

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Wednesday, November 30, 2005
Roughrider Room, State Capitol
Bismarck, North Dakota
Youth Correctional Center and Teen Challenge Center
Mandan, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 8:30 a.m.

Members present: Representatives Al Carlson, Randy Boehning, Ron Carlisle, Kari Conrad, Duane DeKrey, Glen Froseth, Eliot Glassheim, Joe Kroeber, Ralph Metcalf, Ken Svedjan, Blair Thoreson, Dave Weiler, Alon C. Wieland; Senators Aaron Krauter, Ed Kringstad, Elroy N. Lindaas, Dave Nething

Members absent: Representatives Jeff Delzer, Bette B. Grande, James Kerzman, Darrell D. Nottestad; Senators Duaine C. Espegard, Stanley W. Lyson

Others present: Dick Dever, State Senator, Bismarck

Merle Boucher, State Representative, Rolette

See attached appendix for additional persons present.

It was moved by Representative DeKrey, seconded by Representative Metcalf, and carried on a voice vote that the minutes of the October 11-12, 2005, meeting be approved as distributed.

DEPARTMENT OF CORRECTIONS AND REHABILITATION STRATEGIC PLAN

Legislative Council Memorandums

At the request of Chairman Carlson, the Legislative Council staff presented a memorandum entitled [Department of Corrections and Rehabilitation Debt Service](#). The Legislative Council staff said the memorandum is an update of one presented to the committee at its October 11-12, 2005, meeting, with an appendix added containing a schedule of the debt service payments for the Department of Corrections and Rehabilitation.

At the request of Chairman Carlson, the Legislative Council staff presented a memorandum entitled [Joint Exercise of Governmental Powers](#). The Legislative Council staff said the committee requested information at its October 11-12, 2005, meeting regarding any statutory authority for the state to form an agreement with a county to share prison facilities or to share services between state and county jail facilities. The Legislative Council staff said North Dakota Century Code (NDCC) Chapter 54-40 provides for the

joint exercise of governmental powers and Section 54-40-08 provides for the use by political subdivisions of state buildings and facilities. North Dakota Century Code Section 54-40-08(1) allows any North Dakota county to enter into an agreement with any North Dakota state agency for the use of buildings and facilities under the control of the state agency for a period of time as the parties may determine to be necessary and that before an agreement is effective, the respective governing body or officer of the state agency must approve the agreement and the Attorney General must determine that the agreement is legally sufficient. North Dakota Century Code Section 54-40-08(2) provides that the political subdivision, pursuant to an agreement for the use of buildings or facilities, may make improvements to the buildings or facilities instead of any rental or other payments, but all improvements must first be approved by the governing body or officer of the state agency and also provides that the buildings and facilities may be moved or replaced at any time during the term of an agreement and the political subdivision may use the buildings and facilities constructed in place of the original buildings and facilities for the remainder of the term of the agreement.

Representative Froseth said the committee should ask the Attorney General's office if NDCC Section 54-40-08 relating to the use of state buildings and facilities by political subdivisions only applies to existing state-owned facilities or if it also applies to joint state-county ownership of a newly constructed building.

At the request of Chairman Carlson, the Legislative Council staff presented a memorandum entitled [North Dakota Century Code Chapters Relating to Inmate Housing](#). The Legislative Council staff said the North Dakota Century Code chapters and sections that relate to inmates and inmate housing include:

- Chapter 12-44.1 - Jails and Regional Correction Centers.
- Chapter 12-47 - The Penitentiary.
- Chapter 12-48 - Employment of Inmates at the Penitentiary.
- Chapter 12-48.1 - Work Release Programs.

- Chapter 54-23.3 - Department of Corrections and Rehabilitation.
- Section 12.1-32-02.
- Section 29-27-07.

Department of Corrections and Rehabilitation

At the request of Chairman Carlson, Mr. Dave Krabbenhoft, Director of Fiscal Affairs, Department of Corrections and Rehabilitation, presented information regarding inmate medical costs. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said inmate medical costs and estimated gender allocations for the 1999-2001 through 2003-05 bienniums were:

	1999-2001 Biennium	2001-03 Biennium	2003-05 Biennium
Total medical costs	\$4,491,997	\$6,465,182	\$8,578,681
Estimated medical costs for male inmates	\$4,498,589	\$5,766,384	\$7,414,802
Estimated medical costs for female inmates	\$493,408	\$698,798	\$1,163,879

In response to a question from Representative Conrad, Mr. Krabbenhoft said he will provide the committee with the portion of the total medical costs that are dental-related expenses.

