NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMISSION ON ALTERNATIVES TO INCARCERATION

Monday and Tuesday, April 21-22, 2008
GM Building Conference Room, State Hospital
Jamestown, North Dakota

Senator Joel C. Heitkamp, Chairman, called the meeting to order at 8:30 a.m.

Members present: Senators Joel C. Heitkamp, Dick Dever, Tony Grindberg; Representatives Ron Carlisle, Kari L. Conrad, Lawrence R. Klemin; Citizen Members Edward Brownshield, Bradley A. Cruff, Paul Hendrickson, Duane Johnston, Paul D. Laney, Carol K. Olson, Dr. Gary Rabe, Thomas L. Trenbeath

Members absent: Citizen Members Leann K. Bertsch, Judge Gail Hagerty, Justice Mary Muehlen Maring

Others present: Joe Kroeber, State Representative, Jamestown

See Appendix A

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

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Chairman Heitkamp called on Mr. Warren Emmer, Department of Corrections and Rehabilitation, for comments regarding the reorganization for the Department of Corrections and Rehabilitation. Mr. Emmer submitted written testimony, a copy of which is attached as Appendix B. Mr. Emmer said the Department of Corrections and Rehabilitation releases about 100 offenders each month. He said the department is approximately 90 inmates below the projected population and the department's budget is in good shape. He said the reorganization of the department has provided some stability; however, department officials must determine why the department is losing employees.

In response to a question from Representative Klemin, Mr. Emmer said about 100 percent of the temporary employees at the department have turned over. He said the department cannot have such a significant level of turnover in its security staff. He said the turnover rate for correctional officers is 13 percent. He said it is difficult to retain treatment employees and attract new employees in that area. In addition, he said, it is difficult to retain parole officers due to the low salary level.

In response to a question from Ms. Olson, Mr. Emmer said exit interviews with employees leaving the department generally indicate that the employees like their jobs, but have found better jobs. He said the department has lost two parole officers within the last two weeks. He said it takes 26 weeks to train a parole officer.

In response to a question from Representative Conrad, Mr. Emmer said the department is working closely with the Department of Commerce to try and provide training and jobs for offenders being released from custody. He said parole officers also work with offenders, employers, and Job Service North Dakota to provide training and jobs for offenders.

In response to a question from Senator Dever, Mr. Emmer said many of the facilities of the department are inadequate. He said there have been no changes in the facility needs that were identified in the study of the department's facility needs.

In response to a question from Senator Heitkamp, Mr. Emmer said the department is conducting an analysis of employee salaries. He said it appears the salaries paid by the department compare poorly with those in other states, with other state agencies, and with some local agencies. However, he said, many state agencies are in similar situations and salary needs will be discussed in the budget process. He said pay equity funding will likely be included as an optional package in the department's budget.

Senator Heitkamp said the corrections budget is a difficult budget in which to inject new funding during the legislative session. He said salary adjustments should be included within the Governor's budget proposal.

Chairman Heitkamp called on Mr. Richard Hoekstra, Department of Corrections and Rehabilitation, for comments regarding collaborative efforts undertaken by the Department of Corrections and Rehabilitation. Mr. Hoekstra submitted written comments, a copy of which is attached as Appendix C.

Chairman Heitkamp called on Ms. Robyn Schmalenberger, Department of Corrections and Rehabilitation, for comments regarding transitional facilities. Ms. Schmalenberger submitted written testimony, a copy of which is attached as Appendix D.

In response to a question from Representative Conrad, Ms. Schmalenberger said although the department does not have a transitional facility in Minot it may be possible to use existing resources such as county jails to transition offenders back into the community. She said it is important to look at the best placement for the inmate.

In response to a question from Representative Klemin, Mr. Emmer said about 35 inmates are being monitored by global positioning systems. He said the individuals would not be in the community if they were not being monitored through those systems. He said 35 is about the right number for the system at this point.

In response to a question from Mr. Cruff, Ms. Schmalenberger said the department needs to identify the appropriate offenders and locations when transitioning the offenders into the community. She said it is important to look at where jobs are available and make employers aware of the availability of potential employees.

In response to a question from Senator Dever, Ms. Schmalenberger said more classroom space may be needed at the Penitentiary.

Mr. Emmer said most of the proposed plans for remodeling or construction of Penitentiary facilities include additional classroom space.

In response to a question from Mr. Hendrickson, Ms. Schmalenberger said the department has a parole officer in Rugby and uses the Lake Region Correctional Facility to aid the transition of Native American offenders in those areas. She said the department will continue to examine the potential for transition programs in tribal areas.

Mr. Brownshield said there is a need to transition offenders back to the community in tribal areas. He said communication and collaboration with tribal officials is necessary, but can be done.

Ms. Schmalenberger said the reorganization of the department should help build communication and relationships.

