

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HUMAN SERVICES COMMITTEE

Wednesday, August 2, 2017
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Kathy Hogan, Chairman, called the meeting to order at 8:30 a.m.

Members present: Representatives Kathy Hogan, Bert Anderson, Pamela Anderson, Chuck Damschen, Daniel Johnston, Dwight Kiefert, Mary Schneider, Wayne A. Trottier, Greg Westlind; Senators Howard C. Anderson, Jr., David A. Clemens, Robert Erbele, David Hogue, Oley Larsen, Judy Lee, Tim Mathern

Member absent: Representative Christopher D. Olson

Others present: Jennifer S.N. Clark, Legislative Council

Senators Ray Holmberg, Grand Forks, and Rich Wardner, Dickinson, members of the Legislative Management, were also in attendance.

See [Appendix A](#) for additional persons present.

The Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

Chairman Hogan welcomed committee members. She said the committee has been assigned three studies and encouraged committee members to provide input regarding specific information the committee should receive as part of each study. She distributed a document ([Appendix B](#)) that provides a tentative outline of the topics to be discussed at each committee meeting during the interim.

STUDY OF PUBLIC HUMAN SERVICES**Background Memorandum**

At the request of Chairman Hogan, the Legislative Council staff presented a memorandum entitled [Study of Public Human Services - Background Memorandum](#). The Legislative Council staff said the Human Services Committee has been assigned a study of public human services in the state, including the delivery method of services, an analysis of funding levels for programs and services in the state, the appropriate roles of various entities in the delivery of human services, and the development of a master structure for human services in the state.

The Legislative Council staff said in the 1860s, the territorial legislature authorized counties as overseers of the poor. In the early 1900s, the duties of overseeing the poor were transferred from counties to townships. In 1933 the Legislative Assembly created the State Board of Public Welfare (later renamed the Social Services Board of North Dakota) to accept and disburse federal funds to counties and other entities for human services. Counties had a major role in the delivery of human services. In 1963 the Community Mental Health Act resulted in counties establishing community mental health centers. Statutory provisions also allowed local government entities to enter into joint powers agreements to operate human service centers. The human service centers combined the services of social service centers and mental health centers in one location.

The Legislative Council staff said the Department of Human Services (DHS) was created in 1981 through the enactment of House Bill No. 1418. The bill created a new DHS which, on January 1, 1981, consolidated a number of agencies previously organized under several separate areas of state government. The department assumed the functions, duties, powers, and control of the following agencies:

1. The Social Services Board (including the regional human service centers);
2. The Governor's Council on Human Resources; and
3. Portions of the Department of Health (the Division of Mental Health and Retardation, including the State Hospital; the Division of Alcoholism and Drug Abuse; and the State Council on Developmental Disabilities).

The bill further provided that the Executive Director of DHS, who is appointed by and serves at the pleasure of the Governor, is the administrative head of DHS and provided for the structure of the new DHS. The 1981 legislation provided that DHS was to be divided into three sections--the State Hospital, the Office of Human Services, and the Office of Economic Assistance and County Administration. Contained within the Office of Human Services were the following divisions--developmental disabilities, mental health, social services (including an aging services unit and a children and family services unit), vocational rehabilitation, and alcohol and drug abuse. The Office of Economic Assistance and County Administration included the Public Assistance Division (including a food stamp unit, a housing assistance unit, an assistance payments unit, an energy assistance unit, and a child support unit) and a Medical Assistance Division.

Since DHS was created, the duties and responsibilities of DHS have been adjusted multiple times, including the transfer of the administrative control of the Grafton State School (Life Skills and Transition Center) and San Haven from the Director of Institutions to DHS on July 1, 1989.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive information regarding the history of human services in the state.
2. Receive an overview of the constitutional and statutory provisions relating to human services.
3. Receive an overview of the current structure of DHS.
4. Review the populations served by human services programs and the continuum of services for those populations.
5. Receive information regarding the key components of the current delivery methods of major human services programs.
6. Review the structure of human services programs in other states.
7. Consider alternative administrative and funding structures for DHS.
8. Receive testimony from other interested persons regarding the study.
9. Develop recommendations and any bill drafts necessary to implement the recommendations.
10. Prepare a final report for submission to the Legislative Management.

History of Human Services in North Dakota

Dr. Bret Weber, Associate Professor, Department of Social Work, University of North Dakota, Grand Forks, presented information ([Appendix C](#)) regarding the history of human services in North Dakota. He said the first efforts to provide human services in the area were a result of actions of the territorial legislature. He said the territorial legislature authorized county commissions to provide aid and establish poor houses. He said in 1883 the territorial legislature authorized the establishment of a state hospital for mental health needs. In 1901 he said the Legislative Assembly authorized the construction of an additional mental health facility in Grafton.

Dr. Weber said the New Deal Act of 1935 resulted in the first federal human services system with the establishment of old age and disability benefits and aid to dependent children. He said at the same time North Dakota established the State Board of Public Welfare and authorized the establishment of county welfare boards.

