

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### **BUDGET COMMITTEE ON GOVERNMENT SERVICES**

Thursday, January 15, 2004  
Missouri River Correctional Center  
Bismarck, North Dakota  
Youth Correctional Center  
Mandan, North Dakota

Representative Ron Carlisle, Chairman, called the meeting to order at 9:30 a.m. at the Missouri River Correctional Center in Bismarck.

**Members present:** Representatives Ron Carlisle, Bette B. Grande, Joe Kroeber, Ralph Metcalf, Darrell D. Nottestad, Chet Pollert, Louise Potter; Senators Richard Brown, Ed Kringstad, Elroy N. Lindaas, Stanley W. Lyson

**Members absent:** Representatives Pam Gulletson, Amy Warnke; Senators Duaine C. Espesgaard, Joel C. Heitkamp

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

John O. Syverson, State Senator, Fargo

Dwight Cook, State Senator, Mandan

See attached Appendix A for additional persons present.

**It was moved by Representative Grande, seconded by Representative Nottestad, and carried on a voice vote that the minutes of the September 16-17, 2003, meeting be approved as distributed.**

#### **MISSOURI RIVER CORRECTIONAL CENTER - BUDGET TOUR**

At the request of Chairman Carlisle, Mr. Keith Grabowska, Director, Missouri River Correctional Center, presented information on the Missouri River Correctional Center regarding the status of its 2003-05 biennium budget, budgetary requests for the 2005-07 biennium, the center's programs, and plant improvement needs. A copy of the information presented is on file in the Legislative Council office.

Mr. Grabowska said the Missouri River Correctional Center has a capacity of 150 inmates. He said the inmate count at the center was 132 as of January 15, 2004, but expects the center will be full by the middle of the following week.

Mr. Grabowska said a number of the center's older buildings can no longer meet the center's needs and present serious life-safety issues for the center's population. He said due to structural and black mold problems, the center replaced the south wall of the kitchen and it is anticipated the kitchen will need

additional repairs because water has penetrated the areas surrounding the kitchen wall. He said the roof of the kitchen and dining area has also become a problem and will require replacement very soon. Mr. Grabowska said a new proposed kitchen area would include office and storage space, a library, and a multipurpose space for leisure-time activities.

Mr. Grabowska said Roughrider Industries is the largest employer for the center. He said the center lost its welding program, which was available through Bismarck State College, due to a lack of funding at the college. However, Mr. Grabowska said there are still a number of educational, vocational, and treatment programs at the Missouri River Correctional Center, including adult basic education - general educational development (GED), a carpentry program, an auto mechanics program, computer skills training, and employment and education in the community through the manpower work programs and work and education release.

Mr. Grabowska said the Missouri River Correctional Center has established a cognitive restructuring program to assist inmates in identifying triggers to their behavior and options to take when the signs of bad choices appear. Mr. Grabowska said inmate treatment is shared with the State Penitentiary and the center does not have any staff assigned to the treatment program.

Mr. Grabowska said the type of inmate the Missouri River Correctional Center houses has changed over the years. He said the center is housing more medium security inmates than in the past. He said there is more risk associated with a more dangerous population and results in the need for more security staff. Mr. Grabowska said as a result of this change in the center's population, disciplinary reports have risen sharply and the center has seen a major increase in contraband.

In response to a question from Representative Potter, Mr. Grabowska said the average age of the inmate population at the Missouri River Correctional Center is approximately 25 years.

In response to a request from Representative Carlisle, Mr. Grabowska said he would contact Bismarck State College in regard to opportunities to

restart the welding program at the Missouri River Correctional Center.

Mr. Grabowska said in regard to the status of the 2003-05 biennium budget, the Missouri River Correctional Center is meeting all its operating requirements as of January 2004, even though some extraordinary expenses have been incurred, including the replacement of five furnaces (\$20,000), the replacement of two lift station pumps (\$10,000), the replacement of three heat pumps (\$15,000), and the refurbishment of the kitchen wall (\$4,000). He said future expenditures relating to the kitchen include wall renovation (\$5,000 to \$15,000 depending on the extent of damage) and roof repair (approximately \$15,000).

