NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HEALTH SERVICES COMMITTEE

Tuesday, August 1, 2017
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Judy Lee, Tom Campbell, Robert Erbele, Tim Mathern, Nicole Poolman; Representatives Bert Anderson, Pamela Anderson, Gretchen Dobervich, Karla Rose Hanson, Karen Karls, Aaron McWilliams, Karen M. Rohr, Mary Schneider, Kathy Skroch

Others present: Representative Kathy Hogan, Fargo, member of the Legislative Management.

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*.

DEVELOPMENTAL DISABILITIES AND BEHAVIORAL HEALTH NEEDS STUDY

At the request of Chairman Lee, the Legislative Council staff presented a memorandum entitled *Study of Behavioral Health and Developmental Disabilities Services - Background Memorandum*. He said the interim Health Services Committee has been assigned the responsibility of studying state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs. The study must include:

- The state's services and delivery systems, including whether changes are necessary to maintain compliance with state and federal laws and regulations;
- Efforts by other states to comply with the 1999 *Olmstead v. L.C.* case, including the planning and implementation process for any new programs;
- Community- and noncommunity-based services, including the costs and effectiveness of services;
- Noncompliance with state and federal laws and regulations, including a review of the fees and penalties for noncompliance;
- A comparison of voluntary and involuntary compliance with state and federal laws and regulations, including a review of long-term costs and effectiveness;
- The impact of implementation and expansion of selected programs that were added to address unmet needs, including the impact on costs and effectiveness of new programs;
- Needed changes to address noncompliance and a timeline for completing changes;
- Data on the number of individuals who would be impacted by voluntary compliance efforts, and data on the type of services that may need changing, including housing, peer counseling, outpatient treatment, crisis line access, and transportation services; and
- An evaluation of the funding, mission, and caseload at the Life Skills and Transition Center, including the center's transition plan and number of clients eligible for community placement.

The Legislative Council staff said during the 2013-14 interim the Human Services Committee was assigned a study of behavioral health needs pursuant to Section 1 of 2013 Senate Bill No. 2243. The committee contracted with Schulte Consulting, LLC, to assist with the behavioral health needs study. The consultant's report identified six primary opportunities to better address behavioral health needs of youth and adults in North Dakota, which included service shortages, workforce expansion, insurance coverage changes, changes to the structure and responsibilities of the Department of Human Services (DHS), communication improvement, and data collection and research expansion.

The Legislative Council staff said during the 2015-16 interim the Human Services Committee continued with a study of behavioral health needs pursuant to Section 7 of 2015 Senate Bill No. 2048. As part of its study, the committee reviewed behavioral health-related information, including an overview of behavioral health; an overview of a behavioral health system of care; key legal obligations related to behavioral health services; DHS's behavioral health services delivery system, including information on substance abuse disorder system, regional intervention and emergency services continuum, adult behavioral health services, and children's behavioral health services; and reports on mental health training for school districts, involuntary treatment laws, the future role of human service centers and the State Hospital, the behavioral health needs assessment, and other committee information, including:

- Behavioral health definitions;
- Role and challenges of residential treatment services;
- Substance abuse treatment needs;
- A summary of information provided by the Council of State Governments relating to behavioral health and the criminal justice system;
- Federal Mental Health Parity and Addiction Equity Act of 2008, including the legal framework of the Act, the implications of the Act for the state, and requirements of the Act;
- Current behavioral health issues under consideration at the federal level;
- The need for more programs and services that address the unmet needs of consumers and families in the state, including consumer-centered support programs and a formal one-on-one peer support program;
- The need to address the addiction counselor workforce shortage, including supporting professional development for workers and assisting treatment providers with offering additional services;
- The definition of addiction counseling pursuant to North Dakota Century Code Section 43-45-01;
- The need for a continuum of care model for mental health-related services that would be similar to those of the state's developmental disability system; and
- The need for additional behavioral health services.

The Legislative Council staff said the 65th Legislative Assembly approved the following bills relating to behavioral health services:

- House Bill No. 1012:

  Adds funding of $734,531, of which $367,256 is from the general fund, for increasing the age of autism waivers through 11 years of age.

  Adds funding of $18.25 million, of which $9.13 million is from the general fund, for the autism spectrum disorder program.

  Reduces funding of $160,000 from the general fund for the Parents Listen, Educate, Ask, Discuss program.

  Reduces funding by $237,673 from the general fund for compulsive gambling services.

  Adds funding of $1,279,159, which includes reducing $500,000 from the general fund, for the substance use disorder voucher program.

  Adds $4 million from federal funds for opioid treatment programs.

  Adds $200,000 from the general fund, for the substance use disorder voucher program for the 2015-17 biennium.

  Section 14 of the bill provides legislative intent to allow DHS to include medication-assisted treatment as an allowable service under the substance use disorder voucher program.

  Section 27 of the bill provides legislative intent that behavioral health service providers that receive funding from DHS submit process and outcome measures to DHS for programs and services supported by the state.

  Section 28 of the bill provides legislative intent that telephone and directory services include private behavioral health service providers in the directory at no cost to the private behavioral health service provider.

Section 29 of the bill identified $75,000 from the tobacco prevention and control trust fund for complying with youth access to tobacco reporting requirements under Title 45, Code of Federal Regulations, Part 96, Section 130. This section of the bill also requires the State Department of Health and local public health units to collect and disclose all required data reporting elements to DHS.