Dr. Weber said in the 1960s approximately one-fifth of the country's population was living in poverty. He said as a result, the federal government enacted the Medicare and Medicaid programs. He said the Economic Opportunity Act of 1964 also created three key federal programs--Head Start, Community Action, and Job Corps. He said the state implemented the Head Start program quickly but delayed implementation of the Community Action and Job Corps programs.

Dr. Weber said the Community Mental Health Act of 1963 required states to provide community-based services to individuals with developmental disabilities rather than using large institutions. He said a lawsuit filed in the 1980s by the Association for Retarded Citizens required the state to adjust the standard of care for individuals with developmental disabilities. He said in 1999 the federal Olmstead case provided that all individuals with a disability have a right to state funded supports and services for maximum independence.

In response to a question from Senator Mathern, Dr. Weber said charitable organizations have also had a significant role in the delivery of human services.

Senator Lee said consideration should be given to enhancing partnerships with private providers. She said private providers play a significant role in the delivery of human services in areas without a human service center.

Constitutional and Statutory Provisions Relating to Human Services

Ms. Jennifer S. N. Clark, Counsel, Legislative Council, presented a memorandum entitled [Human Services Programs - References](#). Ms. Clark reviewed the constitutional and statutory provisions relating to the delivery of human services. She said references to human services programs are located in numerous areas of Century Code. However, she said, Title 50 of Century Code is the primary location for programs administered by DHS.

In response to a question from Senator Mathern, Ms. Clark said most titles in Century Code relate to the duties assigned to a specific state agency. She said due to multiple agencies providing human services, references to human services are located under multiple titles. She said other states structure statutory provisions in a similar way.

In response to a question from Chairman Hogan, Ms. Clark said she would provide the committee with a comprehensive listing of references to human services included in the state constitution.

Overview of the Department of Human Services

Mr. Christopher D. Jones, Executive Director, Department of Human Services, presented an overview of the structure of DHS ([Appendix D](#)) and the DHS's most recent Quarterly Budget Insight report ([Appendix E](#)). Mr. Jones reviewed the following divisions and areas of DHS:

Division/Area	Major Programs/Services
Administration/Management	<ul style="list-style-type: none"> • Executive office; • Fiscal administration; • Human resources; • Information technology services; • Legal; and • Public information.
Aging Services	<ul style="list-style-type: none"> • Adult foster care licensing; • Dementia care; • Family caregiver support program; • Home- and community-based long-term care services paid for by Medicaid, service payments for the elderly and disabled (SPED), and expanded SPED; • Long-term care ombudsman program; • Older Americans Act services; and • Vulnerable adult protective services.
Behavioral Health	<ul style="list-style-type: none"> • Prevention and promotion projects, including Parents Listen, Educate, Ask, Discuss and statewide community prevention; • Gambler's choice; • Robinson Recovery Center; • Substance use disorder voucher program; and • Brain injury supports.
Child Support	<ul style="list-style-type: none"> • Establishment of paternity, child support, and medical support; • Enforcement of support orders; • Parent locate services; and • Receipt and distribution of child support payments.
Children and Family Services	<ul style="list-style-type: none"> • Adoption; • Child protection; • Early childhood services, including child care licensing; • Family preservation services; and • Foster care and placement of children.

<p>Developmental Disabilities</p>	<ul style="list-style-type: none"> • Development disability home- and community-based Medicaid waivers services; • Early intervention; • Medicaid funding of intermediate care facility services for individuals with intellectual disabilities; • Provider licensing and regulation; and • Training and technical assistance.
<p>Economic Assistance</p>	<ul style="list-style-type: none"> • Alternatives to abortion; • Basic care assistance eligibility; • Child care assistance; • Low-income home energy assistance; • Medicaid and children's health insurance program eligibility; • Supplemental nutrition assistance program; and • Temporary assistance for needy families.
<p>Medical Services</p>	<ul style="list-style-type: none"> • Assisted living facility licensing; • Base care assistance funding; • Children with disabilities coverage; • Healthy Steps program funding; • Money follows the person program; • Medicaid autism waiver; • Medicaid primary care provider program; • Medicaid coverage, ratesetting, and program integrity; • Medically fragile children coverage and children's hospice waiver coverage; • Program of all-inclusive care for the elderly; • Qualified service provider training; and • Workers with disabilities coverage program.
<p>Vocational Rehabilitation</p>	<ul style="list-style-type: none"> • Centers for Independent Living funding; • Consultation services for businesses; • Rehabilitation services to assist disabled people to become employed; • Vision services; and • Federally contracted disability determination services.
<p>Field Services</p>	<ul style="list-style-type: none"> • Regional human service centers <ul style="list-style-type: none"> Emergency services, including crisis lines and support, social and medical detoxification, and State Hospital admissions screening; Chronic disease management, including targeted case management, addiction counseling, psychotherapy, psychosocial rehabilitation, medication management, and housing services; and Special services, including intellectual disabilities case management, vocational rehabilitation, adult protective services, regional supervision of child welfare services, and court-ordered psychological assessment. • Life Skills and Transition Center <ul style="list-style-type: none"> Residential services and supported living arrangements in other communities for people with developmental disabilities; Vocational and outreach services; Independent supported living arrangement program; CARES Medical Clinic; and

