

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### BUDGET COMMITTEE ON INSTITUTIONAL SERVICES

Wednesday, September 6, 2000  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Merle Boucher, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Merle Boucher, LeRoy G. Bernstein, Jeff Delzer, William E. Gorder, Scot Kelsh, Joe Kroeber, Ralph Metcalf, Chet Pollert; Senators Harvey Sand, Wayne Stenehjem, Harvey D. Tallackson

**Members absent:** Representative Rod Froelich; Senator David E. Nething

**Others present:** See attached appendix

**It was moved by Senator Stenehjem, seconded by Representative Gorder, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

#### COLLOCATING THE STATE HOSPITAL AND THE DEVELOPMENTAL CENTER

Ms. Yvonne Smith, Acting Executive Director, Department of Human Services, provided testimony on behalf of Mr. Alex Schweitzer, Superintendent of Department of Human Services institutions, regarding potential services that may be shared between the State Hospital and the Developmental Center and on the status of the shared superintendent's position. A copy of the report is on file in the Legislative Council office. Ms. Smith said areas of sharing between the two institutions include:

1. A shared superintendent's position.
2. Psychology contracting.
3. Combined management information systems departments.
4. Joint strategic planning between the two management teams.

In addition, Ms. Smith said the department did not fill a residential leadership position at the Developmental Center or the management information systems (MIS) director position at the State Hospital. She said the residential leadership position duties have been assigned to other personnel, and the MIS director position was not filled due to the combining of the departments and transferring leadership to the central office.

Ms. Smith said other proposals for sharing and collaborating include:

1. Combining the two financial officer positions into one effective January 1, 2001, due to the retirement of one individual.

2. Hiring a support services director to oversee both institutions' engineering, maintenance, safety, and security functions by 2001.
3. Combining the two human resources departments by 2001.
4. Combining the program director of adult psychiatric services with the program director of substance abuse services to create an adult services department at the State Hospital (this will occur upon the retirement of the program director of adult psychiatric services).

Representative Boucher asked what number of positions will be eliminated through the consolidations being considered by the department. Ms. Smith said through retirements, resignations, and reassignments, the department has plans to eliminate six positions.

Senator Sand expressed support for providing compensation increases for the employees that are being assigned increased responsibilities due to these changes. He said North Dakota will lose its high-quality people if it does not pay adequate salaries.

Representative Delzer asked for the estimated cost-savings resulting from the department's changes. Ms. Smith said the changes to date have resulted in an estimated biennial savings of \$435,000. She said the proposed changes will result in an additional \$500,000 of savings each biennium for a total of \$935,000.

Ms. Elaine Little, Director, Department of Corrections and Rehabilitation, commented on possible future uses for facilities at the State Hospital.

Ms. Little said the Department of Corrections and Rehabilitation is proposing to renovate, during the 2001-03 biennium, the "employee" building on the State Hospital grounds for use as a women's correctional unit. She said the building is now only partially being used by the State Hospital.

Ms. Little said the department currently has unused beds on the women's unit floor at the James River Correctional Center. She said the unit's capacity is 80 inmates; however, the department generally has only between 45 and 50 women in the unit. She said the new facility would house both minimum and medium security women inmates now housed at the James River Correctional Center (medium security)

and the Missouri River Correctional Center (minimum security).

Ms. Little said the James River Correctional Center is concerned with its food services operation due to the lack of space. Ms. Little said the department has discussed with the State Hospital the possibility of the Department of Corrections and Rehabilitation operating the food services facility of the State Hospital or sharing the facility with the State Hospital.

Representative Bernstein asked how many women inmates will be housed in the new women's unit. Ms. Little said the new facility will accommodate 75 women inmates; however, if two or three women are housed in the same cell, its capacity could be increased to 125. She said currently the department has approximately 70 women inmates including those housed at the James River Correctional Center and the Missouri River Correctional Center.

Representative Pollert asked how the Department of Human Services plans to provide temporary housing at the State Hospital if the employee building is used as a women's correctional unit. Ms. Smith said that while demand for this type of housing is decreasing, the State Hospital will address any need for temporary employee housing.