- House Bill No. 1040, which relates to behavioral health services, requires DHS to adopt rules for an evidence-based alcohol and drug education program for certain individuals under 21 years of age, and adds $350,000 from the general fund for a children's prevention and early intervention behavioral health services pilot project ($150,000), peer-to-peer support services ($100,000), and family-to-family support services ($100,000).
- House Bill No. 1041 provides for justice reinvestment initiatives, including an appropriation of $1,643,701 to DHS for implementing changes relating to statutory changes that will allow individuals convicted of certain felony offenses to qualify for temporary assistance for needy families, and changes that will allow faith-based organizations to provide services to individuals needing addiction treatment services.
- House Bill No. 1117 amends Chapters 14-10, 50-06, and 50-31 relating to changes in terminology for substance abuse and behavioral health.
- House Bill No. 1136 creates a new section to Chapter 50-06 to require DHS to establish and administer a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in payment of addiction treatment services provided by private licensed substance abuse treatment programs and hospitals.
- Senate Bill No. 2015 provides an appropriation of $7 million from other funds to DHS and authorizes six full-time equivalent positions for implementing a community behavioral health program, and an appropriation of $500,000 from the general fund for contracting with a public or private entity to create, initiate, and facilitate the implementation of a strategic plan to increase the availability of all types of behavioral health services in all regions of the state.
- Senate Bill No. 2033, relating to clinical supervision of behavioral health professionals, provides statutory changes relating to licensure requirements for behavioral health professionals, and provides for a report to the Legislative Management.
- Senate Bill No. 2038, relating to behavioral health services policy changes, extends the holding period from 24 to 72 hours for emergency involuntary commitments for individuals with a serious physical condition or illness, changes youth mental health training requirements, and creates a children's behavioral health task force.
- Senate Bill No. 2039, relating to the role and function of DHS's Behavioral Health Services Division, changes the role and function of DHS's Behavioral Health Services Division, including behavioral health definitions; administration of behavioral health programs; licensure process for regional human service centers; services available to individuals with serious and persistent mental illness; membership and role of advisory groups for human service centers; designation of behavioral health providers to furnish preventive diagnostic, therapeutic, rehabilitative, or palliative services to individuals eligible for medical assistance; and designation of the location of a second state hospital.
- Senate Bill No. 2042, relating to mental health professionals, establishes a tiered system for the roles of mental health professionals.
- Senate Bill No. 2088, relating to licensed addiction counselors, creates a new section to Chapter 43-45 relating to licensed clinical addiction counselors, and amends sections relating to the scope of practice for addiction counselors, and the licensure authority of the Board of Addiction Counseling Examiners.
- Senate Bill No. 2118, relating to compulsive gambling disorder, amends sections of Chapters 50-06 and 53-12.1 relating to gambling disorder prevention awareness, crisis intervention, rehabilitation, and treatment services.

The Legislative Council staff proposed the following study plan:

1. Receive information from DHS regarding the state's services and delivery systems, including whether changes are necessary to maintain compliance with state and federal laws and regulations;
2. Receive information from representatives of tribal governments, DHS, and private providers regarding community- and noncommunity-based services, including the costs and effectiveness of services;
3. Receive information from DHS regarding the impact of implementation and expansion of selected programs that were added to address unmet needs, including the impact on costs and effectiveness of new programs, needed changes to address noncompliance, and a timeline for completing changes;

4. Receive information from representatives of tribal governments, DHS, and private providers regarding data on the number of individuals who would be impacted by voluntary compliance efforts, and data on the type of services that may need changing, including housing, peer counseling, outpatient treatment, crisis line access, and transportation services;
5. Receive information from DHS regarding an evaluation of the funding, mission, and caseload at the Life Skills and Transition Center, including the center's transition plan and number of clients eligible for community placement;
6. Conduct a tour of the Life Skills and Transition Center, subject to Legislative Management Chairman approval;
7. Receive information regarding state and federal laws and regulations, including a review of the fees and penalties for noncompliance;
8. Receive information to compare the voluntary and involuntary compliance with state and federal laws and regulations, including a review of long-term costs and effectiveness;
9. Receive information regarding efforts by other states to comply with the 1999 *Olmstead v. L.C.* case, including the planning and implementation process for any new programs;
10. Receive testimony from stakeholders, including family members; state, local, and tribal agencies and institutions; and private providers;
11. Receive comments by interested persons regarding behavioral health and developmental disabilities services study;
12. Develop recommendations and any bill drafts necessary to implement the recommendations; and
13. Prepare a final report for submission to the Legislative Management.

Senator Mathern suggested the committee receive information regarding whether there are any major current or pending court cases relating to the *1999 Olmstead v. L.C.* case. Chairman Lee asked the Legislative Council staff to provide this information.

Developmental Disabilities Division

Chairman Lee called on Ms. Tina Bay, Director, Developmental Disabilities Division, Department of Human Services, who presented information (Appendix B) regarding suggestions for areas the committee should address as part of the study and an overview of services and delivery systems available for behavioral health and developmental disabilities programs. She said the Developmental Disabilities Services system provides services to individuals with an intellectual or developmental disability and children from birth to age 3 with developmental delays. She said services include residential and day habilitation, employment, family support, self-directed, corporate guardianship, infant development, and right track. She said these services are paid for with funding from federal funds through the Medicaid state plan, Medicaid 1915 (c) Home and Community-Based waiver, and Part C of Individuals with Disabilities Education Act, and from the general fund. She provided the following schedule regarding the total unduplicated number of individuals who received developmental disabilities program management services:

	State Fiscal Year						
	2010	2011	2012	2013	2014	2015	2016
Unduplicated count of individuals receiving developmental disabilities program management.	5,611	5,785	5,834	5,981	6,331	6,767	7,168

In response to a question from Chairman Lee, Ms. Bay said developmental disability is broadly defined. She said an intellectual disability is a type of developmental disability. She said the Medicaid 1915 (c) Home and Community-Based waiver serves individual's with an intellectual disability.

In response to a question from Senator Mathern, Ms. Bay said the Medicaid 1915 (c) Home and Community-Based waiver is approved for a 3-year period and may be renewed for 5 additional years. She said the current waiver was initially approved in 2009 and is in its 4th year of a 5-year renewal period.

In response to a question from Representative Hogan, Ms. Bay said she will provide the committee with information regarding the unduplicated number of individuals receiving developmental disabilities program management by region and changes in the numbers served for each region, and information regarding the types and level of services available to individuals with a developmental disability in each region and whether those services are meeting the needs of the individuals.