	<p>Intellectual disabilities behavioral health service.</p> <ul style="list-style-type: none"> • State Hospital <p>Inpatient services for adults with mental illness and substance use disorders whose needs exceed local resources;</p> <p>Psychiatric rehabilitation services for adults with persistent and serious mental illness;</p> <p>Transitional living services for adults with persistent and serious mental illness;</p> <p>Evaluation and treatment services for civilly committed sexually dangerous individuals; and</p> <p>Residential addiction treatment services provided by the Tompkins Rehabilitation and Corrections Center through contract with the Department of Corrections and Rehabilitation (DOCR).</p>
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Mr. Jones said DHS is reviewing options to improve the delivery of services to individuals. He said individuals generally seek multiple services when visiting a human service center. However, he said, most DHS programs are administered separately, which does not allow easy access to other programs for which an individual may seek services. He said the state has dedicated a significant amount of resources for treatment programs. However, he said, some of the most important aspects of an individual's rehabilitation are the services provided to an individual, such as obtaining housing, after completing a treatment program.

Chairman Hogan said the percentage of eligible individuals in the state that receive human services is relatively low. She said the state has a culture of pride that may discourage individuals from seeking assistance.

In response to a question from Senator Mathern, Mr. Jones said it is a challenge to change the delivery of human services due to the programs being developed separately from each other. He said programs need to be viewed from how individual accesses them instead of how the program are administered.

In response to a question from Chairman Hogan, Mr. Jones said some programs are administered separately due to the program having a specific funding source or being developed at a later time than other programs. He said when new programs were started, proper consideration may not have been given to how the program will coordinate with other services offered by DHS.

Senator H. Anderson said some programs may be administered separately due to federal grants reporting criteria. He said it may be difficult to obtain the proper data when the program is administered by multiple divisions within DHS.

In response to a question from Chairman Hogan, Mr. Jones said DHS is in the process of implementing the provisions of the state-paid economic assistance and social services pilot program as required in 2017 Senate Bill No. 2206. He said four teams have been created to review assigned areas (Administration, Economic Assistance, Children and Family Services, and Services to Individuals with Disabilities) and the teams include subject matter experts and representatives of counties. He said the committees will report to a larger executive committee that includes representatives of various stakeholder groups. He said the executive committee will provide recommendations to the Legislative Assembly for various models to fund human services programs. He said any recommendations will affect the overall reorganization of DHS.

Senator Lee expressed concern that the state-paid economic assistance and social services pilot program is based on the number of individuals served in 2015. She said the number of individuals currently being served by counties has increased since 2015 and funding provided through the program may not address these increases.

Mr. Jones said the pilot program will recognize the differences in administrative costs for human services programs. He said the counties with larger populations may have similar per-case administrative costs but the administrative costs per case in counties with smaller populations are significantly higher.

Comments by Interested Persons

Mr. Terry Traynor, Assistant Director of Policy and Programs, North Dakota Association of Counties, provided comments regarding the committee's study of the delivery of public human services. He said the counties are generally the first contact in the delivery of human services. He said representatives of counties are ready to assist the committee if requested.

Committee Discussion

Chairman Hogan suggested the study plan previously reviewed by the Legislative Council staff include a review of human services references in Century Code, primarily Title 50. She also suggested the study plan include updates from DHS regarding the status of the implementation of the state-paid economic assistance and social services pilot program.

It was moved by Senator Mathern, seconded by Senator Lee, and carried on a voice vote that the proposed study plan for the study of public human services include the suggested changes and to approve the study plan as amended.

STUDY OF THE TOMPKINS REHABILITATION AND CORRECTIONS CENTER

Background Memorandum

At the request of Chairman Hogan, the Legislative Council staff presented a memorandum entitled [Study of the Tompkins Rehabilitation and Corrections Center - Background Memorandum](#). The Legislative Council staff said the Human Services Committee has been assigned a study of the Tompkins Rehabilitation and Corrections Center. The study is to review the operations, management, conditions, caseload, and physical plant of the center. The study is also to review the potential transition of the center, including the transfer of the buildings, employees, and supervision and management of all operations and caseload of the center, from DHS and the State Hospital to DOCR.

The Legislative Council staff said the Tompkins Rehabilitation and Corrections Center is located at the State Hospital and is operated by DHS in collaboration with DOCR. The center contracts with DOCR to provide treatment to offenders with substance abuse issues. Programs at the center provide diagnosis, evaluation, and treatment planning. The center is a residential facility providing substance abuse treatment services 24 hours a day, 7 days a week.