At the request of Chairman Carlson, Mr. Krabbenhoft presented information on the resources and funding that would be necessary for the Department of Corrections and Rehabilitation to implement the State Auditor's office performance audit recommendations. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said the top priority of the department is to obtain at least \$2.7 million of salary equity funding for the 2007-09 biennium to further address the salary equity issues within the department. He said additional performance audit recommendations include increasing the size of the infirmary at the Penitentiary (\$4.2 million), requesting an additional 80.5 full-time equivalent positions (\$7.2 million per biennium), developing a comprehensive master plan for the facilities (\$100,000), integrating the management information systems of the Prisons and the Field Services Divisions (\$2.9 million), and expanding the vocational programs available to inmates (\$1 million to \$3 million per biennium).

Senator Nething requested the Department of Corrections and Rehabilitation prioritize the performance audit recommendations and present it to the committee at a future meeting.

At the request of Chairman Carlson, Mr. Krabbenhoft presented information regarding inmate populations by location. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said the actual average inmate population for October 2005 was 1,237 male inmates and 148 female inmates and the actual average inmate population from November 1-27, 2005, was 1,257 male inmates and 146 female

inmates. He said from July 1, 2005, through November 27, 2005, the actual average male inmate population was 9 inmates less than estimated and the actual average female inmate population was 15 inmates more than estimated.

Mr. Krabbenhoft said in November 2005, the Department of Corrections and Rehabilitation and the Dakota Women's Correctional and Rehabilitation Center signed a contract for housing female inmates for the 2005-07 biennium. A copy of the signed contract is on file in the Legislative Council office. Mr. Krabbenhoft said the term of the contract is through June 30, 2015, subject to legislative review and the availability of sufficient legislative appropriations, and the agreement may thereafter be renewed by mutual agreement of the parties on an annual basis, always terminating on June 30. He said the daily rate for housing female inmates at the Dakota Women's Correctional and Rehabilitation Center for the 2005-07 biennium is \$89.41 per inmate and the per diem rate shall be reviewed and renegotiated every two years during the term of the agreement.

At the request of Chairman Carlson, Mr. Keith Grabowska, Director, Missouri River Correctional Center, presented information regarding the land the Department of Corrections and Rehabilitation owns at the Missouri River Correctional Center. A copy of the information presented is on file in the Legislative Council office. Mr. Grabowska said the department owns a total of 985 acres at the Missouri River Correctional Center--320 acres of irrigated alfalfa, 100 acres of swampland, 480 acres of woodland, and 85 acres for the correctional center site. He said Roughrider Industries has requested an additional 30 acres south of the Missouri River Correctional Center buildings for future growth of its industry, which would bring the correctional center site to 115 acres. Mr. Grabowska said in response to the committee's request regarding the number of acres at the Missouri River Correctional Center that could possibly be sold, the irrigated alfalfa acres and the swampland could be sold which would be a total of 420 acres. He said it is felt that the sale of any other land would cause a breach of security at the Missouri River Correctional Center.

In response to a question from Representative DeKrey, Chairman Carlson said Mr. Dennis Fracassi, Director, Roughrider Industries, will be invited to the next Budget Committee on Government Services meeting to discuss the issue regarding an easement for the riverbank stabilization project proposed for the riverfront property the Department of Corrections and Rehabilitation owns at the Missouri River Correctional Center.

At the request of Chairman Carlson, Mr. Tim Schuetzle, Director of Prisons Division, Department of Corrections and Rehabilitation, presented the committee with a copy of the contract the department uses for contracting with county facilities to house state inmates. A copy of the contract is on file in the Legislative Council office.

In response to a question from Representative Carlson, Mr. Schuetzle said some county facilities do not want to contract with the Department of Corrections and Rehabilitation to house state inmates because the department is not able to pay as much per day as the facilities charge other entities for the daily rate.