Mr. Grabowska said budget requests for the 2005-07 biennium for the Missouri River Correctional Center will include a 12,883 square-foot kitchen/multi-purpose building, which would replace the current kitchen (approximately \$2,209,597); repair and resurfacing of the gravel road leading to the facility (approximately \$150,000); replacement of some geothermal pumps (\$25,000); eight additional security staff; and one maintenance staff.

In response to a question from Representative Nottestad, Mr. Grabowska said the current staff at the Missouri River Correctional Center consists of 20 security staff, five unit management staff, seven support services staff, two kitchen staff, and one maintenance staff.

In response to a question from Representative Kroeber, Mr. Grabowska said the beds at the Missouri River Correctional Center were filled within two to three days after the female inmates were moved to the Dakota Women's Correctional Rehabilitation Center in New England.

At the request of Chairman Carlisle, Mr. Dennis Fracassi, Director, Roughrider Industries, presented information on land utilization by the Missouri River Correctional Center. Mr. Fracassi said the center has 320 acres of alfalfa, 100 acres of swampland that the center cuts for hay when it is dry enough, and 480 acres of wooded land that contains leafy spurge. He said the center puts its hay up in small square bales and sells them to horse ranchers at market price. Mr. Fracassi said the Missouri River Correctional Center allows the Hettinger Research Center to graze its sheep on the area with the leafy spurge.

In response to a question from Senator Lindaas, Mr. Fracassi said the center has tried in the past to use flea beetles to control the leafy spurge, but the efforts have not been successful.

In response to a question from Representative Metcalf, Mr. Fracassi said the reason more higher security inmates are at the Missouri River Correctional Center is because most of the low security inmates are at the transition center in Bismarck.

Mr. Fracassi said approximately one year ago representatives of the Burleigh, Oliver, Morton, McLean and Mercer (BOMMM) County Joint Board and the North Dakota Water Education Foundation asked Roughrider Industries for permission to access

prison lands to study erosion problems along the Missouri River corridor. Mr. Fracassi said permission was granted to the group which has continued to work on the project called North Dakota's Missouri River Bank Stabilization and Aquatic Restoration Demonstration/Study Project. He said the intent of the project is to try various bank stabilization and aquatic restoration techniques and to monitor the effects of the installation on the Missouri River corridor environment. Mr. Fracassi said some of the focus areas to be monitored include water quality, fishery food web, riverbank and bed stability, impact to islands and sandbars, above-bank wildlife habitat, backwater areas, threatened and endangered species habitat, and the Oahe Reservoir Delta. He said the group would like to use the entire 8,000 to 9,000 linear feet of prison property as its demonstration site. Mr. Fracassi said Roughrider Industries and the Department of Corrections and Rehabilitation have informed the group they fully support the project and will grant access to the property. He said, however, the project is expected to take up to six years for completion and the department cannot commit to access beyond the 2001-03 biennium without legislative approval.

Chairman Carlisle requested Mr. Fracassi to provide the committee with a written copy of information regarding the riverbank stabilization project and that members of the project be invited to present information regarding the riverbank stabilization project to the committee at a later meeting.

Chairman Carlisle requested the Department of Corrections and Rehabilitation to obtain an appraisal or market analysis of the land the department owns to determine a more accurate market value estimate.

The committee conducted a budget tour of the Missouri River Correctional Center, including the housing facility, the kitchen/dining building, the welding shop for Roughrider Industries, and the auto mechanic shop.

## **YOUTH CORRECTIONAL CENTER - BUDGET TOUR**

The committee traveled to the Youth Correctional Center in Mandan, where lunch was provided for the committee members. During the committee luncheon, Chairman Carlisle called on Mr. Al Lick, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, to present information on the Youth Correctional Center, including the status of its 2003-05 biennium budget, the center's programs, proposed capital improvement projects, and budgetary needs for the 2005-07 biennium. A copy of the information presented is on file in the Legislative Council office.