The Legislative Council staff presented the following schedule detailing the estimated amount of funding included in DHS's budget for the program since the 2013-15 biennium:

	2013-15	2015-17	2017-19 (Estimated)
Estimated Tompkins Rehabilitation and Corrections Center Funding	\$6,091,172	\$8,582,804	\$8,368,858

The Legislative Council staff presented the following schedule detailing the number of individuals served by the program each fiscal year since 2014:

Fiscal Year	2014	2015	2016	2017 (Estimated)
Individuals served	342	365	396	426

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive information regarding the services provided by the Tompkins Rehabilitation and Corrections Center, the number of individuals served, and estimates regarding the future number of individuals that may be served by the program.
2. Receive information regarding the management and operations of the center, including funding for the center.
3. Receive information regarding facilities and related physical plant used for the operations of the center.
4. Conduct a tour of the facilities, subject to approval of the Chairman of the Legislative Management.
5. Receive comments from DHS and DOCR regarding the feasibility and desirability of transferring the center from DHS to DOCR.
6. Receive testimony from other interested persons regarding the study.
7. Develop recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

Operations, Management, Caseload, and Physical Plant of the Center

Dr. Rosalie Etherington, Superintendent, North Dakota State Hospital, Jamestown, presented information ([Appendix F](#)) regarding the operations of the Tompkins Rehabilitation and Corrections Center. She said the center is a Joint Commission accredited residential addiction treatment program providing comprehensive services to high-risk individuals with substance use disorders. She said the center serves individuals that will soon be released from incarceration and have been identified as a high risk for recidivism.

Dr. Etherington said the Tompkins Rehabilitation and Corrections Center employs 49 staff members, which includes a program director, nursing staff supervisor, nursing staff, and rehabilitation staff. She said there are also hospitalwide positions that provide services for the center, including security, records, admissions, medical, and administration.

Dr. Etherington said shortly after the Tompkins Rehabilitation and Corrections Center began operations, a total of 90 residential beds were available. She said in 2015 DHS expanded the center to provide an additional 16 beds. She said of the three center units, one 60-bed unit is located in the Tompkins Building. She said the remaining two units, a 30-bed women's unit and the expanded 16-bed unit, are located within a traditional hospital patient care building.

In response to a question from Representative P. Anderson, Dr. Etherington said there is currently a shortage of services available to individuals released from the center. She said DHS would support the expansion of peer-to-peer programs.

In response to a question from Chairman Hogan, Dr. Etherington said admissions to the Tompkins Rehabilitation and Corrections Center are determined by DOCR. She said admissions are determined based on assessments and needs with priority given to individuals considered high-risk for recidivism. She said supervision of individuals released from the program is generally provided through the DOCR Parole and Probation division.

In response to a question from Senator Mathern, Dr. Etherington said the Tompkins Rehabilitation and Corrections Center is accredited by the Joint Commission which accredits hospitals. She said the Joint Commission surveys and accredits behavioral services in addition to regular hospital services. She said the accreditation report provides a separate review for the behavioral services programs which includes the Tompkins Program and the sex offender unit. She said she would provide the committee with a copy of the most recent report.

In response to a question from Representative Trottier, Dr. Etherington said individuals completing the Tompkins program may be subject to additional monitoring as determined necessary through the parole and probation process.

Challenges and Benefits of Current Structure for Services

Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, presented information ([Appendix G](#)) regarding the Tompkins Rehabilitation and Corrections Center. She said the center evolved from a program started by DOCR in 1999 called the Revocation Center. She said the Revocation Center was located in the Stutsman County Correctional Center and was a 60 day, in-patient alcohol and drug treatment program for first-time probation violators and parolees. She said DOCR received funding in 1999 to expand the program into a 100-day program to provide an alternative to incarceration. She said the Tompkins Rehabilitation and Corrections Center was fully established in 2003 by combing resources and programs to create a 90 bed center on the State Hospital grounds.

Ms. Bertsch suggested DOCR be given the responsibility to operate the Tompkins Rehabilitation and Corrections Center. She said DOCR staff members provide case and program management and DOCR directly pays for the cost of food and laundry services of the center. She said DOCR determines placement at the center and all individuals served by the center are under the control of the department. She said having DOCR operate the program would eliminate the need to contract with another state agency and would improve the flexibility to also use staff for correctional needs.

In response to a question from Representative P. Anderson, Ms. Bertsch said primary treatment is the first step in transitioning an incarcerated woman back into a role of having custody of children. She said many support services are needed during the transition period.

In response to a question from Representative Trottier, Ms. Bertsch said all correctional facilities have challenges with preventing the smuggling of contraband into a facility. She said facilities in North Dakota are above average in the prevention of smuggling contraband.

In response to a question from Senator Mathern, Ms. Bertsch said she would like the management and operations of the Tompkins Rehabilitation and Corrections Center to be transferred to DOCR before the 2019-21 biennium budget period. She said transferring the management and operations of the center would not require any legislative approvals except for appropriations adjustments to recognize the center employees and funding under the DOCR budget.

In response to a question from Representative P. Anderson, Ms. Bertsch said if transferred to DOCR, the Tompkins Rehabilitation and Corrections Center would not be considered part of the State Hospital.

In response to a question from Senator Mathern, Ms. Bertrsch said the Tompkins Rehabilitation and Corrections Center would not be accredited by the Joint Commission if the center was transferred to DOCR. She said DOCR maintains quality of its facilities through evaluations conducted by DOCR, which includes assessments from individuals separate from DOCR.