At the request of Chairman Carlson, Mr. Schuetzle discussed the requirements necessary for other facilities to be eligible to house state inmates. Mr. Schuetzle said the Dakota Women's Correctional and Rehabilitation Center needs to offer all the same services and programs to the female inmates as the Department of Corrections and Rehabilitation offers for the male inmates. He said the county facilities that contract with the Department of Corrections and Rehabilitation to house male inmates do not have to invest in additional programs and services that are offered by the department because the inmates that require programs and services are housed at a state facility where the inmate can access the necessary programs and services. He said the department only houses inmates at county facilities that do not require or refuse treatment.

Mr. Schuetzle said as of November 30, 2005, the Department of Corrections and Rehabilitation has 43 male inmates housed at a private prison facility in Appleton, Minnesota. However, he said, the department has been notified by officials at the private prison that North Dakota will no longer be able to house state inmates there. He said the department may use a prison in Burlington, Colorado, to house male inmates instead of Appleton. He said since the location of the prison in Colorado is twice as far away as the prison in Minnesota, the department will have increased travel expenses for transporting prisoners.

In response to a question from Senator Nething, Mr. Schuetzle said the prison at Appleton, Minnesota, can no longer house inmates for North Dakota because it needs all the beds for Minnesota inmates due to an increase in the number of Minnesota inmates. He said the prison has an agreement with the state of Minnesota that it has first priority for the prison beds.

In response to a question from Senator Lindaas, Mr. Schuetzle said the prison in Colorado will honor the same daily rate as the Department of Corrections and Rehabilitation is paying the prison in Minnesota for the remainder of the state's contract period.

Senator Nething requested Mr. Schuetzle to provide the committee with a priority list of critical security items the department needs to have in its budget. He also requested that Mr. Schuetzle include in that list which items have been included in the department's budget request in the past and whether it was included in the Governor's budget recommendation.

Representative Svedjan requested that Mr. Schuetzle also identify the items in the priority list that are facility-related needs.

At the request of Chairman Carlson, Mr. Schuetzle discussed the process used by the Department of

Corrections and Rehabilitation to determine where inmates are housed. Mr. Schuetzle said the department uses a classification system and inmate evaluations to determine where inmates should be housed. He said the department considers the inmate's risk score and individual needs to determine a safe location where the inmate's needs can be met.

In response to a comment by Representative Froseth, Mr. Schuetzle said that county facilities should not rely on housing state inmates as a source of income because there is no guarantee that the Department of Corrections and Rehabilitation will have the type of inmates that can be housed at county facilities.

At the request of Chairman Carlson, Mr. Schuetzle presented information regarding the results of an update of the October 2004 architect's study of the replacement of the east cellhouse at the State Penitentiary. A copy of the information presented is on file in the Legislative Council office. Mr. Schuetzle said the study was conducted by HDR Architecture, Inc., Chicago, Illinois, and Ritterbush-Ellig-Hulsing, Bismarck. He said findings from the study of the State Penitentiary include:

East cellhouse

- Nearly 100 years old and has structural and maintenance issues.
- Fails to meet current life safety standards.
- Fails to meet American Correctional Association (ACA) standards for space, light, and programs.
- Fails to meet Americans with Disabilities Act (ADA) standards for accessibility.

Medical facilities

- Lack of space, total beds available, and storage.
- Lack of privacy, especially in waiting and examination areas.
- No disabled access (stretcher used to carry inmates up stairs).
- No space for long-term hospice care.
- Pharmacy lacks workspace and security.
- Dental and x-ray are poorly located for security.
- Lack of facilities requires hospital stays in Bismarck.

Segregation

- Not enough beds available which increases opportunities for assaults on staff and other inmates.
- Difficult to manage the population.
- No program or ancillary space.

Orientation

- Lacks sufficient beds for average number of new arrivals each month.
- Unable to separate inmate groups properly.
- Lack of processing space and inefficient workflow.
- Building could be utilized for general population housing.

Facility

- Too much burden on central control and front lobby traffic.
- Path to visitation is lengthy.
- Laundry is poorly located.
- Medical is poorly located since it is on the upper floor.
- Yard access for vehicles and the south tower location need to be improved for better security.

