

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## BUDGET COMMITTEE ON GOVERNMENT SERVICES

Thursday, August 25, 2005  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Al Carlson, Randy Boehning, Ron Carlisle, Kari Conrad, Duane DeKrey, Jeff Delzer, Glen Froseth, Eliot Glassheim, Bette B. Grande, James Kerzman, Joe Kroeber, Ralph Metcalf, Darrell D. Nottestad, Ken Svedjan, Dave Weiler, Alon C. Wieland; Senators Duaine C. Espeguard, Elroy N. Lindaas, Stanley W. Lyson, Dave Nething

**Members absent:** Representative Blair Thoreson; Senators Aaron Krauter, Ed Kringstad

**Others present:** See attached appendix

### RULES OF OPERATION AND PROCEDURE

At the request of Chairman Carlson, the legislative budget analyst and auditor reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

Chairman Carlson reviewed the studies and responsibilities assigned to the Budget Committee on Government Services for the 2005-06 interim. He said the committee's studies and responsibilities include:

1. Establishing a government and performance accountability system pilot project involving up to three executive branch agencies during the 2005-06 interim.
2. Developing a legislative strategic plan, including site and facility plans, for the Department of Corrections and Rehabilitation incarceration and correctional facility needs.
3. Studying information identifying state-owned real estate and whether the state should establish and maintain an inventory of state-owned real estate.
4. Approving any agreement between a North Dakota state entity and South Dakota to form a bistate authority.
5. Monitoring the status of state agency and institution appropriations.

### DEPARTMENT OF CORRECTIONS AND REHABILITATION INCARCERATION AND FACILITY NEEDS

The Legislative Council staff presented a memorandum entitled [Department of Corrections and Rehabilitation Incarceration and Facility Needs - Background Memorandum](#) relating to the committee's responsibility, as directed by Section 12 of 2005 Senate Bill No. 2015 and amended by Section 41 of 2005 House Bill No. 1015, to develop a legislative strategic plan, including site and facility plans, for the Department of Corrections and Rehabilitation incarceration and correctional facility needs. The committee, in its development of a strategic plan for the Department of Corrections and Rehabilitation, is to receive information from the Department of Corrections and Rehabilitation, regional authorities with regional correctional centers, counties with county jails, cities with city jails, corporations operating private correctional facilities, and others the committee considers necessary to develop a strategic plan for the state's incarceration and correctional facility needs for the next 20 years; consider using existing facilities, other available state facilities, and county, local, or private facilities; consider any cost and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility; consider state-operated facilities compared to contract-operated state facilities; consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs; consider the impact to the Department of Corrections and Rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs; and develop a strategic plan based on the information received by the committee.

The Legislative Council staff said the following elements should be included in an agency's or department's strategic plan:

1. The mission, goals, and objectives of the agency.
2. Identification of the groups of people served by the agency and the results of any methodology used to assess and improve services.
3. The strategies and activities utilized to meet agency goals and objectives.
4. A general description of the agency's sources and uses of funds.
5. Estimated future service requirements and the resources that may be necessary to meet those requirements.
6. External factors affecting services of the agency.
7. The performance measurement data used to evaluate and assess the agency's performance.

The Legislative Council staff said that a consultant was hired in the 2001-02 interim to study the facilities and operations of the Department of Corrections and Rehabilitation. The consultant's report included findings and recommendations of the study of the Department of Corrections and Rehabilitation in the areas of population and capacity management, physical plant, operations, and programs.

The Legislative Council staff said the 2003-04 interim Budget Committee on Government Services studied the long-term needs of state inmates and whether the Department of Corrections and Rehabilitation should continue to contract with county jails to house state female inmates or if the state should expand the prison system. As part of the study, the committee encouraged the Department of Corrections and Rehabilitation to request funds from the preliminary planning revolving fund to determine the cost and specifications relating to the replacement of the east cellhouse at the State Penitentiary. The department requested and received \$60,000 from the preliminary planning revolving fund and hired an architect to conduct the study of the replacement of the east cellhouse. The architect's study included findings in the areas of the east cellhouse, medical facilities, segregation, orientation, and facility. The architect's recommendation for changes at the State Penitentiary included:

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

The total project cost was estimated to be \$29.2 million, and it was estimated that the total

project cost would increase by approximately \$2.1 million if the project is delayed from 2006 until 2008.

