

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### **BUDGET COMMITTEE ON HUMAN SERVICES**

Thursday, January 17, 2002  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Amy Warnke, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Amy Warnke, Audrey B. Cleary, Jeff Delzer, Pat Galvin, Bob Hunskor, James Kerzman, Chet Pollert, Todd Porter, Clara Sue Price, Dale C. Severson, Ken Svedjan, Wayne W. Tieman; Senators Robert S. Erbele, Judy Lee

**Members absent:** Representative Ralph Metcalf; Senators Thomas Fischer, Kenneth Kroepelin, Michael Polovitz

**Others present:** Aaron Krauter, State Senator, Regent

Mark Kolling, John Hougen; Department of Human Services, Bismarck

Al Lick, Department of Corrections and Rehabilitation, Bismarck

Jan Trimmer, Upper Missouri District Health Unit, Williston

Timothy K. Lindgren, North Dakota Life League, Fargo

See attached appendix for additional persons present

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

#### **LONG-TERM CARE NEEDS STUDY**

Mr. David Zentner, Director, Medical Services, Department of Human Services, presented information on the status of the department's long-term care needs assessment and nursing facility payment system study, spending for long-term care services under medical assistance and basic care assistance programs, and payments made under the nursing facility bed reduction incentive program. A copy of the report is on file in the Legislative Council office.

Mr. Zentner said the department has contracted with the University of North Dakota and North Dakota State University for \$193,900 to complete four of the five components included in the original study proposal. He said the universities will complete the service area component, elderly age and distribution profile component, elderly needs profile component, and the labor component. He said the Department of Human Services, the University of North Dakota, and

the North Dakota Long Term Care Association will complete the fifth component, the provider and facility profile, at no additional cost.

Mr. Zentner said the committee, at its last meeting, asked the Department of Human Services to consider preparing and distributing a request for proposal for the nursing facility payment system portion of the study. He said the department complied with the committee's request, received three proposals, and has awarded a contract to Myers and Stauffer of Topeka, Kansas, for \$86,770 for conducting the payment system portion of the study. He said the department will be seeking 50 percent federal matching funds for this portion of the study.

Regarding long-term care services expenditures, Mr. Zentner said for the first five months of the 2001-03 biennium, the Department of Human Services spent \$57.5 million of medical assistance funding for nursing facility services, \$17.3 million of which is from the general fund. Although it is early in the biennium, he said, the department estimates nursing facility expenditures to total approximately \$294 million for the biennium, \$5.2 million less than the \$299.2 million that was budgeted for nursing facility costs. He said any savings in nursing facility care costs will likely be needed in other areas of the Medicaid budget. Regarding basic care expenditures for the first five months of the biennium, he said, the department spent \$1.8 million. He said current projections indicate the original budget estimate of \$8.9 million for the biennium for basic care will be very close to actual expenditures.

Mr. Zentner reviewed the nursing facility bed buyout incentive program. To date, he said, the Department of Human Services has paid \$3,095,874 to nursing facilities to delicense 256 beds. He said the department has outstanding payments of \$238,400 relating to the delicensure of an additional 22 beds. He said \$665,726 of appropriation authority remains and the next bed buyout offer is due on April 1, 2002.

Dr. Clayton Jensen, Evangelical Lutheran Good Samaritan Society, Fargo, discussed long-term care services in North Dakota. Dr. Jensen said the Evangelical Lutheran Good Samaritan Society operates 240 nursing facilities nationwide, 15 of which are in North Dakota. He said representatives of the society,

along with a number of industry and state representatives, have created a task force to study innovative ways of providing long-term care services to the elderly in their homes and ways to provide funding for this type of care. He said the task force will be exploring the feasibility of developing a pilot project in North Dakota for a community retirement cooperative to provide elderly home care. A copy of the presentation is on file in the Legislative Council office.

Representative Price asked what the role of the family is in caring for the elderly. Dr. Jensen said that many children are now caring for their elderly parents. He said more training could be provided to family members to improve family care.