Mr. Lick said the total population at the Youth Correctional Center on January 15, 2004, was 84 students--18 females and 66 males. Mr. Lick said the top priority for the 2005-07 budget is salary increases for the employees. Mr. Lick said the

2003-05 budget on the community component of the Division of Juvenile Services is "struggling" due to a large decrease in the amount of federal funds received. He said the Division of Juvenile Services used to receive \$2.7 million on a yearly basis but will only receive \$900,000 in 2004. Mr. Lick said as of January 2004, the Youth Correctional Center budget seems to be sufficient; however, he said, it is early in the biennium. He said he hopes the center will not have any unforeseen emergencies. Mr. Lick said proposed capital improvement projects for the 2005-07 biennium for the Youth Correctional Center total \$931,600.

In response to a question from Senator Lindaas, Mr. Lick said the length of time a student spends at the Youth Correctional Center varies depending on the individual student and is determined by the staff at the Youth Correctional Center.

In response to a question from Representative Carlisle, Mr. Lick said the uniforms the students are required to wear at the Youth Correctional Center have been successful in eliminating the gang-related clothing some students used to wear at the center and peer pressure problems.

### **SENTENCING COMMISSION OVERVIEW**

At the request of Chairman Carlisle, Ms. Sandi Tabor, Deputy Attorney General, presented information on sentencing commissions. A copy of the information presented is on file in the Legislative Council office. Ms. Tabor said overcrowding in prisons and jails, eliminating unwarranted sentencing disparity, establishing a wider array of sentencing options, and promoting the rehabilitation of offenders are all justifications for conducting a sentencing review process. Ms. Tabor said 22 states in the United States and the District of Columbia have established sentencing commissions, which generally include legislators, judicial branch members, Attorney General's office members, state's attorneys, corrections and law enforcement officials, public defenders, and the general public.

Ms. Tabor said the goals of the Alabama Sentencing Commission are representative of most sentencing commissions and include:

- Protect the public by responding swiftly and surely to crime.
- Provide adult and juvenile criminals with true and certain sentences, maintain judicial discretion, and flexibility to permit individualized sentences, when appropriate.
- Promote truth-in-sentencing for all parties involved.
- Prevent prison overcrowding and the early release of dangerous prisoners.
- Provide judges with flexibility in sentencing options and meaningful discretion in imposing sentences.

- Enhance the availability and use of a larger array of sentencing options in cases, as appropriate.

Ms. Tabor said to achieve the goals listed above, sentencing commissions must focus on long-term solutions after careful deliberation of consequences. She said the biggest challenge for sentencing commissions is to develop the capability to more accurately predict the impact of new laws on the Department of Corrections and Rehabilitation.

Ms. Tabor said the Law Enforcement Subcommittee of the North Dakota Commission on Drugs and Alcohol have begun discussing disparity in sentencing among judicial districts, the need for reforming mandatory sentencing laws, and the relationship between substance abuse, sentencing, early treatment options and the prison population. Ms. Tabor said the subcommittee will work closely with the Department of Corrections and Rehabilitation and the courts to ensure it receives the necessary data to facilitate thoughtful and reasonable recommendations regarding sentence structure in the state.

The committee conducted a budget tour of the Youth Correctional Center, including Centennial Hall, Pine Cottage, Hickory Cottage, the administration/school building, the chapel, gymnasium, and Brown Cottage.

### **HOUSING OF STATE FEMALE INMATES Southwest Multi-County Correction Center**

Chairman Carlisle called on Mr. Norbert Sickler, Administrator, Southwest Multi-County Correction Center, to present a report on the status of housing state female inmates. A copy of the information presented is on file in the Legislative Council office. Mr. Sickler said the Dakota Women's Correctional Rehabilitation Center received the first 14 state female inmates on November 17, 2003, and within a two-week period had received approximately 68 state female inmates. Mr. Sickler said the average inmate population at the center is approximately 67 females per day.

Mr. Sickler said within one week of the arrival of the first female inmates, the center began a variety of treatment programs--addiction group (for all addictions - alcohol, drug, gambling, etc.); family addiction group; survivors of violence; anger management; women's mental health; housing of healing (emotional awareness programs specifically designed for prisoners); trauma and loss (dealing with issues of grief and loss); cognitive restructuring (focuses on thinking that leads to risk behavior); alcoholics anonymous; narcotics anonymous; gambling anonymous; and spender anonymous.