Representative Boucher asked for the current inmate population. Ms. Little said the population is between 1,025 and 1,050 inmates, of which 53 are housed in out-of-state facilities.

Representative Boucher asked for the potential increase in numbers of inmates during the next biennium. Ms. Little said the department is projecting that the number of inmates will increase by seven percent during each year of the next biennium.

Representative Delzer asked for the status of the alternative placement programs for inmates and on the department's need for a deficiency appropriation from the 2001 Legislative Assembly. Ms. Little said the department does not anticipate the need for a deficiency appropriation during the next legislative session. She said the alternative placement programs are working well and through June 2000, alternative services have accommodated an average of 60 State Penitentiary inmates per month.

Representative Bernstein said while the study of collocating the State Hospital and the Developmental Center has not resulted in a bill draft requiring the institutions to collocate, he supports the cooperation and collaboration that has occurred between the State Hospital and the Developmental Center to share services and combine positions that will result in substantial cost-savings to the state.

Senator Stenehjem said while the study determined that it is not advisable to collocate these two institutions, the sharing of services between the two institutions is having a positive effect for the state and on the services provided by the two institutions.

Representative Gordner said the state should develop a more effective way to ensure that inmates released from the Department of Corrections and Rehabilitation are able to afford the medications they need to be productive citizens.

Representative Boucher said even though a bill draft has not resulted from the committee's study, the study has resulted in positive changes to the services and programs at the State Hospital and the Developmental Center and substantial cost-savings to the state.

Representative Boucher said he is concerned with the increasing number of inmates. He suggested the Legislative Assembly continue monitoring the status of programs of the Department of Corrections and Rehabilitation and consider alternatives to incarceration.

### **CONSOLIDATING VISION SERVICES**

The Legislative Council staff presented bill drafts that:

1. Clarify the responsibility of the School for the Blind for serving persons of all ages with visual impairments.
2. Consolidate the School for the Blind under the Department of Human Services.

The Legislative Council staff said the changes made to the bill draft since the last committee meeting that clarifies the responsibility of the School for the Blind for serving persons of all ages with visual impairments include:

1. Changing the name of the School for the Blind to North Dakota Vision Services - School for the Blind.
2. Providing that the School for the Blind be the lead state agency for vision services in the state.
3. Listing the types of services that the School for the Blind is to assist persons who are blind or visually impaired to access.
4. Providing that the School for the Blind maintain a data base of residents who are blind or visually impaired.
5. Updating statutory language relating to the School for the Blind by removing reference to admission of residents or nonresidents to the School for the Blind and by removing the requirement that various occupations report persons who are blind or visually impaired to the superintendent of the School for the Blind.

Representative Delzer said he is concerned that either bill draft, if approved, may result in requests for additional funding to provide the services identified in the bill draft.

Ms. Teresa Larsen, Executive Director, Protection and Advocacy Project, presented the recommendations of an ad hoc working group regarding the vision services bill drafts. Ms. Larsen said the working

group consisted of representatives of the Protection and Advocacy Project, client assistance program, Department of Public Instruction, Department of Human Services, independent living centers, North Dakota Association of the Blind, School for the Blind, and consumers.

Ms. Larsen said the group recommends the School for the Blind continue to be under the administrative structure of the Department of Public Instruction rather than the Department of Human Services and the scope of service of the School for the Blind be to serve persons of all ages who are blind or visually impaired. She said the group recommends the bill draft retaining the School for the Blind under the Department of Public Instruction be amended by:

1. Creating a specific section for the definitions of blind and visual impairment.
2. Clarifying that the School for the Blind is a statewide service, resource, and referral center with specific duties and responsibilities within each of these roles.
3. Specifying that the School for the Blind have the responsibility to facilitate collaboration with agencies and programs providing services to individuals who are blind or have a visual impairment.
4. Incorporating language more familiar to individuals with disabilities (i.e., individuals who are blind or have a visual impairment).

A copy of the testimony and the proposed bill draft changes are on file in the Legislative Council office.

Representative Metcalf asked why the working group chose to retain the School for the Blind under the administrative structure of the Department of Public Instruction rather than the Department of Human Services. Ms. Larsen said the majority of individuals who are blind or visually impaired feel more comfortable with the School for the Blind being under the administrative structure of the Department of Public Instruction.