Mr. Duane Houdek, Policy Advisor, Governor's office, discussed the status of the North Dakota Olmstead Commission. Mr. Houdek said the commission had an organizational meeting on December 19, 2001. He said North Dakota's main grant request for addressing the Olmstead decision was not approved. He said the commission has decided to use its limited funds to hire a facilitator to assist in conducting a series of public meetings across the state, to prioritize the findings, and to seek further funding for meeting the commission's goals. He said from information gathered at public meetings and from survey responses, the commission will determine appropriate actions that are necessary to meet the requirements of the Olmstead decision. A copy of the report is on file in the Legislative Council office.

Representative Cleary asked why North Dakota's grant application was not approved. Mr. Houdek said North Dakota's grant application focused on implementing new methods of care while successful grant recipients focused on reviewing the needs of the state to be in compliance with the Olmstead decision.

Ms. Shelly Peterson, President, North Dakota Long Term Care Association, commented on the long-term care needs study. Ms. Peterson said the association is working with the University of North Dakota and North Dakota State University to gather survey information from long-term care facilities and staff. She believes a very high response rate will be obtained from the long-term care facilities and staff surveys.

Ms. Peterson suggested the committee encourage the Department of Human Services to involve the nursing facility industry and consumers in the payment system portion of the study as the consultant considers the issues and develops recommendations.

Representative Delzer asked for the components of the payment system portion of the study. Mr. Zentner said the consultants will review North Dakota's case mix payment system, consider whether North Dakota should continue equalized rates, develop a recommendation regarding the timing of rebasing, and review occupancy requirements associated with payment reimbursement.

Mr. Zentner said North Dakota's current payment system has been used since 1990. He said he anticipates the payment system portion of the study to be completed by October 2002 and the Department of Human Services was planning for the consultant to present the recommendations directly to the committee.

Representative Delzer suggested the consultants receive information and input from the Department of Human Services as well as the industry before recommendations are developed. Mr. Zentner said the department did not intend to influence the decisions of the consultants but just to provide factual information regarding North Dakota's current payment system.

Representative Warnke suggested the Department of Human Services discuss the consultant's recommendations with the industry prior to the recommendations being presented to the committee.

Representative Price said she would like to receive the independent recommendations from the consultant but would also like the Department of Human Services and the industry to respond to the recommendations.

Chairman Warnke informed the Department of Human Services the consensus of the committee was that the department involve the industry in the payment system portion of the study prior to the consultant's recommendations being presented to the committee.

### **SENIOR CITIZEN MILL LEVY STUDY**

Ms. Linda Wright, Director, Aging Services Division, Department of Human Services, presented formula options relating to the senior citizen mill levy matching grant program, including the fiscal effect of each option on counties and cities and possible statutory changes. Ms. Wright provided options that would:

1. Limit county mill levies and the state matching grant up to one mill.
2. Provide state matching grants at 100 percent up to the first mill levied.
3. Limit state matching grants up to the first mill levied with a hold harmless provision.
4. Limit state matching grants up to the first mill levied.
5. Base the matching grant on assessed property values rather than the mills levied.

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

Mr. Brian Arett, Fargo Senior Services, commented on the senior citizen mill levy study. Mr. Arett asked for an opportunity to present information and react to any options affecting the senior citizen mill levy matching grant program that the committee may consider.

The Legislative Council staff presented a memorandum entitled *Senior Citizen Mill Levy - Retained Funds*. The Legislative Council staff said each year

senior citizen organizations submit proposed annual budgets to the board of county commissioners or the city governing body. Based on these funding requests and projected available funding, the board of county commissioners or city governing body approves funding levels for each of the organizations. Counties and cities generally distribute all the senior citizen mill levy and state matching fund collections to senior citizen organizations in the year the funds are received. A variety of methods are used by the counties and cities to disburse the funding to organizations, including reimbursing organizations for actual expenses, disbursing the funds to a county council on aging which distributes the funds to various senior citizen organizations, or disbursing the funds directly to the organizations either monthly, quarterly, or annually.

