

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

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

Wednesday and Thursday, June 23-24, 2004  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Clara Sue Price, Chairman, called the meeting to order at 2:00 p.m.

**Members present:** Representatives Clara Sue Price, Jeff Delzer, William R. Devlin, Gary Kreidt, Vonnie Pietsch, Louise Potter, Robin Weisz; Senators Bill L. Bowman, Richard Brown, Tom Fischer, Judy Lee, Russell T. Thane

**Members absent:** Representative Alon Wieland; Senators Joel C. Heitkamp, Aaron Krauter, Harvey Tallackson

**Others present:** Lois Delmore, State Representative, Grand Forks

Rich Wardner, State Senator, Dickinson

See attached appendix for additional persons present.

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

The committee met jointly with the Budget Committee on Health Care, Senator Judy Lee, Chairman, from 2:00 until 5:20 p.m. on Wednesday, June 23, 2004.

#### **METHAMPHETAMINE ADDICTION INFORMATION**

Ms. Elaine Little, Director of Corrections, Department of Corrections and Rehabilitation, presented information regarding sentences served and treatment services received by individuals convicted of methamphetamine-related offenses and on methods of communicating treatment needs to the Department of Human Services upon the release of these individuals. A copy of the information presented is on file in the Legislative Council office. Ms. Little said when offenders are admitted to the Prisons Division, unless the individual has a very short sentence or is a parole violator, an alcohol and drug assessment is completed on the offender during the first four weeks of incarceration. She said program recommendations are primarily based on the severity of the addiction and the criminal tendencies of the offender. She said there are four chemical dependency programs available to inmates, including:

1. Intensive outpatient - A six-week chemical dependency program provided at the Bismarck Transition Center for male inmates

and the Dakota Women's Correctional Rehabilitation Center for female inmates. This is the least-intensive alcohol and drug treatment provided to inmates.

2. Day treatment - A more intensive, 12-week program.
3. The treatment unit at the State Penitentiary - A 6- to 12-month program which is recommended for the more antisocial, repeat offender who is alcohol and drug dependent.
4. The Tompkins Rehabilitation Correctional Center - This center is located on the grounds of the State Hospital and the program is operated jointly by the Department of Corrections and Rehabilitation and the State Hospital. The Tompkins Rehabilitation Correctional Center program is a long-term, residential-intensive alcohol and drug and cognitive restructuring treatment program that lasts 100 to 150 days.

Ms. Little said methamphetamine addicts can be successfully treated in any of the four programs; however, they usually require the treatment unit or Tompkins Rehabilitation Correctional Center level of service. She said studies have found that treatment in prison is most effective when started close to the time of an inmate's release.

Ms. Little said the total number of drug offenders with methamphetamine-related offenses admitted to the Prisons Division, excluding parole violators, increased from 119 in 2001 to 193 in 2002. She said the average length of sentence, including probation for those violators, was 51.89 months in 2001 and 50.76 months in 2002.

Ms. Little said the Department of Corrections and Rehabilitation and the Department of Human Services have collaborated for years on providing treatment services to inmates following their release from prison. She said even though the communication and collaboration between the two departments are good, efforts have been made to improve the process. She said in order to avoid waiting lists for treatment programs at the human service centers, the Department of Corrections and Rehabilitation schedules treatment appointments for the inmate months prior to his or her release. She said a committee, which includes representatives of both the Department of

Corrections and Rehabilitation and the Department of Human Services, has been working on establishing a process to avoid possible delays in inmate treatment.

In response to a question from Representative Porter, Ms. Little said very few first-time drug offenders are admitted into the prisons system.

In response to a question from Senator Bowman, Ms. Little said most judges require first-time drug offenders to attend treatment as a condition of parole.

In response to a question from Senator Thane, Ms. Little said budget requests will be made to the 2005 Legislative Assembly for the resources needed for drug and sex offender treatment.

In response to a question from Senator Thane, Ms. Little said with proper treatment most individuals with methamphetamine addiction can return to society.

