

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON GOVERNMENT SERVICES

Tuesday, June 17, 1997
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Janet Wentz, Chairman, called the meeting to order at 1:00 p.m.

Members present: Representatives Janet Wentz, James O. Coats, April Fairfield, James A. Kerzman, Bob Martinson, Jon O. Nelson, Carol A. Niemeier, Al Soukup, Elwood Thorpe; Senator Elroy N. Lindaas

Members absent: Representatives Amy N. Kliniske, Edward H. Lloyd; Senator Ray Holmberg

Others present: See attached appendix

Chairman Wentz announced that Senator Lindaas will serve as vice chairman of the committee. Chairman Wentz reviewed the tentative committee meeting schedule for the 1997-98 interim as follows:

Date	Location
Tuesday, June 17, 1997	Bismarck
Thursday and Friday, September 18-19, 1997	Jamestown
Tuesday, December 9, 1997	Bismarck
Thursday and Friday, April 2-3, 1998	Minot
Monday and Tuesday, September 14-15, 1998	Dickinson

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, reviewed the Legislative Council's rules of operation and procedure.

The Legislative Council staff presented a background memorandum relating to the committee's responsibility, as directed in Senate Concurrent Resolution No. 4001, to monitor mental health and foster care services, including changes in the role of the State Hospital, psychosocial rehabilitation centers, and clubhouse projects; the effect of welfare reform on the delivery of mental health and foster care services; methods used to place children in the custody of the Division of Juvenile Services; methods used to place children in residential child care facilities and residential treatment centers; methods of setting and levels of reimbursements for residential child care facilities and residential treatment centers; and items of legislative intent regarding mental health and foster care services.

The Legislative Council staff said the resolution was recommended by the 1995-96 interim Budget Committee on Government Services which monitored services for persons with mental illness and chemical dependency and services to children with serious emotional disturbances.

The Legislative Council staff reviewed legislation passed by the 1997 Legislative Assembly affecting mental health and foster care services. The Legislative Council staff said the 1997 Legislative Assembly provided funding to the human service centers and the State Hospital under a block grant concept. The Legislative Assembly included a section in the Department of Human Services appropriations bill providing that while the Legislative Assembly is allowing the human service centers and the State Hospital more flexibility by providing funds in the form of block grants, the human service centers and the State Hospital are expected to:

1. Continue to utilize standards, guidelines, practices, and core services in effect on March 1, 1997, for providing human services pursuant to North Dakota Century Code Section 50-06-05.3(2).
2. Continue to strive toward improving the quality of services and monitor and strive to achieve successful client outcomes.
3. Maximize available federal or other funds to provide services and service enhancements in consultation with the central office.
4. Utilize innovative and effective methods of service delivery in order to achieve cost savings or to enhance the level of services provided to clients.

In addition, the human service centers are to provide appropriate community services to continue the trend of fewer State Hospital and Developmental Center admissions in order to serve clients to the extent possible, in a least restrictive environment.

The Legislative Assembly passed Senate Bill No. 2016 (the Department of Corrections and Rehabilitation appropriations bill) which provides \$1,295,000, \$1,165,500 of which is federal funds and \$129,500 of which is from the general fund, for

the purchase of three buildings on the State Hospital grounds for use as a medium security prison. The buildings being purchased from the State Hospital are the forensic unit, the extended treatment (ET) building, and the gymnasium.

The Legislative Council staff reviewed mental health services funding. The schedule below presents a historical comparison of legislative appropriations for mental health services programs of the Department of Human Services:

	Total State Hospital and Mental Health Services Programs			
	Biennium			
	1991-93	1993-95	1995-97	1997-99
Total all funds	\$74,805,653	\$76,703,525	\$87,381,879	⁵
Less estimated income	23,388,992	28,104,086	38,718,328	⁵
Total general fund	\$51,416,661	\$48,599,439	\$48,663,551	⁵
State Hospital				
Total all funds	\$53,976,393	\$50,838,353 ¹	\$52,697,738	\$56,520,007
Less estimated income	14,377,516	15,795,954	16,280,379	18,626,024
Total general fund	\$39,598,877	\$35,042,399 ¹	\$36,417,359	\$37,893,983
State Hospital staff	717.2	659.2	628.6	622.6
State Hospital residents	272	224	224	225
Mental Health Services Programs				
Mental Health Division	\$3,760,322	\$2,437,473	\$13,997,736 ^{2,3}	\$3,790,655 ⁴
Human service centers	17,068,938	23,427,699	20,686,405 ²	⁵
Total all funds	\$20,829,260	\$25,865,172	\$34,684,141	\$3,790,655 ⁵
Less estimated income	9,011,476	12,308,132	22,437,949 ³	2,509,247 ⁵
Total general fund	\$11,817,784	\$13,557,040	\$12,246,192	\$1,281,408 ⁵

¹ Includes \$1,880,000 of the \$2 million appropriated from the general fund in a State Hospital downsizing funding pool for the 1993-95 biennium. The remaining \$120,000 was retained as part of the Department of Human Services targeted savings.

