates at county facilities and review some of the issues relating to that request for proposal.

### **Grand Forks County Jail**

Chairman Carlson called on Mr. Gary Gardner, Administrator, Grand Forks County Jail, to present comments relating to the committee's study of the Department of Corrections and Rehabilitation incarceration and correctional facility needs. Mr. Gardner said Grand Forks County is currently building a new 228-bed facility with a pod design to replace its current 86-bed facility. He said the new facility is being constructed so it can be expanded in the future to house up to 800 prisoners. He said the cost of the project is approximately \$16 million which will be funded through revenue bonds. He said revenue the facility receives from housing federal prisoners will be used to pay the bonds. He said Grand Forks County does not currently have a contract with the Department of Corrections and Rehabilitation to house state inmates and the county is not interested in contracting for state inmates because the state's daily reimbursement rate is too low.

In response to a question from Representative DeKrey, Mr. Gardner said the Grand Forks County Jail usually houses between 15 and 35 federal inmates and he has not experienced any major problems with housing the federal inmates.

In response to a question from Representative Carlson, Mr. Gardner said as of October 1, 2005, the daily rates at the Grand Forks County Jail will be \$110 for federal prisoners and \$100 for county inmates.

In response to a question from Representative Nottestad, Mr. Gardner said the federal entities pay for all of their inmates' medical costs when housed at the Grand Forks County Jail.

### **Lake Region Law Enforcement Center**

At the request of Chairman Carlson, Mr. Dick Johnson, Administrator, Lake Region Law Enforcement Center, presented comments regarding the committee's study of the Department of Corrections and Rehabilitation incarceration and correctional facility needs. Mr. Johnson said the Lake Region Law Enforcement Center has a significant amount of contract inmates and approximately 75 percent of the center's income is from nonlocal funds. He said entities that the center contracts with to house inmates include the Federal Bureau of Prisons, the Department of Corrections and Rehabilitation, Bureau of Indian Affairs, Immigration and Naturalization Service, and the United States Marshal's office. He said the federal daily rates vary depending on the circumstances. He said the center houses federal juveniles for a rate of \$157 per day which requires a significant

amount of programming. He said the center receives between \$50 and \$60 per day for adult federal inmates, depending on the services provided, and receives \$50 per day for state inmates. He said the center is responsible for the first \$150 of medical expenses per month per inmate for state inmates.

Mr. Johnson said he suggests that the Department of Corrections and Rehabilitation should not have a "boilerplate" for contracting with county facilities because each facility has different costs and daily rates. He said the state should negotiate individual contracts with the different facilities in order to better meet the needs of the individual facilities.

Mr. Johnson said he believes it would be a good idea to form a committee consisting of individuals from the Department of Corrections and Rehabilitation and local jail administrators from across the state to present information to the Budget Committee on Government Services to work out the state's correctional issues and to clear up any misinformation that has been generated. For example, he said, the Department of Corrections and Rehabilitation does not house 100 inmates at Appleton, Minnesota, as was stated earlier during the meeting. The Department of Corrections and Rehabilitation only had 43 state inmates at Appleton as of September 21, 2005. Mr. Johnson said after the new correctional facility opens in Rugby during 2006 and contracts with the Department of Corrections and Rehabilitation to house state inmates, the state most likely will not need to contract with Appleton to house state inmates.

Senator Krauter said the information that the Department of Corrections and Rehabilitation distributed to the 2005 Legislative Assembly regarding its inmate population management plan shows that after the new correctional facility opens in Rugby, the department does not anticipate needing to contract with Appleton to house any state inmates. He said the Legislative Assembly appropriates a specific amount to the Department of Corrections and Rehabilitation to use for contract housing state inmates for a biennium which does not leave the department any room to negotiate local contracts at a daily rate higher than that which was included in the department's budget.

Representative Carlisle said he would like the committee to receive comments at a future meeting from a representative of the new regional correctional facility being constructed in Rugby.