In response to a question from Representative Delmore, Ms. Little said there are future plans to provide Tompkins Rehabilitation Correctional Center services to the inmates at Dakota Women's Correctional Rehabilitation Center in New England.

In response to a question from Representative Delzer, Ms. Little said as of June 1, 2004, 438 alcohol and drug offenders were in the prisons system. She said 226 were sentenced for delivery or intent to deliver, 175 were sentenced for simple possession of drugs or drug paraphernalia, and 37 were sentenced for strictly alcohol or driving under the influence offenses. She said 50 to 60 percent of individuals admitted into the prisons system indicated methamphetamine as their drug of choice.

Dr. Elizabeth Faust, Medical Director, Southeast Human Service Center, Fargo, presented information on issues relating to methamphetamine addiction and treatment. A copy of the information presented is on file in the Legislative Council office. Dr. Faust said methamphetamine is a powerfully addictive stimulant that can easily be made and can be taken in a variety of ways. She said there are many physical effects of methamphetamine use, including high blood pressure, strokes, seizures, irregular heartbeat, and impaired regulation of body heat. She said mental effects of the drug include euphoria, irritability, paranoia, hallucinations, and depression. She said the cognitive effects of long-term methamphetamine use include distractibility, difficulty sustaining attention, poor memory, poor abstract reasoning, and impulsiveness.

Dr. Faust said the cycle of methamphetamine use includes:

- "Rush" - Lasts from 5 to 30 minutes after use.
- "High" - Lasts from 4 to 16 hours.
- "Binge" - Repeated use for a 3- to 15-day period to maintain the high.
- "Tweaking" - Period where the individual has gone many days without sleep and cannot maintain the high.

- "Crash" - The individual will sleep for one to three days.
- "Normal" period for two to three days.
- "Withdrawal" - Lasts from 30 to 90 days where the individual is unpleasant, depressed, lethargic, and craving the drug.

Dr. Faust said "leverage coercion" is when an individual is faced with a choice to engage in treatment or face undesirable consequences, such as loss of spouse, job, children, freedom, etc. She said this concept has important implications for the interface between treatment and corrections. She said treatment is not a "quick fix" but it does work.

In response to a question from Senator Fischer, Dr. Faust said an individual needs to be mentally capable of receiving drug addiction treatment, otherwise it will not be effective.

In response to a question from Representative Kreidt, Dr. Faust said there is speculation that methamphetamine use may lead to a higher risk of Parkinson's disease.

In response to a question from Representative Porter, Dr. Faust said the Department of Human Services is in the process of implementing software which will assist in providing measurable outcomes of addiction treatment over the long term.

In response to a question from Senator Bowman, Dr. Faust said methamphetamine is often either manufactured in Mexico or the ingredients to manufacture the drugs are sent from Mexico. Ms. Little said major drug dealers are primarily charged with federal crimes and are not in the North Dakota prisons system.

In response to a question from Representative Price, Ms. Kathy Moraghan, Temporary Assistance for Needy Families (TANF) Pilot Project, Southeast Human Service Center and Cass County Social Services, Fargo, said when exposed to the chemicals used in methamphetamine labs there is a risk of children developing learning disorders and behavioral issues.

In response to a question from Representative Delmore, Ms. Moraghan said a protocol is being developed for assisting children who have been exposed to or impacted from methamphetamine use.

In response to a question from Representative Price, Mr. Jeff Stenseth, Program Administrator for Admissions and Case Management, Southeast Human Service Center, Fargo, said individuals addicted to methamphetamine need to be placed in a stable and controlled environment; however, there are a limited number of these types of facilities available.

In response to a question from Representative Porter, Dr. Faust said methamphetamine addiction is a disease of denial. She said the corrections system can be used as leverage to keep people in treatment.

In response to a question from Representative Price, Dr. Faust said she does not see a benefit in providing specialized treatment for methamphetamine users. She said the type of treatment services are

primarily based on the severity of the addiction regardless of the drug. She said prison time forces the individual to abstain from drugs and can be used as a time to make the individual more cognitive.