In response to a question from Senator Heitkamp, Mr. Emmer said although there is infrastructure in place and community partnerships with respect to training and transition there is some concern with being flexible to deal with changing needs. He said 40 beds are needed for a transition center to break even financially. He said Minot and Williston do not have enough transitioning offenders to be economically feasible.

Chairman Heitkamp called on Mr. Dennis Fracassi, Department of Corrections and Rehabilitation, for comments regarding education and training programs at the Department of Corrections and Rehabilitation. Mr. Fracassi submitted a written summary of his presentation, a copy of which is attached as Appendix E.

Mr. Fracassi said because it costs the state $25,000 a year to house an inmate, it is important to get an offender working in the community as quickly as possible after release from incarceration. He said the department collaborates with a number of entities in transitioning offenders into jobs, including the Department of Human Services and the Department of Commerce. He said the department has changed its focus to move toward education of offenders.

In response to a question from Mr. Cruff, Mr. Fracassi said it is important to address the needs of each individual and teach the living skills necessary to be successful upon release from incarceration.

Mr. Emmer said it is vital to give offenders the tools they need before release from incarceration. He said a significant challenge is addressing the needs of offenders under supervision but who are not incarcerated.

In response to a question from Representative Carlisle, Mr. Fracassi said the transition centers move offenders into the community but may not be placing offenders in meaningful career jobs. He said the goal is to develop an offender's skills to allow the offender to get a job in which the offender can continue working.

In response to a question from Mr. Hendrickson, Mr. Fracassi said offenders under supervision are charged a monthly supervision fee, but the department has not considered attempting to recoup additional expenses from offenders transitioned into the community. He said the state saves money by not having the offenders incarcerated.

Senator Heitkamp said, although he often receives comments from people who are upset that offenders are receiving job training, it is important to remind everyone that the cost of incarcerating offenders is significantly higher than providing training and making the offenders productive in their communities.

In response to a question from Senator Dever, Mr. Fracassi said the department is beginning to look at the education and work history of incoming offenders to determine if there may be methods to intervene with some offenders before they are incarcerated.

In response to a question from Representative Klemin, Mr. Fracassi said the department works with union groups in training and employing offenders. He said the department has the support of the unions in that effort.

DEPARTMENT OF COMMERCE INITIATIVE

Mr. Larry Anderson, Department of Commerce, said the Department of Commerce and a number of other entities have worked to develop a single uniform plan for a workforce development system and talent initiative. He submitted a chart illustrating the workforce development system, a copy of which is attached as Appendix F. He said the state has a labor force of about 356,000 people, and the labor force is getting older. He said up to 40 percent of the labor force may be eligible to retire within 3 years to 10 years. Therefore, he said, there is a need to retain, attract, and expand talent within the state. He said the state must provide a collaborative and unified approach through which better decisions can be made. He said it is necessary to use existing resources for training offenders.

COMMUNITY SERVICE PROGRAMS

Chairman Heitkamp called on Mr. Terry Traynor, North Dakota Association of Counties, for information relating to community service. Mr. Traynor submitted a copy of the *North Dakota Community Corrections Association 2007 Annual Report*, a copy of which is attached as Appendix G. He said community services can reduce state and local costs by reducing incarceration and recidivism. He said he hopes that the state can provide a reasonable level of funding for assisting the community service agencies to provide an important service.

Chairman Heitkamp called on Mr. Dell Horn, Jamestown Community Corrections, for comments regarding community service. Mr. Horn submitted written testimony, a copy of which is attached as Appendix H.

Mr. Donovan Foughty, Presiding Judge, Northeast Judicial District, said $15,000 of state funding per year would provide the support needed to operate the community service organization in Benson, Towner, and Ramsey Counties. He said the community service organization receives funds from each of those counties, cities within those counties, the Lake Region Law Enforcement Center, and the offenders participating in the program. He said a citizen board oversees the one employee of the organization. Although the organization originally received funding from the Department of Corrections and Rehabilitation, he said, state funding for the organization essentially has been eliminated. He requested the committee to consider recommending a specific appropriation for the benefit of the community service organizations.

Judge Foughty said the community service organizations keep offenders out of jail and prison. He said the offenders participating in the program are tested for drugs and alcohol and may be able to work off fines and fees assessed by the court. He said the judge has the option of directly ordering an offender to participate in a community service organization. He said courts collect at least 10 different types of fees, and a fee priority schedule has been established by the court system. Because the community service supervision fee is near the bottom of the priority list, he said, the fee may not be collected in many cases. He said most community service program orders come from the district court or a juvenile court rather than municipal courts. Therefore, he said, state court orders are being enforced in most cases and the programs benefit the state.

In response to a question from Representative Conrad, Judge Foughty said the best way to fund the programs at the state level is through a specific line item. If the appropriation is a discretionary item within the Department of Corrections and Rehabilitation budget, he said, the programs are not able to budget as effectively because of the uncertainty of receiving the funds.

