

August 2005

DEPARTMENT OF CORRECTIONS AND REHABILITATION INCARCERATION AND FACILITY NEEDS - BACKGROUND MEMORANDUM

Section 12 of Senate Bill No. 2015 (Appendix A), as amended by Section 41 of House Bill No. 1015 (Appendix B), directs the Legislative Council to develop a legislative strategic plan, including site and facilities' plans, for the Department of Corrections and Rehabilitation's incarceration and correctional facility needs. Section 12(3) provides the following guidelines for the committee in its development of a strategic plan for the Department of Corrections and Rehabilitation:

3. The committee shall:
 - a. Receive information from the Department of Corrections and Rehabilitation, regional authorities with regional corrections centers, counties with county jails, cities with city jails, corporations operating private correctional facilities, and others the committee considers necessary to develop a strategic plan for the state's incarceration and correctional facility needs for the next 20 years.
 - b. Consider using existing facilities; other available state facilities; and county, local, or private facilities.
 - c. Consider any cost and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility.
 - d. Consider state-operated facilities compared to contract-operated state facilities.
 - e. Consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs.
 - f. Consider the impact to the Department of Corrections and Rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs.
 - g. Develop a strategic plan based on the information received by the committee.

DEPARTMENT OF CORRECTIONS AND REHABILITATION SERVICES

The Department of Corrections and Rehabilitation includes two major programs--juvenile services and adult services. Within each of the two programs is an institutional division and a community division. Therefore, the four major areas of the department are the

Field Services Division (adult parole and probation across the state), the Prisons Division (State Penitentiary, Missouri River Correctional Center (MRCC), and James River Correctional Center (JRCC)), Juvenile Community Services, and the Youth Correctional Center (YCC).

The State Penitentiary in east Bismarck is the main prison complex, consisting of 550 prison beds, and houses maximum security male inmates. The JRCC at Jamestown, which has 385 prison beds, houses medium security male inmates, and also housed the majority of the female inmates until they were transferred to the Dakota Women's Correctional and Rehabilitation Center (DWCRC) in New England during the 2003-05 biennium. The MRCC in southwest Bismarck, which has 150 prison beds, houses minimum security male inmates and also housed some female inmates until they were transferred to DWCRC. The 2005 Legislative Assembly provided funding to continue contract housing all the state's female inmates at the DWCRC for the 2005-07 biennium. Other inmates may be held in local correctional centers, on the community placement program, in other states through the interstate compact program, and in a private prison in Appleton, Minnesota.

The Tompkins Rehabilitation and Correction Center (TRCC), a combined program located on the campus of the State Hospital in Jamestown, is managed through the department's Field Services Division and houses both inmates and noninmates. The TRCC is the combination of the Tompkins Rehabilitation and Corrections Unit (TRCU) from the Stutsman County Corrections Center and the Corrections Rehabilitation and Recovery Center (DUI Center). The TRCC consists of three 30-bed wards--one ward (30 beds) for females and two wards (60 beds) for males.

The Division of Juvenile Services is responsible for the Youth Correctional Center. The center, located west of Mandan, is the state's secure juvenile correctional institution. The center serves as a detention and rehabilitation facility for adjudicated juveniles who require the most restrictive placement and maximum staff supervision and provides appropriate programming to address delinquent behavior. The center provides adjudicated adolescents an opportunity to complete or progress toward completing their education coursework while in residence.

STATE PENITENTIARY

North Dakota Century Code (NDCC) Section 12-47-01 provides for the establishment of the State Penitentiary. The State Penitentiary, which was

founded in 1885, is located in Bismarck and is the general penitentiary and prison of the state for the punishment and reformation of offenders against the laws of the state. In 1997, Section 12-47-01 was amended to permit the director of the Department of Corrections and Rehabilitation to establish affiliated facilities at other locations throughout the state within the limits of legislative appropriations. The Penitentiary and the immediate surrounding property occupy approximately 200 acres on the eastern outskirts of Bismarck. In addition, the Department of Corrections and Rehabilitation owns approximately 2,500 acres, which include the MRCC and other lands used for farming purposes.