In response to a question from Chairman Hogan, Ms. Bertsch said the Tompkins Rehabilitation and Corrections Center would be licensed as an addiction program by DHS if management of the center was transferred to DOCR.

In response to a question from Representative Damschen, Ms. Bertsch said a child is considered to have an adverse childhood if a parent is incarcerated. She said DOCR works to identify incarcerated individuals with children to provide support services and to allow the parent to continue to have a relationship with the child. She said some states provide services, such as prekindergarten education, to children of incarcerated individuals.

In response to a question from Senator Larsen, Ms. Bertsch said she will attempt to obtain data regarding the number of youth of incarcerated individuals that have attended a Head Start program.

Dr. Etherington presented information ([Appendix H](#)) regarding the challenges and benefits of the Tompkins Rehabilitation and Corrections Center. She said the effectiveness of the center is evidenced through improvement in self-efficacy skills, symptom severity, and reductions of recidivism. She said the State Hospital also benefits from the work provided through the vocational training program and the contribution of community from center residents.

Dr. Etherington said it would be a challenge to have facilities operated by DOCR located in areas used for therapeutic purposes of State Hospital patients. She recommended the buildings currently housing the Tompkins Program be repurposed for use for other State Hospital programs if management of the Tompkins Program was transferred to DOCR.

In response to a question from Senator Wardner, Dr. Etherington said the State Hospital would be able to utilize the buildings where the Tompkins Program is located for other programming. She said certain treatment programs were relocated to the basement of the New Horizons building when the Tompkins Program was expanded. She said there are also issues when a correctional facility is located in an area being used to provide therapeutic treatment.

Senator Wardner suggested the committee tour the current Tompkins Rehabilitation and Corrections Center to review options to utilize the facilities. He said consideration should also be given to the number of providers available in the state for treatment services and options to increase the number of providers if needed.

In response to a question from Representative Trottier, Dr. Etherington said when an individual is confined in an institution such as a prison or the State Hospital, they may not receive a third-party payment from insurance for services provided.

In response to a question from Senator Mathern, Dr. Etherington said providing treatment in a community-based setting is generally preferred to other settings. However, she said, a lack of resources at the community level are a challenge to providing community-based services.

Dr. Lisa Peterson, Clinical Director, Department of Corrections and Rehabilitation, provided comments regarding options to transfer the operations of the Tompkins Rehabilitation and Corrections Center from DHS to DOCR. She said DOCR would not significantly alter any facilities used by the center if the operations of the center were transferred to DOCR. She said no therapeutic activities would be removed and the center would not have the appearance of a correctional facility.

Committee Discussion

Senator H. Anderson suggested the committee refrain from providing any recommendations on the transfer of the Tompkins Rehabilitation and Corrections Center. He said it may be more appropriate for the executive branch agencies to determine whether the transfer is feasible.

Senator Wardner said a concern is the facility needs of the Tompkins Rehabilitation and Corrections Center and whether the center should be located in a different facility. He said consideration should also be given to investing in community-based programs to provide services.

Chairman Hogan suggested the study plan previously reviewed by the Legislative Council staff include a review of facility costs associated with transferring the management and operations of the Tompkins Rehabilitation and Corrections Center. She also suggested the study plan include a review of models used in other states to provide treatment services to correctional inmates.

Senator Mathern suggested the study plan include a review of the relationship between DHS and DOCR if the operations of the Tompkins Rehabilitation and Corrections Center were transferred, including rent and facility payments and the licensing of the center by DHS.

It was moved by Senator Lee, seconded by Senator Mathern, and carried on a voice vote that the proposed study plan for the study of the Tompkins Rehabilitation and Corrections Center include the suggested changes and to approve the study plan as amended.

**STUDY OF REFUGEE RESETTLEMENT
Background Memorandum**

At the request of Chairman Hogan, the Legislative Council staff presented a memorandum entitled [Study of Refugee Resettlement - Background Memorandum](#). The Legislative Council staff said the federal Refugee Act of 1980 provides for the resettlement of refugees in the United States. The Act requires each state to submit a refugee resettlement plan for approval to the Office of Refugee Resettlement. The Department of Human Services, in consultation with Lutheran Social Services of North Dakota, prepares and submits the state's refugee resettlement plan.

The Legislative Council staff said Section 50-06-01.4 assigns responsibility for refugee services to DHS. Until 2010 DHS employed a full-time refugee coordinator and administered the Refugee Resettlement program. The department acted as a fiscal passthrough agent for federal refugee services funding and played a larger role overall in the state's involvement in refugee resettlement. In July 2010 as the result of a memorandum of understanding between DHS and Lutheran Social Services, DHS transitioned most refugee-related services to Lutheran Social Services. The decision to transition refugee resettlement services was an executive branch decision by Governor John Hoeven. The transition shifted the responsibility for securing federal grant funding, providing services, and fulfilling required reporting requirements to Lutheran Social Services. As part of the transition, the Office of Refugee Resettlement required DHS to retain responsibility for the Unaccompanied Refugee Minor program, which provides foster care for federally designated refugee children, and the Refugee Medical Assistance program, which provides up to 8 months of medical assistance coverage for legally admitted refugees. These two programs are supported by federal funding.