Representative Delzer asked why language was added providing that the School for the Blind facilitate collaboration among agencies. Ms. Larsen said the group was concerned with the language in the bill draft providing that the School for the Blind be the lead state agency. She said the group tried to define what a lead agency would do. She said the School for the Blind would facilitate discussions with various providers of services to individuals who are blind or visually impaired but not direct the types of services that are provided by these various organizations.

Representative Pollert suggested the committee consider consolidating the School for the Blind under the Department of Human Services rather than under the Department of Public Instruction.

Dr. Wayne Sanstead, Superintendent of Public Instruction, commented on the bill drafts. Dr. Sanstead said he supports the bill draft that retains the School for the Blind under the Department

of Public Instruction with the amendments proposed by the working group.

Mr. Gene Hysjulien, Director, Disabilities Services Division, Department of Human Services, said the department supports the bill draft that retains the School for the Blind under the Department of Public Instruction including the amendments proposed by the working group. Mr. Hysjulien said the School for the Blind has an appropriate role as a facilitator and collaborator of the agencies and organizations involved in the provision of vision services.

Representative Delzer asked how the school will serve as a facilitator and collaborator. Mr. Hysjulien said the School for the Blind can fulfill the role of case manager for persons who are blind or visually impaired, and the Department of Human Services will make services available at the community level.

Ms. Carmen Suminski, Superintendent, School for the Blind, testified in support of the bill draft that retains the school under the Department of Public Instruction including the amendments proposed by the working group.

Ms. Suminski presented information on the estimated fiscal impact of the bill draft. A copy of the report is on file in the Legislative Council office. Ms. Suminski estimated the increased cost for the School for the Blind for the 2001-03 biennium at \$149,667 of special funds. She said this additional funding will provide for the salaries and related operating expenses for two FTE positions for the school. She said the positions would provide technology-related services. She said the positions will be based in western North Dakota and provide training and technology to persons who are blind or visually impaired and to employers and related personnel.

Representative Delzer asked whether the school will serve more clients under the provisions of the bill draft. Ms. Suminski believes the school will serve more clients by serving both children and adults, rather than only children, as employees of the school travel across the state.

Senator Stenehjem asked for the source of special funds that will be available to meet the additional costs. Ms. Suminski said the special funds result from revenues generated by the school including additional Land Department income, tuition collected from nonresident clients, space leases, and donations.

Senator Stenehjem suggested adding language to the bill draft indicating the duties of the School for the Blind are to be performed within the limits of legislative appropriations.

In response to a question from Representative Delzer, Ms. Suminski said the special funds increase will continue beyond the 2001-03 biennium to provide the additional funding needed for the two new FTE positions.

Mr. Allen Peterson, North Dakota Association of the Blind, commented on the bill drafts. Mr. Peterson

said he was a part of the working group and agrees with the proposal presented; however, he does have the following concerns:

1. Without a consolidated vision services agency, communications may be lacking between agencies that serve persons who are blind or visually impaired.
2. Without a consolidated vision services agency, persons who are blind or visually impaired may still, at times, be confused regarding which agency should be serving them.

A copy of the report is on file in the Legislative Council office.

**It was moved by Senator Tallackson and seconded by Representative Gorder that the bill draft providing that the School for the Blind remain under the Department of Public Instruction be amended to provide a separate definitions section; that the school is a statewide service, resource, and referral center; that the school facilitate collaboration with agencies and programs rather than being the lead state agency for vision services; that the population needing services from the school be identified as individuals who are blind or have a visual impairment; and that the school provide its services within the limits of legislative appropriations.**

Representative Delzer said he is concerned with the proposed amendments. He suggested the school be under the administrative supervision of the Department of Human Services rather than the Department of Public Instruction. He also expressed concern that the expanded role of the School for the Blind, without additional funding, may impact the quality of services now being provided.

Representative Pollert suggested that because communications among the agencies providing services to individuals who are blind or visually impaired have improved as a result of this study, the committee should consider changing only the name of the School for the Blind since the law already allows the school to serve persons of all ages.