The Penitentiary is the state's maximum security housing facility and is composed of seven units that are used to house male inmates. Those seven units consist of the north unit (orientation unit), the overflow unit, the east cellhouse, the west cellhouse, the south unit, the treatment unit, and the administrative segregation unit. As of July 5, 2005, the State Penitentiary housed 496 male inmates.

Pursuant to NDCC Section 12-47-11, the warden, under the direction of the director of the Department of Corrections and Rehabilitation, is responsible for the custody and control of the Penitentiary, its lands, its property, and its inmates. The warden is responsible for the policing of the Penitentiary and the discipline of the inmates.

JAMES RIVER CORRECTIONAL CENTER

The JRCC, which is located on the grounds of the State Hospital in Jamestown, was completed for use as a correctional facility in 1998. The JRCC is classified as a medium security housing facility and contains three units for its inmate population. As of July 5, 2005, there were 356 male inmates housed at the JRCC.

The Legislative Assembly did not change the 2005-07 biennium executive recommendation to provide \$980,000 for ET building improvements and \$584,000 for code improvements in the Building 18A (programs building) at the JRCC. The ET building improvements consist of security improvements, energy efficiency improvements, and an increase in bed space by converting four existing pantry areas to five-bed dormitories, for a total increase in bed capacity of 20 beds. The code improvements to Building 18A include improvements to restrooms, roof replacement, and improvements to the elevator and stairwell for accessibility by disabled individuals. Construction costs for JRCC ET building and Building 18A improvements, which total \$1,564,000, will be financed through the issuance of bonds authorized in 2005 Senate Bill No. 2023.

MISSOURI RIVER CORRECTIONAL CENTER

The MRCC is located eight miles south of Bismarck near the Missouri River. The MRCC has no

walls or barriers to contain the inmates and is located in a wooded setting. The institution houses male inmates whose sentences are not less than 30 days nor more than one year. The inmate housing facilities at the MRCC consist of a minimum security, dormitory-style housing unit for male inmates which has a capacity of 150 inmates. As of July 5, 2005, there were 134 male inmates at the MRCC.

Among the education programs offered to the inmates at the MRCC are a high school equivalency program, a resident tutoring program, a business education class, automotive mechanics program, carpentry classes, computer skills training, and pre-release and education release programs.

FIELD SERVICES DIVISION

The Field Services Division has offices across the state staffed by parole and probation officers. The division manages offenders sentenced to supervision by a court, released to parole by the Parole Board, sent to community placement by the director, and placed at the Tompkins Rehabilitation and Correction Center. The division staff supervise offender compliance with the supervision conditions and provide cognitive behavioral and other forms of counseling services. The division also manages the victims services program to help mitigate the suffering of crime victims by providing fiscal support and services to crime victims.

DIVISION OF JUVENILE SERVICES

The Community Services Division of the Division of Juvenile Services has eight regional offices serving the eight human service regions across the state and is staffed to provide supervision to juveniles committed by the courts. The division's case managers supervise about 400 juveniles per day.

The Division of Juvenile Services also oversees the YCC. The YCC, located west of Mandan, is the state's secure juvenile correctional institution. The YCC serves as a secure detention and rehabilitation facility for adjudicated juveniles who require the most restrictive placement and maximum staff supervision and provides appropriate programming to address delinquent behavior. Juvenile programming at the YCC includes drug and alcohol programming, child psychiatric and psychological services, sex offender programming, a pretreatment program for juveniles who are difficult to manage, and a security intervention group program to inform, educate, and provide juveniles with alternatives to gang activity and gang affiliation. The YCC provides adjudicated adolescents an opportunity to complete or progress toward completing their education coursework while in residence.

DAKOTA WOMEN'S CORRECTIONAL REHABILITATION CENTER

During the 2003-05 biennium, the Department of Corrections and Rehabilitation began to contract with

the DWCRC to house its female inmates. The DWCRC is owned and operated by the Southwest Multi-County Correction Center Board, which consists of one member from each of the six counties represented in the Southwest Multi-County Correction Center. The six counties include Stark, Slope, Billings, Bowman, Dunn, and Hettinger.