### **STATUS OF THE REORGANIZATION OF THE DIVISION OF EMERGENCY MANAGEMENT INTO THE DEPARTMENT OF EMERGENCY SERVICES**

At the request of Chairman Carlson, Mr. Russ Timmreck, Director, Division of State Radio, Department of Emergency Services, presented information on the status of the reorganization of the

Division of Emergency Management into the Department of Emergency Services. A copy of the information presented is on file in the Legislative Council office. Mr. Timmreck said the Division of Emergency Management has been restructured to the Department of Emergency Services, pursuant to 2005 House Bill No. 1016, and a draft organizational chart has been completed which contains three elements that are mutually supportive and answer to the Adjutant General. He said an advisory committee has been formed which is comprised of 11 stakeholder members and is governed by an approved charter. He said the strategic planning model being used for the reorganization consists of the following components:

1. Mission.
2. Vision.
3. Business operational base.
4. Strengths, weaknesses, opportunities, and threats.
5. Goals.
6. Objectives (action plans).
7. Systems.
8. Processes.
9. Communications infrastructure.
10. Values.

Mr. Timmreck said the department's goal for the reorganization is to organize an advisory committee that has the widest and largest possible cross section of representation in the state. He said the stakeholders include:

- Public Works Association.
- INFRAGARD.
- Department of Emergency Services Advisory Committee.
- Mobile Command Committee.
- Legislative budget committee.
- Homeland Security Integration Committee.
- State and federal government agencies.
- Local and tribal governments/agencies.
- Public/nonprofit organizations.
- Department of Agriculture.
- Highway Patrol.
- Public health.
- Information Technology Department.
- Department of Transportation.
- Bureau of Criminal Investigation.
- Sheriffs/chiefs association.
- Peace officers association.
- Emergency medical.
- Fire association.
- Fire chiefs association.
- Emergency managers association.
- North Dakota Association of Counties.
- North Dakota League of Cities.
- North Dakota 911 Association.

Mr. Timmreck said the 11 members of the Department of Emergency Services Advisory Committee are:

Member Name	Organization
Chief Joel Boespflug	Bismarck Fire Department
Major General Michael Haugen	Adjutant General's office
Mr. Mark Johnson	North Dakota Association of Counties
Colonel Bryan Klipfel	Highway Patrol
Mr. Dean Lampe	North Dakota Emergency Medical Services Association
Mr. Mike Ressler	Information Technology Department
Chief Charles Rummell	Dickinson Police Department
Ms. Mary Senger	Burleigh County Emergency Management
Mr. Dan Smith	INFRAGARD
Ms. Connie Sprynczynatyk	North Dakota League of Cities
Mr. Tim Wiedrich	State Department of Health

Mr. Timmreck said the Department of Emergency Services is planning to report to the Budget Section during its December 15, 2005, meeting regarding the reorganization.

### CASS COUNTY JAIL TOUR

The committee viewed an informational video regarding the facilities at the Cass County Jail and conducted a tour of the Cass County Jail facilities.

The committee recessed at 3:20 p.m. and traveled to Jamestown.

### DEPARTMENT OF CORRECTIONS AND REHABILITATION

The committee reconvened at 9:00 a.m. on Thursday, September 22, 2005, at the James River Correctional Center in Jamestown.

At the request of Chairman Carlson, Mr. Dave Krabbenhoft, Director of Fiscal Affairs, Department of Corrections and Rehabilitation, presented information regarding the department's inmate population management plan. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said the estimated male inmate population growth rates are 5.62 percent for fiscal year 2006 and 5.67 percent for fiscal year 2007. He said the gross male inmate population estimate for the 2005-07 biennium begins with 1,237 inmates in July 2005 and increases to 1,388 inmates by June 2007. He said after taking into consideration the department's population adjustments, including short-term diversion and relapse programming, the net population estimates for male inmates are 1,198 in July 2005 and 1,262 in June 2007. He said the department has a total of 991 prison beds available at its facilities to house inmates for fiscal year 2006 and beginning in July 2006 the department's total number of prison beds increases to 1,011 due to the completion of a remodeling project at the James River Correctional Center which will convert kitchen pantries into dorm rooms for inmates. He said the

department's male inmate population management plan includes housing inmates in nontraditional beds, including treatment programs, assessment programs, and the Bismarck Transition Center, in addition to housing inmates in county jail facilities and in a private prison at Appleton, Minnesota. Mr. Krabbenhoft said the actual average male inmate population was 1,212 for July 2005, 1,221 for August 2005, and 1,233 for September 1-19, 2005.