The following schedule provides information regarding legislative appropriations of federal funds for the Refugee Resettlement program from the 2009-11 biennium through the 2017-19 biennium:

	2009-11 Biennium	2011-13 Biennium	2013-15 Biennium	2015-17 Biennium	2017-19 Biennium
Department of Human Services	\$4,095,632	\$2,731,279	\$2,848,472	\$4,206,208	\$2,756,113

The following schedule provides a summary of the total refugees that have been resettled into North Dakota for federal fiscal years 2003 through 2016:

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Number of annual refugee resettlements	111	223	225	182	202	403	438	470	354	555	449	590	506	558

The Legislative Council staff presented the following proposed study plan for the committee's consideration:

1. Receive information regarding the current refugee resettlement process, including the responsibilities of DHS.
2. Receive information from representatives of Lutheran Social Services regarding the resettlement process.
3. Receive information from other state agencies regarding services provided by the agencies as part of the resettlement process.
4. Receive information regarding the impact of refugee resettlement from representatives of stakeholder groups, including providers of government services, educational services, law enforcement agencies, human services providers, and health care providers.
5. Receive information from representatives of business and industry regarding the impact of refugees on the workforce.
6. Receive testimony from other interested persons regarding refugee resettlements, related costs, and impacts to communities and the state.

7. Develop recommendations, including options to improve or modify the resettlement process, and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Management.

Legal Definition of Refugee

Ms. Anna Stenson, Attorney, Immigration Law Professionals, P.C., Fargo, presented information ([Appendix I](#)) regarding the legal definition of a refugee. She said the framework for the definition of refugee begins with international law, the adoption of international treaties, and protocols by the United Nations High Commissioner on Refugees. She said federal law defines a refugee as:

"any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protections of, that country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

Ms. Stenson reviewed the following items regarding refugee resettlement:

- A refugee arrives in the United States legally as a legal resident.
- A refugee is entitled to all rights and responsibilities of other legal residents (permanent residents) in the United States.
- Upon arrival, a refugee has the permanent ability to live and work in the United States subject to few restrictions.
- After being in the United States for 1 year, a refugee can apply for lawful permanent residence (green card).
- A refugee is eligible to apply for United States citizenship when the refugee meets the legal requirements.

In response to a question from Chairman Hogan, Ms. Stenson said a refugee is admitted to the country as a permanent resident. After residing in the country for 1 year the refugee can apply for a green card. If approved, the green card is backdated to the date the refugee entered the country.

In response to a question from Representative P. Anderson, Ms. Stenson said approximately one-third of the clients she represents are individuals who have violated terms of their visa. She said a common violation is staying in the country longer than permitted by a visa.

In response to a question from Chairman Hogan, Ms. Stenson said an undocumented individual is someone who is in the country without legal permission. She said there are very few undocumented individuals in North Dakota. She said many undocumented individuals in the state work in the oilfield.

In response to a question from Representative Trottier, Ms. Stenson said clients seeking the services of an immigration attorney are responsible for paying the attorney fees. However, she said, there are instances when an individual may qualify to receive discounted services through the Legal Commission on Indigent Defense.

In response to a question from Senator Clemens, Ms. Stenson said an individual may access certain public services without identifying their immigration status. She said enrolling a child in a public school is an example when immigration status is not identified.

Refugee Resettlement Process in North Dakota

Ms. Shirley Dykshoorn, Vice President for Senior and Humanitarian Services, Lutheran Social Services of North Dakota, Fargo, presented information ([Appendix J](#)) regarding the refugee resettlement process in North Dakota. She said the refugee resettlement process begins overseas when an individual is identified as a refugee pursuant to the United Nations High Commissioner on Refugees. She said a refugee that is referred for placement in the United States is subject to an initial security check by the State Department and an interview by the Department of Homeland Security. If accepted, she said a sponsor agency will then coordinate a medical screening, cultural orientation, and travel arrangements. She said a second security screening is conducted prior to the refugee being admitted to the United States.

Ms. Dykshoorn said Lutheran Social Services assists refugees resettled in North Dakota. She said new refugees receive cultural and community orientation which includes presentations by various local representatives. She said refugees participate in English classes and then begin searching for employment. She said the goal for refugee resettlement is for the refugee to become self-sufficient.

Ms. Dykshoorn said during the first 10 months of federal fiscal year 2017, there were 370 refugees resettled in North Dakota. She said 296 of the refugees were placed in the Fargo area, 46 in Grand Forks, and 28 in Bismarck. She said the refugees were from Afghanistan, Bhutan, Democratic Republic of Congo, Eritrea, Ethiopia, Iraq, Somalia, and Sudan.

In response to a question from Representative Johnston, Ms. Dykshoorn said schools are notified in advance that refugees may be placed in the school district. She said the advance notice allows schools to ensure adequate English language learner programs are available.

In response to a question from Senator Clemens, Ms. Dykshoorn said the State Department determines the cities where refugees will be resettled. She said cities are chosen based on available housing and other services that may be utilized by refugees.