Mr. Paul Ronningen, Director of Children and Family Services, Department of Human Services, presented information regarding the impact on children and families of methamphetamine addiction and whether North Dakota's intervention laws are adequate to protect children. A copy of the information presented is on file in the Legislative Council office. Mr. Ronningen said the number of North Dakota foster care cases was 1,027 in March 2004 compared to 968 in March 2003 and 957 in March 2002. He said approximately 15 percent of foster care cases are the result of methamphetamine manufacturing, use, or selling. Mr. Ronningen said methamphetamine cases have had a substantial effect on the child welfare system. He said the time demands are significantly higher when a case involves a family member who uses methamphetamine. He said in order to determine whether North Dakota has sufficient staff to deliver child welfare services, technical assistance has been requested from the National Child Welfare Resource Center for Family-Centered Practice to assist the state in conducting a workload analysis. He said the results of the analysis will be made available to the 2005 Legislative Assembly.

Mr. Ronningen said the Department of Human Services will develop, in cooperation with the Attorney General's office, Bureau of Criminal Investigation, and the State's Attorneys Association, protocols for interventions with families where parental use of methamphetamine or other chemicals is a risk or safety concern for the children.

Mr. Ronningen said some counties have provided drug test results to juvenile court in order to establish whether a child has been exposed to methamphetamine or a methamphetamine lab. He said this test, which involves taking a hair sample from a child for analysis, costs between \$70 and \$170 per test. He said counties have incurred significant costs relating to the testing, decontamination, and medical evaluations of children exposed to methamphetamine.

In response to a question from Representative Price, Mr. Ronningen said there is a general consensus that North Dakota's intervention laws to protect children are adequate. He said in some instances, the judicial process may not move quickly enough to enforce the laws.

In response to a question from Representative Porter, Mr. Ronningen said if a child is placed in foster care for 15 months or more during a 22-month period, the Department of Human Services, pursuant to provisions of the federal Adoption and Safe Families Act, will proceed with termination of parental rights unless there are extenuating circumstances.

In response to a question from Senator Brown, Mr. Ronningen said there is a serious shortage of

foster care homes. Representative Delzer said he met with individuals responsible for recruiting foster families who indicated emotional issues rather than financial issues as the primary reason people do not become foster care families.

In response to a question from Representative Delzer, Mr. Ronningen said he would inquire whether the state crime lab could conduct the test to determine exposure to methamphetamine.

Ms. Susan Bailey, Assistant Cass County Prosecutor, Fargo, said North Dakota Century Code (NDCC) Chapter 27-20 provides the state laws for termination of parental rights. She said these laws are based on federal guidelines. She said prosecutors would like drug tests to be conducted more frequently on children of drug users.

The committee recessed at 5:20 p.m. and reconvened at 8:30 a.m. on Thursday, June 24, 2004.

## **DEVELOPMENTAL DISABILITIES SERVICES PROVIDERS' PAYMENT SYSTEM**

Mr. Jon Larson, Executive Director, Enable, Inc., and cochairman of the developmental disabilities payment system workgroup, reported on the development of a new payment system for developmental disabilities services providers. A copy of the report is on file in the Legislative Council office.

Mr. Larson said the workgroup is not recommending changing from a retrospective payment system to a prospective or "fee for service" payment system but said the workgroup's recommendations include:

1. Changing allowable and nonallowable costs for developmental disabilities services providers contained in North Dakota Administrative Code Chapter 75-04-05. The recommendations are budget-neutral and have been submitted to the Department of Human Services for consideration and approval by the Administrative Rules Committee.
2. Providing additional funding for individualized supported living arrangements. Members of the workgroup representing the Department of Human Services abstained from voting on this recommendation because it is not budget-neutral.
3. Completing the final ratesetting process within a two-year cycle. This recommendation will result in each provider's budget being based on an audited fiscal year that ended two years previously.
4. Reducing the provider penalty for filing a late cost report from 10 to 1 percent and encouraging the Department of Human Services to strictly enforce the penalty provision.
5. Expanding the concept of the money following the client within the Department of

Human Services budget when individuals are moved from the Developmental Center to community settings.