In response to a question from Mr. Hendrickson, Judge Foughty said each community service organization in the state operates independently. He said he is not sure that directing more uniformity would be advantageous.

In response to a question from Senator Dever, Judge Foughty said there are a number of beneficiaries of the community service programs, including nonprofit entities. He said offenders pay to participate in the program and the drug and alcohol screening serves as a deterrent.

In response to a question from Representative Klemin, Judge Foughty said he would be supportive of state assistance for the community service program being done on a matching grant basis.

In response to a question from Senator Heitkamp, Mr. Emmer said the appropriation for community service organizations during this biennium included special funds allocated on a matching fund basis. He said the community service programs are not the highest priority for the Department of Corrections and Rehabilitation. When the community service programs were established in 1991, he said, the plan was that the programs would become self-supporting at the local level. He said budget pressures at the department have kept the community service programs from becoming a higher priority. Therefore, he said, it may be better for the programs to be placed in a less volatile budget. He said the community service programs help keep offenders out of the larger correctional system, and the program in the Devils Lake area is an excellent model.

Judge Foughty said the program puts a significant number of felony offenders on drug screening, which saves the state money. He said the drug testing helps keep people out of prison and serves as an excellent partnership with the state.

In response to a question from Senator Heitkamp, Mr. Traynor said the requirement of matching local funds was a good step in developing a local and state partnership. However, he said, if the programs are not a priority for the state, why should counties make the investment in the programs.

Mr. Hendrickson said the community service programs have been very effective and reduce recidivism.

Mr. Johnston said the community service program in his area serves Pierce, McHenry, and Bottineau Counties and receives approximately $10,000 in funding from each county. He said there should be a matching contribution from the state.

In response to a question from Representative Conrad, Judge Foughty said if $500,000 were included in the judicial branch budget for the biennium, the community service organizations throughout the state could be funded with a 50 percent local match.

In response to a question from Representative Klemin, Mr. Chuck Placek, Department of Corrections and Rehabilitation, said the special fund revenue is supposed to be funded through the imposition of a $50 fee assessed to offenders directed to participate in the community service programs. He said

representatives of the Department of Corrections and Rehabilitation met with representatives of the North Dakota Association of Counties in May 2007 to discuss funding of community service programs during the biennium. He said the parties agreed that the $100,000 general fund appropriation would be distributed up front rather than wait for the special fund money to accumulate. He said the general fund money was granted based upon a formula accepted by the parties. He said $2 in the state funds were distributed for each $1 of local funds invested. He said the balance in the special fund was $14,477 on March 31 of this year. He said it is still necessary to determine how the special funds will be awarded.

In response to a question from Senator Dever, Mr. Placek said the general fund grants were awarded to the community service programs depending upon the number of participants in the programs.

In response to a question from Mr. Hendrickson, Mr. Placek said he is not sure of the amount of fees ordered to be paid by courts and the actual amount of fees that have been collected.

CASS COUNTY PROJECT

Chairman Heitkamp called on Ms. Sheree Spear, Cass County Justice and Mental Health Collaboration Project, for comments regarding the project. Ms. Spear submitted written testimony, a copy of which is attached as Appendix I.

In response to a question from Senator Heitkamp, Ms. Spear said when the funding from the federal grant for the project ends, she would like to see some state funding to help the program continue. She said the National Association of Counties has passed a resolution in support of programs of this type. She said other counties could implement similar programs based upon the Cass County experience.

In response to a question from Representative Conrad, Ms. Spear said an assessment of an individual is conducted at the jail by an employee of the regional human service center. When additional funding becomes available, she said, the assessment could be done by a jail employee.

In response to a question from Senator Grindberg, Ms. Spear said the idea for the program originated when a group of individuals was monitoring federal legislation to address individuals with serious mental illnesses. She said the federal government awarded 26 grants and the Cass County program received a planning and implementation grant. She said the group intends to apply for an additional implementation grant.

Ms. Olson said the Legislative Assembly provided funding for eight crisis beds to help deal with capacity issues around the state. She said the crisis beds are at the State Hospital and through private providers.

In response to a question from Mr. Hendrickson, Mr. Laney said the Cass County program is available to mentally ill individuals arrested in Cass County, regardless of where the individuals reside within North Dakota.

Mr. Trenbeath said the Cass County group has done the legwork to implement a program where there is a substantial need. He said the program saves lives and reduces incarceration costs.

Mr. Laney said the program is laying the groundwork for future programs.

In response to a question from Representative Conrad, Ms. Spear said she has seen interest from other community groups and will work with those groups to share information regarding the program.

In response to a question from Senator Dever, Ms. Spear said the program is in the six-month planning phase. She said implementation will begin in August. She said she is not sure whether outcome data will be available before the next legislative session.

YOUTHWORKS

Chairman Heitkamp called on Ms. Melanie Heitkamp, Youthworks, for a presentation regarding the Youthworks program. Ms. Heitkamp submitted written testimony, a copy of which is attached as Appendix J.