Behavioral Health Division

Chairman Lee called on Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, who presented information (Appendix C) regarding suggestions for areas the committee should address as part of the study and an overview of services and delivery systems available for behavioral health and developmental disabilities programs. She said the DHS Behavioral Health Division is responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities. She said the division provides the following functions:

- **Regulation** - Including licensing of various entities, including substance abuse treatment programs, opioid treatment programs, human service centers, psychiatric residential treatment facilities, driving under the influence seminar programs, and updating administrative rules.
- **Administration** - Including administering the mental health block grant, the substance abuse block grant, community and tribal prevention grants, the substance use disorder voucher, the problem gambling program, brain injury programs, and 2-1-1 services.
- **Workforce development** - Including providing training and technical assistance relating to best practices, program licensing, prevention, data collection, and evaluation; training through behavioral health conferences; training for mental health first aid, and establishing partnerships with various institutions and consortia.
- **Prevention and promotion** - Creating resources, including the Parent's Listen, Educate, Ask, Discuss program, the Speaks Volume program, the prescription drug take back program, prevention and media center resources, and tribal and community prevention programs.
- **Partnerships** - Providing support to other groups, including the Behavioral Health Planning Council, the children's behavioral health task force, the Governor's Prevention Advisory Council, the State Epidemiological Outcome Workgroup, the Brain Injury Advisory Council, and ND Cares.

Ms. Sagness said DHS has updated the Behavioral Health Division website at www.behavioralhealth.dhs.nd.gov. She said the updated website provides additional resources, including information on workforce development opportunities. In addition, she said, the division also launched a new website relating to substance abuse data at www.sund.nd.gov. She said the goal of the new website is to support local entities with writing grants to apply for additional funding, and to encourage local entities to develop strategic plans that can have measurable outcomes.

Ms. Sagness provided information regarding a continuum of care model that was developed by the Health and Medicine Division of the National Academies of Sciences, Engineering, and Medicine. She said the model identifies areas of support for addressing behavioral health, including promotion, prevention, treatment, and recovery. She said gaps exist when the full continuum is not supported. She said more focus is generally put on treatment services when addressing behavioral health, and over-treatment or under-treatment may also occur when the full continuum is not supported. She said the Behavioral Health Division has been focusing on early intervention and recovery supports over the past 2 years. She provided additional information regarding recovery supports. She said the following social determinants assist with improving health outcomes for individuals in recovery:

- **Economic Stability** - Including employment, level of income, expenses, debt, medical bills, and support.
- **Neighborhood and physical environment** - Including housing, transportation, safety, parks, playgrounds, and walkability.
- **Education** - Including literacy, language, early childhood education, vocational training, and higher education.
- **Food** - Including addressing hunger and providing access to healthy options.
- **Community and social context** - Including social integration, support system, community engagement, and preventing discrimination.
- **Health care system** - Including health coverage, provider availability, provider linguistic and cultural competency, and quality of care.

Ms. Sagness said DHS has contracted with the Human Services Research Institute, a nonprofit organization, to develop a behavioral health systems analysis work plan. She said the goal of the project is to support the state in ensuring a 21st century behavioral health system driven by qualitative and scientific merit, efficient coordination of service provisions across agencies, and focused on outcomes that lead to recovery with minimal barriers to access.

Ms. Sagness suggested areas to consider for the study include:

- Conducting an in-depth review of the state's behavioral health assessment.
- Analyzing current utilization and expenditure patterns by payer source.
- Providing recommendations for enhancing the comprehensiveness, integration, cost-effectiveness, and recovery orientation of the behavioral health system to effectively meet the needs of the community.
- Establishing strategies for implementing recommendations.

In response to a question from Chairman Lee, Ms. Sagness said the Parents Listen, Educate, Ask, Discuss program began as an underage drinking awareness program through a partnership with the Department of Transportation, University of North Dakota, North Dakota State University (NDSU) Extension Service, and DHS.

In response to a question from Senator Mathern, Ms. Sagness said DHS is in the process of developing a communications plan regarding how organizations can receive resources and brochures from the department. She said requests are generally from behavioral health providers, NDSU Extension Service, schools, and counselors.

In response to a question from Senator Poolman, Ms. Sagness said additional areas to be addressed to develop a behavioral health provider network include:

- Defining core services of the regional human service centers to identify services that can shift to the private providers;
- Identifying ways to encourage private providers to utilize the substance use disorder voucher program; and
- Further defining the scope of work among the various behavioral health-related boards.

In addition, Ms. Sagness said the $7 million DHS received relating to the Justice Reinvestment Initiative in 2017 Senate Bill No. 2015, will be used for services, including care coordination, case management, and recovery support services. She said this initiative will involve providers that have not generally been considered part of the behavioral health services system.

In response to a question from Representative Dobervich, Ms. Sagness said telehealth services are currently being provided and are reimbursable for selected addiction services. She said DHS recently conducted a survey and have contracted with the University of North Dakota School of Medicine and Health Sciences Center for Rural Health to develop a report of available telehealth services for behavioral health. She said DHS will provide the report to the committee when it becomes available.

Regional Human Service Centers and the State Hospital

Chairman Lee called on Dr. Rosalie Etherington, Superintendent, State Hospital; and Chief Clinics Officer, Regional Human Service Centers, Department of Human Services, who presented information (Appendix D) regarding suggestions for areas the committee should address as part of the study and an overview of services and delivery systems available for behavioral health and developmental disabilities programs.