The Legislative Council staff said the majority of organizations spend all funds received during the year. Organizations that do have funding left at the end of the year must include the unspent amount in their next year's budget request as carryover funds. The board of county commissioners or city governing body considers the amount of carryover funds when approving funding for the organization for the next year. Organizations may be authorized, through their budgets submitted to the board of county commissioners or city governing body, to retain funds for specific purposes such as new vehicles, major repairs, improvements, or capital projects.

The Legislative Council staff presented a schedule providing senior citizen mill levy information for each county and city for calendar year 2000, including unspent amounts as of December 31, 2000, and the anticipated use of the unspent funds. The Legislative Council staff said the statewide unspent senior citizen program funds as of December 31, 2000, totaled \$109,670.

### **DEVELOPMENTAL DISABILITIES SERVICES REIMBURSEMENT SYSTEM**

Mr. Mark Kolling, Assistant Director, Developmental Disabilities Unit, Department of Human Services, presented a report on the status of the development of a new reimbursement system for developmental disabilities services providers. Mr. Kolling said the workgroup developing the new system has met twice and is developing models to allow for the evaluation of the various proposals the workgroup will be considering. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Delzer, Mr. Kolling said the workgroup plans to have its proposed reimbursement system developed prior to the 2003 legislative session.

### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES STUDY**

Mr. John Hougen, Director, Public Assistance, Department of Human Services, presented a report on the status of reauthorization of the federal temporary assistance for needy families (TANF) program by Congress, on the status of caseloads and expenditures of the TANF program, and on the impact on families receiving TANF benefits due to the 60-month limit. Mr. Hougen said the TANF program is scheduled to be reauthorized effective October 1, 2002. He said many issues are being discussed and it is difficult to predict the final program provisions. He said key points being considered include:

1. Ways to encourage marriage and the development of two-parent families.
2. Fatherhood initiatives.
3. Privatization.

Mr. Hougen said North Dakota's TANF caseload continues to increase. He said 3,121 families received TANF benefits in December 2001, an increase of 303 families from December 2000. He said if this trend continues, TANF expenditures may be \$3 million more than estimated for the 2001-03 biennium.

Mr. Hougen said the department continues to assess families that may be impacted by the 60-month limit on TANF benefits. Based on January 2002 caseloads, he said, 47 families may receive their 60th month of assistance by December 2002. He said the department anticipates half of these cases to be eligible for a hardship exemption that will allow them to continue receiving assistance beyond the 60th month. In addition, he said, approximately 40 percent of these families are earning wages and would qualify for child care and other support services after they reach their 60th month. He said families that become ineligible for TANF may be eligible to continue to receive food stamps, Medicaid, heating assistance, and child care assistance. A copy of the report is on file in the Legislative Council office.

Representative Price asked why certain individuals that reach the 60-month limit have not been employed if they do not qualify for a hardship exemption. Mr. Hougen said a variety of reasons exist, including that the individual may not have cooperated to try to become employed or, in other instances, jobs may not be available in the area where the individual chooses to live.

Representative Svedjan said he is a member of the National Conference of State Legislatures' task force on the reauthorization of TANF. He discussed the task force considerations and said the key issues the states are supporting include:

1. Maintaining funding at current levels.
2. Enhancing states' flexibility.
3. Continuing to require legislative appropriations of TANF funds.
4. Authorizing contingency funding.

5. Removing designations on the uses of child care development block grant funds.
6. Maintaining social services block grant funding and allowing the flexibility to transfer funds between the TANF and social services block grants.
7. Restoring TANF supplementary grants.

Representative Svedjan said the program's focus may shift from a welfare program to a poverty reduction program.

Mr. Christopher Dodson, Executive Director, North Dakota Catholic Conference, discussed the TANF reauthorization. Mr. Dodson said the North Dakota Catholic Conference directors believe that health care continues to be an important part of welfare reform and that it is important to maintain state flexibility in the program. He said consideration is also being given to directing the focus of the program to child or family well-being as well as poverty reduction.

### **CHARITABLE CHOICE STUDY**

Ms. Kathy Albin, Director of Accounting, State Department of Health, presented a report on faith-based organizations providing contract services with the State Department of Health. Ms. Albin said the department had four contracts with faith-based organizations during the 1999-2001 biennium totaling \$255,204. The contracts related to screening, assessment, and educational services in the women, infants, and children (WIC) program and sexual assault services in the stop violence against women (STOP) program. A copy of the report is on file in the Legislative Council office.