Mr. Lauren Bosch, Youthworks, said the assessment center is a nonsecure facility. He said the center is a collaborative effort among a number of agencies. He said the center has the capacity to serve five youth at a time and is staffed 24 hours a day 5 days a week. He said there is oncall staff for the other days. He said the goal is to expand the staffing to seven days per week. Although the center generally serves youth between the ages of 10 years and 17 years, he said, younger children are accepted on a case-by-case basis. He said a 24-hour crisis line provides referrals to the assessment center. He said the crisis situations typically involve problems between the children and the parents. He said the program helps keep at-risk youth from moving further into the criminal justice system.

Mr. Bosch said the attendant care program has been in operation since 1987 and uses oncall workers. He said the program has been funded through federal grants passed through the North Dakota Association of Counties. He said the program serves status offenders who are unable to return home. Thus, he said, the program is an in lieu of jail-type program. He said referrals to the program are made by law enforcement and the time of stay under attendant care is less than 24 hours. He said the short-term care program has operated since December 2006. He said parental consent is necessary for entry into the short-term care program and a juvenile citation is not needed. Without a court hearing, he said, the child must return home within 96 hours. He said the two programs are very similar and the youth served often meet the criteria for both programs. He said a review committee conducts monthly reviews to determine if the children being served are receiving needed services.

In response to a question from Representative Conrad, Ms. Heitkamp said the Youthworks program does not want to receive foster care payments. She said the goal of the program is to reunite families. By combining attendant care with shelter care, she said, Youthworks is able to provide its services at a lower cost and provide necessary therapeutic intervention.

In response to a question from Representative Klemin, Ms. Heitkamp said the Department of Human Services had completed its budget when representatives of Youthworks approached the department last interim to discuss funding for this biennium. She said they will discuss funding with representatives of the department again for the next biennium.

In response to a question from Senator Dever, Ms. Diane Larson, Bismarck Police Youth Bureau, said the Charles Hall program ceased accepting placement of juveniles when juveniles were taken into custody and were unable to return home. As a result, she said, the only options available to the Police Youth Bureau were Youthworks attendant care or the Youth Correctional Center. She said the Police Youth Bureau was placing juveniles at the Youth Correctional Center who should not have been placed there because there was no other option. She said they did not want to place juveniles with no criminal history at the Youth Correctional Center when what was really needed was a cooling-off time and an assessment period. She said other jurisdictions could consider replicating the Youthworks model. However, she said, without additional funding, the Youthworks option will no longer be available.

Representative Conrad said Ward County has made an investment in a detention center for juveniles.

Ms. Heitkamp said Burleigh and Morton Counties looked at the cost of a detention center and determined that it would be more cost-effective to not choose that option. She said placing children in detention facilities can help lead them deeper into the juvenile justice system.

Ms. Olson said funding for a program like Youthworks very likely will be within the department's optional budget request for the next biennium. She said helping youth before they get too deep into the juvenile system is vital and the Youthworks program is one option to divert them from the system.

In response to a question from Dr. Rabe, Mr. Bosch said children that have returned to the Youthworks program have generally returned for similar reasons and purposes. He said keeping a child out of the foster care system is cost-effective for the state.

Chairman Heitkamp recessed the meeting so that members of the commission could participate in a tour of the Tompkins Rehabilitation and Correction Center.

HYPERBARIC OXYGEN TREATMENT

Chairman Heitkamp called on Ms. Linda Butts for comments regarding hyperbaric oxygen treatment for brain injuries. Ms. Butts said hyperbaric oxygen treatment is an approved insurance protocol and is used to treat wounds from diabetes and carbon monoxide poisoning. She said hyperbaric oxygen treatment is also being used to treat brain injuries and may be effective in addressing brain damage due to drug abuse.

Mr. Steve Reimers, Reimers Systems, Inc., presented written information, a copy of which is attached as Appendix K.

Dr. William A. Duncan, American Association for Health Freedom, presented written testimony, a copy of which is attached as Appendix L.

Dr. Edward F. Fogarty presented written information relating to hyperbaric oxygen treatment, a copy of which is attached as Appendix M. Dr. Fogarty said he is not representing the University of North Dakota School of Medicine and Health Sciences, but is involved with this discussion because hyperbaric oxygen treatment is a simple and easy process and a great idea that has been neglected. He said there is a changing culture in medicine and a short hierarchy among education, government, and medicine can allow great things to be accomplished. He said a state investment of $500,000 could create a hyperbaric center of excellence. He said the $500,000 could provide for a fixed unit site and a mobile trailer unit, in addition to world-class training. He said a hyperbaric center of excellence needs a supportive environment and must come under the blessing of the state.