Mr. Sickler said the center also has a variety of educational and self-help education programs, including computers, GED program, parenting, college refresher, life skills, vo-tech math, and library services. He said the center also offers religion and spirituality, including American Indian prayer circle,

sweat lodge, spiritual/cultural consultation, Bible studies, Sunday workshop services, women's spirituality, meditation, and world religions.

Mr. Sickler said the women inmates have been assigned a variety of in-house jobs, including maintenance, janitorial services, library, program helpers, and food service. He said the Dakota Women's Correctional Rehabilitation Center has adopted the same pay scale as the women were receiving through the Department of Corrections and Rehabilitation. Mr. Sickler said work release jobs are available for individuals who are eligible and most of the jobs are being filled at Dickinson locations with the inmates transported there for the program. Mr. Sickler said the industry program employs 10 female inmates, who are paid the same rate as they had been paid through the Roughrider Industries program at the Department of Corrections and Rehabilitation. He said the inmates in the industry program are presently sewing uniforms and other clothing required by the facility to be provided to the female inmates and making a variety of patch quilts and other items which can be sold in the community. Mr. Sickler said although the industry projects are temporary, the center is working with several North Dakota businesses with the prospect of signing contracts for a variety of products for resale by the businesses.

Mr. Sickler said during 2003 approximately \$300,000 was spent on renovation of the New England facility upgrading and replacing various plant systems, including heating and air handling, as well as furniture and equipment needed for start up. Mr. Sickler said in addition approximately \$250,000 will have to be spent to complete the fire suppression sprinkler system, elevator, and emergency generator. Mr. Sickler said the sprinkler system project has been delayed due to the lack of proper water pressure and volume provided by the city of New England. He said the generator has been purchased and will be installed. Mr. Sickler said the architect for the elevator should begin working on the project in the middle of January 2004. Mr. Sickler said he estimates the projects can be completed by April 2004.

In response to a question from Representative Carlisle, Mr. Sickler said the sprinkler system and elevator installation projects will need to be completed before the center can take the approximately 30 high custody women that are still housed at the James River Correctional Center in Jamestown.

In response to a question from Representative Kroeber, Mr. Sickler said the starting wage of \$2,156 per month the Dakota Women's Correctional Rehabilitation Center pays its correctional officers is consistent with the correctional officer wage for most counties in North Dakota.

### **Department of Corrections and Rehabilitation**

Chairman Carlisle called on Ms. Elaine Little, Director, Department of Corrections and Rehabilitation, to present a report on the status of housing state

female inmates in county facilities. A copy of the information presented is on file in the Legislative Council office. Ms. Little said the Department of Corrections and Rehabilitation transferred its minimum custody female inmates to the Dakota Women's Correctional Rehabilitation Center in November 2003. Ms. Little said the department continues to house its high custody women, which includes new arrivals, on the sixth floor at the James River Correctional Center in Jamestown. She said the department continues to orientate new women admissions since new admissions are considered high custody until they are classified. Ms. Little also said the Department of Corrections and Rehabilitation is concerned that the Dakota Women's Correctional Rehabilitation Center has not established a permanent industry program for the women inmates because a permanent industry program will be important to allow women inmates at all custody levels access to industry work programs.

Ms. Little said the American Correctional Association standards that relate to nursing care are the third and fourth edition American Correctional Association standards for infirmary care. She said the third edition standard requires health care personnel be on duty 24 hours per day for infirmary care, and the fourth edition standard requires health care personnel be on duty 24 hours per day when inmates are present in the infirmary. Ms. Little said the impact of the two standards for the Department of Corrections and Rehabilitation is the same, since inmates are present in the infirmaries at all times. Ms. Little said the department was subject to the third edition standard through December 31, 2003, and the fourth edition standard is in effect beginning January 1, 2004.