Mr. Krabbenhoft said the estimated female inmate population growth rates are 5.60 percent for fiscal year 2006 and 5.61 percent for fiscal year 2007. However, he said, as of September 2005 the actual female inmate population growth rate has been higher than anticipated. He said the estimated female inmate population for July 2005 was 134 inmates and is estimated to increase to 151 inmates by June 2007. He said the department's female inmate population management plan anticipates housing all the state's female inmates between the Dakota Women's Correctional and Rehabilitation Center in New England, the Tompkins Rehabilitation and Correction Center in Jamestown, and in female transition programs located in Fargo and Bismarck. Mr. Krabbenhoft said the actual average female inmate population was 149 for July 2005, 154 for August 2005, and 155 for September 1-19, 2005.

In response to a question from Representative Nottestad, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation does not have a contract with the facility in Appleton, Minnesota, to house a certain number of inmates. He said the department pays Appleton on a per inmate basis.

In response to a question from Representative Carlson, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation has not yet signed a new contract with the Dakota Women's Correctional and Rehabilitation Center for the 2005-07 biennium. Mr. Krabbenhoft said the department is proposing a daily rate of \$89.41 per inmate. He said the medical expenses for the female inmates will be handled differently in the new housing contract because the department has begun to process the medical expenses for the female inmates at the Dakota Women's Correctional and Rehabilitation Center through the Department of Human Services so it will receive Medicaid rates. He said this should help to decrease the female inmate medical costs and will result in the elimination of the \$50,000 medical expense responsibility the Dakota Women's Correctional and Rehabilitation Center had in the 2003-05 biennium contract.

In response to a question from Representative Glassheim, Mr. Krabbenhoft said the main reason the female inmate housing costs are higher than the male inmate housing costs is because of the smaller facility and the lack of economies of scale.

Mr. Krabbenhoft also distributed information to the committee regarding the migration of the Field

Services Division DOCSTARS System to the State Penitentiary Offender Management System (ITAG). A copy of the information distributed is on file in the Legislative Council office.

At the request of Chairman Carlson, Mr. Patrick W. Foley, Director of Research and Program Evaluation, Department of Corrections and Rehabilitation, presented information regarding inmate populations and related crime statistics, recidivism trends, the number of inmates sentenced to the Department of Corrections and Rehabilitation with less than one year remaining in their sentence, and a history of inmate population projections. A copy of the information presented is on file in the Legislative Council office. Mr. Foley said the average daily inmate population for male inmates increased from 1,092 in calendar year 2003 to 1,173 for calendar year 2004. He said the average daily female inmate population increased from 106 in calendar year 2003 to 126 for calendar year 2004. Mr. Foley said that for calendar year 2004, the majority of both the male and female inmate populations were incarcerated due to drug- and alcohol-related offenses.

Mr. Foley said that very few jurisdictions measure recidivism exactly the same way and the federal government has not been successful in creating a standard methodology or definition. He said the definition of a recidivist in North Dakota is an inmate who is released from incarceration on probation, parole, or expiration of sentence and is returned to the Department of Corrections and Rehabilitation Prisons Division custody within three years of release because of a new offense. Mr. Foley said the recidivism rates for the years 1996 through 2001 are 18.7 percent for 1996, 21.3 percent for 1997, 17.5 percent for 1998, 22.6 percent for 1999, 25.1 percent for 2000, and 24.1 percent for 2001.

In response to a question from Senator Nething, Mr. Foley said the Department of Corrections and Rehabilitation uses three years in its definition of a recidivist because that is the generally accepted time period for recidivism and the majority of repeat offenders will reoffend within the first three years after their release.

In response to a question from Representative Conrad, Mr. Foley said he will provide information to the committee regarding recidivism rates for both male and female inmates.

Mr. Foley said for calendar year 2004, there were a total of 991 prison admissions. He said that 393 of the 991 total admissions had less than 365 days until their release date when they were admitted. He said of the 393 inmates admitted with less than one year to serve in their sentence, 68 were parole violators, 1 was a federal inmate, and 324 admissions were the result of cases from the state courts.

At the request of Chairman Carlson, Ms. Leann K. Bertsch, Director of Corrections, Department of Corrections and Rehabilitation,

presented information regarding the authority used to provide an early retirement payment to the former director of the department. A copy of the information presented is on file in the Legislative Council office. Ms. Bertsch said NDCC Section 54-23.3-03 provides that the Governor shall set the salary of the director for the Department of Corrections and Rehabilitation and the early retirement payment for the former director was directed and authorized by the Governor. She said further statutory authority to provide the early retirement payment to the former director is provided for in Sections 54-52-27 and 54-52-29, which provide for the purchase of sick leave credits and employer service purchases.