The Legislative Council staff said during its study the 2003-04 interim Budget Committee on Government Services also learned about a proposed riverbank stabilization project along the riverfront property the Department of Corrections and Rehabilitation owns at the Missouri River Correctional Center. Upon the recommendation of the committee, the Department of Corrections and Rehabilitation obtained appraisals of the land it owns along the Missouri River at the Missouri River Correctional Center. The appraisal report stated that as of February 2, 2005, the market value of the land without the riverbank stabilization easement is \$7.85 million and the market value of the land with the permanent riverbank stabilization easement is \$1.82 million.

The Legislative Council staff said the suggested study approach the committee may wish to use for its responsibility to develop a strategic plan for the Department of Corrections and Rehabilitation incarceration and correctional facility needs is:

1. Receive information from the Department of Corrections and Rehabilitation regarding the department's current strategic plan, including site and facility plans.
2. Receive information from the Department of Corrections and Rehabilitation regarding the real estate owned by the department, including the number of acres owned, how the real estate was acquired, an explanation of the use of the real estate, and any statutory provisions relating to the department's ability to use, lease, sell, or acquire property.
3. Receive information from the State Auditor's office regarding the recommendations in the performance audit of the Department of Corrections and Rehabilitation.
4. Receive input from the Department of Corrections and Rehabilitation, regional corrections centers, county and city jails, corporations operating private correctional facilities, and other stakeholders to assist in the development of a strategic plan for the state's incarceration and correctional facility needs for the next 20 years.
5. Visit correctional facilities, including the State Penitentiary, the James River Correctional Center, the Missouri River Correctional Center, the Youth Correctional Center, the Dakota Women's Correctional and Rehabilitation Center, the Bismarck Transition Center, the North Central Correctional and Rehabilitation Center, and other county jails.
6. Review the ability of existing facilities; other available state facilities; and county, local, or private facilities to meet the needs of the state.

7. Review the costs and benefits of replacing all or parts of existing correctional facilities or other state property with a modern all-encompassing facility.
8. Consider state-operated facilities as compared to contract-operated state facilities.
9. Consider contracting with a private entity to provide all or part of the state's correctional and rehabilitation needs.
10. Consider the impact to the Department of Corrections and Rehabilitation of changing sentencing guidelines, increasing fines as an alternative to incarceration for nonviolent or minor drug offenders, and utilizing alternatives to incarceration and treatment programs, including receiving information regarding the efficiency of treatment programs.
11. Receive input from the Department of Corrections and Rehabilitation for suggested changes to the department's strategic plan, based on information received by the committee from stakeholders and based on committee input.
12. Recommend a strategic plan.
13. Develop recommendations and prepare legislation necessary to implement the recommendations.
14. Prepare a final report for submission to the Legislative Council.

### **Comments by Committee Members**

Representative Carlson said he would like the committee to receive periodic reports from a member of the Commission on Alternatives to Incarceration and possibly hold a joint meeting with the commission because the actions of the commission will be important to the committee's development of the strategic plan for the Department of Corrections and Rehabilitation.

Representative Delzer said he would like the committee to consider, in its development of a strategic plan for the Department of Corrections and Rehabilitation, the legislative views and goals for the Department of Corrections and Rehabilitation, the effect of sentencing guidelines on inmate populations, inmate population trends, and the effect of alternatives to incarceration on inmate populations.

Representative Nottestad said the committee will need to decide what should be done with the east cellhouse at the State Penitentiary.

Representative Delzer said the committee should gather information regarding land owned by all state agencies, in addition to the land owned by the Department of Corrections and Rehabilitation, as recommended in the suggested study approach.