6. Continuing regular meetings of representatives of the Department of Human Services, Governor's office, and developmental disabilities services providers to discuss reimbursement issues and other issues that arise.

Senator Bowman asked for information on the number of individuals that are moved from the Developmental Center and how the money would follow the client. Mr. Gene Hysjulien, Developmental Disabilities Division Director, Department of Human Services, said the department anticipates that approximately 15 individuals will be moving from the Developmental Center to the community. He said within the Department of Human Services budget, funding would need to be moved from the Developmental Center budget to the developmental disabilities grants program to provide the additional funding needed to serve these individuals in the community. Representative Delzer said the department has flexibility during this biennium to move funding within the department's budget; however, the department may wish to consider requesting a separate section in its appropriations bill for the 2005-07 biennium to provide a specific amount of transfer authority from the Developmental Center to the developmental disabilities grants program to allow the funding to follow the client.

**HUMAN SERVICE CENTER STUDY**

Ms. Yvonne Smith, Deputy Director, Department of Human Services, presented information relating to human service center programs. Ms. Smith said communications between the Department of Corrections and Rehabilitation and the human service centers regarding the provision of services for individuals released from the corrections system for methamphetamine-related offenses and their families generally occurs 30 days prior to the inmate's scheduled release. Ms. Smith said the corrections system social workers generally refer the individuals so that information can be exchanged and appointments scheduled to meet the treatment needs of the individual being released. Human service center staff believe the referral system works best when the corrections system has a social worker specifically identified for aftercare coordination. In some instances, Ms. Smith said the parole officer will make the referral after the individual has been released, which can result in a delay in services and can be detrimental to the individual's treatment program. She said earlier notification by the Department of Corrections and Rehabilitation allows time to assure that adequate releases of information are generated and information regarding treatment and medication is communicated prior to the inmate's release. Ms. Smith said the Department of Corrections and Rehabilitation and the Department of Human Services have met twice this year to develop ideas and

streamline services through the use of shared evaluation tools and expedited releases of information. She said as a result of these meetings, it was determined that the referrals of individuals with mental health service needs work more smoothly than those with addiction treatment or aftercare needs. To improve this, she said, the Department of Corrections and Rehabilitation has agreed to designate a single person within the corrections system to be the primary contact for the addiction service referral communications.

Ms. Smith reported on the caseload status of case managers involved in mental illness and substance abuse services at the human service centers and the need for additional case managers at the human service centers. Ms. Smith presented the following chart showing the average caseload of case managers involved in mental illness services at the human service centers as of the week of June 7, 2004:

Region	Average Caseload
Northwest - Williston	26
North Central - Minot	35
Lake Region - Devils Lake	25
Northeast - Grand Forks	34
Southeast - Fargo	31
South Central - Jamestown	35
West Central - Bismarck	35
Badlands - Dickinson	36

Ms. Smith said regarding substance abuse services, the department has adopted a case management model statewide. She said each of the centers provides or contracts for the services of licensed addiction counselors to provide primary addiction treatment and aftercare services for individuals. Services are extended and augmented, as needed, through the use of case aides and case managers. Ms. Smith presented the following chart showing the full-time equivalent (FTE) positions assigned to the substance abuse function at each center:

Region	Addiction Staff
Northwest - Williston	5 <sup>1</sup>
North Central - Minot	10
Lake Region - Devils Lake	9.5
Northeast - Grand Forks	9.6
Southeast - Fargo	25 <sup>2</sup>
South Central - Jamestown	9
West Central - Bismarck	12.6
Badlands - Dickinson	5

<sup>1</sup>The five positions in the Northwest region are under contract with Mercy Hospital.

<sup>2</sup>Southeast staff include seven case managers and one addiction counselor who staff "Off Main," a program for individuals with mental illness or dually diagnosed with mental illness and substance abuse. In addition, there are five case managers included who work with the adult and adolescent addiction program at the center.