Mr. Schuetzle said some results of the study's findings include expensive outsourcing of beds, difficulty in managing inmates, and exposure to lawsuits.

Mr. Schuetzle said expansion plans for the State Penitentiary include:

1. Relocating the warehouse.
2. Constructing new vehicle access and a new south tower.
3. Demolishing existing south tower.
4. Constructing new orientation housing, an inmate intake/transfer unit, clinic, infirmary, segregation unit, visitors' entrance, and laundry facility.
5. Eliminating east cellhouse.

Mr. Schuetzle said the expansion would result in a net prison bed gain of 123 permanent beds for the general population. He said the project would be completed in two phases over two bienniums for a total cost of approximately \$31 million.

In response to a question from Senator Nething, Mr. Schuetzle said this expansion project would only replace the east cellhouse at the State Penitentiary and the Department of Corrections and Rehabilitation will still need all of its other facilities and contract housing.

In response to a question from Representative Weiler, Chairman Carlson said the Attorney General would be requested to provide clarification to the committee on the issue regarding an agency's authority to enter into a land easement at the Missouri River Correctional Center for the riverbank stabilization project.

In response to a question from Representative Boehning, Mr. Schuetzle by e-mail provided the committee with information regarding estimated costs and savings associated with relocating the James River Correctional Center from Jamestown to Bismarck.

Commission on Alternatives to Incarceration

At the request of Chairman Carlson, Representative Kroeber, Chairman, Commission on Alternatives to Incarceration, presented information regarding the commission's actions during its November 29, 2005, meeting. A copy of the information presented is on file in the Legislative Council office. Representative Kroeber said the commission received information from the Division of Juvenile Services regarding the importance of juvenile community programs. He said the commission learned that an individual that drops out of high school increases the chance of becoming part of the juvenile corrections system by 75 percent. He said the commission visited the Bismarck

Transition Center which is a comprehensive, community-based correctional program designed to help eligible, nonviolent offenders transition back into the community. He said the center provides the opportunity to develop necessary skills that aid male offenders in obtaining essentials such as employment and housing once they are released into society and the program provides residents with a full range of treatment services that decrease the likelihood of reoffense upon release. He said the Bismarck Transition Center has 63 beds that are contracted at a rate of \$52.42 per day and an additional 88 beds are anticipated to be available by April 1, 2006, at which time the contract rate will be reduced to \$50.25 per day. He said the Department of Corrections and Rehabilitation anticipates using 47 of the 88 new beds and the remainder of the additional beds will be used by Burleigh County and the city of Bismarck. He said individuals must apply for residence in the transition center and the residents pay a daily rate of \$13 and pay their own medical insurance while staying at the transition center. He said all residents must find employment and each resident's paycheck is turned over to the transition center where 20 percent of the paycheck automatically goes into a savings account for the individual and the balance goes for items such as child support, restitution, fines, and the daily rate for the center. He said the commission also received information from Mr. Warren Emmer, Director of Field Services Division, Department of Corrections and Rehabilitation, regarding the increase in the number of individuals on parole and from Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, regarding funding for community service programs.

Judicial Branch

Chairman Carlson called on Chief Justice Gerald W. VandeWalle, Supreme Court, to present information regarding available statistics on the number of individuals in county jails that are released on bond and to comment on the committee's study of the Department of Corrections and Rehabilitation incarceration and correctional facility needs. A copy of the information presented is on file in the Legislative Council office. Chief Justice VandeWalle said in regard to the statistics on the number of individuals in county jails who are released on bond, the court's caseload management system does not collect data that would allow the court to determine the percentage of defendants that remain incarcerated while their case is pending.

Chief Justice VandeWalle said North Dakota does not have sentencing guidelines but it does have minimum mandatory sentences which definitely have an impact on sentence lengths and inmate populations. He said although he understands the reasoning behind minimum mandatory sentences, he is not in favor of them.

Ms. Leann K. Bertsch, Director of Corrections, Department of Corrections and Rehabilitation, said she sent a letter to district court judges to inform them

of available low-risk diversion programs for offenders and to ask the judges to keep these programs in mind when sentencing individuals to the Department of Corrections and Rehabilitation. She said the judges may make a recommendation that an offender would be an appropriate individual for a low-risk diversion program instead of incarceration.