² The 1995 Legislative Assembly transferred funding for partial care (\$1,448,939), work activity (\$502,394), and psycho-social rehabilitation centers and clubhouse programs (\$1,347,230) from the human service centers to the Mental Health Division totaling \$3,298,563 for the 1995-97 biennium.

³ The funding for the Mental Health Division includes \$8.8 million of federal funds relating to a five-year, \$16.8 million federal mental health partnership grant that the department received from the Center for Mental Health Services to develop, in the Bismarck, Fargo, and Minot regions, a complete system of care for children and adolescents with behavioral and emotional disorders and mental illness.

⁴ Includes \$1.8 million relating to the federal mental health partnership grant.

⁵ The 1997 Legislative Assembly appropriated funding to the human service centers using a block grant concept; therefore, the amounts allocated for mental health services at each center have not yet been determined by the department. The 1997 Legislative Assembly included legislative intent in House Bill No. 1012 providing that the human service centers continue to provide the core services in effect on March 1, 1997, for the 1997-99 biennium and to provide appropriate community services to continue the trend of fewer State Hospital admissions in order to serve clients, to the extent possible, in a least restrictive environment.

The Legislative Council staff reviewed a historical comparison of State Hospital admissions as follows:

State Hospital Admissions	
Fiscal Year	Admissions
1990	2,304
1991	1,791

State Hospital Admissions	
Fiscal Year	Admissions
1992	1,677
1993	1,614
1994	1,610
1995	1,620
1996	1,679

The Legislative Council staff presented the following schedule comparing the number of persons with serious mental illness or serious emotional

disorders served at the regional human service centers.

Regional Human Service Center	1991-93	1993-95	Estimated 1995-97	Estimated 1997-99
Adults				
Northwest	317	324	333	367
North Central	400	441	574	633
Lake Region	184	210	238	262
Northeast	529	702	1,064	1,173
Southeast	800	913	1,088	1,200
South Central	488	518	505	557
West Central	459	520	599	660
Badlands	246	311	427	471
Total	3,423	3,939	4,828	5,323
Children				
Northwest		376	397	413
North Central		369	578	601
Lake Region		399	416	433
Northeast		260	360	374
Southeast		239	382	398
South Central		460	505	526
West Central		415	523	544
Badlands		332	312	324
Total		2,850	3,473	3,613

The Legislative Council staff reviewed funding for foster care services for the 1995-97 and 1997-99 bienniums. The schedule below presents the Department of Human Services estimate of foster care costs for the 1997-99 biennium:

1997-99 Estimated Costs				
	General Fund	Federal Funds	Other Funds	Total
Room and Board - In State				
Family foster care homes	\$3,123,026	\$3,626,639	\$854,414	\$7,604,079
Therapeutic foster care homes - Room and board amounts reflected under family foster care homes				
Residential child care facilities - In state	3,971,657	9,181,460	3,039,844	16,192,961
Residential treatment centers - Room and board amounts reflected under residential child care facilities				
Total room and board	\$7,094,683	\$12,808,099	\$3,894,258	\$23,797,040
Treatment and Service Payments - In State				
Family foster care homes - Not applicable				
Therapeutic foster care homes	\$1,364,961	\$3,669,466	\$205,957	\$5,240,384
Residential child care facilities	401,360	1,079,161	60,561	1,541,082
Residential treatment centers	1,082,384	2,618,000	38,363	3,738,747
Total treatment services	\$2,848,705	\$7,366,627	\$304,881	\$10,520,213
Combined Room and Board and Treatment and Service Payments - Out-of-State Facilities	\$1,268,212	\$2,937,878	\$929,086	\$5,135,176

1997-99 Estimated Costs				
	General Fund	Federal Funds	Other Funds	Total
Other Services				
Shelter care	\$125,000			\$125,000
Independent living	114,515	\$163,432		277,947
Total other services	\$239,515	\$163,432	\$0	\$402,947
Total Department of Human Services foster care related expenses	\$11,451,115	\$23,276,036	\$5,128,225	\$39,855,376