Regional Human Service Centers

Dr. Etherington said 60 percent of the staff at the regional human service centers are involved with providing behavioral health-related services. She said the remaining 40 percent are involved with a combination of developmental disabilities, child welfare, adult protection, and vocational rehabilitation services. She said developmental disabilities services include eligibility determination, individualized service planning, and quality monitoring of community providers. She said regional supervision includes the supervision of child protection investigations, foster care licensing, foster care placement, and child care licensing. She said adult protection services include adult protection investigations, education and training, and the coordination of services for individuals identified as vulnerable adults. She said vocational rehabilitation services include a combination of assessment, counseling, and assistance for the purpose of attainment, and retraining for employment services. In addition, she said, there are specialized services for the visually impaired and blind for the purpose of either attaining or retaining their independent learning in their own home. She said behavioral health services at the regional human service centers are a combination of emergency, regional intervention, specialized assessment, and chronic disease management services. She said emergency services include an open access model for the clinics, 24-hour crisis line, mobile crisis, social detoxification, crisis residential, and emergency services to jails. She said regional intervention services are used for the purpose of identifying the least restrictive services necessary for an individual's care and providing the services in the local community whenever possible. She said regional human service centers provide a combination of chronic disease management services, including self-management support, rehabilitation and recovery services, targeted case management, medication management services,

psychotherapy services, hospital and residential services, skills training and skills integration, transitional living services, supported living arrangements, specialized homeless case management, supported employment services, and regional recovery centers.

State Hospital

Dr. Etherington said services at the State Hospital include traditional behavioral health hospital services, residential sex offender treatment, and residential substance use disorder treatment services under contract with the Department of Corrections and Rehabilitation.

Dr. Etherington suggested areas to consider for the study to improve behavioral health access and quality include reviewing:

- The integrated assessment for improving care and the efficiency of staff;
- The open access clinic model;
- The reorganization of emergency services for better access;
- The expansion of telehealth services to include addiction, counseling, psychotherapy, diagnostic assessment, and psychological assessment;
- The development of psychiatric rehabilitation and recovery management services for the purpose of improving outcomes for individuals served in chronic disease management; and
- The changes necessary to maintain accreditation, including auditing and standardization of clinical documentation, standardization of policies, and the standardization of contract scope and outcome.

In response to a question from Senator Mathern, Dr. Etherington said individuals must meet medical necessity to be admitted in a hospital setting. She said individuals are committed to the State Hospital by voluntarily admitting themselves, by a guardian signature, or by a court order. She said individuals who voluntarily admit themselves may leave on their own accord. She said individuals who are admitted by a guardian signature may remain up to 45 days. She said the State Hospital may seek a court order for further commitment if an individual, who was admitted by a guardian signature, still meet criteria for medical necessity after 45 days.

In response to a question from Representative P. Anderson, Dr. Etherington said the purpose of the open-access model at the regional human service centers is to eliminate waiting lists. She said research has shown that individuals are more likely to follow through and stay in care if care is available at the time of need. She said the regional human service centers are now accessing more individuals than previously. She said the increase of individuals has required DHS to develop better relations with community partners.

In response to a question from Representative Hogan, Dr. Etherington said she will provide the committee with information regarding the unduplicated number of individuals receiving services by category by region and the changes in the numbers served for each region, and information regarding the potential overlap of behavioral health services with other human service center services, including developmental disabilities, child welfare, adult protection, and vocational rehabilitation services.

Life Skills and Transition Center

Chairman Lee called on Ms. Susan Foerster, Superintendent, Life Skills and Transition Center, Department of Human Services, who presented information (Appendix E) regarding suggestions for areas the committee should address as part of the study and an overview of services and delivery systems available for behavioral health and developmental disabilities programs. She said the Life Skills and Transition Center is a state operated residential, vocational, and clinical services facility that provides services for people with developmental and intellectual disabilities, including an intermediate care facility and home- and community-based residential services. She said programs at the Life Skills and Transition Center include residential, vocational, and outreach services.

- **Residential services** - 24-hour comprehensive services and supports, including medical and clinical programming--includes services for adults with sexual offending behaviors, services for individuals needing skilled nursing or behavioral health services, and services for youth transitioning from the center to a community setting.
- **Vocational services** - Includes the Work Activity Program, which provides services for individuals at vocational work on-campus or at off-campus sites within the Grafton area.
- **Outreach services** - Includes Independent Supported Living Arrangements; clinical assistance, resources, and evaluation service; clinical assistance, resources, and evaluation clinic; and developmental disabilities behavioral health services.

Independent supported living arrangements - The Life Skills and Transition Center staff support individuals renting a home within local community housing.

Clinical assistance, resources, and evaluation service - A team of specialists, including clinical and direct support staff, provide various consultation services to prevent admission or readmission to the Life Skills and Transition Center, and to assist with transitioning individuals from the center. Services include in-home and onsite supports within the community.

Clinical assistance, resources, and evaluation service clinic - Includes services to assure individuals have access to physical, occupational, and speech therapy services; adaptive equipment services; dental services; and medical services and consultation.

Developmental disabilities behavioral health services - A team of psychologists and applied behavior analysts provide statewide behavioral assessment and intervention services to individuals with intellectual and developmental disabilities.

Ms. Foerster said a transition task force has been conducting an ongoing study regarding reasons individuals are admitted to, remain at, and transition from the Life Skills and Transition Center. She said the task force will provide its results to the committee at the next meeting.

Ms. Foerster also suggested areas to consider for the study include defining the safety net role of the Life Skills and Transition Center and expanding the role of the Professional Services Institute on Developmental Disabilities to support private provider capacity.

In response to a question from Senator Mathern, Ms. Foerster said the Life Skills and Transition Center provides outreach services to individuals with developmental disabilities throughout the state.

In response to a question from Representative Hogan, Ms. Foerster said she will provide the committee information regarding the number of clients served in each region for outreach services.

In response to a question from Senator Poolman, Ms. Foerster said the majority of services provided by the clinical assistance, resources, and evaluation service clinic are provided in the Grafton area. She said the clinical assistance, resources, and evaluation service clinic does provide some statewide outreach services to conduct assessments and refer individuals.

Chairman Lee said there have been prior feasibility studies and current planning efforts are under way to determine uses for underutilized space at the Life Skills and Transition Center, but she said the focus of this study should be on how services are delivered to clients at the center.

Representative Schneider suggested the committee receive information comparing the cost of serving an individual at the Life Skills and Transition Center to the costs of serving the individual in a community setting at a group home.