Dakota Women's Correctional and Rehabilitation Center

Chairman Carlson called on Mr. Colby Braun, Operations Administrator, Dakota Women's Correctional and Rehabilitation Center, to present information regarding medical expenses and the average length of stay for the female inmates at the Dakota Women's Correctional and Rehabilitation Center. A copy of the information presented is on file in the Legislative Council office. Mr. Braun said for the months of November and December 2003 when the center first began to house state female inmates, the medical expenses totaled \$10,204. For calendar year 2004, he said, medical expenses for the state female inmates at the center totaled \$597,643 and from January through October 2005 total medical expenses were \$424,871. In March 2005, he said, the center changed the way it handles offsite medical expenses so that all offsite medical expenses are billed directly to the Department of Corrections and Rehabilitation. This allows the center to pay at the state's Medicaid rate. Mr. Braun said the average sentence length for the female inmates at the center is 50 months and the average length of stay for the female inmates is 18 months. He said construction of the administrative segregation and detention cells is on schedule.

The committee recessed for lunch and traveled to the Youth Correctional Center in Mandan.

YOUTH CORRECTIONAL CENTER BUDGET TOUR

The committee reconvened at 1:30 p.m. in the conference room of the school building at the Youth Correctional Center in Mandan.

At the request of Chairman Carlson, Mr. Al Lick, Director, Division of Community Services, Department of Corrections and Rehabilitation, presented information regarding the Youth Correctional Center, including the current status of the 2005-07 biennium budget, trends in student population, the center's programs, plant improvements, and programmatic changes and budgetary needs for the 2007-09 biennium. A copy of the information presented is on file in the Legislative Council office. Mr. Lick said it is too early in the 2005-07 biennium to predict the status of the budget; however, he said, there will be an increase in heating costs. He said the Youth Correctional Center has 100 beds and the average population at the center is between 85 and 100 juveniles. He said the Youth Correctional Center has a daily rate of \$140 and approximately one-half of the daily rate goes to fund the education program which meets the

standards of the No Child Left Behind Act. He said the Youth Correctional Center has the lowest recidivism rate in the nation. He said the 2003-04 recidivism rate for the Youth Correctional Center was 18.7 percent and the national average recidivism rate is 40 to 45 percent. He said the Division of Juvenile Services Community Services has eight regional offices located across the state--Grand Forks, Fargo, Jamestown, Devils Lake, Minot, Bismarck, Dickinson, and Williston.

Mr. Lick said the Youth Correctional Center has a 10-year master plan for facilities that is designed to systematically and sequentially remove, remodel, or replace existing facilities. He said upon completion of the 10-year master plan of facilities, the Youth Correctional Center will accommodate up to 125 youth. He said the facility master plan includes the following five phases:

1. Phase I - 2007-09 biennium - Roof replacements (\$515,000); security lighting, gates, and windows (\$275,000); school building renovation (\$64,200); building demolition (\$210,000); and Divine Hall renovation/remodel (\$1,950,000) or demolition.
2. Phase II - 2009-11 biennium - Infrastructure upgrades (\$2,065,000) and school building renovation (\$1,045,000).
3. Phase III - 2011-13 biennium - New residential unit for females (\$2,850,000).
4. Phase IV - 2013-15 biennium - Completion of gymnasium project (\$1,675,000).
5. Phase V - 2015-17 biennium - New residential unit for males (\$3,500,000).

In response to a question from Representative Weiler, Mr. Lick said the ages of the individuals at the Youth Correctional Center range from 12 to 20. Mr. Lick said the Division of Juvenile Services Community Services has had juveniles as young as 10 years of age.

In response to a question from Senator Krauter, Mr. Lick said approximately 8 to 10 individuals at the Youth Correctional Center are there as the result of methamphetamine-related issues and alcohol is a larger problem for juveniles than methamphetamine.

In response to a question from Representative Weiler, Mr. Lick said the length of stay for juveniles at the Youth Correctional Center depends upon the individual's program but the average length of stay at the center is eight to nine months.