In response to a question from Mr. Trenbeath, Dr. Fogarty said a hyperbaric center of excellence should not be affiliated with a hospital in Bismarck because of the competition between hospitals. He said a hyperbaric unit could be used part time for treatment of diabetic foot wounds, which is an insurance-approved treatment, and for treating chemical brain injuries due to drug use.

Mr. Reimers said research must be done at the state level to provide evidence before insurance companies are willing to pay for certain treatments and therapies. He said he is aware of two insurance companies that pay for hyperbaric treatment for autistic children.

Dr. Duncan said the University of North Dakota could track results and data if a hyperbaric center of excellence was created. He said the state can make decisions regarding the payment of Medicaid for cost-effective treatments.

In response to a question from Representative Klemin, Dr. Fogarty said if the state were to make an investment in a hyperbaric center of excellence, the center should be associated with the University of North Dakota School of Medicine and Health Sciences.

In response to a question from Mr. Hendrickson, Dr. Fogarty said combining hyperbaric oxygen treatment with other psychological treatment programs would likely result in more effective outcomes.

In response to a question from Representative Carlisle, Dr. Fogarty said many people must go out of state for hyperbaric oxygen treatment. He said two patients were recently sent to Minnesota for treatment of carbon monoxide poisoning due to a fire.

Mr. Reimers said the hyperbaric treatment therapy must be within the reach of people so that their lives will not be disrupted for a long period of time.

CRISIS INTERVENTION TEAM MODEL

Chairman Heitkamp called on Ms. JoAnne Hoesel, Department of Human Services, for comments regarding the crisis intervention team model. Ms. Hoesel submitted written testimony, a copy of which is attached as Appendix N.

Ms. Hoesel distributed written testimony from Mr. Dave Bosh, Ward County Sheriff's Department, regarding the prebooking crisis intervention team model, a copy of which is attached as Appendix O.

Ms. Cyndy Skorick, MeritCare Health System, said there has been a significant increase in the number of individuals showing up in the emergency room who have mental health issues. She said 30 percent or more of the individuals coming into the emergency room on an average weekend have mental health issues. She said treatment of those individuals is expensive and is not always effective. In addition, she said, there also may be several hours of waiting in the emergency room for treatment for those individuals. Because of the lack of community alternatives, she said, the emergency room and short-term beds are used for the treatment of mentally ill individuals while there is a need for a communitywide system of intervention that meets the needs of those individuals. She said representatives of MeritCare are collaborating with other entities, including law enforcement, to provide an option for law enforcement officials when other resources are not available to deal with mentally ill individuals. She said a prebooking model could provide the ability to get an initial assessment at the time of the crisis to provide the needed treatment.

In response to a question from Representative Carlisle, Ms. Hoesel said she can work to determine the estimated cost for establishing a prebooking treatment model program.

Mr. Hendrickson said the North Dakota Peace Officer Standards and Training Board has infrastructure in place that could assist in the training and implementation of a prebooking model.

In response to a question from Representative Conrad, Ms. Hoesel said the prebooking model involves a collaboration of entities, but depends on the resources available in the local communities. She said the model can reduce the number of individuals taken to jail or to the emergency room.

In response to a question from Senator Heitkamp, Ms. Hoesel said she can provide the commission with an estimate of the cost of one pilot project. She said a grant process could be set up to allow communities to voluntarily establish programs after a planning process.

In response to a question from Representative Klemin, Mr. Laney said the crisis intervention team model originated in Minneapolis after a police officer shot a woman who had become combative. He said it later became clear that the police could have used other methods to approach that individual. He said police officers often can avoid arresting an individual if an appropriate approach is taken with the individual.

Ms. Hoesel said it is necessary to increase the continuum of options. She said first responders can use deescalation techniques to defuse a situation. She said the crisis intervention model is not appropriate in every case, but is an alternative that may be considered. She said the individual justice plan that was discussed at the last meeting of the commission could be a perfect model with which to work.

Chairman Heitkamp recessed the meeting at 4:50 p.m. and reconvened the meeting at 8:00 a.m. on April 22, 2008.

COMMISSION BILL DRAFT

At the request of Chairman Heitkamp, commission counsel reviewed a bill draft [90116.0100] that would extend the existence of the commission for four additional years. He said the bill draft does not change the organization or structure of the commission. He said some of the other statutorily created committees or commissions that have citizen members or appointed or elected officials other than legislators allow a member to have a designee attend a meeting.

Ms. Olson said it may be preferable to allow a designee to participate when a member, such as herself, is not available. In addition, she said, other people in the agency may have more information regarding a particular topic than the director.

Representative Klemin said he would prefer that the law remain the way it is. He said it is important for the agency head to receive the information directly as a member of the commission.

Mr. Laney said it sometimes becomes easier for an individual to send a designee. He said the appointee has the option of bringing the experts to the meeting.

Representative Carlisle said the commission has worked well during its existence and is the perfect vehicle for ideas.