Comments by Interested Persons

Ms. Denise Harvey, Director, Program Services, Protection and Advocacy Project, provided information (Appendix F) regarding the study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs. She said the Protection and Advocacy Project is an independent state agency that protects individuals with disabilities from abuse, neglect, and exploitation and advocates for the civil and legal rights of individuals with disabilities. She expressed concerns regarding continued behavioral health service shortages in the state. She said shortages limit access to timely and comprehensive mental health care. She said there continues to be a lack of community-based mental health care to maintain healthy lifestyles and to prevent personal crises. She said acute care treatment beds are often not available for individuals in crisis. She said services are also affected by a lack of mental health professionals. She said the developmental disabilities services delivery system provides a variety of services to individuals; however, there are inconsistencies regarding how services are delivered statewide.

Ms. Harvey provided the following suggestions for areas the committee should address as part of its study:

- Review access to services in urban, rural, and tribal communities.
- Review the eligibility process for program services for both individuals with developmental disabilities or behavioral health needs.
- Review community needs for developmental disabilities and behavioral health services.

- Review the human services delivery system, including the complexity of the various services.
- Review the coordination efforts of youth and adult waivers for individuals with disabilities.

Ms. Krisanna Peterson, Bismarck, provided information (Appendix G) regarding the study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs. She said children with mental illness are currently excluded from the state's Medicaid plan.

Ms. Peterson provided the following suggestions for areas the committee should address as part of its study:

- Consider Medicaid plans that will provide coverage of behavioral health-related issues similar to plans available to individuals in Minnesota.
- Consider increasing the buyin rate for the state's Medicaid plan, which is currently at 200 percent of the poverty level.
- Consider including mental illness as a qualification for the developmental disabilities waiver.

Dr. Delore Zimmerman, President, Praxis Strategy Group, Grand Forks, provided information (Appendix H) regarding efforts to redevelop underutilized buildings on the campus of the Life Skills and Transition Center. He said some underutilized buildings on the campus have been repurposed for private housing and for human service or other professional service activities. He said a local task force is currently working on new development opportunities. He suggested there may be an opportunity to use the New Horizons building as a short-term treatment or training center.

Committee Discussion of Developmental Disabilities and Behavioral Health Needs Study

Representative Schneider suggested the committee receive additional information regarding Medicaid and why the state has not elected to include coverage for children's mental health services, other states that provide children's mental health coverage, and options to request a waiver for this coverage.

Senator Mathern suggested the proposed study plan include seeking outside sources for information regarding efforts by other states to comply with the 1999 *Olmstead v. L.C.* case.

Senator Poolman suggested the proposed study plan also include reviewing information from states that have eliminated a central institution concept for serving individuals with developmental disabilities, including the process for the transition and outcomes.

Representative Hogan suggested the committee review the current structure of the Olmstead Commission, including the appropriateness of the structure, how often it meets, the number of client complaints received during the previous 5 years, the review process for client complaints, and the outcomes of client complaints.

Chairman Lee said the committee may also consider reviewing the possibility of creating some type of behavioral health oversight board.

It was moved by Representative Schneider, seconded by Representative P. Anderson, and carried on a voice vote that the committee proceed with the study of state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities and behavioral health needs as follows:

1. **Receive information from DHS regarding the state's services and delivery systems, including whether changes are necessary to maintain compliance with state and federal laws and regulations;**
2. **Receive information from representatives of tribal governments, DHS, and private providers regarding community- and noncommunity-based services, including the costs and effectiveness of services;**
3. **Receive information from DHS regarding the impact of implementation and expansion of selected programs that were added to address unmet needs, including the impact on costs and effectiveness of new programs; needed changes to address noncompliance and a timeline for completing changes;**
4. **Receive information from representatives of tribal governments, DHS, and private providers regarding data on the number of individuals who would be impacted by voluntary compliance efforts, and data on the type of services that may need changing, including housing, peer counseling, outpatient treatment, crisis line access, and transportation services;**

5. **Receive information from DHS regarding an evaluation of the funding, mission, and caseload at the Life Skills and Transition Center, including the center's transition plan and number of clients eligible for community placement;**
6. **Conduct a tour of the Life Skills and Transition Center, subject to Legislative Management Chairman approval;**
7. **Receive information regarding state and federal laws and regulations, including a review of the fees and penalties for noncompliance;**
8. **Receive information to compare the voluntary and involuntary compliance with state and federal laws and regulations, including a review of long-term costs and effectiveness;**
9. **Receive information from various sources regarding efforts by other states to comply with the 1999 *Olmstead v. L.C.* case, including the planning and implementation process for any new programs, and information on states that have eliminated a central institution concept for serving individuals with developmental disabilities, including the process for the transition and outcomes;**
10. **Review the appropriateness of the current structure of the Olmstead Commission and its processes;**
11. **Receive testimony from stakeholders, including family members; state, local, and tribal agencies and institutions; and private providers;**
12. **Receive comments by interested persons regarding behavioral health and developmental disabilities services study;**
13. **Develop recommendations and any bill drafts necessary to implement the recommendations; and**
14. **Prepare a final report for submission to the Legislative Management.**

EARLY INTERVENTION SYSTEM FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES STUDY

Background Memorandum

The Legislative Council staff presented a memorandum entitled *Study of Early Intervention System for Children from Birth to Age 3 with Developmental Disabilities*. He said the interim Health Services Committee has been assigned the responsibility to study the state's early intervention system for children from birth to age 3 with developmental disabilities. The study may include:

- A historical overview of the system;
- Funding mechanisms, including Medicaid;
- The broader implications of how the state's system interfaces with other early childhood systems; and
- Responsibilities for implementing federal law directing states participating in Part C of the federal Individuals with Disabilities Education Act to locate and evaluate children from birth to age 3.

The Legislative Council staff said a related study was conducted during the 2007-08 interim by the Human Services Committee, which studied infant development programs, including a review of the state's lead agency agreement, service coordination, staffing, and funding structure, including the adequacy of the funding and the equitable distribution of funds to providers. The committee made no recommendations.