The prison facilities at the DWCRC, which is the former St. Mary's boarding school, consist of the administration building and Haven Hall. The administration building contains the medium security dormitory, the cafeteria, two gymnasiums (one for minimum security inmates and one for higher security inmates), the infirmary, auditorium, library, visitation room, classrooms, and the industries room. Inmates gain access to the secure recreation yard through the administration building. Haven Hall is the minimum security dormitory and contains the chapel. The DWCRC will be constructing a new maximum security addition to the center for administrative segregation and detention. The addition will include five new cells at an estimated construction cost of approximately \$450,000.

On November 17, 2003, the first 14 minimum security female inmates were transferred from the JRCC to the DWCRC, and within two weeks, the DWCRC had received 68 minimum security female inmates. Upon the completion of additional facility renovations, including the installation of a sprinkler system, the remaining 31 higher security female inmates were transferred from the JRCC to the DWCRC on August 11-12, 2004. As of July 5, 2005, there were 114 female inmates at the DWCRC.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - FUNDING AND FULL-TIME EQUIVALENT POSITIONS

The 2005-07 biennium appropriation for the Department of Corrections and Rehabilitation is \$128.9 million, of which \$101.1 million is from the general fund. Of the \$128.9 million, the appropriation for adult services is \$107.9 million, of which \$85.8 million is from the general fund, and the 2005-07 appropriation for juvenile services is \$21 million, of which \$15.3 million is from the general fund. There are 677.28 full-time equivalent (FTE) positions authorized for the 2005-07 biennium, an increase of 33.1 FTE positions from the 2003-05 appropriation. The 33.1 new FTE positions, which include 14.1 FTE positions for the Field Services Division and 19 FTE positions for the Prisons Division, are listed in the following table:

Position	FTE Changes Included in Legislative Appropriation
Juvenile Services Division	0.00
Adult Services Division	
Field Services Division	
Administrative assistant II	5.10
Parole and probation officer II	2.00
Community corrections agent I	0.50
Community corrections agent II	2.00
Parole and probation program manager	1.00
Community commitment supervision	3.00
Program manager	0.50
Prisons Division	
Dentist	1.00
Dental assistant	1.00
Physician	1.00
Nurse practitioner	1.00
Social worker II	3.00
Addiction counselor II	2.00
Human relations counselor	3.00
Mental health care specialist II	2.00
Correctional unit case manager	3.00
Addiction counselor III	1.00
Pharmacy technician	1.00
Total	33.1

DEPARTMENT OF CORRECTIONS AND REHABILITATION - INMATE POPULATIONS

The following table summarizes 2005-07 biennium inmate population projections used for the legislative appropriation:

	Male	Female	Total
Fiscal Year 2006			
July	1,237	134	1,371
August	1,243	135	1,378
September	1,249	136	1,385
October	1,256	136	1,392
November	1,262	137	1,399
December	1,268	138	1,406
January	1,275	139	1,414
February	1,281	139	1,420
March	1,287	140	1,427
April	1,294	141	1,435
May	1,300	141	1,441
June	1,307	142	1,449
Fiscal Year 2007			
July	1,313	143	1,456
August	1,320	143	1,463
September	1,327	144	1,471
October	1,333	145	1,478
November	1,340	146	1,486
December	1,347	146	1,493
January	1,353	147	1,500
February	1,360	148	1,508
March	1,367	149	1,516
April	1,374	149	1,523
May	1,381	150	1,531

June	1,388	151	1,539
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June 2005, as compared to the legislative population estimates for the 2003-05 biennium:

The following table shows actual average male and female inmate populations for July 2003 through

	Male Inmate Population Estimated vs. Actual			Female Inmate Population Estimated vs. Actual		
	Legislative Estimated Population	Actual Population	Actual Above/(Below) Estimate	Legislative Estimated Population	Actual Population	Actual Above/(Below) Estimate
Fiscal Year 2004						
July	1,013	1,087	74	104	106	2
August	1,017	1,082	65	105	109	4
September	1,020	1,095	75	106	107	1
October	1,023	1,129	106	107	111	4
November	1,027	1,138	111	109	110	1
December	1,030	1,143	113	111	110	(1)
January	1,034	1,148	114	112	114	2
February	1,037	1,160	123	113	115	2
March	1,040	1,168	128	114	118	4
April	1,044	1,173	129	116	121	5
May	1,047	1,173	126	117	125	8
June	1,051	1,166	115	119	126	7
Fiscal Year 2005						
July	1,054	1,171	117	120	127	7
August	1,058	1,178	120	122	127	5
September	1,061	1,167	106	123	129	6
October	1,064	1,181	117	124	131	7
November	1,068	1,196	128	125	141	16
December	1,071	1,191	120	126	135	9
January	1,075	1,205	130	128	131	3
February	1,078	1,216	138	129	135	6
March	1,081	1,221	140	131	139	8
April	1,085	1,232	147	132	144	12
May	1,088	1,229	141	134	143	9
June	1,092	1,217	125	136	145	9

As of July 5, 2005, the total inmate population was 1,356, of which 1,208 were males and 148 were females.