In response to a question from Senator Lindaas, Mr. Lick said the Youth Correctional Center has four vocational programs in addition to the educational program.

The committee conducted a tour of the Youth Correctional Center, including the school/administration building, Pine Cottage, Maple Cottage, and the gymnasium.

The committee recessed at 3:00 p.m. and traveled to the Teen Challenge Center.

TEEN CHALLENGE CENTER TOUR

The committee reconvened at 3:15 p.m. at the Teen Challenge Center in Mandan.

At the request of Chairman Carlson, Mr. Michael P. Edwards, Executive Director, presented information regarding the Teen Challenge program and facility. A copy of the information presented is on file in the Legislative Council office. Mr. Edwards said Teen Challenge, which is a faith-based solution for drug addiction, first began in 1958 and now has 186 centers in the United States and 450 centers in 60 other nations. He said when Teen Challenge first opened a center in North Dakota approximately two years ago, it was located in Williston. He said the North Dakota Teen Challenge Center, which is an adult male facility with a 13- to 19-month residential treatment program, has since relocated in Mandan. He said approximately 85 to 90 percent of the students in Teen Challenge are addicted to methamphetamine and the program has an 86 percent success rate for individuals that complete the Teen Challenge program.

In response to a question from Representative DeKrey, Mr. Edwards said when the Teen Challenge program first began in 1958, it was for teenage individuals; however, it has since grown to include programs for adults. Mr. Edwards said the Teen Challenge Center in Mandan is for adult males ages 18 and older and the North Dakota Teen Challenge anticipates opening a center for adult females during the first quarter of 2006 and to also open a center for North Dakota juveniles in the future.

In response to a question from Representative Carlisle, Mr. Edwards said Teen Challenge uses a nonclinical, spiritual approach to treat drug addiction.

In response to a question from Representative Carlisle, Mr. Edwards said the application for an individual to enter the Teen Challenge program is approximately 30 pages in length.

In response to a question from Representative Froseth, Mr. Edwards said the majority of the funding for the Teen Challenge program is from private donors and the center also receives some funds from the Department of Corrections and Rehabilitation for room and board costs for individuals the department has sent to the Teen Challenge Center. Mr. Edwards said the department may refer individuals with drug addictions to the center instead of sending them to prison.

In response to a question from Representative Conrad, Mr. Edwards said the daily rate at the Teen Challenge Center is \$16 per night.

In response to a question from Representative DeKrey, Mr. Edwards said the Teen Challenge Center will not accept individuals that are registered sex offenders or violent individuals.

In response to a question from Senator Krauter, Mr. Edwards said the Teen Challenge Center moved from a location in Williston to Mandan because the facility in Williston was too small and a donor offered

to purchase the larger building in Mandan for the center.

In response to a question from Representative Wieland, Mr. Edwards said as of November 30, 2005, the population at the Teen Challenge Center in Mandan is 27 males and the capacity is 30 beds. Mr. Edwards said after additional remodeling is completed at the Mandan facility, the capacity will increase to 175 beds.

In response to a question from Senator Krauter, Mr. Edwards said as of November 30, 2005, the center had received approximately \$13,000 of the \$150,000 grant available from the Department of Corrections and Rehabilitation.

The committee watched an informational video regarding the Teen Challenge program and toured the Teen Challenge Center. After touring the facility, the committee received testimony from students in the Teen Challenge program, and the North Dakota Teen Challenge choir sang for the committee.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Carlson said due to time constraints, presentations by the North Dakota Building Authority regarding the state's outstanding debt and the Office of Management and Budget regarding the government performance and accountability system pilot project will be postponed until the committee's next meeting.

Chairman Carlson said the next meeting of the Budget Committee on Government Services will be on Wednesday, January 11, 2006. He said committee members should come to the next meeting prepared to discuss ideas and recommendations regarding the committee's responsibility to develop a legislative strategic plan for the Department of Corrections and Rehabilitation's incarceration and correctional facility needs.

In response to a request from Representative Glassheim, Chairman Carlson said the committee will receive information from the Attorney General's office at the next meeting regarding the minimum mandatory sentences that are in state law.

The committee adjourned subject to the call of the chair at 4:45 p.m.

Stephanie A. Johnson
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1