The Legislative Council staff proposed the following study plan:

1. Receive information from DHS regarding the state's early intervention system for children from birth to age 3 with developmental disabilities, including historical overview of the system; funding mechanisms, including Medicaid; the broader implications of how the state's system interfaces with other early childhood systems; and responsibilities for implementing federal law directing states participating in Part C of the federal Individuals with Disabilities Education Act to locate and evaluate children from birth to age 3;
2. Receive information from the Department of Public Instruction regarding the efficiency and effectiveness of programs available to children reaching 3 years of age and transitioning out of the early intervention system;
3. Receive testimony from stakeholders, including representatives of providers of infant development services, families, and state and local agencies and institutions;
4. Receive comments by interested persons regarding the early intervention system for individuals with developmental disabilities study;

5. Develop recommendations and any bill drafts necessary to implement the recommendations; and
6. Prepare a final report for submission to the Legislative Management.

Developmental Disabilities Division

Ms. Bay presented information (Appendix I) regarding suggestions for areas the committee should address as part of the study and an overview of services available for children from birth to age 3 with developmental disabilities. She said Part C of Individuals with Disabilities Education Act is a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, ages birth through 2 years of age and their families. She said states are not required to provide Part C services; however, if a state chooses to apply and accept the federal grant, services must be provided in compliance with federal requirements. She said the grant award for federal fiscal year 2017-18 is $2,247,675. She said required Part C program activities include direct services, interagency coordinating council, technical assistance, child find, administrative activities, and service coordination. She said activities the state supports, but are not required to support, include audiology and experienced parents services.

The following schedule provides the total number of infants and toddlers that had an active support plan for the specified period:

	State Fiscal Year		
	2013	2014	2015
Infants and toddlers with an active support plan	1,933	2,298	2,565

Ms. Bay provided the following suggestions for areas the committee should address as part of its study:

- Review possible funding options to support the federal Part C system.
- Review collaborative options within the early intervention and early childhood system across the state to support Part C services.
- Review the state's infrastructure compared to other states to determine if there are better ways to support the federal Part C system.
- Review the current early intervention system to identify any inefficiencies.

In response to a question from Representative P. Anderson, Ms. Bay said the majority of individuals that are eligible for services are identified through child find activities, including right track screenings and Birth Review program. She said brochures for the right track screening are given to families when a child is at the hospital. She said other families learn about services from other sources, including referrals from a physician and from the human service centers. She said DHS contracts with providers to conduct the screenings.

Comments by Interested Persons

Ms. Roxane Romanick, Bismarck, provided comments (Appendix J) regarding the study of the early intervention system for children from birth to age 3 with developmental disabilities. She supports the state's continued participation in the federal Part C program. She provided the following suggestions for areas the committee should address as part of its study:

- Review the history of current and previous funding methodologies for the Part C program.
- Consult with the federal Individuals with Disabilities Education Act Infant and Toddler Coordinators Association to review other funding strategies.
- Review how services are billed to individuals for federal Part C services to determine whether more of these services could be billed under Medicaid.
- Review ways to improve collaborative efforts among the early childhood partners, including the federal Part C early intervention system, early Head Start, home visitation programs, the Department of Public Instruction Early Childhood Services, and child care.
- Review the coordination process of Medicaid; the Developmental Disabilities Division program management; and the early intervention system, including eligibility, redetermination, and authorizations.
- Review the number of full-time equivalent positions within DHS and consider other arrangements to ensure the early intervention system has appropriate resources for the program.
- Review the statewide developmental screening program.

Mr. Eric Monson, former Chief Executive Officer, Anne Carlsen Center, presented information (Appendix K) on behalf of Mr. Tim Eissinger, Chief Executive Officer, Anne Carlsen Center, regarding the study of the early intervention system for children from birth to age 3 with developmental disabilities. He said services provided by the Anne Carlsen Center include early intervention programs. He said the center provided early intervention services to approximately 1,000 individuals in 2016. He provided the following suggestions for areas the committee should address as part of its study:

- Review the Medicaid eligibility application process.
- Assess the work flow and reasonableness of the early intervention authorization for services process.
- Review the potential for a coordinated child find system.
- Review options for other funding sources.
- Assess the adequacy of funding needed for the early intervention administrative structure.
- Assess the workflow and timing of service provider payments.
- Determine the framework and evaluation criteria for a longitudinal study of the impact of early intervention.

Committee Discussion of Developmental Disabilities and Behavioral Health Needs Study

In response to a question from Chairman Lee, Mr. Christopher Jones, Executive Director, Department of Human Services, said DHS is considering allocating a full-time equivalent position to the federal Part C program. He said DHS supports creating a task force to review the early intervention system.

Chairman Lee suggested DHS coordinate the formation of a task force comprised of representatives of DHS, providers of the early intervention system, and other stakeholders to review concerns with the early intervention system, and develop possible solutions for the committee's consideration.

Representative Hogan suggested reviewing early intervention system information that may be available from the National Conference of State Legislatures or from the Council of State Governments to assist the task force with its review.

It was moved by Senator Poolman, seconded by Representative Hanson, and carried on a voice vote that the committee proceed with the study of the state's early intervention system for children from birth to age 3 with developmental disabilities as follows:

1. **Receive information from DHS regarding the state's early intervention system for children from birth to age 3 with developmental disabilities, including historical overview of the system; funding mechanisms, including Medicaid; the broader implications of how the state's system interfaces with other early childhood systems; and responsibilities for implementing federal law directing states participating in Part C of the federal Individuals with Disabilities Education Act to locate and evaluate children from birth to age 3;**
2. **Receive information from the Department of Public Instruction regarding the efficiency and effectiveness of programs available to children reaching 3 years of age and transitioning out of the early intervention system;**
3. **Review the history of current and previous funding methodologies for the federal Part C program;**
4. **Consult with the federal Individuals with Disabilities Education Act Infant and Toddler Coordinators Association to review other funding strategies;**
5. **Review how services are billed to individuals for the federal Part C services to determine whether more of these services could be billed under Medicaid;**
6. **Review ways to improve collaborative efforts among the early childhood partners, including the federal Part C early intervention system, early Head Start, home visitation programs, the Department of Public Instruction Early Childhood Services, and child care;**
7. **Review the coordination process of Medicaid; the Developmental Disabilities Division program management; and the early intervention system, including eligibility, redetermination, and authorizations;**
8. **Review the number of full-time equivalent positions within DHS and consider other arrangements to ensure the early intervention system has appropriate resources for the program;**
9. **Review the statewide developmental screening program;**