In response to a question from Representative Carlson, Ms. Bertsch said the funds for the early retirement payment made to the former director of the Department of Corrections and Rehabilitation came from the department's 2005-07 biennium budget.

Representative Delzer said although there was legal authority for the early retirement payment made to the former director, it was not the intent of the 2005 Legislative Assembly that funds appropriated to the department for the 2005-07 biennium be used for that purpose.

### Future Facility Needs

At the request of Chairman Carlson, Mr. Tim Schuetzle, Director, Prisons Division, Department of Corrections and Rehabilitation, presented information regarding recommendations for future facility needs for the department, including the number and type of beds needed and the recommended locations. A copy of the information presented is on file in the Legislative Council office. Mr. Schuetzle said he believes the committee needs to concentrate on the following three main issues during its study of the Department of Corrections and Rehabilitation and the future need for prison beds:

- What is the present value and expected usefulness of the existing physical plants versus constructing a new, all-encompassing prison to meet the future needs.
- Corrections is just one facet of the criminal justice system and in order to get control of incarceration costs to the state, the committee should be looking at the bigger picture. There could be changes made throughout the criminal justice system that would impact projected population growth and the need for future prison space. This committee needs to combine with members of both the executive and judicial branches of government to enact these changes.
- What is the cost benefit of privatizing corrections or building prisons as "economic development," considering the economies of scale, availability and cost of services, and the need

to maintain equity of services throughout the prison system.

Mr. Schuetzle said advantages of building a new 2,000-bed prison facility include:

- A new building design would be safer for both the inmates and the staff.
- Security staffing costs could likely be reduced due to new cellblock designs with improved site-lines.
- One facility for the entire state would have built-in economies of scale.
- A new facility would likely be more energy-efficient.
- The department would save transportation costs that are currently incurred due to the need to deliver and move inmates between the existing facilities.
- Sale of the existing land would help defray the cost of construction.

Mr. Schuetzle said a disadvantage to building a new 2,000-bed facility for both male and female inmates of all security levels would be the initial cost of construction, which is estimated to be approximately \$119 million. He said another disadvantage with building a new facility is that the three existing prison facilities still have usefulness and value. He said the condition of the prison buildings was thoroughly analyzed during the 2001 study conducted by Security Response Technologies, Inc., and that Volume III of the report illustrates that the state has invested over \$31 million in new construction and renovation in all three prison facilities over 20 years. He said the report states that "Each of the facilities is generally in good condition and can expect to provide useful service for the next fifteen to thirty years with reasonable care and maintenance being provided."

Mr. Schuetzle said a disadvantage to renovating the existing facilities is that older buildings will require more maintenance costs than a new building. He said if the renovation option is chosen, the state should consider adding additional bed space to the existing facilities to meet the need presented by the growing number of inmates and the east cellhouse and the administrative building at the State Penitentiary need to be replaced. He said an architectural study was completed during the 2003-04 interim which recommended a new 175-bed orientation/reception unit, a new 90-bed administrative segregation unit, the infirmary needs to be expanded and moved from the administrative building, and the east cellhouse should be demolished. He said this recommendation from the architect's study would cost approximately \$30 million and would increase the capacity at the State Penitentiary by 148 beds.

Mr. Schuetzle said his recommendations regarding the Department of Corrections and Rehabilitation facility needs are:



1. Form a subcommittee to conduct a cost-benefit analysis of building a new facility versus renovating the existing facilities and whatever the outcome of the cost-benefit analysis, the committee needs to implement the plan quickly.
2. The committee needs to work in conjunction with the Governor's office and the judicial system to develop a consortium of stakeholders that will propose changes to the criminal justice system.
3. The committee learns from the lessons of the past and not pursue privatization or the expansion of renting bed space from county jail facilities as a viable long-term solution to the state's corrections problem over the next 20 years.

Representative Carlson requested Mr. Schuetzle to provide the committee with information regarding the number of inmates sentenced to the Department of Corrections and Rehabilitation with less than one year remaining in their sentence, including the county the inmate is from and the number of inmates who committed felonies.

In response to a question from Representative Carlson, Mr. Schuetzle said he would recommend that the state should either build a new all-encompassing prison facility or renovate the existing facilities.

Representative Delzer requested that a survey of the counties be conducted to find out if other counties, in addition to Cass County, have a large number of inmates as a result of driving under suspension offenses.