Mr. Al Lick, Director, Juvenile Services Division, Department of Corrections and Rehabilitation, presented a report on faith-based organizations providing contract services with the Department of Corrections and Rehabilitation. Mr. Lick said in the adult services programs of the department, the only contracts with faith-based organizations are those with pastors for providing chaplaincy services at the prison facilities in Bismarck and Jamestown.

Mr. Lick said at the Youth Correctional Center, the department contracts with the Conference of Churches for pastoral services, including involvement with drug and alcohol treatment services, at a cost of \$59,900 per year.

Mr. Lick said the department contracts with Lutheran Social Services at a cost of \$750,000 per biennium from the general fund to provide statewide tracking services for children as they transition from institutional to community living.

The committee recessed for lunch at 11:45 a.m. and reconvened at 1:00 p.m.

Ms. Bonnie J. Miller, Fiscal Director, Department of Public Instruction, presented a report on faith-based organizations providing contract services with the Department of Public Instruction. Ms. Miller said the department administers the United States Department

of Agriculture's child nutrition and food distribution program. She said for the 1999-2001 biennium, the department provided \$1,190,712 of federal funding to faith-based organizations under the child nutrition and food distribution program. In addition, she said, the department provided \$62,000 of federal funds to Lutheran Social Services for the Great Plains Food Bank for the emergency food assistance program.

Ms. Miller said the department indirectly provides funding to faith-based organizations for special education services. She said for the 1999-2001 biennium, the Anne Carlsen Center for Children received \$3,482,646 in special education funding for children placed in that facility and the Dakota Boys Ranch received \$714,996. In addition, she said, the Anne Carlsen Center for Children received \$4,080 to conduct a self-assessment of its special education program.

Ms. Miller said faith-based organizations also receive federal title program funding through public school districts in the state. She said for the 1999-2001 biennium, faith-based organizations received \$1,596,638 of federal title program funding. A copy of the report is on file in the Legislative Council office.

### **ALTERNATIVES-TO-ABORTION SERVICES STUDY**

Ms. Sandra Anseth, Director, Maternal and Child Health Division, State Department of Health, provided statistical information on abortions in North Dakota for calendar year 2000. Ms. Anseth said there were 1,341 abortions performed in North Dakota in calendar year 2000, 863 of which were performed on North Dakota residents. A copy of the report is on file in the Legislative Council office.

Ms. Jan Trimmer, Executive Officer, Upper Missouri District Health Unit, Williston, presented a report on family planning services offered under Title X. Ms. Trimmer said the Upper Missouri District Health Unit serves the counties of Williams, Divide, McKenzie, and Mountrail. She said in calendar year 2000, the family planning program provided services to 770 individuals. Of these individuals, 193 requested a pregnancy test, 59 of which were positive. She said for the individuals whose results were negative, abstinence and family planning information was provided. For those with positive results, she said, information was provided on all available options, the importance of prenatal care, and referrals as appropriate. A copy of the report is on file in the Legislative Council office.

Mr. Erv Bren, Executive Director, Community Action and Development Program, Inc., Dickinson, provided information on the family planning services offered under Title X. Mr. Bren said the program provides family planning services to the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark. He said family planning services were provided to 922 individuals in calendar

year 2001. He said the clinic performed 184 pregnancy tests in 2001, 17 of which were positive. For those individuals whose results were positive, the individuals were provided the *Before You Decide* brochure and encouraged to read it before making a decision if they were unsure of what to do. He said the patients are counseled at the time of the positive pregnancy test regarding the options and provided information based on their decision, or referred for further counseling, as appropriate. A copy of the testimony is on file in the Legislative Council office.