STRATEGIC PLANNING

The Budget Committee on Government Services has been assigned the responsibility to develop a strategic plan for the Department of Corrections and Rehabilitation during the 2005-06 interim. This section provides the committee with information on the elements that should be included in a strategic plan.

The 2003-04 interim Government Performance and Accountability Committee studied state government performance and accountability practices and introduced 2005 House Bill No. 1035 to provide for a state government performance and accountability system for the state of North Dakota. Section 6 of House Bill No. 1035 includes the following guidelines that an agency's or department's strategic plan must include:

1. The mission, goals, and objectives of the agency.
2. Identification of the groups of people served by agency and the results of any methodology used to assess and improve services.

3. The strategies and activities utilized to meet agency goals and objectives.
4. A general description of the agency's sources and uses of funds.
5. Estimated future service requirements and the resources that may be necessary to meet those requirements.
6. External factors affecting services of the agency.
7. The performance measurement data developed under this Act used to evaluate and assess the agency's performance.

An April 2001 report from the Urban Institute, entitled *Making Results-Based State Government Work*, suggested the following elements be included in a state's strategic planning process:

1. Identification of the populations served and outcomes sought by the agency.
2. Identification of specific outcome indicators by which progress will be measured.
3. Examination of the future environment and problems/barriers within which the agency and its programs operate (such as demographic, economic, and social factors and trends).

4. Identification of the latest available baseline values for each outcome indicator.
5. Examination of alternatives and practical options for achieving outcomes, including the current service delivery approach.
6. Analysis of each strategic option's costs, feasibility, and effect on the outcomes, including estimates of the out-year values for each outcome indicator and the costs included in the plan.
7. A process for obtaining input from the legislature, agency customers, agency employees, and interest groups.
8. Selection of one or two of the strategic options for review by key state officials in the executive and legislative branches.

PREVIOUS STUDIES

1977-78 Interim

During the 1977-78 interim, the Legislative Council's Corrections Committee, pursuant to Senate Concurrent Resolution No. 4060, was directed to study the entire criminal justice system. As a result of its study, the Corrections Committee recommended a more detailed study be conducted of community corrections than was possible during the 1977-78 interim. The committee recommended a study of community corrections also include a study of the Penitentiary to determine whether changes need to be made concerning that facility. The committee cited the age of the Penitentiary and the expansion of the city of Bismarck around the Penitentiary area as raising questions concerning the suitability of the Penitentiary's location. The committee concluded that since these conditions exist at the Penitentiary, and community corrections programs would be interrelated with state-level corrections, a dual interim study of community corrections programs and the State Penitentiary should be conducted.

1979-80 Interim

During the 1979-80 interim, the Legislative Council's State and Federal Government "B" Committee, pursuant to Senate Concurrent Resolution No. 4019, was directed to conduct a comprehensive study and evaluation of the adult correctional facility needs throughout the state. Because the study resolution called for an extensive evaluation of the State Penitentiary and adult correctional facility needs throughout the state and would require extensive data gathering and criminal justice and correctional expertise, the committee obtained the services of a consultant to aid in the committee study. Based upon the consultant's recommendations, the committee recommended three bills. The first bill, Senate Bill No. 2086, would have appropriated funds to the Combined Law Enforcement Council for the purpose of a matching grant program for county and city jails. The second bill, Senate Bill No. 2087, would have appropriated funds for the construction, renovation,

and equipping of facilities at the State Penitentiary and for constructing new facilities at the State Farm. Both bills failed to pass. A third bill, House Bill No. 1085, relating to sentencing alternatives, was passed by the 1981 Legislative Assembly.