Senator Holmberg said some communities may not have the appropriate level of services or infrastructure available to adequately serve refugee resettlement. He questioned how it is determined which communities have adequate services for resettlement.

Ms. Dykshoorn said many refugees are resettled in Fargo due to the availability of public services such as transportation. She said refugees are resettled in other cities, such as Grand Forks, because of employment opportunities. However, she said, the primary determinant for the placement of a refugee is if the refugee already has family in a community. She said most refugees resettled in North Dakota already have family living in the state.

In response to a question from Representative P. Anderson, Ms. Dykshoorn said many refugees remain in the community where they were originally placed. However, she said, refugees may move after being resettled due to employment opportunities or other reasons.

In response to a question from Senator Hogue, Ms. Dykshoorn said the state does not have the ability to direct where refugees will be resettled. She said the federal government determines the placement of refugees.

In response to a question from Representative Schneider, Ms. Dykshoorn said refugees have a significant impact on filling workforce needs. She said employers have contacted Lutheran Social Services to obtain information regarding refugees that are seeking employment.

In response to a question from Senator Mathern, Ms. Dykshoorn said there is no prohibition on refugees moving from their original resettlement city.

Senator Mathern said there may be opportunities for cities to create programs to encourage refugees to move to their area to fill workforce needs.

Senator Lee said many immigrants will settle in places with similar cultures or where immigrants from the same country previously settled. She said schools in the Fargo area are doing an excellent job with English language learner programs.

In response to a question from Representative Schneider, Ms. Dykshoorn said data is not widely available regarding the workforce and economic impact of refugees.

In response to a question from Representative Trottier, Ms. Dykshoorn said she will provide information to the committee regarding the average cost to resettle a refugee.

In response to a question from Representative Trottier, Ms. Dykshoorn said local schools are responsible for providing interpreter and English language learner services. However, she said, funding is provided to school districts to help offset the costs of the services.

In response to a question from Representative Trottier, Ms. Dykshoorn said the employment rate of employable adult refugees is approximately 70 to 80 percent.

In response to a question from Representative P. Anderson, Ms. Dykshoorn said Lutheran Social Services generally provides services and support to refugees for 3 to 5 years.

Services Provided by State Agencies for Refugee Resettlement

Mr. Tom Solberg, Deputy Director, Department of Human Services, presented information ([Appendix K](#)) regarding services provided by DHS for refugee resettlement. He said DHS transferred most responsibilities for refugee resettlement to Lutheran Social Services but still retains the responsibility to administer the Unaccompanied Refugee Minor program and the Refugee Medical Assistance program. He said when an unaccompanied refugee minor arrives in the state, Lutheran Social Services places the child in a licensed foster home. He said responsibilities of DHS under the program include making payments to foster homes and Lutheran Social Services, preparing program status reports, licensing the placement agency, and providing child protection oversight and assessment.

Mr. Solberg said the Refugee Medical Assistance program provides medical coverage for all individuals legally admitted to the United States as a refugee or unaccompanied refugee minor. He said if a refugee has income greater than 138 percent of the federal poverty level, the refugee is eligible to enroll in the Refugee Medical Assistance program. He said if the refugee has income less than 138 percent of the poverty level, the refugee is eligible to enroll in the traditional Medicaid program, the Expanded Medicaid program, or the children's health insurance program.

Mr. Solberg said refugees may also be eligible to receive benefits through economic assistance programs administered by the department.

In response to a question from Chairman Hogan, Mr. Solberg said he will provide information to the committee regarding costs and the number of individuals served under the Unaccompanied Refugee Minor Program and the Refugee Medical Assistance Program.

In response to a question from Senator Lee, Mr. Solberg said he will provide information to the committee regarding dental care available through refugee assistance programs.

In response to a question from Representative Johnston, Ms. Carol Cartledge, Director, Economic Assistance Policy Division, Department of Human Services, said she will provide information to the committee regarding the utilization of economic assistance programs by refugees.

Ms. Kelly Nagel, Director, Public Health Systems and Performance, State Department of Health, presented information ([Appendix L](#)) regarding services provided by the department for refugee resettlement. She said the State Department of Health is not directly involved in refugee resettlement, but is notified if an arriving refugee has a reportable infectious disease. She said refugees have access to services offered by the department.

In response to a question from Chairman Hogan, Mr. Kirby Krueger, Director, Medical Services, State Department of Health, said the department does not have data regarding the number of refugees that receive services from the department.

Ms. Lodee Arnold, Assistant Director, English Language Learner Programs, Department of Public Instruction, presented information ([Appendix M](#)) regarding the elementary and secondary education support for English language learning. She said the department provides support and technical assistance to schools with English language learners, including refugee and immigrant students. She said the department administers the Federal Title III grant program, which supports language instruction and also distributes state grant funds to the four school districts that have the highest population of English language learners. She said during the 2016-17 school year, there were approximately 3,700 English language learner students in the state of which 1,062 were refugees.

In response to a question from Chairman Hogan, Ms. Arnold provided a document to the committee ([Appendix N](#)) detailing the amount of funding provided to each school district through the education funding formula for English language learning.