At the request of Representative Conrad, the Department of Corrections and Rehabilitation will be

requested to provide the committee with information regarding the types of crimes committed by the inmates, as well as the inmate populations by location, when it provides future inmate population statistics.

Representative DeKrey said he is a member of the Governor's task force on sentencing and items the task force will be considering include minimum mandatory sentences for some sexual offenders and lifetime supervision for some types of offenses.

Representative Metcalf said it is important for the committee to keep in mind that sometimes the Department of Corrections and Rehabilitation is not able to obtain the appropriate staff necessary to provide treatment for its inmates because it does not have sufficient funds appropriated to offer an adequate salary to attract or maintain staff.

Representative Carlson requested that the Association of Counties provide information to the committee at a future meeting regarding county correctional facilities, including local jail facilities, capacities, populations, and future expansion plans.

Representative Carlisle said he hopes the committee can develop a bill draft during the 2005-06 interim regarding the Department of Corrections and Rehabilitation incarceration and correctional facility needs to introduce to the 2007 Legislative Assembly.

Representative Delzer said he would like the Association of Counties to include in the information it collects from the counties any effect or impact on the county's facility plans if the state would want to contract with them to house state inmates.

Senator Nething said he would also like the counties to provide information to the committee on treatment services available at the county facilities.

Representative Nottestad said the counties should also provide information to the committee regarding their ability and willingness to contract with state or federal entities to house inmates.

Representative Carlson said although the committee should gather information regarding alternatives to incarceration, it should focus on the Department of Corrections and Rehabilitation facility needs.

Representative Conrad requested that the committee receive information from a representative of the Attorney General's office regarding the effects of prosecuting, plea bargaining, and sentencing guidelines on prison populations.

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

In response to a question from Representative Carlson, Mr. Dave Krabbenhoft, Director of Fiscal Affairs, Department of Corrections and Rehabilitation, said the department used funds appropriated during the 2005 legislative session to provide salary equity increases for the department's correctional officers and other employees. He said the \$1 million appropriation was used to provide salary equity increases

for the correctional officers, the additional \$500,000 appropriation was used to provide salary equity increases for employees in the Juvenile Community Services Division, Youth Correctional Center employees (excluding teachers), central office employees, and noncorrectional officer positions in the Prisons Division, and the department assumes that it will realize \$250,000 of general fund savings in its 2005-07 biennium appropriation which it used to provide salary equity increases for the employees in the Field Services Division, pursuant to Section 10 of 2005 Senate Bill No. 2015.

Mr. Krabbenhoft said the total average salary increase percentage for the department's employees that received a salary equity adjustment in addition to the 4 percent salary increase authorized for all state employees is Prisons Division (excluding central office and Roughrider Industries) 8.61 percent, Field Services Division (excluding central office) 7.21 percent, Juvenile Community Services Division (excluding central office) 6.77 percent, Youth Correctional Center (excluding central office and teachers) 7.64 percent, and central office 4.99 percent.

In response to a question from Representative Carlson, Mr. Krabbenhoft said the Department of Corrections and Rehabilitation made a payment of \$52,856 to Ms. Elaine Little, former director, Department of Corrections and Rehabilitation, in addition to her regular accrued annual and sick leave related to her early retirement. Mr. Krabbenhoft said the early retirement agreement was negotiated between Ms. Little and the Governor's office. He said the additional payment to Ms. Little will not cause the department to exceed its appropriation for the 2005-07 biennium because it will achieve savings by a delay in hiring new employees and has identified other savings that will be used to make up for the payment.

Representative Delzer said he does not support the decision made by the Governor's office to authorize the early retirement payment to Ms. Little, and he would like to know which section of the North Dakota Century Code authorized the Governor's office to provide an early retirement payment to Ms. Little.

Representative Carlson requested the Department of Corrections and Rehabilitation to provide information to the committee regarding the authority of the Governor's office to authorize an early retirement payment to a state employee.