It was moved by Representative Klemin, seconded by Representative Conrad, and carried on a roll call vote that the bill draft extending the existence of the Commission on Alternatives to Incarceration until June 30, 2013, be approved and recommended to the Legislative Council. Senators Heitkamp, Dever, and Grindberg; Representatives Carlisle, Conrad, and Klemin; and Citizen Members Brownshield, Cruff, Hendrickson, Johnston, Laney, Olson, Rabe, and Trenbeath voted "aye." No negative votes were cast.

Chairman Heitkamp said the commission should review all of the proposals that have been discussed with respect to the development of recommendations for inclusion within the Governor's budget.

COMMUNITY SERVICE PROGRAMS

Representative Klemin said the special funds appropriation for community service programs is not working.

Mr. Emmer said the supervision fees are required to be collected by courts, but the fees are not being collected. He said some individuals probably cannot afford to pay the fee.

Senator Heitkamp said the program is important, but the special funds appropriation is not working.

Mr. Cruff said a judge has the authority to declare a defendant indigent and waive the fee even if the fee is mandatory.

Representative Carlisle said funding for the community service programs should come from the general fund. He said the programs are cost-effective. He said the funding could be a specific line item in the Supreme Court budget.

Mr. Trenbeath said he agrees that the funding should come from the general fund. He said the judiciary should not be turned into a state revenue agency.

Mr. Hendrickson said judges generally do not hesitate to impose fees that are returned to the court system. He said there is a lack of consistency among judges in the imposition of fees.

Mr. Trenbeath said the job of a judge is to use discretion.

Mr. Johnston said the community service programs are valuable and can work well with a portion of funding coming from the state.

Senator Dever said the various counties take a different approach to community service programs. He said the programs are local programs and should have local investment. He said a dollar-for-dollar match seems to be a reasonable approach.

In response to a question from Mr. Cruff, Mr. Horn said almost every community service program collects a $50 fee from the individual who is participating. He said the fee covers the cost of insurance for the individual's participation.

In response to a question from Senator Heitkamp, Ms. Olson said most agency budget proposals are due by July 15 of this year. She said she has requested an extension to September for the budget proposal for the Department of Human Services.

Representative Carlisle said if the Governor likes a recommendation of this commission, the proposal will be included in the Governor's budget message. He said the time of making the recommendation should not be an issue. He said the recommendations of the commission were successful during the last interim.

Chairman Heitkamp said he would like to have more information regarding why the community service fees are not being collected. He said the commission should request information from the judiciary regarding this issue.

Mr. Horn said the five counties in the Jamestown area have collected about 60 percent of the $14,000 that has gone into the special fund. He said two of the seven judges in that judicial district firmly believe in community service. He said one of the other judges generally waives the community service fees.

Dr. Rabe said imposing a community service fee may be adding another level of bureaucracy. He said it may be better to fund the community service programs through a general fund appropriation on a matching grant basis.

Mr. Laney said community service utilization may increase if the obstacle of imposition of community service fees were removed.

Senator Heitkamp said the appropriation for the community service programs should remain under the Department of Corrections and Rehabilitation rather than shifting it to the judicial branch budget.

In response to a question from Representative Klemin, Representative Carlisle said if the Governor includes the community service programs in the executive budget recommendation as a general fund appropriation, the Appropriations Committees likely will agree to fund those programs in that manner.

Mr. Emmer said as long as the community service programs have the authority to collect the $50 program fee, it should not matter if the $50 court-imposed fee is eliminated.

HYPERBARIC OXYGEN TREATMENT

Representative Klemin said the hyperbaric oxygen treatment proposal may be an appropriate subject for interim study. Because there were suggestions during the discussion that hyperbaric oxygen treatment was not universally accepted, he said, no state agency is likely to invest $500,000 in the program. He said he would like to see the promoters of the treatment method make an investment in a clinical demonstration project that could be monitored along with the interim study. He requested the Legislative Council staff to prepare a resolution draft to study the hyperbaric oxygen treatment protocol. He said a clinical demonstration project could be conducted at the Tompkins Rehabilitation and Correction Center.

Senator Heitkamp said the hyperbaric oxygen treatment proposal seems to be outside the scope of study of this commission. He said the commission has a number of options available that are more within the scope of the commission's authority.

Representative Klemin said hyperbaric oxygen therapy could be a treatment option for drug addictions. He said it is appropriate to ask the promoters of the proposal to make an investment in the proposal.

Representative Carlisle said considering a resolution draft to study the issue is not endorsing the use of hyperbaric oxygen treatment.

Dr. Rabe said using individuals under the control or supervision of the state for clinical trials raises serious

ethical concerns. He said the state of Louisiana is among the worst offenders in using wards of the state in clinical trials.

Mr. Trenbeath said a study resolution draft likely would be fruitless.