Ms. Little presented information on the added covered party status for the state of North Dakota relating to the hold harmless agreement with the Southwest Multi-County Correction Center. A copy of the information presented is on file in the Legislative Council office.

### **DEPARTMENT OF CORRECTIONS AND REHABILITATION Inmate Populations and Status of the Department's Budget**

At the request of Chairman Carlisle, Mr. Dave Krabbenhoft, Director of Fiscal Affairs, Department of Corrections and Rehabilitation, presented information on the status of the department's 2003-05 biennium budget and inmate population statistics. A copy of the information presented is on file in the Legislative Council office. Mr. Krabbenhoft said as of November 30, 2003, the Department of Corrections and Rehabilitation has approximately \$85.1 million, or 82 percent, of its appropriation remaining with 79 percent of the 2003-05 biennium remaining. Mr. Krabbenhoft said although it appears the department will not use all of its appropriation for female

contract housing for the 2003-05 biennium, the large increase in the actual male inmate population over the budgeted population will require the use of the majority of the remaining appropriation. Mr. Krabbenhoft said the actual male inmate population for December 2003 was 113 inmates more than estimated, 111 more than estimated for November 2003, and 106 more than estimated for October 2003. He said the actual female inmate population is close to the estimated female population for each month from July to December 2003.

In response to a question from Senator Brown, Ms. Little said the starting pay for correctional officers with the Department of Corrections and Rehabilitation is a major issue and all employee positions within the department are paid less than similar positions at other state agencies. Ms. Little said the department will include salary increases for its employees when it submits its 2005-07 biennium budget to the Office of Management and Budget.

Representative Kroeber said all public employees need to receive salary increases during the 2005-07 biennium, including correctional officers.

In response to a question from Senator Krauter, Mr. Tim Schuetzle, Director, Prisons Division, Department of Corrections and Rehabilitation, said as a result of low employee salaries, the employee morale at the department is very low and the department has problems attracting and keeping staff.

At the request of Chairman Carlisle, Ms. Little presented information on inmate population statistics. A copy of the information presented is on file in the Legislative Council office. Ms. Little said new inmate arrivals for calendar year 2003 was 998 inmates, or a 21.3 percent increase over calendar year 2002. She said the largest category of inmate admissions for calendar year 2003 was drug and alcohol offenders

with 435 admissions, which is 43.6 percent of the total admissions for that year. Ms. Little said the number of inmate admissions for calendar year 2003 with sentences of less than one year decreased, while the number of admissions with sentences of five to less than 10 years increased 46 percent, and sentences of 10 to less than 20 years increased 48 percent.

**Recidivism Rates**

At the request of Chairman Carlisle, Mr. Patrick W. Foley, Research Director, Department of Corrections and Rehabilitation, presented information on the department's recidivism rates. A copy of the information presented is on file in the Legislative Council office. Mr. Foley said the definition of a recidivist is an inmate who is released from incarceration on probation, parole, or expiration of sentence and is returned to Department of Corrections and Rehabilitation Prisons Division custody within three years of release because of a new offense. Mr. Foley said the recidivism rates for the years 1996 through 2000 are: 18.7 percent for 1996, 21.3 percent for 1997, 17.5 percent for 1998, 22.6 percent for 1999, and 24.6 percent for 2000. Mr. Foley said recidivism rates in North Dakota are getting worse because the state has had an increase in the number of inmates, while the number of counselors available for the inmates has remained the same.

**Drug and Alcohol Treatment Information**

At the request of Chairman Carlisle, Mr. Foley presented information on the Department of Corrections and Rehabilitation Prisons Division drug and alcohol treatment for inmates. A copy of the information presented is on file in the Legislative Council office. Mr. Foley presented the following information to the committee:

Month	Number of Inmates Released From Custody	Number of Inmates Referred to Drug or Alcohol Treatment	Number of Inmates Who Completed Recommended Drug and Alcohol Treatment	Number of Inmates Who Did Not Complete Drug and Alcohol Treatment	Percentage of Released Inmates Referred to Drug and Alcohol Program But Failed to Get Treatment	Number of Inmates Who Failed to Complete Drug or Alcohol Program Due to: "Inmate Behavior"	Number of Inmates Who Failed to Complete Drug or Alcohol Program Due to: "Could Not Get Into A Program"
September 2003	50	31	23	8	26%	5	3
October 2003	62	41	30	11	27%	5	6
November 2003	72	47	34	13	28%	5	8
December 2003	77	39	33	6	15%	5	1