The Legislative Council staff reviewed information on the following schedule relating to the average number of children placed in out-of-state facilities for treatment services since 1987 and the cost of the services:

Fiscal Year	Average Number of Children Per Month	Average Cost Per Month	Unduplicated Number of Children	Annual Cost
1996	37	\$147,319	67	\$1,767,828
1995	34	\$92,081	70	\$1,104,974
1994	29	\$50,241	61	\$602,888
1993	26	\$47,338	48	\$520,713
1992	14	\$24,447	33	\$293,359
1991	12	\$33,523	32	\$402,276
1990	37	\$88,000	46	\$1,056,004
1989	39	\$113,962	63	\$1,367,546
1988	38	\$103,605	56	\$1,243,259
1987	34	\$90,251	49	\$1,083,018

The Legislative Council staff reviewed procedures involved in child placements. The Legislative Council staff said child custody transfers are the decision of North Dakota courts. Custody is transferred from a child's parents to either county social services, the Department of Human Services, or the Division of Juvenile Services. County social services can place a child directly in a family foster care home; however, a more restrictive placement of a child under the custody of county social services must be reviewed and approved by the regional permanency planning team. The Division of Juvenile Services may directly place a child at the Youth Correctional Center; however, any other placement of the Division of Juvenile Services must be reviewed and approved by the regional permanency planning team.

Members on regional permanency planning teams vary depending on each child's history and circumstances but may include a county social services worker, Division of Juvenile Services caseworker, regional supervisor of county social services, juvenile court representative, school district representative, special education district representative, treatment services personnel, parents, foster family, and representatives of facilities the child may have been placed in.

The Legislative Council staff reviewed the types of foster care placements as follows:

1. Foster care family - A family providing for the child's care. Children placed with a foster care family are generally younger and have been deprived, neglected, or abused.
2. Therapeutic foster care family - A family providing for the child's care. Children placed with a therapeutic foster care family generally have been diagnosed with a psychiatric disorder and oftentimes are in transition from a residential treatment center placement.
3. Residential child care facilities and group homes - Children placed in these types of facilities are generally adolescents who have been deprived or abused, involved in a parent/child conflict, or have character disorders.
4. Residential treatment centers - Children placed in these types of facilities are generally adolescents who have been diagnosed with psychiatric disorders.

The licensed group homes, residential child care facilities, and residential treatment centers in North Dakota include:

Group/Residential Child Care Facilities	
Charles Hall Youth Services	Bismarck
Eckert Youth Homes	Williston
Harmony House Group Home	Devils Lake
Home on the Range	Sentinel Butte
Lake Oahe Group Home	Fort Yates
Little Flower Freedom Center	Minnewaukan
Prairie Learning Center	Raleigh
The Dakota Center	Fargo
The Dakota Center RCCF	Minot
The Dakota Center - Transitional Living (TL)	Minot
Residential Treatment Centers	
Luther Hall	Fargo
Manchester House	Bismarck
Rivers Edge RTC	Fargo
Ruth Meiers Adolescent Center	Grand Forks
The Dakota Center RTC	Minot

Foster care reimbursement rates for foster care families and facilities are listed below:

Reimbursement Rates Per Child		
	Maintenance Rate	Service Rates Effective July 1, 1997
Family foster care		
• Up to 4 years old	\$301/month	N/A
• 5-12 years old	\$341/month	
• 13 years old and	\$446/month	
Therapeutic foster care	\$591/month	Actual costs - Billed to Medicaid program
Group and residential child care facilities	\$2,027/month average rate in May 1997	\$300/month maximum - Billed to Medicaid program
Residential treatment centers	\$1,721/month average rate in May 1997 ¹	Actual costs - Billed to Medicaid program
¹ This is only the foster care portion of the payment. Certain staff and other costs of residential treatment centers are eligible for Medicaid reimbursement. These amounts are not shown here.		

The Legislative Council staff presented the proposed study plan as follows:

1. Receive information from representatives of the State Hospital and the Department of Human Services on the status of programs at the State Hospital and the regional human

service centers for persons with serious mental illness, funding allocations and services provided under the block grant funding concept approved by the Legislative Assembly, and the effect of welfare reform on the delivery of mental health services.