Mr. Laney said public perception is an issue to be considered. If the use of hyperbaric oxygen chamber treatment is based upon medical research, he said, there would be less of an issue than if a clinical trial were conducted which involved inmates. He said he believes this commission is the wrong vehicle for addressing whether hyperbaric oxygen treatment is appropriate.

Senator Heitkamp said he agrees the commission is not the appropriate body for pushing the proposal forward. If the treatment protocol is based upon science, he said, the North Dakota University System may be the appropriate body for addressing the issue.

Senator Dever said he sees a problem with the Legislative Assembly making an investment in equipment and technology that the medical community has not fully accepted.

Ms. Olson said she agrees with Senator Dever and believes that other proposals before the commission are more cost-effective. She said the North Dakota University System or the medical community can make the investment in hyperbaric oxygen chambers.

Representative Klemin said an interim study could answer some of the questions regarding whether hyperbaric oxygen therapy is a drug addiction treatment option.

YOUTHWORKS

Representative Conrad said she is not certain that the state should be involved in funding a program such as Youthworks. She said communities around the state handle juvenile detention issues differently and funding should not be provided unless the funding is available to all counties. She said Ward County funds a juvenile detention program which costs the county approximately $100,000 per year.

Senator Dever said he would like to see a comparison of the Ward County program and the Burleigh County program.

In response to a question from Mr. Cruff, Ms. Olson said the foster care system receives federal and state funding. She said a program, such as Youthworks, which keeps children out of the foster care system and the juvenile justice system provides a cost-savings to the state. In addition, she said, a program like Youthworks has a significant impact on the welfare of the child served and the child's family. She said a timeout or cooling-off period during which the child and the family may receive counseling and therapy is often a better option than placing the child at the Youth Correctional Center or in foster care. She said early intervention is vital.

Mr. Hendrickson said when he was sheriff the only alternative he had for dealing with situations involving a child was to arrest the child. He said having a timely tool for dealing with a situation is important.

Mr. Laney said a state grant program that would be available to agencies around the state that meet certain criteria or parameters would provide an option that is not available in most areas.

Representative Carlisle said he supports providing funding for programs like Youthworks and would support increasing the funding from the $200,000 which was proposed.

Ms. Olson said implementing a funding program would be done according to state procurement rules and after the issuance of a request for proposal. She said funding could not be directed specifically at the Youthworks program.

In response to a question from Senator Heitkamp, Ms. Olson said she could obtain more information regarding the appropriate amount of funding for such a program.

Representative Conrad questioned why the funding of programs like Youthworks is not left to local governments and whether the funding of such programs is a state function.

Representative Carlisle said the program can be an alternative to incarceration.

Mr. Cruff said local officials are not as likely to fund an intervention program for children if the problem can be left to the state and the children can be sent to the Youth Correctional Center.

Mr. Brownshield said he would rather see a short-term intervention available as opposed to making a long-term decision to place the child in the juvenile justice or foster care system. He said it is important to look at what is best for the child.

Representative Klemin said the commission could include in its recommendation a statement that local entities make an investment in the programs along with the state contribution.

Senator Dever said he would like to move forward with support for short-term crisis interventions that include therapy.

Mr. Laney said there may be a greater need for intervention programs for children in rural areas. He said the more populous counties already may be helping take care of youth from rural areas.

Mr. Cruff said the program should be set up to require matching funding from local governments.

24/7 SOBRIETY PILOT PROGRAM

At the request of Chairman Heitkamp, Mr. Trenbeath provided an update on the 24/7 sobriety pilot program. Mr. Trenbeath said the Attorney General launched the program in February, and 30 people have been sentenced to participate in the program. He said 11 participants have completed the program and 1 has failed to complete the program. Although the alcohol monitoring bracelets are now available for use, he said, a judge has yet to order that a participant use a bracelet. He said the use of the bracelet will allow participation by individuals who are unable to get to the courthouse two times a day for alcohol monitoring. Although the program is being conducted as an experiment in the

South Central Judicial District, he said, the program is intended to be self-sustaining. He said the program requires a breath test two times a day for the presence of alcohol, and the individual participating is charged $1 per test. He said the purpose of the program is to keep people from drinking alcohol. Because the program has worked very well in South Dakota, he said, that state has expanded its use to include many crimes other than driving under the influence. He said the Attorney General is not asking for a permanent appropriation for the program at this point.

CRISIS INTERVENTION TEAM MODEL

In response to a question from Chairman Heitkamp, Ms. Hoesel said she will provide the commission with information at its next meeting regarding a proposed budget for a pilot prebooking mental health intervention program.

In response to a question from Mr. Cruff, Mr. Laney said with the support and cooperation of the North Dakota Peace Officer Standards and Training Board training for the program could be provided at the Law Enforcement Training Academy. He said an eight-hour introductory session could be established to train instructors to provide additional training to other law enforcement officials.

Ms. Hoesel said the program involves a 40-hour class, but there could be shorter training options available through the peace officer training program.