**Land and Building Utilization Information and Land Transactions**

At the request of Chairman Carlisle, Mr. Krabbenhoft presented information on the Department of Corrections and Rehabilitation land and building utilization and land transactions for the department from

1983 to 2003. See Appendix B for information regarding the department's land and building utilization and Appendix C for information on department's land transactions.

## DEPARTMENT OF HUMAN SERVICES

### Developmental Disability Services

Chairman Carlisle called on Mr. Gene Hysjulien, Director of Disabilities Services Division, Department of Human Services, to present information on the impact and availability of developmental disabilities services. A copy of the information presented is on file in the Legislative Council office. Mr. Hysjulien said eligibility for developmental disabilities services is determined by developmental disabilities case management in the human service centers pursuant to North Dakota Century Code (NDCC) Section 75-04-06. Mr. Hysjulien said developmental disabilities case managers are also responsible for:

- Initial and annual assessments of each individual's level of care determination;
- Development and periodic update of individual case plans;
- Informing individuals of feasible alternatives;
- Ongoing monitoring of the appropriateness of services included in the individual's case plan;
- Assisting individuals in gaining access to other Medicaid services as well as medical, social, educational and other services; and
- Providing direct support to individuals for whom the department is not purchasing services for.

Mr. Hysjulien said North Dakota ranked fourth in the year 2000 among states in spending on community developmental disabilities services per \$1,000 of state personal income and led the nation in total fiscal effort, spending \$7.16 per \$1,000 of personal income on developmental disabilities services compared to a national average of \$3.67 per \$1,000. He said in 2001 North Dakota ranked first in overall placement rate, with 314 persons receiving developmental disabilities residential services per 100,000 of state population, while the national average was 115 persons per 100,000 population.

### Mental Health and Substance Abuse Treatment

Chairman Carlisle called on Ms. Karen Romig Larson, Director, Mental Health and Substance Abuse Services Division, Department of Human Services, to present a report on the number of clients receiving mental health and/or substance abuse services in the regional human service centers. Ms. Larson said the human service centers recently converted to a new software system and some of the data is missing from two of the centers. She said considering this limitation, on November 12, 2003, 1,493 clients with mental illnesses and/or substance abuse disorders received 1,980 mental health and/or substance abuse services. Ms. Romig Larson said these services include a variety of services--case management, individual or group therapy, medication management, crisis stabilization, detoxification,

residential care, and others. She said some clients, due to the severity of their disorders, receive more than one service on any given day.

### Individuals With Multiple Needs

At the request of Chairman Carlisle, Ms. Romig Larson presented information on the services provided to individuals with multiple needs. A copy of the information presented is on file in the Legislative Council office. Ms. Romig Larson said the eight regional human service centers have comprehensive services and the ability to have developmental disabilities, mental health, substance abuse, and vocational rehabilitation services located in a single provider entity has been very effective. Ms. Romig Larson said for children and adolescents with extremely complex needs, a state review team consisting of representatives from Mental Health and Substance Abuse, Children and Family Services, Disability Services, Medical Services, Juvenile Services, Department of Public Instruction, the State Hospital, and the Developmental Center will meet regularly to review particularly challenging situations and develop methods and approaches for serving each individual with the blend of services required to help the young person achieve stability and improvement. She said this has proven to be an effective approach to providing care and support in the least restrictive environments required for these individuals.

### COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Carlisle said the committee will tour the Southwest Multi-County Correction Center in New England and Dickinson during its April 2004 meeting. He said the committee will also meet two more times after the April meeting, probably in June and September 2004.

Senator Brown requested the Mental Health Planning Council present information at a future committee meeting regarding mental health services in North Dakota.

The committee adjourned subject to the call of the chair at 4:20 p.m.

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Stephanie A. Johnson  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:3