2. Receive information from representatives of the Department of Human Services on the status of foster care services, children placed out of state for treatment services, methods used to place children in foster care facilities, and methods of setting and levels of reimbursement rates for foster care facilities.
3. Receive information from juvenile court representatives regarding determining factors in child custody transfers relating to foster care or juvenile services.
4. Receive information from representatives of the Division of Juvenile Services regarding methods used to determine the placement of children in out-of-home facilities.
5. Tour the State Hospital, selected regional human service centers, and related programs, including foster care facilities.
6. Receive testimony from interested persons, including the Mental Health Association, private hospitals, foster care facilities, and other private service providers and organizations.
7. Review the Department of Human Services and the State Hospital funding requests relating to mental health and foster care programs for the 1999-2001 biennium.

It was moved by Representative Kerzman, seconded by Representative Coats, and carried on a voice vote that the Legislative Council staff provide information to the committee on actual costs of foster care facilities compared to the amounts reimbursed by the state.

Representative Coats suggested the committee review administrative rules governing foster care homes.

Ms. Karen Larson, Director of the Division of Mental Health and Substance Abuse Services, Department of Human Services, presented an overview of the mental health services system of the Department of Human Services and current issues relating to these services.

Ms. Larson said the mental health unit of the division provides oversight, grant monitoring, facilitation, and technical assistance for the development and implementation of appropriate mental health services throughout the state.

Ms. Larson said although specific funding allocations for mental health services have not yet been made for the human service centers, the human service centers and the State Hospital have indicated

they will be attempting, if possible, to improve the array and utilization of community-based mental health services.

Ms. Larson said although the effect of welfare reform on the mental health system is unknown at this time, the department may need to identify mental health service needs that must be adequately screened and addressed if welfare reform is to succeed.

Regarding potential innovations and initiatives for mental health services in North Dakota, Ms. Larson said the department needs to continue to encourage collaborative efforts between the State Hospital and the human service centers to provide services as close to home as possible. In addition, she said, it is important to work closely with other agencies to develop new approaches to utilize the regional

intervention efforts of the human service centers in order to screen all clients for the most appropriate service placement.

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

Mr. Don Schmid, Director of the Children and Family Services Division, Department of Human Services, provided background information regarding methods used to place children in foster care homes and facilities and the reimbursement rates for foster care facilities.

Mr. Schmid said the average number of children in foster care each month has increased every year for the past 10 years. Mr. Schmid presented the following foster care statistics:

	Unduplicated Total Number of Children	Number of Children in Family Homes	Number of Children in Facilities	Monthly Average Number of Children	Average Months in Care	Recidivism Percentage	Average Payment Per Month Per Child
1996	1,663	1,128	535	879	14.9	24.2	\$1,025
1995	1,654	1,125	529	861	13.9	23.8	991
1994	1,556	1,064	492	810	13.7	22.8	919
1993	1,513	1,065	448	756	14.1	23.3	846
1992	1,331	946	385	705	15	22.5	769
1991	1,271	883	388	648	14	22.3	685
1990	1,199	796	403	628	16	22	706
1989	1,126	745	381	601	16	20.5	682
1988	1,152	817	335	555	16	17.5	657
1987	1,080	762	318	539	16	17.4	605

Mr. Schmid said of the children in foster care, approximately 25 percent are under the legal custody of the Division of Juvenile Services, 25 percent are under the legal custody of tribal social services, and 50 percent are under the custody of a county social service office or the Department of Human Services.

Mr. Schmid said an initial court order transferring custody of a child can be for no longer than 18 months and no longer than 12 months for any subsequent order. He said the legal custodian must review the treatment plan with the permanency planning committee at least every three months and must provide periodic reports to the court regarding the child's status.

Regarding foster care reimbursement rates, Mr. Schmid said the reimbursement rate for family foster care will be increased on July 1, 1997, by 2.2 percent. He said reimbursement rates for residential child care facilities and group homes are based on prior year costs as substantiated by a CPA audit and determined by the provider audit section of the Department of Human Services. He said based on

approved expenses, the department adds a consumer price index rate for the future year to develop the authorized reimbursement rate for each facility. Mr. Schmid said the administrative rate during the 1995-97 biennium was 15 percent of a facility's combined service and nonadministrative maintenance rate; however, he said, the 1997 Legislative Assembly increased the administrative rate by five percent to a maximum of 20 percent of the combined service and nonadministrative maintenance rate.

Mr. Schmid said for children placed in out-of-state facilities, the department pays the out-of-state rate that has been established by that state's Department of Human Services.