10. **Review the Medicaid eligibility application process;**
11. **Assess the workflow and reasonableness of the early intervention authorization for services process;**
12. **Review the potential for a coordinated child find system;**
13. **Review options for other funding sources;**
14. **Assess the adequacy of funding needed for the early intervention administrative structure;**
15. **Assess the workflow and timing of service provider payments;**
16. **Determine the framework and evaluation criteria for a longitudinal study of the impact of early intervention;**
17. **Receive testimony from stakeholders, including representatives of providers of infant development services, families, and state and local agencies and institutions;**
18. **Receive comments by interested persons regarding the early intervention system for individuals with developmental disabilities study;**
19. **Develop recommendations and any bill drafts necessary to implement the recommendations; and**
20. **Prepare a final report for submission to the Legislative Management.**

OTHER COMMITTEE RESPONSIBILITIES

Background Memorandum

The Legislative Council staff presented a memorandum entitled *Other Duties of the Health Services Committee - Background Memorandum*. He said, in addition to the study responsibilities assigned to the Health Services Committee for the 2017-18 interim, the committee has also been assigned to:

- Receive a report from the State Fire Marshal on the State Fire Marshal's findings and any recommendations for legislation to improve the effectiveness of the law on reduced ignition propensity standards for cigarettes (Section 18-13-02(6));
- Receive a report from DHS, State Department of Health, Indian Affairs Commission, and Public Employees Retirement System before June 1, 2018, on their collaboration to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in the state, improve diabetes care, and control complications associated with diabetes (Section 23-01-40);
- Receive a report from the State Department of Health before June 1, 2018, regarding progress made toward the recommendations provided in Section 23-43-04 relating to continuous improvement of quality of care for individuals with stroke and any recommendations for future legislation (Section 23-43-04);
- Contract with a private entity, after receiving recommendations from the Insurance Commissioner, to provide a cost-benefit analysis of every legislative measure mandating health insurance coverage of services or payment for specified providers of services, or an amendment that mandates such coverage or payment (Section 54-03-28);
- Receive a report from DHS before September 1, 2018, regarding the status of the children's prevention and early intervention behavioral health services pilot project (Section 3 of 2017 House Bill No. 1040);
- Receive a report from the State Department of Health on the results of the independent review of the tobacco prevention and control plan's effectiveness and implementation (Section 16 of 2017 Senate Bill No. 2004);
- Receive a report during the 2017-18 interim from the North Dakota Board of Social Work Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, and North Dakota Marriage and Family Therapy Licensure Board on the status of implementation of supervision and training requirements (Section 5 of 2017 Senate Bill No. 2033);
- Receive a report from the Task Force on Children's Behavioral Health every 6 months regarding the task force's efforts (Section 4 of 2017 Senate Bill No. 2038); and
- Receive a report from the Task Force on Children's Behavioral Health on its findings and recommendations and any proposed legislation necessary to implement the recommendations (Section 5 of 2017 Senate Bill No. 2038).

Ignition Propensity Standards

The Legislative Council staff said Section 18-13-02(6) requires the State Fire Marshal to review the effectiveness of test methods and performance standards and report each interim to the Legislative Management the State Fire Marshal's findings and any recommendations for legislation to improve the effectiveness of the law on reduced ignition propensity standards for cigarettes. The State Fire Marshal made no recommendation regarding changes to Chapter 18-13 during the 2015-17 biennium.

Collaboration on Diabetes

The Legislative Council staff said 2013 House Bill No. 1443 requires DHS, the State Department of Health, the Indian Affairs Commission, and the Public Employees Retirement System to collaborate to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in the state, improve diabetes care, and control complications associated with diabetes. Section 1 of the bill requires before June 1 of each even-numbered year, DHS, the State Department of Health, the Indian Affairs Commission, and the Public Employees Retirement System submit a report to the Legislative Management on the following:

1. The financial impact and effect diabetes is having on the agency, the state, and localities.
2. An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease.
3. A description of the level of coordination existing between the agencies on activities; programmatic activities; and messaging on managing, treating, or preventing diabetes and diabetes complications.
4. The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the Legislative Assembly.
5. The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in item 4.

Comprehensive Stroke System

The Legislative Council staff said 2015 House Bill No. 1323 relates to the creation and implementation of a stroke system and provides for a report to the Legislative Management. The bill amended Section 23-43-04 to provide for the State Department of Health to establish and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment, establish a data oversight process, and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment. Section 23-43-04(4) requires before June 1 of each even-numbered year, the department provide a report to the Legislative Management regarding progress made toward the recommendations provided in Section 23-43-04 and any recommendations for future legislation.

Health Insurance Coverage Cost-Benefit Analysis

The Legislative Council staff said Section 54-03-28 provides a legislative measure mandating health insurance coverage may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit analysis. Each cost-benefit analysis must include:

1. The extent to which the proposed mandate would increase or decrease the cost of services.
2. The extent to which the proposed mandate would increase the use of services.
3. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of the insured.
4. The impact of the proposed mandate on the total cost of health care.

Children's Prevention and Early Intervention Behavioral Health Services Pilot Project

The Legislative Council staff said Section 3 of 2017 House Bill No. 1040 appropriates $150,000 from the general fund to DHS for the purpose of establishing a children's prevention and early intervention behavioral health services pilot project in the school system of the department's choice, including services relating to children suffering from the effects of behavioral health issues. The bill also requires the department to provide a report to the Legislative Management before September 1, 2018, regarding the status of the children's prevention and early intervention behavioral health services pilot project.