Senator Krauter said the committee needs to be careful when considering the costs per day to house inmates at various facilities because some facility daily costs may include expenses that other facilities do not include, such as capital construction costs. He said the state does not include capital construction costs when calculating its facilities daily rates but the county facilities do include capital construction costs when calculating their rates. He said when calculating the Department of Corrections and Rehabilitation daily facility costs using their general fund appropriation for the 2005-07 biennium, the rates are \$84.35 per inmate per day at the State Penitentiary, \$91.95 per inmate per day at the James River Correctional Center, and \$71.91 per inmate per day at the Missouri River Correctional Center. He said the average daily rate for the three facilities combined is \$85.25 per inmate per day.

Representative Delzer requested information regarding the amount of the existing bonds outstanding for the Department of Corrections and Rehabilitation capital construction projects.

## **ATTORNEY GENERAL'S OFFICE**

Chairman Carlson called on Ms. Sandi Tabor, Deputy Attorney General, to present information regarding the state's incarceration guidelines and the effects of sentencing and alternatives to incarceration on inmate populations. Ms. Tabor said the three-pronged approach that must be used to successfully deal with the drug problem in North Dakota includes law enforcement, treatment, and prevention. She said that in 2002, the North Dakota Commission on Drug and Alcohol Abuse was formed to work on issues in the areas of prevention, tribal government, treatment, tobacco, and law enforcement and it includes members from the Department of Human Services, the Department of Public Instruction, State Department of Health, Attorney General's office, law enforcement, and the Highway Patrol. Ms. Tabor said things the commission has learned with regard to dealing with the state's drug problem includes that coordination between law enforcement and treatment providers is necessary; the "revolving door" must be stopped in which the same individuals are incarcerated and released repetitively; and there is a tremendous need to have a balance between individuals that would benefit from alternatives to incarceration and those individuals that need to be incarcerated. She said the Attorney General's office will keep the Budget Committee on Government Services informed of actions taken by the commission. Ms. Tabor said there is also a Governor's Task Force on Violent and Sexual Offenders that is examining the laws and practices with regard to violent and sex offenders.

In response to a question from Representative Conrad, Ms. Tabor said the treatment for methamphetamine addiction is lengthy; however, it can be successful and aftercare is very important.

## **COMMISSION ON ALTERNATIVES TO INCARCERATION**

At the request of Chairman Carlson, Representative Joe Kroeber, Chairman, Commission on Alternatives to Incarceration, presented information regarding the commission's actions during its September 20, 2005, meeting. A copy of the information presented is on file in the Legislative Council office. Representative Kroeber said the commission held its organizational meeting on September 20, 2005, and that it still needs three more members. He said the commission has set the dates for five future meetings and that it anticipates to have information available for the Governor's office by spring 2006 in time for the Governor's consideration in the 2007-09 biennium executive budget recommendation. He said the commission will provide further updates to the Budget Committee on Government Services as information becomes available.

## **STATE AUDITOR'S OFFICE - DEPARTMENT OF CORRECTIONS AND REHABILITATION PERFORMANCE AUDIT**

Chairman Carlson called on Mr. Gordy Smith, Audit Manager, State Auditor's office, to present information regarding the audit recommendations from the 2003-04 performance audit conducted of the Department of Corrections and Rehabilitation. A copy of the performance audit is on file in the Legislative Council office. Mr. Smith said the State Auditor's office contracted with a consultant, Criminal Justice Institute, Inc., to conduct the performance audit and there are 51 recommendations included in the performance audit report. He said the two goals of the performance audit were:

1. Is management and the administrative structure of the Department of Corrections and Rehabilitation effective.
2. Is the current placement of adult offenders providing for the most efficient and effective use of resources.

Mr. Smith reviewed a number of the audit recommendations with the committee and said the State Auditor's office will do a followup review and report between 18 and 24 months after the performance audit was completed. A list of the audit recommendations is attached as Appendix B.

Representative Carlson requested the Department of Corrections and Rehabilitation to submit written comments to the committee in regard to its responses to the performance audit recommendations.

## **JAMES RIVER CORRECTIONAL CENTER BUDGET TOUR**

Following a luncheon provided for committee members at the James River Correctional Center, the committee toured the James River Correctional Center facility, including the Jamestown location of Roughrider Industries.