Mr. Schmid commented on concerns regarding reimbursement rates. He said the department believes the maintenance payment including the administrative percentages is adequate to meet expenses of the facilities; however, he said, there is concern regarding the payment rate for services at residential child care facilities and group homes. He said the maximum payment rate for a facility during

the 1995-97 biennium was \$250 per month; however, the 1997 Legislative Assembly increased this rate to \$300 per month per child which will assist the facilities in providing these services.

Mr. Schmid said the administrative rules regarding reimbursement rates are being revised by the department, and he will advise the committee at future meetings on the changes being considered.

A copy of Mr. Schmid's report is on file in the Legislative Council office.

Mr. Schmid distributed copies of the Administrative Code sections dealing with reimbursement for foster care providers.

Representative Soukup asked for the circumstances under which children are placed in out-of-state facilities rather than in state. Mr. Schmid said generally all children placed out of state have previously been in a North Dakota facility and are unable to return to these facilities. In some instances, he said, North Dakota facilities do not meet the treatment needs of the child.

Mr. Schmid expressed concern regarding the increasing number of out-of-state placements during 1997. He said in January 1997, 40 children were placed in out-of-state facilities while in May 1997, 57 were placed in out-of-state facilities.

Representative Nelson asked Mr. Schmid to provide more specific information on the circumstances of the 770 cases closed during 1996. Mr. Schmid said that information would be provided to committee members.

The Legislative Council staff presented a memorandum on other responsibilities of the Budget Committee on Government Services.

The Legislative Council staff said the committee has been assigned the responsibility pursuant to North Dakota Century Code Section 54-40-01 to approve agreements between North Dakota and South Dakota. The section provides that an agency may enter into an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized to perform by law. The proposed agreement must be submitted to the Legislative Assembly or a committee of the Legislative Council if the Legislative Assembly is not in session for approval.

The Legislative Council staff said the committee has been assigned the responsibility to receive a report from the Department of Human Services, pursuant to Section 7 of House Bill No. 1012, on any hiring of full-time equivalent positions at the human service centers, the State Hospital, and the Developmental Center in addition to those authorized by the Legislative Assembly for the 1997-99 biennium.

The Legislative Council staff said the committee has been assigned the responsibility, pursuant to Section 17 of House Bill No. 1015, to receive a report

from the Office of Management and Budget on state employee compensation issues. The Legislative Council staff said the report is to focus on compression problems, market comparisons, and other compensation issues to include the effects of all benefits, including health insurance, on the employment relationship. In addition, the report is to include detailed information on the impact of salary compression and estimates of the dollar amounts to correct salary compression problems. In addition, the Office of Management and Budget is to develop and present a plan to compensate state employees in a fair and adequate manner.

The Legislative Council staff presented information on historic state employee salary increases and fringe benefits provided to state employees.

It was moved by Representative Soukup, seconded by Representative Nelson, and carried on a voice vote that the Legislative Council staff provide information on salary schedules of neighboring states, including South Dakota, Montana, Wyoming, and Minnesota, and present the information at a future committee meeting.

Representative Coats suggested that the committee share its findings and recommendations with the interim Employee Benefits Programs Committee.

It was moved by Representative Coats, seconded by Representative Thorpe, and carried on a voice vote that the committee approve the proposed study plan for mental health and foster care services as follows:

- 1. Receive information from representatives of the State Hospital and the Department of Human Services on the status of programs at the State Hospital and regional human service centers for persons with serious mental illness, funding allocations and services provided under the block grant funding concept approved by the Legislative Assembly, and the effect of welfare reform on the delivery of mental health services.**
- 2. Receive information from representatives of the Department of Human Services on the status of foster care services, children placed out of state for treatment services, methods used to place children in foster care facilities, and methods of setting and levels of reimbursement rates for foster care facilities.**
- 3. Receive information from juvenile court representatives regarding determining factors in child custody transfers relating to foster care or juvenile services.**
- 4. Receive information from representatives of the Division of Juvenile Services regarding methods used to determine the placement of children in out-of-home facilities.**

5. **Tour the State Hospital, selected regional human service centers, and related programs, including foster care facilities.**
6. **Receive testimony from interested persons, including the Mental Health Association, private hospitals, foster care facilities, and other private service providers and organizations.**
7. **Review the Department of Human Services and the State Hospital funding requests relating to mental health and foster care programs for the 1999-2001 biennium.**

The committee adjourned subject to the call of the chair at 3:00 p.m.

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

Allen H. Knudson
Senior Fiscal Analyst

ATTACH:1