Chairman Carlson called on Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, to provide information on the department's current strategic plan and the 2001-02 interim study conducted of the department's facilities and operations. A copy of the information presented is on file in the Legislative Council office.

Ms. Bertsch said a study of the facilities and operations of the Department of Corrections and Rehabilitation was conducted by Security Response

Technologies, Inc. (SRT), during the 2001-02 interim. She said the study addressed issues in four major areas of the department, which were population projections and capacity needs, physical plant, operations, and programs. Ms. Bertsch reviewed the following recommendations from the study:

Recommendations	Department of Corrections and Rehabilitation Response
Population and capacity management Increase contracting with county jails and Appleton as needed over the next year	An increase in contracts for housing outside the department was not necessary with the addition of the women's facility in New England and the implementation of a more aggressive parole process. Use of such contract facilities has remained about the same with the growth in inmate population. Reliance on such facilities to manage growth in the inmate population is not practical. County jails have limited beds and the actual number of inmates that can be sent to such facilities is limited. Services offered by the Department of Corrections and Rehabilitation facilities are not offered in the contract facilities. Inmates with medical issues or disciplinary issues are not accepted at such facilities.
Accelerate parole reviews of eligible offenders	The acceleration of parole reviews of eligible offenders has been implemented. Staff meets with the parole board to improve the process and ensure that those offenders who are ready for parole release and who no longer are viewed as a risk to the public are given strong consideration for parole.
Build a new housing unit for female inmates at James River Correctional Center	The 2003 Legislative Assembly determined that the department's female inmates would be housed in county facilities. Only one option was available--the Dakota Women's Correctional and Rehabilitation Center--located in New England.
Physical plant The department needs to invest an estimated \$42 million to \$62 million in major capital repairs to four facilities over the next 10 years.	The department believes that replacement of the State Penitentiary's east cellhouse and expansion of its medical facilities, the new Missouri River Correctional Center dietary building, and the fire alarm system at the Youth Correctional Center are the most urgent projects. The east cellhouse and the administration building have not been brought up to code and the cost to bring them up to code is more than to build new. The department's response was to request the architectural study that was recently completed to replace the east cellhouse and to move the infirmary into a new building.
Operations The department requires additional staff to assure security and to operate in an effective manner.	Seven of the recommended 51.2 full-time equivalent positions were approved by the 2003 Legislative Assembly. The seven positions were two correctional officers, a general trades maintenance worker I, a carpenter II, a

Recommendations	Department of Corrections and Rehabilitation Response
<p>The department needs to develop or acquire an information system for the Field Services Division that can communicate with the Prisons Division's ITAG system.</p>	<p>maintenance mechanic III, a plumber III, and an electrician II.</p> <p>The cost to integrate the ITAG system for the Prisons Division with the DOCSTARS system for the Field Services Division has been prohibitive. The estimated cost to accomplish integration in 2000 was over \$800,000.</p>
<p><b>Programs</b> Accelerate the processing of offenders through classification</p>	<p>The processing of offenders through classification has been accelerated. Offenders are now processed within three to four weeks rather than five weeks. This has been accomplished by combining assessment instruments and through the formation of case planning.</p>
<p>Review and validate the classification instrument</p>	<p>The classification instrument has been validated.</p>
<p>The department should explore expansion of the community placement program.</p>	<p>The department has expanded placement of inmates within the community through increased paroles and through use of the Transition Center. The department does not currently utilize the community placement program because it does not believe placing inmates in the program is in the best interest of public safety.</p>

Ms. Bertsch said the Department of Corrections and Rehabilitation conducts a strategic planning session during January of even-numbered years. In January 2004, she said, the department developed the following six major goals that addressed the five main areas of medical, treatment, human resources, population management, and organizational structure:

1. Provide an appropriate standard of medical care for inmates. Respond to the increased number of offenders, increased medical needs and inadequate facilities by providing adequate facilities, medical staff, and training to correctional officers.
2. The Department of Corrections and Rehabilitation will ensure the delivery of quality programs based on evidence-based practices that are integrated with private and public providers.
3. Obtain required funding and support through the Office of Management and Budget, the Governor's office, and the Legislative Assembly to hire and retain sufficient staff, compensate them fairly, and ensure a safe work environment.
4. Enhance interdiversion communication among Department of Corrections and Rehabilitation adult services.
5. Effectively manage the adult offender population of the Department of Corrections and Rehabilitation.