After the budget tour of the James River Correctional Center, the committee received information from Mr. Don Redmann, Warden, James River Correctional Center, Department of Corrections and Rehabilitation, regarding the James River Correctional Center facility. A copy of the information presented is on file in the Legislative Council office. Mr. Redmann said the James River Correctional Center is a medium security facility that houses male inmates. He said the facility opened in 1998 after renovating a building that was built in 1936 and used by the State Hospital. He said the Legislative Assembly had appropriated a total of \$6,318,641 for the renovation project--\$5,658,839 from a federal crime bill construction grant, \$36,112 from special funds, and \$623,690 from the state general fund. He said the main building, known as the ET Building, is a six-floor structure with a maximum-designed capacity of 365 inmates. He said the 2005 Legislative

Assembly appropriated funds to convert kitchenettes on floors two through five into five-person dorms, which will increase the facility's capacity by 20 inmates. He said the kitchenette renovation project is expected to be completed by July 2006. He said the James River Correctional Center housed the majority of the state's female inmates until they were transferred to the Dakota Women's Correctional and Rehabilitation Center in New England during the 2003-04 interim.

Mr. Redmann said the Special Assistance Unit, formerly known as the Forensics Unit or high security, can house up to 24 inmates. He said this unit was opened in November 2002 to house inmates who are seriously mentally ill and provides special individual and group treatment and programming. He said there are 28 staff in the Special Assistance Unit--a psychologist, three licensed social workers, nursing staff, a case manager, three caseworkers, correctional officers, and an office assistant.

Mr. Redmann said Roughrider Industries has a building at the James River Correctional Center with 10,000 square feet. He said it currently provides work for approximately 50 inmates.

Mr. Redmann said the 2003 Legislative Assembly appropriated funds for Phase II at the James River Correctional Center which transferred the food service and laundry operations from the State Hospital to the James River Correctional Center. He said 14 staff are responsible for planning and preparing over 1,400 meals per day for the James River Correctional Center and an additional 800 meals for the State Hospital. He said the current food cost is \$1.14 per meal for prison meals. He said the food services building is in relatively good shape; however, it is connected to other buildings, including the State Hospital, by large tunnels that are the cause for security concerns. He said the laundry building is structurally sound; however, the roof leaks and needs to be replaced and tuck-pointing of the mortar between the bricks is also needed. He said the James River Correctional Center is planning to request funding for these repairs during the 2007 legislative session. He said the engineering building, used for storage and office space, is in very poor condition but the cost to repair it is prohibitive due to its age and high levels of asbestos. He said the old day care building, which houses some offices for the James River Correctional Center, is in good structural shape but needs a new roof and the entire building will require tuck-pointing or siding within the next few years.

Representative Boehning requested Mr. Redmann to provide a map of the James River Correctional Center facility, including the years the buildings were constructed.

## **TOMPKINS REHABILITATION AND CORRECTION CENTER**

At the request of Chairman Carlson, Mr. Kerry Wicks, Clinical Director of Residential Services, State Hospital, presented information regarding the Tompkins Rehabilitation and Correction Center. A copy of the information presented is on file in the Legislative Council office. Mr. Wicks said the Tompkins program, which has been in operation since 1999, is operated as a structured therapeutic community with cognitive behavioral addiction treatment approaches. He said the program is a residential facility that provides services 24 hours a day 7 days a week. He said cognitive restructuring is offered to support the management of the environment and to tie all components of treatment together in a unified approach. He said the Joint Commission Accreditation of Hospital Organizations accredits the program and the Department of Human Services Division of Mental Health and Substance Abuse licenses the program.

Mr. Wicks said that over 40 percent of men and 80 percent of women in the Tompkins program have a diagnosis of methamphetamine dependence, usually in combination with other alcohol and drug dependence. He said that responsivity, the ability to intervene in the most appropriate way at the most appropriate time, is central to all treatment decisions. He said the models that are used extensively are the MATRIX Model and the WHAT WORKS Model. He said these models are research-based models for the treatment of addicted individuals and offenders and they rely on cognitive behavioral treatment methods known to be most effective with this population.

Mr. Wicks said the Tompkins program is a minimum of 180 days with 100 days in intensive residential treatment and 80 days to one year is used to transition residents back into the community. He said community transition begins during the intensive residential treatment and residents can earn privileges that eventually give them the ability to attend community functions in Jamestown to prepare them for the transition back home. He said family involvement in treatment, including family skills training, is an integral part of the community integration.