CASS COUNTY PROJECT

In response to a question from Chairman Heitkamp, Mr. Laney said the Cass County Justice and Mental Health Collaboration project received a planning and implementation grant from the federal government. He said the purpose of the program is to keep mentally ill individuals out of jail when appropriate. He said the request from Ms. Spear was for approximately $86,000 to provide assistance in operating the program for 18 months.

Mr. Emmer said the program is something that can be replicated around the state if it proves to be successful. He said the Department of Corrections and Rehabilitation supports programs such as this.

Mr. Laney said the program benefits the state in that it keeps individuals out of the State Penitentiary.

Mr. Laney questioned whether he should be involved in any vote to provide support for the program due to his status as sheriff of Cass County.

Chairman Heitkamp said that, absent the objection of any member of the commission, it would not be inappropriate for Mr. Laney to participate in a vote.

It was moved by Senator Dever, seconded by Representative Carlisle, and carried on a roll call vote that the commission recommend to the Governor inclusion of $86,000 in the executive budget for funding the Cass County Justice and Mental Health Collaboration project. Senators Heitkamp, Dever, and Grindberg; Representatives Carlisle, Conrad, and Klemin; and Citizen Members Brownshield, Cruff, Hendrickson, Johnston, Laney, Olson, Rabe, and Trenbeath voted "aye." No negative votes were cast.

FAITH-BASED PROGRAMS

In response to a question from Chairman Heitkamp, Mr. Emmer said $500,000 was included in the budget for the Department of Corrections and Rehabilitation to be used to provide funding to faith-based programs to provide housing for individuals participating in the programs. He said approximately $120,000 was expended over the first eight months of the biennium. He said officials from the Department of Corrections and Rehabilitation are looking to get inmates started in the Teen Challenge program sooner rather than waiting until the offender is on parole status. He said he is comfortable with what has been done under the program.

Mr. Laney said the Cass County Sheriff's Department has a full-time chaplain at the jail and the chaplaincy program is working well.

Representative Carlisle said if only a couple of individuals are saved under the program, the long-term costs are recouped.

In response to a question from Dr. Rabe, Mr. Emmer said the Teen Challenge program is essentially available to anyone, regardless of age.

It was moved by Representative Carlisle, seconded by Senator Dever, and carried on a roll call vote that the commission recommend to the Governor inclusion of $500,000 in the executive budget for room and board expenses for individuals admitted to a faith-based program to address addiction problems. Senators Heitkamp, Dever, and Grindberg; Representatives Conrad, Carlisle, and Klemin; and Citizen Members Brownshield, Cruff, Hendrickson, Johnston, Laney, Olson, Rabe, and Trenbeath voted "aye." No negative votes were cast.

ROBINSON RECOVERY CENTER

In response to a question from Chairman Heitkamp, Ms. Hoesel said she will provide the commission information regarding the latest admission statistics for the Robinson Recovery Center. She said several changes have been made in admission criteria. Although the focus remains on methamphetamine treatment, she said, individuals with other addictions are eligible for admission to the center. She said transportation is available to and from Fargo for individuals admitted to the center. She said representatives of the Department of Human Services, the Robinson Recovery Center, and the Department of Corrections and Rehabilitation are collaborating to provide an alternative for individuals rather than sending them back to prison. She said there appears to have been a significant increase in the illegal use of prescription drugs. She said there is a need for long-term residential treatment care and

there may be a need to look at broadening treatment options for other drugs and levels of care.

In response to a question from Mr. Brownshield, Ms. Hoesel said minimum mandatory sentences are keeping some individuals out of treatment at the Robinson Recovery Center. She said it may be advisable to have a law similar to the driving under the influence treatment option.

Mr. Trenbeath said consideration of mandatory minimum sentences are a specific study directive of this commission. He said the commission should consider a bill draft that would authorize broader admissions to the Robinson Recovery Center by exempting certain offenders from minimum mandatory sentences if they successfully complete treatment. He said the exemption should be limited to possession offenses.

Representative Conrad said that some of the female offenders with whom members of the commission visited during the tour of the Tompkins Rehabilitation and Correction Center likely would not have needed to be incarcerated before receiving addiction treatment.

Senator Heitkamp said the Penitentiary warden had told him that many of the inmates at the Penitentiary may not need to be incarcerated. He said those individuals are in need of treatment.

Mr. Hoekstra said commission members may be interested in a public policy website from Washington that addresses best practices. He said the Washington State Institute for Public Policy website at *www.wsipp.wa.gov* includes a significant amount of information regarding criminal justice issues.

Chairman Heitkamp said the next meeting of the commission will be August 13-14, 2008. He said the meeting will likely be held in Dickinson and include a tour of the women's correctional facility in New England.

There being no further business, Chairman Heitkamp adjourned the meeting at 11:00 a.m.

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John Bjornson
Committee Counsel

ATTACH:15