1987-88 Interim

During the 1987-88 interim, the Legislative Council's Judiciary Committee, pursuant to Senate Concurrent Resolution No. 4022, studied the criminal sentencing statutes in misdemeanor and felony cases. The committee recommended House Bill No. 1052 to consolidate NDCC Chapter 12-53, relating to suspended execution of sentences, with Chapter 12.1-32, which provides for the classification of offenses, penalties, and a broad array of sentencing alternatives available to the court. According to the committee's final report, the bill was intended to clarify a court's authority to impose a sentence if conditions of probation are violated following the suspended execution of a sentence and to clarify the status of a person receiving a deferred imposition of sentence. The bill was also intended to address conflicts and inconsistencies existing in the sentencing statutes. The bill was passed by the 1989 Legislative Assembly.

1993-94 Interim

During the 1993-94 interim, the Legislative Council's Budget Committee on Government Finance, pursuant to Senate Concurrent Resolution No. 4063, studied the feasibility and desirability of establishing a women's correctional facility off the State Penitentiary grounds. The committee recommended that a separate women's correctional facility not be constructed. The committee determined, based on the cost estimates of constructing a new female correctional facility or renovating an existing facility into a women's correctional facility, it was not feasible to proceed with a separate women's correctional facility at the time. The committee recommended House Bill No. 1027, which was passed by the 1995 Legislative Assembly. The bill required judges to sentence inmates to the Department of Corrections and Rehabilitation rather than to the State Penitentiary or the MRCC. The bill also changed the name of the State Industrial School to the Youth Correctional Center. The committee, pursuant to Senate Concurrent Resolution No. 4073, also studied the cost-effectiveness and economic impact of permitting Roughrider Industries to manufacture and sell products that may be produced and sold by the private sector. The committee recommended a bill to allow Roughrider Industries to participate in the workers' compensation program and provide workers' compensation coverage of Penitentiary inmates employed in the private sector and prison industry enhancement program. The bill was passed by the 1995 Legislative Assembly.

1995-96 Interim

During the 1995-96 interim, the Legislative Council's Legislative Audit and Fiscal Review Committee

received a report from the State Auditor's office on the cost of 1993 House Bill No. 1062 regarding mandatory sentencing for drug offenders. The State Auditor reported, based on the fiscal year 1994 cost per day to house an inmate of \$51.68 and the average projected inmate increase of 1,195 days per year, the cost to taxpayers was approximately \$61,758 per year.

1999-2000 Interim

During the 1999-2000 interim, the Legislative Council's Criminal Justice Committee, pursuant to Senate Concurrent Resolution No. 4015, studied the adult correctional system. The committee's considerations centered on four issues--prison facilities and inmate population; interstate transfer of convicted felons; inmate records; and the Revocation Center.

With respect to the interstate transfer of convicted felons, the committee concluded the notification process protocol of a prisoner escape is an administrative issue best handled by policy and legislative involvement is not needed. The committee also concluded the Governor's task force handled the Kyle Bell situation well, the Department of Corrections and Rehabilitation was not at fault, and whether a private company should be used for the transporting of prisoners was not an issue within the scope of the committee's assignments.

With respect to the Revocation Center program, the committee expressed concerns that the program does not appear to be working as the Legislative Assembly recommended. The committee recommended the department work with the state's attorneys and judges to address the concerns.

The committee also recommended House Bill No. 1044 to provide for a new classification of inmate records, known as case history records, that would be considered exempt; to provide that medical, psychological, and social records are confidential; and that records with respect to the person's identity, location, criminal convictions, or projected date of release, except for the records of a person who is under protective management, are open records. The bill also provided that parole records of the department are confidential. The bill was passed by the 2001 Legislative Assembly.

2001-02 Interim

During the 2001-02 interim, the Legislative Council's Corrections Committee, pursuant to Section 5 of Senate Bill No. 2016, was directed to study the facilities and operations of the Department of Corrections and Rehabilitation. Section 6 of Senate Bill No. 2016 provided an appropriation of \$200,000 for the purpose of contracting with a consultant to conduct the study of the facilities and operations of the Department of Corrections and Rehabilitation. The consultant's report included findings and recommendations of the study of the Department of Corrections and Rehabilitation as well as the response of the department to

those recommendations in the areas of population and capacity management, physical plant, operations, and programs. A copy of the Executive Summary from the consultant's report, which includes the key findings and recommendations for the abovementioned areas, is attached as Appendix C.