Ms. Karen Halle, Administrator, Lake Region District Health Unit, Devils Lake, provided information on family planning services offered under Title X. Ms. Halle said the Lake Region family planning program provides services to the counties of Benson, Eddy, Pierce, Ramsey, Nelson, Cavalier, Rolette, Towner, Wells, and McHenry. She said in calendar year 2000, the program provided services to 524 individuals. She said the office conducted 50 pregnancy tests, 12 of which were positive. She said for those whose results were positive, each received information on prenatal care and a list of referrals. She said of the 12 positive tests, seven planned to continue the pregnancy and keep the child, two were deciding if they would keep the child or give it up for adoption, and three were unsure of their plans. A copy of the report is on file in the Legislative Council office.

Mr. Timothy K. Lindgren, State Director, North Dakota Life League, Fargo, commented on the alternatives-to-abortion services study. Mr. Lindgren distributed testimony from Ms. Randy Engel, Executive Director, United States Coalition for Life, regarding the Title X programs and services. A copy of the testimony is on file in the Legislative Council office.

Mr. Lindgren said the North Dakota Life League reviewed the North Dakota family planning program in 1996 and 1997. In the review, he said, a number of concerns were identified, including:

1. Brochures being distributed that support abortion.
2. Brochures being distributed advertising second trimester abortions at a Minnesota facility.
3. Materials being made available encouraging promiscuous behavior.

Mr. Lindgren expressed concern that a number of contraceptive methods, including the pill, IUD, Norplant, and Depo Provera cause early abortion and should not be promoted by family planning programs. He said he believes sex education in schools leads to more, rather than less, promiscuous behavior of children. He cited statistics from Pennsylvania indicating a correlation in the amount of federal Title X funding provided to the state of Pennsylvania and the increase in teen abortion rates in that state. He said the North Dakota Life League opposes any

alternatives-to-abortion program, including marketing or advertising campaigns.

Mr. Lindgren said the North Dakota Life League's recommendation for reducing the number of abortions and the percentage of women who choose abortion is to:

1. Eliminate sex education in the public classrooms.
2. Eliminate Title X funds which make contraceptives (many of which may act as an abortive agent to terminate the life of an already conceived child) available to minors, thereby enabling promiscuity among the state's youth, causing alarmingly high rates of related infectious diseases, and increasing the number and percentage of women who choose abortion.

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

Senator Lee said she did not agree with Mr. Lindgren's opinion that eliminating sex education in the schools would reduce the number of unwanted pregnancies.

Representative Cleary said she does not support eliminating sex education programs.

Chairman Warnke distributed a bill draft that would establish an alternatives-to-abortion marketing task force to develop and implement a statewide marketing plan to promote alternatives-to-abortion services and appropriate \$100,000 from the general fund to the Department of Human Services to market these services during the 2003-05 biennium. A copy of the bill draft is on file in the Legislative Council office.

Ms. Patricia Larson, Women's Care Clinic, Fargo, commented on the alternatives-to-abortion services study. Ms. Larson said the Women's Care Clinic provides alternatives-to-abortion services. She said the clinic plans to spend approximately \$40,000 in 2002 to provide statewide yellow page advertisements (\$17,000), to employ a full-time pregnancy counselor (\$18,000), and to provide pregnancy counseling in Minot and smaller communities in the state (\$5,000).

Ms. Larson said there are pregnancy centers located in Bismarck, Grand Forks, Park River, and Fargo. She said plans are underway to expand these services to other parts of the state. She suggested the state not become involved in providing alternatives-to-abortion services but allow the private sector programs to provide these services. A copy of the report is on file in the Legislative Council office.

Ms. Lorna Johnstone, People First of North Dakota, Williston, commented on the alternatives-to-abortion services study. Ms. Johnstone suggested the state not support abortion-related programs.

Ms. Sharon Wald, Dickinson, commented on the alternatives-to-abortion services study. Ms. Wald suggested the committee consider recommending a

study of the correlation between sex education programs and abortions.

Chairman Warnke announced the next committee meeting is tentatively scheduled for April 4, 2002, in Grand Forks.

**It was moved by Senator Lee, seconded by Representative Severson, and carried on a voice vote that the meeting be adjourned subject to the call of the chair.** The meeting was adjourned at 3:00 p.m.

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Allen H. Knudson  
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1