Ms. Smith provided a comparison of the human service center employee positions during the 2003-05

to the 2001-03 bienniums by position and reasons for changes between the two bienniums. Ms. Smith said overall the number of human service center FTE positions has been reduced from 907.83 FTE positions authorized at the end of the 2001-03 biennium to 833.88 FTE positions as of January 1, 2004. Ms. Smith said major reasons for the reduction include:

1. Pride, Inc., assumed operation of the Manchester House, an adolescent treatment center formerly operated by the West Central Human Service Center, resulting in a reduction of 20 FTE positions.
2. Hilman House in Williston, which provided residential services in a group setting for people with chemical dependency, was discontinued and replaced with individualized supported apartment options, resulting in a reduction of 5 FTE positions.
3. The operation of Dakota Pioneer, a residential service in Fargo for people with chemical dependency and/or serious mental illness, was assumed by the Dacotah Foundation, resulting in a reduction of 16.4 FTE positions.
4. The center-based, dual-diagnosis programs at the Northeast and West Central Human Service Centers were discontinued as part of the statewide alignment process among centers, resulting in a reduction of 8.65 FTE positions.
5. Each of the regional human service center directors is now responsible for two human service centers rather than one, resulting in a reduction of 4 FTE positions.
6. The operation of the retired senior volunteer program was assumed by the North Dakota Extension Service, resulting in a reduction of 5 FTE positions.
7. Changes made to administrative processes and the alignment of human service center core services also resulted in reductions of FTE positions.

Ms. Smith reported on vacant positions within the human service centers and positions that are difficult to recruit. Ms. Smith provided a listing of human service center positions that were vacant on January 1, 2004. The information indicates that as of that date, 30.2 FTE positions were vacant. The number of months the positions were vacant ranged from 2 to 33 months. Positions identified as being difficult to recruit include a human relations counselor position at the Northwest Human Service Center, an office assistant and an advanced clinical specialist at the North Central Human Service Center, a physician position at the Northeast Human Service Center, five community home counselor positions and one registered nurse position at the Southeast Human Service Center, a physician at the South Central Human Service Center, and a supervisor/clinician at the Badlands Human Service Center. Ms. Smith said the

positions may be difficult to fill because of a shortage of people with the required education or experience, because of marketplace competition, or because of location.

Ms. Smith reported on client waiting lists at the human service centers and provided a report indicating waiting times for various services at each human service center as of February 18, March 16, and May 18, 2004. She said while all centers provide 24-hour emergency services, other services in some regions have waiting times exceeding the allowable standard of 10 working days. She said psychiatric evaluation services have waiting times of five to six weeks in four of the centers. She said demand for addiction evaluations is also creating a longer waiting time at half of the centers. She said overall the south-east region has made some progress in reducing waiting time for some services; however, demand continues to outpace resources at the Southeast Human Service Center. She said the regional office automation computer project has begun to produce service delivery data that will assist the regional directors in examining data with the goal of developing ways to maximize capacity to address the service needs in each region. A copy of the report is on file in the Legislative Council office.

## **HUMAN SERVICES PROGRAMS ADMINISTRATIVE COSTS**

Mr. Mike Schwindt, Child Support Enforcement Director, Department of Human Services, provided information on other states' child support enforcement systems. Mr. Schwindt said information was provided on Iowa, Maine, and South Dakota because those states are similar in size to North Dakota and have consistent, high-performance records. In overall rankings for child support enforcement programs, he said, South Dakota is ranked No. 1, North Dakota is ranked No. 3, Iowa is ranked No. 7, and Maine is ranked No. 13.

Mr. Schwindt presented organizational charts of each state's child support delivery systems and comparisons of a number of components of each system's structure, including outlying offices, caseload, staffing, customer service, paternity establishment, review and adjustment, enforcement, funding, and performance measures. Mr. Schwindt said while North Dakota has a state-supervised and county-operated program, Iowa, Maine, and South Dakota each have a state-operated child support enforcement program.