Tobacco Prevention and Control Plan

The Legislative Council staff said Section 16 of 2017 Senate Bill No. 2004 requires the State Department of Health to provide a report to the Legislative Management by July 31, 2017, regarding the development of a statewide tobacco prevention and control plan that is consistent with the five components of the Centers for

Disease Control and Prevention's *Best Practices for Comprehensive Tobacco Control Programs*.

Behavioral Health Professional Boards

The Legislative Council staff said Section 5 of 2017 Senate Bill No. 2033 requires the North Dakota Board of Social Work Examiners, Board of Addiction Counseling Examiners, Board of Counselor Examiners, and North Dakota Marriage and Family Therapy Licensure Board to provide a report to the Legislative Management regarding the status of implementing these changes.

Task Force on Children's Behavioral Health - Efforts

The Legislative Council staff said Section 4 of 2017 Senate Bill No. 2038 creates the Task Force on Children's Behavioral Health for the purpose of assessing and guiding efforts within the children's behavioral health system to ensure a full continuum of care is available in the state. The task force is to:

- Assess and guide efforts within the children's behavioral health system to ensure a full behavioral health continuum of care is available in the state;
- Make recommendations to ensure the children's behavioral health services are seamless, effective, and not duplicative;
- Identify recommendations and strategies to address gaps or needs in the children's behavioral health system;
- Engage stakeholders from across the continuum to assess and develop strategies to address gaps or needs in areas including education, juvenile justice, child welfare, community, and health; and
- Provide a report to the Legislative Management every 6 months regarding the task force's efforts.

Task Force on Children's Behavioral Health - Findings and Recommendations

The Legislative Council staff said Section 5 of 2017 Senate Bill No. 2038 requires the Task Force on Children's Behavioral Health to provide a report to the Legislative Management regarding its findings and recommendations and any proposed legislation necessary to implement the recommendations.

Behavioral Health Professional Boards - Status Report

Chairman Lee called on Mr. Kurt Snyder, Board Member, Board of Addiction Counseling Examiners, who presented information (Appendix L) regarding supervision and training requirement changes approved by the 65th Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures. He said the board has formed a subcommittee. He said the subcommittee has held several meetings reviewing the difference between bachelor-level and master-level licenses, identifying academic coursework differences, clinical training hours, and scope of practice. He said the board has been collaborating with the Board of Counselors Examiners and the North Dakota Board of Social Work Examiners to review and encourage dual licensure. He said the board is also reviewing the process for out-of-state addiction counselors. He said the board is considering a grace period for individuals to comply with the state's standards. He said the board is also considering immediate licensure for individuals with a National Association of Addiction Professionals National Certified Addiction Counselor Level II certification or a Master Addiction Counselor certification.

Chairman Lee called on Ms. Marge Ellefson, Executive Secretary, Board of Counselor Examiners, who presented information (Appendix M) regarding supervision and training requirement changes approved by the 65th Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures. She said the board is currently in the process of reviewing and proposing Administrative Code changes.

Chairman Lee called on Reverand Larry J. Giese, Board Administrator, North Dakota Marriage and Family Therapy Licensure Board, who presented information (Appendix N) regarding supervision and training requirement changes approved by the 65th Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures. He said the board plans to reorganize on Friday, August 18, 2017. He said the board's attorney Mr. Edward Erickson, Attorney General's office, provided the following feedback regarding the changes:

- The statutory changes to the supervision requirements can be directly implemented by the board without requiring changes to Administrative Code; and
- The state's licensure standards for marriage and family therapists are similar to the licensure standards of other states; therefore, there are no impediments preventing individuals licensed in other states from transferring here through endorsement, nor does it prevent individuals receiving an education from a different state from becoming licensed in this state.

Chairman Lee said because representatives of the North Dakota Board of Social Work Examiners were unable to attend this meeting, the committee will receive a report from the North Dakota Board of Social Work Examiners at a future meeting, regarding supervision and training requirement changes approved by the 65th Legislative Assembly pursuant to 2017 Senate Bill No. 2033, the status of implementing the changes, and actions to streamline licensing procedures.

State Department of Health - Statewide Tobacco Prevention and Control Plan

Chairman Lee called on Ms. Krista Fremming, Director, Division of Chronic Disease, State Department of Health, who presented information (Appendix O) regarding the development of a statewide tobacco prevention and control plan that is consistent with the five components of the Centers for Disease Control and Prevention's *Best Practices for Comprehensive Tobacco Control Programs* pursuant to Section 16 of 2017 Senate Bill No. 2004. She said the State Department of Health held several meetings over the past 3 months. She said new or expanded areas in the state plan include:

- Engage youth at the local level in tobacco prevention advocacy efforts.
- Increase collaboration with DHS on tobacco retailer compliance checks and cessation for the behavioral health population.
- Provide a greater emphasis on implementing bidirectional referrals to NDQuits through electronic health records and sending updates to primary care providers through electronic health records.

Ms. Fremming said the State Department of Health is making final edits to the state plan. She said the finalized state plan will be presented to the committee at a future meeting.

State Department of Health - Advisory Committee Members

Chairman Lee called on Ms. Mylynn Tufte, State Health Officer, State Department of Health, who presented information (Appendix P) regarding the members appointed by the Governor to serve as the advisory committee to the State Health Officer pursuant to Section 23-01-05. She said three individuals were appointed to serve as the advisory committee effective April 1, 2017. She said the three advisory committee members are Dr. Andrew J. McLean, Medical Director, Department of Human Services; and Chair, Department of Psychiatry and Behavioral Science, University of North Dakota School of Medicine and Health Sciences; Dr. Fadel Nammour, Owner, Dakota Gastroenterology Clinic; and Dr. Joshua Wynne, Dean, University of North Dakota School of Medicine and Health Sciences.

Committee Discussion

Representative Hogan suggested the committee receive a report from DHS and the licensing boards regarding the status of implementation of the tiered system established pursuant to 2017 Senate Bill No. 2042 for the roles of mental health professionals.

It was moved by Representative Karls, seconded by Representative Skroch, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Lee adjourned the meeting at 3:15 p.m.

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Michael C. Johnson
Fiscal Analyst

ATTACH:16