The consultant's report key findings and recommendations are:

1. Population and capacity management.
 - a. Key findings:
 - (1) The North Dakota correctional system is operating at near the limit of its current capacity.
 - (2) The inmate population will continue to grow.
 - b. Recommendations:
 - (1) Expand the corrections rehabilitation and recovery program by an additional 25 beds for female offenders.
 - (2) Increase contracting with county jails and Appleton, Minnesota, as needed over the next year.
 - (3) Accelerate parole reviews of eligible offenders.
 - (4) Build a new housing unit for female inmates at the JRCC.
2. Physical plant.
 - a. Key findings:
 - (1) The primary facilities at the department's four major institutions--the State Penitentiary, JRCC, MRCC, and YCC--are largely in sound condition.
 - (2) Each institution's physical plant currently has or can be expected to develop issues which will need to be addressed.
 - b. Recommendations:
 - (1) The department needs to invest an estimated \$42 million to \$62 million in major capital repairs to these four facilities over the next 10 years.
 - (2) The department needs to invest \$14 million to \$21 million in facility maintenance over the next 10 years.
3. Operations.
 - a. Key findings:
 - (1) The department does not use a formal roster management system to determine staffing needs.
 - b. Recommendations:
 - (1) The department requires additional staff to assure security and to operate in an effective manner.
 - (2) The position of director of prisons should be separated from the position of warden of the State Penitentiary.
 - (3) The department needs to develop or acquire an information system for

Field Services that can communicate with the Prisons Division's ITAG system.

- (4) The department should integrate the policies and procedures of its various divisions into one policy manual for the department and formalize an audit system to test policy compliance.
4. Programs.
- a. Key findings:
 - (1) The department lacks minimally adequate vocational training programs.
 - (2) The classification instrument utilized by the department was developed in 1983 and has not been validated since its inception.
 - (3) The present intake process at the State Penitentiary is completed in five weeks from the time of admission.
 - (4) Female offenders do not have adequate access to programs.
 - b. Recommendations:
 - (1) Increase educational programming at the JRCC.
 - (2) Expand vocational training programs.
 - (3) Accelerate the processing of offenders through classification.
 - (4) Review and validate the classification instrument.
 - (5) The department should explore expansion of the community placement program.

Upon the receipt of the consultant's final report, the Corrections Committee commended the Department of Corrections and Rehabilitation for its cooperation with the consultant and the efforts made by the department to respond to the recommendations of the final report. The committee concluded the state's corrections budget has reached the saturation point and the state needs to be more creative and inventive in the area of corrections. The committee also commended the efforts of the Department of Corrections and Rehabilitation and the State Hospital for working together to provide more cost-effective and efficient services.

2003-04 Interim

During the 2003-04 interim, the Legislative Council's Budget Committee on Government Services, pursuant to Section 6 of House Bill No. 1506, studied the long-term needs of state inmates and whether the Department of Corrections and Rehabilitation should continue to contract to house state female inmates with county jails or if the state should expand the prison system. As part of this study, the committee received testimony from representatives of the Department of Corrections and Rehabilitation and the Dakota Women's Correctional Rehabilitation Center in

New England regarding contract housing of state female inmates; reviewed inmate populations, sentence lengths, and recidivism rates; reviewed the condition of the east cellhouse of the State Penitentiary; reviewed land owned by the Department of Corrections and Rehabilitation; received testimony regarding the state's criminal justice process from arrest to release; and reviewed the effectiveness of alternatives to incarceration.

The committee encouraged the Department of Corrections and Rehabilitation to request funds from the preliminary planning revolving fund to determine the cost and specifications relating to the replacement of the east cellhouse at the State Penitentiary. Upon Budget Section approval, the Department of Corrections and Rehabilitation received \$60,000 from the preliminary planning revolving fund and hired Ritterbush and Associates of Bismarck and HDR Architecture, Inc., Chicago, Illinois, to conduct a study of the replacement of the east cellhouse.