**A substitute motion was moved by Representative Delzer and seconded by Representative Pollert that the bill draft providing that the School for the Blind remain under the administrative structure of the Department of Public Instruction be changed to only change the name of the school from the School for the Blind to North Dakota Vision Services - School for the Blind.** Representatives Bernstein, Delzer, and Pollert voted "aye." Representatives Boucher, Gorder, Kelsh, Kroeber, and Metcalf and Senators Sand and Tallackson voted "nay." **The motion failed.**

The committee recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

**Senator Tallackson's motion carried on a roll call vote.** Representatives Boucher, Bernstein,

Gorder, Kelsh, Kroeber, and Metcalf and Senators Sand and Tallackson voted "aye." Representatives Delzer and Pollert voted "nay."

**It was moved by Senator Tallackson, seconded by Senator Sand, and carried on a roll call vote that the bill draft, as amended, relating to retaining the School for the Blind under the Department of Public Instruction, changing the name of the school to the North Dakota Vision Services - School for the Blind, and clarifying that the school may serve persons of all ages who are blind or visually impaired be approved and recommended to the Legislative Council.** Representatives Boucher, Bernstein, Gorder, Kelsh, Kroeber, and Metcalf and Senators Sand and Tallackson voted "aye." Representatives Delzer and Pollert voted "nay."

## **RESIDENTIAL TREATMENT CENTERS AND RESIDENTIAL CHILD CARE FACILITIES**

Ms. Jean Doll, Children and Family Services Division, Department of Human Services, provided testimony on out-of-state foster care facilities. Ms. Doll said the Gilfillan Group Home in Bemidji, Minnesota, has a 30- to 40-day evaluation program that is utilized frequently by North Dakota facilities. She said a delegation from the Grand Forks region consisting of several representatives of public and private agencies visited the Gilfillan Group Home in July and is interested in beginning a 30- to 90-day evaluation service program in North Dakota. A copy of the report is on file in the Legislative Council office.

Representative Delzer asked for the number of children who are placed out of state. Ms. Doll said in July, North Dakota had 32 children in out-of-state facilities, and in August, 34 children were placed in out-of-state facilities.

Representative Boucher asked for the impact of the moratorium on the expansion of residential child care facility and residential treatment center beds. Mr. Paul Ronningen, Director, Children and Family Services Division, Department of Human Services, said closure of the Southwest Key program in Mandan resulted in a loss of 16 residential treatment center beds and 24 residential child care facility beds. He said all North Dakota facilities are currently operating at or very near capacity and some have waiting lists. He said Dakota Boys Ranch and Housing, Industry, and Training (HIT), Inc., are planning to open an eight-bed residential treatment center facility in Mandan to meet the needs of lower functioning children.

Mr. Bill Metcalf, Executive Director, Professional Association of Treatment Homes (PATH), Fargo, commented on the PATH program. Mr. Metcalf said PATH is a nonprofit corporation serving children who have serious emotional or behavioral disorders. He said the program provides community-based services

for these children through nine offices across North Dakota. He said the program serves 200 North Dakota children.

Mr. Dale Tweet, Professional Association of Treatment Homes, Fargo, commented on the programs of the organization. He said the purpose of the organization's programs is to develop services that provide families the support needed to maintain a safe therapeutic family environment for children with serious emotional disorders to minimize the child's need for out-of-home care or psychiatric hospitalization. He said 70 percent of the children served by PATH either return home, are cared for by a relative, are adopted, or are placed in a less-restrictive setting.

Representative Boucher stressed the importance of children being placed in the most appropriate care setting to meet their needs. He said foster care facilities need to be aware of their capacities and capabilities to serve children placed in their care.

Representative Delzer said the committee does not need to take any action regarding the moratorium on the expansion of residential child care facility and residential treatment center beds. He said under current law, the moratorium will expire in June 2001.

**OTHER RESPONSIBILITIES**

Mr. David J. Zentner, Director, Medical Services, Department of Human Services, presented a status report on the nursing facilities alternative grant and loan program provided for in 1999 Senate Bill No. 2168.