6. Create an organizational structure to effectively and efficiently manage the fiscal affairs of the Department of Corrections and Rehabilitation.

Mr. Tim Schuetzle, Director, Prisons Division, Department of Corrections and Rehabilitation, presented comments on the committee's responsibility to study the department's incarceration and correctional facility needs. Mr. Schuetzle said the committee should narrow its focus relating to the study instead of broadening it. He said a problem that often arises when states contract with private facilities to house inmates is that private prisons tend to "cherry-pick" the inmates and only accept healthy and well-behaved prisoners.

Representative Carlisle requested Mr. Schuetzle to provide the committee with information regarding the number of inmates that are sent to the Department of Corrections and Rehabilitation facilities with a sentence of less than one year. Representative Carlson requested that the information also include the county of origin for each of those inmates.

Representative Carlson said that he would like to have Mr. Schuetzle give a presentation to the committee at its next meeting regarding his recommendations for the department's future correctional facility needs.

Representative Grande requested the Department of Corrections and Rehabilitation provide information to the committee regarding the costs associated with the development and implementation of the department's ITAG and DOCSTARS information systems, including the costs to integrate the two systems.

Representative Glassheim requested the Department of Corrections and Rehabilitation provide its inmate population management plan to the committee.

Representative Glassheim requested the Department of Corrections and Rehabilitation provide information to the committee regarding a history of the accuracy of the department's inmate population projections.

Chairman Carlson said items that will be on the agenda for the next committee meeting include a presentation by the State Auditor's office regarding the Department of Corrections and Rehabilitation performance audit; presentations by the Department of Corrections and Rehabilitation; presentation by a representative of the Association of Counties regarding county facilities; presentation by a representative of the Attorney General's office regarding prosecution, plea bargains, and sentencing guidelines; a report from the Commission on Alternatives to Incarceration; and facility tours.

Representative Grande said she would like the committee to receive information regarding the effectiveness of the substance abuse treatment pilot project established by 2005 Senate Bill No. 2373 as information becomes available.

Representative Metcalf said he would like to have Mr. Warren Emmer, Director, Field Services Division, Department of Corrections and Rehabilitation, present information to the committee at a future meeting regarding the impact to the Field Services Division of accelerating parole for certain prison inmates.

## **GOVERNMENT PERFORMANCE AND ACCOUNTABILITY SYSTEM PILOT PROJECT**

The Legislative Council staff presented a memorandum entitled [Government Performance and Accountability System Pilot Project - Background Memorandum](#) relating to the committee's responsibility, as directed in 2005 House Bill No. 1035, to establish a government performance and accountability system pilot project involving up to three executive branch agencies during the 2005-06 interim. The Legislative Council staff said performance budgeting for the state of North Dakota began during the 1993-94 interim with the development of a pilot project to incorporate service efforts and accomplishments into the budgeting process. The Office of Management and Budget chose 12 agencies to be involved in the program-based performance budgeting pilot project for the 1995-97 biennium, and the appropriation bills for these agencies included program line items rather than object code line items. The 1995 Legislative Assembly chose to appropriate funds on a program basis rather than object code basis for 7 of the 12 pilot agencies. The 1999 Legislative Assembly directed the Office of Management and Budget to discontinue the program-based performance budgeting pilot project when preparing the 2001-03 executive budget. The primary reasons the Legislative Assembly chose to discontinue the performance budgeting pilot project were:

1. The system focused too much on detailed inputs and outputs of agency programs, rather than outcomes or results.
2. The detailed performance budgeting information required more time to analyze than was available during a legislative session.
3. The performance measures were selected by agencies, with little input from legislators.
4. The focus was on agencies wanting program rather than object code line items in the appropriation bills.