The architect's study of the State Penitentiary included the following findings:

East cellhouse

- Nearly 100 years old and has structural and maintenance issues.
- Fails to meet current life safety standards.
- Fails to meet American Correctional Association standards for space, light, and programs.
- Fails to meet Americans with Disabilities Act standards for accessibility.

Medical facilities

- Lacks space, total beds available, and storage.
- Lacks privacy, especially in waiting and examination areas.
- No disabled access (stretcher used to carry inmates up stairs).
- No space for long-term hospice care.
- Pharmacy lacks workspace and security.
- Dental and x-ray are poorly located for security.
- Lacks facilities requiring hospital stays in Bismarck.

Segregation

- Lacks beds, which increases opportunities for assaults on staff and other inmates.
- Difficult to manage the population.
- No program or ancillary space.

Orientation

- Lacks sufficient beds for average number of new arrivals each month.
- Unable to separate inmate groups properly.
- Lacks processing space and has inefficient workflow.
- Building could be utilized for general population housing.

Facility

- Too much of a burden on central control and front lobby traffic.
- Path to visitation is lengthy.
- Laundry is poorly located.
- Medical treatment area is poorly located since it is on the upper floor.
- Yard access for vehicles and the south tower location needs to be improved for better security.

The study also found the current situation results in expensive outsourcing of prison beds, difficulty in managing inmates, and potential exposure to lawsuits.

The architect's recommendation for changes at the State Penitentiary included:

1. Relocating the warehouse.
2. Constructing new vehicle access and a new south tower.
3. Demolishing existing south tower.
4. Constructing new orientation housing, an inmate intake/transfer unit, clinic, infirmary, segregation unit, visitors' entrance, and laundry facility.
5. Eliminating the east cellhouse.

The expansion would result in a net prison bed gain of 123 permanent beds and would require an additional 38.4 staff. The total cost of the buildings was estimated to be \$16.3 million and the total project cost, including demolition costs, contingency, fees, furnishings, and equipment, was estimated to be \$29.2 million. Based on the buildings' construction costs of \$16.3 million, the cost per bed would be \$71,690. The total project cost would increase by approximately \$2.1 million if the project is delayed from 2006 until 2008.

The committee learned about a proposed riverbank stabilization project along the department's 8,000 to 9,000 linear feet of riverfront property along the Missouri River located at the Missouri River Correctional Center. The Burleigh, Oliver, Morton, McLean, and Mercer (BOMMM) County Joint Board proposed a demonstration and study project with the United States Army Corps of Engineers for bank stabilization and aquatic restoration on the Missouri River. The BOMMM County Joint Board would need to obtain easements from the state for the 57.5 acres of land that would be impacted by the project.

The committee recommended the Department of Corrections and Rehabilitation obtain two land appraisals for the land the department owns at the Missouri River Correctional Center. The appraisals were to include the valuation of the land with the riverbank stabilization project and without the project and be available for consideration by the 59th Legislative Assembly. The Department of Corrections and Rehabilitation was to pay for the appraisals from its 2003-05 biennium appropriation.

The Department of Corrections and Rehabilitation hired Dakota Appraisal and Consulting, Ltd., of Bismarck to provide the appraisals of the land the

department owns at the Missouri River Correctional Center. The department distributed copies of the completed appraisal report during the 2005 Legislative Assembly, which stated that as of February 2, 2005, the market value of the land without the riverbank stabilization easement is \$7.85 million and the market value of the land with the permanent riverbank stabilization easement is \$1.82 million.

The committee made no recommendation regarding the continuation of the contract for housing female inmates at the Dakota Women's Correctional Rehabilitation Center.

DEPARTMENT OF CORRECTIONS AND REHABILITATION PERFORMANCE AUDIT

During the 2003-04 interim, the State Auditor's office contracted with Criminal Justice Institute, Inc., consulting firm, to conduct a performance audit of the Department of Corrections and Rehabilitation. The two goals of the performance audit were:

1. Is management and the administrative structure of the Department of Corrections and Rehabilitation effective?
2. Is the current placement of adult offenders providing for the most efficient and effective use of resources?

A list of audit recommendations is attached as Appendix D.