In response to a question from Representative P. Anderson, Ms. Arnold said it generally takes an English language learner student 5 to 7 years to fully understand English in an academic setting.

Mr. Stanley Schauer, Assistant Director, Adult Education, Department of Public Instruction, presented information ([Appendix O](#)) regarding adult education support for refugees and immigrants. He said refugees may seek additional education at adult learning centers which provide basic and advanced skills in various subjects. He said in fiscal year 2017, 999 adult education students had a previous educational background that was from a foreign school.

In response to a question from Chairman Hogan, Mr. Schauer said during fiscal year 2017 there were 611 female students and 388 male students enrolled in adult education. He said many male refugees will immediately enter the workforce when arriving in the country rather than seeking additional education.

Comments by Interested Persons

Mr. Dave Piepkorn, Deputy Mayor and Commissioner, Fargo, provided comments to the committee regarding the study of refugee resettlement. He suggested the committee conduct a full financial review of the costs associated with refugee resettlement in the state and review agreements between the state, federal government, and Lutheran Social Services. He also suggested the committee review if adequate services are being provided to refugees that are already in the state.

Mr. Piepkorn expressed concern regarding the lack of local control in the refugee resettlement process and the impact to school districts and political subdivisions. He said the City of Fargo recently conducted a review and determined city departments provide approximately \$220,000 of services per year for refugee resettlement.

Committee Discussion

Senator Mathern provided comments regarding the study and distributed a document ([Appendix P](#)) for committee members to review. He said a recent study determined that first-generation immigrants are costlier to state and local governments than native-born adults. However, he said, that on average, a third generation of immigrant families has a greater return to government than native-born adults.

Chairman Hogan said future meetings may include a review of accountability in refugee resettlement and a review of agreements related to resettlement. She said future meetings also may include a review of the Wilson-Fish model of funding refugee resettlement and how resettlement programs are administered in other states.

It was moved by Senator Mathern, seconded by Representative P. Anderson, and carried on a voice vote to approve the study plan for the study of refugee resettlement.

OTHER COMMITTEE RESPONSIBILITIES

Background Memorandum

At the request of Chairman Hogan, the Legislative Council staff presented a memorandum entitled [Other Committee Duties - Background Memorandum](#). The Legislative Council staff said, in addition to the study responsibilities assigned to the Human Services Committee for the 2017-18 interim, the committee has also been assigned to:

- Receive annual reports from the Autism Spectrum Disorder Task Force (Section 50-06-32).
- Receive a report from DHS regarding the autism spectrum disorder program pilot project (Section 50-06-32.1).
- Receive annual reports from DHS describing enrollment statistics and costs associated with the children's health insurance program state plan (Section 50-29-02).
- Receive a report from DHS before August 1 of each even-numbered year regarding provider reimbursement rates under the medical assistance expansion program (Section 38 of 2017 House Bill No. 1012).
- Receive a report from DHS regarding the levels of funding provided for and spent on nursing home services and home- and community-based services by program during the 2015-17 and 2017-19 bienniums. The department is also to provide a recommendation on options to include the number and level of services and funding provided for home- and community-based services for the 2019-21 biennium (Section 3 of 2017 House Bill No. 1038).
- Receive a report from DHS before August 1, 2018, regarding the outcome of the Medicaid fraud control unit feasibility and desirability study (Section 1 of 2017 House Bill No. 1226).
- Receive a report from DHS before April 1, 2018, on the outcome of the Medicaid waiver study (Section 2 of 2017 Senate Bill No. 2041).

Senator Lee suggested the committee receive information on the Medicaid buyin program for children with disabilities.

Autism Spectrum Disorder Plan

Ms. Maggie D. Anderson, Medical Services Division Director, Department of Human Services, provided a report ([Appendix Q](#)) on the autism spectrum disorder plan as required under Section 50-06-32. She said the Autism Spectrum Disorder Task Force meets four times per year to review:

- Early intervention, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home- or community-based setting;
- Programs that transition individuals from schools to adult day programs or employment;
- The cost of providing services; and
- The nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.

Ms. M. Anderson said the task force is working to update the autism spectrum disorder plan to integrate the collective impact design. She said the collective impact design is a framework that facilitates a collaborative process between multiple organizations and agencies to strengthen available resources. She said the task force is in the second of three phases of implementing the design.

In response to a question from Chairman Hogan, Ms. M. Anderson said information on the activities of the task force, including meeting schedules and meeting minutes, can be found on the DHS [webpage](#).

In response to a question from Representative Schneider, Ms. M. Anderson said the 2015 Legislative Assembly approved funding for 53 slots for the autism spectrum disorder voucher program. She said some slots were removed as part of the August 2016 general fund budget reductions, but funding for all 53 slots was restored for the 2017-19 biennium.

OTHER BUSINESS

Chairman Hogan announced the committee is tentatively scheduled to meet on October 25, 2017, in Jamestown. She said the committee is also tentatively scheduled to meet on January 4, 2018.

No further business appearing, Chairman Hogan adjourned the meeting at 3:45 p.m.

Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

ATTACH:17