The Legislative Council staff said the 2003-04 interim Government Performance and Accountability Committee studied state government performance and accountability practices, including a review of other states' performance budgeting practices and strategic planning efforts and how those practices and efforts may apply to North Dakota and improve its budgeting process. The committee recommended 2005 House Bill No. 1035, which was amended to provide for the government performance and accountability system pilot project assigned to the

2005-06 interim Budget Committee on Government Services.

The Legislative Council staff said the committee may wish to proceed with the establishment of a government performance and accountability system pilot project as follows:

1. Review the information received by the 2003-04 interim Government Performance and Accountability Committee regarding performance budgeting and reporting.
2. Receive information from the Office of Management and Budget regarding the establishment of a government performance and accountability system pilot project, including recommendations for the three pilot agencies.
3. Receive information from representatives of the state agencies under consideration for the pilot project regarding the agency's current performance measures.
4. Select up to three executive branch agencies for the government performance and accountability pilot project.
5. Review, for each executive branch agency selected for inclusion in the pilot project, biennial goals and objectives and related performance measurement indicators for major programs of the agency or department. The performance measures must provide, to the extent possible:
  - a. The data necessary to assess the performance of major activities of the agency, including a program's efficiency and effectiveness.
  - b. A comparison, to the extent appropriate, to other states' performance measures.
6. Review, for each executive branch agency selected for inclusion in the pilot project, the establishment, to the extent possible, of a three- to five-year strategic plan to guide its operations and activities. The strategic plan must include:
  - a. The mission, goals, and objectives of the agency or department.
  - b. Identification of the groups of people served by the agency and the results of any methodology used to assess and improve services.
  - c. The strategies and activities utilized to meet agency or department goals and objectives.
  - d. A general description of the agency's or department's sources and uses of funds.
  - e. Estimated future service requirements and the resources that may be necessary to meet those requirements.
  - f. External factors affecting services of the agency or department.



- g. The performance measurement indicators developed under House Bill No. 1035 used to evaluate and assess the agency's or department's performance.
7. Review, for each executive branch agency selected for inclusion in the pilot project, the preparation, to the extent possible, of a biennial performance report that summarizes its goals and objectives, compares performance results to performance targets, presents multiyear trends in performance results, and, to the extent possible, provides comparisons to other states' performance results and national benchmarks.
  8. Develop recommendations and prepare any legislation necessary to implement the recommendations.
  9. Prepare a final report for submission to the Legislative Council.

Chairman Carlson called on Ms. Pam Sharp, Director, Office of Management and Budget, to present information regarding the establishment of a government performance and accountability system pilot project, including recommendations for the pilot agencies. Ms. Sharp said all state agencies were requested to provide their performance measures to the Office of Management and Budget when they submitted their 2005-07 biennium budget. She said all the information received by the agencies was compiled into the book *2005-07 Performance Measures*, which was provided to the committee and a copy is also on file in the Legislative Council office. She said some agencies do not have any performance measures and others have very good performance measures. Ms. Sharp said the book should be a good starting point for the committee to select an agency for the government performance and accountability system pilot project. She said some agencies that appear to already have the basic elements of strategic planning and performance measures in place include the Information Technology Department, Department of Public Instruction, State Library, Highway Patrol, Parks and Recreation Department, Department of Human Services, and Job Service North Dakota. She said the Parks and Recreation Department expressed interest in becoming a pilot agency for the government performance and accountability system project, and that the Department of Human Services and Job Service are not interested in becoming a pilot agency.

Ms. Sharp said the committee should consider the following items in selecting the pilot project agencies:

- The agencies should be willing participants.
- The agencies should have the basic elements of a strategic plan and performance measures already in place.
- The adequacy of an agency's staff and resources available to be able to fulfill the pilot project requirements.

- Agencies should understand what the committee expects the results of the pilot project to be and how the committee will use those results.