COMMISSION ON ALTERNATIVES TO INCARCERATION

The 2005 Legislative Assembly passed House Bill No. 1473 which establishes a Commission on Alternatives to Incarceration to study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. The commission is composed of three members appointed by the Governor, the Attorney General or a designee, two members appointed by the Chief Justice of the Supreme Court, the director of the Department of Corrections and Rehabilitation, the director of the Department of Human Services, two local law enforcement officers appointed by the Attorney General, one state's attorney appointed by the North Dakota State's Attorneys Association, three members from the House of Representatives, three members from the Senate, and one representative of the North Dakota Association of Counties appointed by the Association of Counties. The 2005-06 interim Budget Committee on Government Services and the Commission on Alternatives to Incarceration have two of the same members, including the chairman of the commission and one other member. Since the responsibilities of the Commission on Alternatives to Incarceration and the Budget Committee on Government Services have some similarities and decisions made by one committee may affect the other, the Budget Committee on Government Services may wish

to keep informed of the commission's actions during the 2005-06 interim.

2005 LEGISLATION

Two bills relating to drug abuse treatment programs were passed by the 2005 Legislative Assembly.

Senate Bill No. 2341 establishes a pilot program in Walsh, Pembina, and Grand Forks Counties which provided that in lieu of incarceration, an individual who has pled guilty or has been found guilty of certain felony drug offenses may be sentenced to a period of probation of not less than 18 months in conjunction with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence during which the individual may be required to participate in a drug addiction program. This bill also appropriates \$515,855 from the general fund to the Department of Corrections and Rehabilitation and \$448,471 from federal funds and other income to the Department of Human Services for funding this mandatory treatment pilot project for the 2005-07 biennium.

Senate Bill No. 2373 authorizes the Department of Human Services to establish up to 20 beds at the State Hospital or at a private treatment facility through a grant as determined by the department for the treatment of individuals who are addicted to methamphetamine or other controlled substances. This bill also appropriates \$500,000 from the general fund and \$800,000 from other funds to the Department of Human Services for the costs associated with establishing this pilot program for the 2005-07 biennium.

NEW CORRECTIONAL PROGRAMS

North Dakota Century Code Section 54-23.3-09 requires the director of the Department of Corrections and Rehabilitation to report to the Legislative Assembly or, if the Legislative Assembly is not in session, the Budget Section, prior to the implementation of any new program that serves adult or juvenile offenders, including alternatives to conventional incarceration and programs operated on a contract basis if the program is anticipated to cost in excess of \$100,000 during the biennium.

SUGGESTED STUDY APPROACH

The committee, related to its responsibility regarding the development of a strategic plan for the Department of Corrections and Rehabilitation's incarceration and correctional facility needs, may wish to approach this study as follows:

1. Receive information from the Department of Corrections and Rehabilitation regarding the department's current strategic plan, including site and facilities' plans.
2. Receive information from the Department of Corrections and Rehabilitation regarding the real estate owned by the department, including the number of acres owned, how

the real estate was acquired, an explanation of the use of the real estate, and any statutory provisions relating to the department's ability to use, lease, sell, or acquire property.

3. Receive information from the State Auditor's office regarding the recommendations in the performance audit of the Department of Corrections and Rehabilitation.
4. Receive input from the Department of Corrections and Rehabilitation, regional corrections centers, county and city jails, corporations operating private correctional facilities, and other stakeholders to assist in the development of a strategic plan for the state's incarceration and correctional facility needs for the next 20 years.
5. Visit correctional facilities, including the State Penitentiary, the James River Correctional Center, the Missouri River Correctional Center, the Youth Correctional Center, the Dakota Women's Correctional Rehabilitation Center, the Bismarck Transition Center, the North Central Correctional and Rehabilitation Center, and other county jails.
6. Review the ability of existing facilities; other available state facilities; and county, local, or private facilities to meet the needs of the state.
7. Review the costs and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility.
8. Consider state-operated facilities as compared to contract-operated state facilities.
9. Consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs.
10. Consider the impact to the Department of Corrections and Rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs.
11. Receive input from the Department of Corrections and Rehabilitation for suggested changes to the department's strategic plan, based on information received by the committee from stakeholders and based on committee input.
12. Recommend a strategic plan.
13. Develop recommendations and prepare legislation necessary to implement the recommendations.
14. Prepare a final report for submission to the Legislative Council.

ATTACH:4