Mr. Wicks said the Tompkins Rehabilitation and Correction Center has 90 beds which are virtually full at all times. He said the center has treated a total of 488 men and women. He said that over 90 percent of residents show improvement of 10 to 20 percent on criminogenic factors, which are the factors that are predictors of recidivism. He said the center's population has over a 90 percent satisfaction rate with the treatment, as indicated by approval scores of three or above on a five-point scale. He said the Tompkins Rehabilitation and Correction Center successfully discharged 87 percent of all referrals to treatment in 2004. He said approximately 30 percent return to prison on revocation or new crimes and this is a 57 percent success rate in terms of recidivism. He

said the national rate for return to prison on revocation and new crimes is approximately 62 percent.

Mr. Wicks said the Tompkins Rehabilitation and Correction Center began two-year postdischarge research in July 2005 using the addiction severity index as the research instrument. He said early results will be available by January 2006, and the results will be able to give important outcomes for several variables, including employment, alcohol and drug use, criminal justice involvement, support, psychological, family, and medical.

In response to a question from Representative DeKrey, Mr. Wicks said the techniques used to treat methamphetamine addiction are the same as for treating other drug addictions; however, the treatment for methamphetamine addiction takes much longer.

## **STATE HOSPITAL - SEX OFFENDER UNIT**

Chairman Carlson called on Mr. Alex Schweitzer, Superintendent/Administrator, State Hospital, to present information regarding the sex offender unit at the State Hospital. A copy of the information presented is on file in the Legislative Council office. Mr. Schweitzer said the sex offender program has been in operation at the State Hospital since 1997. He said the State Hospital currently operates 42 beds for sex offenders in two units in the Gronewald/Middleton Building, with a current population of 37 sex offenders. He said 27 of the sex offenders are committed for treatment, 6 have been recommended to the district court for commitment, and 4 are scheduled for evaluation. He said the State Hospital continues to track possible referrals to the sex offender program through contacts with the Department of Corrections and Rehabilitation and state's attorneys and is currently aware of at least five sex offenders that will be referred for evaluation in the next six months. Therefore, he said, it is likely that the 42 beds at the sex offender unit will be full in the very near future. He said the State Hospital plans to add a third sex offender unit in the Gronewald/Middleton Building due to the growing occupancy and security issues on the two current units.

Mr. Schweitzer said the sex offender units at the State Hospital require staffing to manage the population effectively and to meet the hospital's accreditation standards. He said the proposed staffing level allows the hospital to meet the standard of 31.5 treatment hours per patient per week. He said the hospital also needs a ratio of one staff to every three patients on the day and evening shifts and two staff for every five patients on the night shift to meet safety and security requirements. He said the sex offender program also requires professional staff to provide medical, psychiatric, and treatment and evaluation services.

Mr. Schweitzer said the 2005-07 biennium budget for the two sex offender units at the State Hospital is

\$5,459,220 and the total cost per sex offender is currently \$178.06 per day or \$64,992 per year. He said the hospital is developing a cost-analysis for the third sex offender unit and it will be provided to the committee when it is completed.

Mr. Schweitzer said the State Hospital completed a root cause analysis because of the elopement of a sex offender from the secure services unit during August 2005. He said the hospital is implementing numerous risk-reduction strategies as a result of this analysis, the majority of which will require very little cost. He said some major changes include the replacement of windows in the building, a ventilation system, increased usage of sensors and cameras, securing the common areas, and the use of a fence around the building. He said the hospital is currently advertising for an architectural firm to produce plans and costs for the security project.

The committee toured the Tompkins Rehabilitation and Correction Center and the sex offender unit of the State Hospital, both of which are located in the Gronewald/Middleton Building on the State Hospital campus.

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

Chairman Carlson said the next meeting of the Budget Committee on Government Services will be on Tuesday and Wednesday, October 11-12, 2005. He said the committee will meet at the Dakota Women's

Correctional and Rehabilitation Center in New England and the Southwest Multi-County Correction Center in Dickinson on Tuesday, October 11, and in Bismarck on Wednesday, October 12, to tour the Department of Corrections and Rehabilitation Bismarck facilities.

In response to a question from Representative Glasheim, Chairman Carlson said that he will not appoint a subcommittee for the Department of Corrections and Rehabilitation study as the director of the Prisons Division had suggested. He said the entire committee will study the issue.

Representative Carlson requested the Department of Corrections and Rehabilitation to provide the committee with an inmate population projection through 2017.

The committee adjourned subject to the call of the chair at 3:20 p.m.

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Stephanie A. Johnson  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

[ATTACH:2](#)