Ms. Sharp said she believes the committee should give guidance as to the type of agencies it believes would make good pilot agencies for the government performance and accountability system project.

Representative Carlson said that in the past, performance-based budgeting was misguided because it only focused on numbers instead of results. He said the focus of performance-based budgeting should be the results.

Representative Svedjan said performance-based budgeting should be viewed by state agencies as a positive step in state budgeting instead of being punitive.

Representative Glasheim said the committee should consider choosing an agency for the pilot project to measure economic development, such as the Department of Commerce.

Representative Grande said she believes the Department of Veterans Affairs would be an important agency to consider selecting for the pilot project.

Representative Carlson requested the Office of Management and Budget to contact the following agencies to find out if they would be able to participate in the government performance and accountability system pilot project:

1. Department of Veterans Affairs.
2. Department of Commerce.
3. Department of Human Services (certain sections only).
4. Information Technology Department.
5. Parks and Recreation Department.
6. Department of Transportation.
7. Highway Patrol.

Representative Delzer said he believes the Highway Patrol would be a good agency to include in the pilot project, but the Department of Human Services is too large an agency for the pilot project.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

## STATE-OWNED REAL ESTATE

The Legislative Council staff presented a memorandum entitled [State-Owned Real Estate - Background Memorandum](#) relating to the committee's responsibility, as directed by 2005 House Concurrent Resolution No. 3005, to seek information identifying state-owned real estate and study the utilization of real estate owned by state agencies and institutions, the best use of state-owned real estate, and whether the state should establish and maintain an inventory of state-owned real estate.

The Legislative Council staff said there are several state agencies that own real estate. In November 2003 the Legislative Council office received the

following information from state agencies that own real estate, excluding the University System:

State Agency	Acres Owned by Agency	Acres Leased to Other Entities
Office of Management and Budget	132	N/A
Land Department	713,635	701,119
School for the Deaf	27	N/A
North Dakota Vision Services - School for the Blind	10	Parking lot - 46,826 square feet
Veterans Home	90	N/A
Department of Human Services		
State Hospital	3,054	2,456
Developmental Center	350	310
Aeronautics Commission	64	N/A
Mill and Elevator	46	N/A
Department of Corrections and Rehabilitation	2,697	1,457
Adjutant General	10,586	N/A
State Fair Association	157	Varies <sup>1</sup>
State Historical Society	1,301	Varies <sup>2</sup>
Game and Fish Department	81,465	25,192
Parks and Recreation Department	9,797	25 <sup>3</sup>
State Water Commission	See Footnote 4	N/A
Department of Transportation	199,517	106

<sup>1</sup>The State Fair Association leases areas of the fairgrounds on a per day or per event basis.

<sup>2</sup>The State Historical Society only leases sites for haying that are in critical need of cleanup.

<sup>3</sup>The Parks and Recreation Department has approximately 150 acres of hay land leased at three different parks, 21 acres leased to the city of Wishek for Doyle Memorial Park, and an operating lease for 80 acres at Sully Creek.

<sup>4</sup>The State Water Commission owns a seven-acre lot where its shop is located and also owns the state sovereign land along waterways. The acreage of the state sovereign land is unknown and it is not salable or leasable.

**NOTE:** The following state agencies own the land only where their buildings/facilities are located:

- State Department of Health.
- Job Service North Dakota.
- Bank of North Dakota.
- Workforce Safety and Insurance.
- State Seed Department.

The 2003-04 interim committees that conducted budget tours of state facilities and institutions received information from each of the entities toured regarding the land and buildings owned and utilized by each entity. This information received by the budget tour groups has been compiled and included at the end of the *North Dakota Legislative Council 2003-04 Budget Section Tour Group Reports to the 59th Legislative Assembly* report.