Mr. Schwindt said the Department of Human Services supports changing the structure of the child support enforcement program to provide for state administration. He said this could be accomplished by:

1. Removing county responsibility for the program effective January 1, 2006.

2. Retaining offices in the cities where they are now located.
3. Authorizing the transfer of the regional child support enforcement unit staff to the Department of Human Services.
4. Maintaining budgeted 2004 funding contributions from counties into the future.
5. Authorizing a continuing appropriation for funding from the tribes if they choose to apply for direct federal funding.

Mr. Schwindt commented on child support issues relating to active military personnel. He said activation of reserve and Guard units has impacted child support enforcement relating to:

1. Custody of children when the activated parent has legal custody.
2. Change in income of the obligor.
3. Difficulty in effecting service so that the child support process can proceed.

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

Representative Price asked why the information presented reflects two different numbers for North Dakota's child support enforcement caseload--39,946 and 34,129. Mr. Schwindt said the department would review the supporting documents for the report and analyze the variance. Mr. Schwindt reported after committee adjournment that the caseload of 39,946 is the child support enforcement total caseload while 34,129 is the caseload used for calculating performance incentives and excludes cases classified as "lack of jurisdiction" or as dormant.

Representative Delzer said the 2003 Legislative Assembly provided \$215,000 of general fund support for the Lake Region Child Support Enforcement Unit; however, it included a provision that the 59th Legislative Assembly consider removing general fund support for the unit if its performance results do not improve during the 2003-05 biennium. Representative Delzer asked for the status of the unit's performance to date and the department's plan for addressing this issue in its 2005-07 budget request. Mr. Schwindt said that in 2002, the performance of the Lake Region Child Support Enforcement Unit was eighth among the eight regions in the state and continued performing in eighth place in federal fiscal year 2003. Mr. Schwindt said the department is planning to include the \$215,000 of general fund support for the unit in its 2005-07 budget request.

Ms. Vonette J. Richter, Counsel, Legislative Council, presented a memorandum entitled *Indian Jurisdictional Issues* relating to state jurisdiction on Indian reservations. Ms. Richter said that Congress enacted Public Law 280 in 1953, which gave six "mandatory" states civil and criminal jurisdiction over all or part of Indian country within those states. She said Public Law 280 also authorized another group of states, which included North Dakota, to voluntarily opt to assume criminal and civil jurisdiction over Indian country. The second group of eight states was

empowered to assume such jurisdiction by amending their state constitutions and state statutes. In 1963 the North Dakota Legislative Assembly passed legislation (NDCC Chapter 27-19) requiring tribal acceptance of jurisdiction before the state can assume jurisdiction in certain matters. Under this law, determining the parentage of children, termination of parental rights, commitments by district courts, guardianship, marriage contracts, obligations of support of spouse, children, or other dependents are examples of the types of cases which the state courts could decide if the tribes agreed. In addition to the statutory provision regarding the consent of tribes before the state can assume jurisdiction, in 1968 Congress enacted similar provisions to limit the further extension of Public Law 280. The 1968 provisions require tribal consent, by majority vote of the adult members, before any of the option states could assume jurisdiction over any areas of Indian country. Since the enactment of this amendment, no tribe has voted to consent to state court jurisdiction. In addition, Public Law 280 was amended to provide that states that had previously opted to exercise jurisdiction over Indian country could retrocede or disclaim such jurisdiction subject to acceptance by the federal government.

Mr. Joe Belford, Ramsey County Commissioner, Devils Lake, commented on the performance of the Lake Region Child Support Enforcement Unit. Mr. Belford said it is very difficult to improve the performance in the lake region when approximately 82 percent of child support cases involve individuals on Indian reservations.

Representative Devlin said that the Lake Region Child Support Enforcement Unit's performance remains low even when cases involving individuals on the Indian reservations are excluded from the calculations.

Chairman Price announced that the next committee meeting is tentatively scheduled for Monday and Tuesday, August 2-3, 2004, and will involve conducting budget tours in Devils Lake and Minot. She said the final meeting is tentatively scheduled for September 22-23, 2004, in Bismarck.

The committee adjourned subject to the call of the chair at 11:25 a.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

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