Mr. Zentner said the department has awarded \$1,283,504 in grants and loans for 23 projects and has \$2,572,000 available for three projects pending final approval. Mr. Zentner presented the following schedule showing the remaining grant and loan funds available:

1999-2001 appropriation adjusted to reflect Emergency Commission and Budget Section approvals	\$6,480,839
Total grants and loans approved or pending	3,855,504
Appropriation remaining	\$2,625,335

Mr. Zentner said while Senate Bill No. 2168 will expire on June 30, 2001, an ad hoc committee chaired by Senator Solberg is considering recommendations regarding the administration of the intergovernmental transfer program for the 2001-03 biennium.

Mr. Zentner said the federal Health Care Financing Administration has informed states it intends to reduce or eliminate the amount of federal funds available through the intergovernmental transfer process; however, he said, the administration has not yet released its revised regulations.

Mr. Zentner said the department has been informed by the Health Care Financing Administration by a phone call that it disagrees with the method used by North Dakota to claim its first-year government nursing facility funding pool payment. Mr. Zentner

said the department believes it made the payments in accordance with its state plan that was approved by the Health Care Financing Administration, and the department intends to ask for a written explanation and appeal the decision made by the Health Care Financing Administration denying \$13 million of North Dakota's \$25.9 million first-year payment.

Mr. Zentner said the department plans to make its second-year government nursing facility funding pool payment of \$24.7 million by September 15, 2000. He said \$17.3 million of this amount will be deposited into the health care trust fund. A copy of the report is on file in the Legislative Council office.

**It was moved by Representative Delzer, seconded by Senator Stenehjem, and carried on a voice vote that if necessary, Chairman Boucher work with the Legislative Council chairman to draft a letter expressing the support of the method used by the Department of Human Services to calculate the first-year government nursing facility funding pool payment to be provided to the Secretary of the United States Department of Health and Human Services, the Health Care Financing Administration director, and North Dakota's Congressional Delegation.**

Mr. Zentner presented a status report on the establishment of a traumatic brain-injured facility in western North Dakota.

Mr. Zentner said HIT, Inc., began construction of its facility at 3404 43rd Street NW, Mandan, in June 2000. He said the facility is expected to be completed by the end of September 2000. He said the department approved grants and loans for the facility from the nursing facility alternative grant fund and alternative loan fund totaling \$360,114. Of the total, the department approved grants of \$21,606 for facility startup costs, \$1,771 for the estimated first-year operating loss, and \$55,018 to reduce the effective interest rate on the construction loan approved from 5.78 percent to 4 percent. Also included in the total, he said, is a \$281,719 loan at an interest rate of 5.78 percent, the lowest allowed under current law. Mr. Zentner said the facility will be named Dakota Pointe and will serve 10 individuals.

Mr. Zentner said the department does not anticipate needing to spend the contingent appropriation of \$200,000, \$60,000 of which is from the general fund, for the traumatic brain-injured facility because based on current expenditure patterns, the department should have adequate funds within the 1999-2001 Medicaid appropriation to cover the additional costs associated with this facility. A copy of the report is on file in the Legislative Council office.

Representative Boucher asked whether North Dakota will have adequate facilities for the traumatic brain-injured population when this facility is operational. Mr. Zentner said based on current needs in the state, the institutional care provided by this facility

and the High Soaring Eagle Ranch near Valley City should be adequate.

Senator Stenehjem said although he was unable to be in attendance for the final committee action on the vision services study bill draft, he supports the bill draft retaining the School for the Blind under the administrative structure of the Department of Public Instruction and the amendments to the bill draft as approved by the committee.

**It was moved by Representative Delzer, seconded by Representative Gorder, and carried on a voice vote that the committee's final report include a statement that civil commitments to the sexual offender treatment program at the State Hospital are not intended to be an alternative to criminal prosecution.**

**It was moved by Senator Stenehjem, seconded by Representative Delzer, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft recommended by the committee and**

**to present the report and recommended bill draft to the Legislative Council.**

**It was moved by Senator Tallackson, seconded by Senator Stenehjem, and carried that the meeting be adjourned sine die.** The committee adjourned sine die at 3:00 p.m.

---

Allen H. Knudson  
Assistant Legislative Budget Analyst and Auditor

---

Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1