The Legislative Council staff said the suggested study approach the committee may wish to use for its study of state-owned real estate is:

1. Receive information from all state agencies and institutions that own real estate regarding the number of acres owned, how the state real estate was acquired, an explanation of the use of the real estate, including whether the real estate is utilized by a state entity or another entity, and any statutory provisions relating to the agencies' ability to use, lease, sell, or acquire property.
2. Review the value of establishing and maintaining a detailed, statewide inventory of state-owned and institution-owned real estate and the appropriate agency to maintain the inventory.
3. Develop committee recommendations and prepare legislation necessary to implement the recommendations.
4. Prepare a summary of the committee's study for inclusion in the final report to the Legislative Council.

Representative Metcalf said the information received from state agencies should include any future plans the agency may have for use of its land.

Chairman Carlson requested the Legislative Council staff to send a survey to state agencies requesting them to provide the following information to the committee regarding any state-owned real estate and vacant buildings:

- Restrictions on the use of the property.
- Restrictions on use of proceeds from the sale of the property.
- Mineral rights.
- Easements.
- Leases and lease income.

### OTHER RESPONSIBILITIES

The Legislative Council staff presented a memorandum entitled [\*Other Responsibilities of the Budget Committee on Government Services\*](#) relating to the committee's other responsibilities regarding the approval of agreements between North Dakota and South Dakota and monitoring the status of state agency and institution appropriations.

### Bistate Authority

The Legislative Council staff said, pursuant to North Dakota Century Code Section 54-40-01, an agency that is proposing to enter into an agreement to form a bistate authority with an agency of South Dakota must submit the proposed agreement to the Legislative Council if the Legislative Assembly is not in session. The Budget Committee on Government Services has been assigned this responsibility for the 2005-06 interim. The Legislative Council staff said this is the fifth interim this committee has been assigned this responsibility and in the past, no proposed agreements were submitted to the committee for approval to form a bistate authority with South Dakota.



The Legislative Council staff said the action plan the committee may wish to use to carry out this responsibility is:

1. Receive any proposed agreement from a state agency to form a bistate authority with an agency of South Dakota.
2. Receive testimony from interested persons on the proposed agreement.
3. Review the proposed agreement regarding costs, effect on services, economic impacts, quality, etc.
4. Approve or disapprove the proposed agreement.
5. Prepare a summary of the committee's study for inclusion in the final report to the Legislative Council.

Senator Nething said the committee should include in its action plan to contact the National Conference of State Legislatures to find out if any other states form bistate authorities.

Senator Lindaas said there was a joint North Dakota/South Dakota Commission formed in the mid-1990s to study ways that North Dakota and South Dakota could collaborate to provide governmental services more efficiently, and he requested the Legislative Council staff to research the findings and actions of that commission and provide the information to the committee.

### **Budget Monitoring**

The Legislative Council staff said the committee's responsibility to review state agency and institution appropriations could focus on expenditures of major state agencies such as the charitable and penal institutions, elementary and secondary education, Department of Human Services medical assistance and economic assistance grants, and other appropriations the committee might select. The expenditures of the selected state agencies and institutions would be monitored by having the agencies prepare estimates and compare actual expenditures to the estimates. The Legislative Council staff would prepare a report for presentation to the committee comparing actual expenditures to estimates for the first year of the

biennium and discussing the major variances. The legislative budget analyst and auditor said an area of budget concern this biennium will be the effect of higher oil prices.

In addition, the Legislative Council staff said the staff could also report on the status of agency compliance with legislative intent. These reports would include the status of state agencies and institutions implementing budget/programmatic changes and legislative directives contained in appropriation bills and other legislation and identify budget concerns of agencies.

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Chairman Carlson said the next meeting of the Budget Committee on Government Services will be on Wednesday and Thursday, September 21-22, 2005, at the Cass County Jail in Fargo and the James River Correctional Center in Jamestown.

Chairman Carlson said the committee will also plan to meet on Tuesday and Wednesday, October 11-12, 2005, at the Dakota Women's Correctional and Rehabilitation Center in New England and in Bismarck to tour the Department of Corrections and Rehabilitation correctional facilities.

The committee adjourned subject to the call of the chair at 1:45 p.m.

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Stephanie A. Johnson  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

[ATTACH:1](#)