

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HUMAN SERVICES

Thursday, September 6, 2001
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Amy Kliniske-Warnke, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Amy Kliniske-Warnke, Audrey B. Cleary, Jeff Delzer, Pat Galvin, Bob Hunsakor, Ralph Metcalf, Chet Pollert, Todd Porter, Clara Sue Price, Dale C. Severson, Ken Svedjan; Senators Robert S. Erbele, Thomas Fischer, Kenneth Kroepelin, Judy Lee, Michael Polovitz

Members absent: Representatives James Kerzman, Wayne W. Tieman

Others present: See attached appendix

It was moved by Representative Cleary, seconded by Representative Severson, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

LONG-TERM CARE NEEDS STUDY

Mr. David Zentner, Medical Services Director, Department of Human Services, presented information on the status of the long-term care needs assessment and nursing facility payment system study. Mr. Zentner said the University of North Dakota and North Dakota State University are interested in completing the long-term care needs assessment study but are not interested in the nursing facility payment system study. He said the department has contacted a firm experienced in payment studies and has learned that a study of North Dakota's payment system could cost from \$80,000 to \$120,000. He said the department does not have funding available for this increased cost, although the department could receive 50 percent administrative match from the federal Medicaid program for the payment system study. He asked for committee input as to how the department should proceed.

Mr. Zentner presented a comparison of actual long-term care Medicaid expenditures to projections. He said for the 1999-2001 biennium, expenditures for nursing facility services totaled \$239.2 million, of which \$71.3 million was from the general fund. He said this was \$13.2 million less than budgeted, of which \$3.8 million was from the general fund. He said the savings in the long-term care program was in areas of the Medicaid budget that exceeded projections, primarily prescription drugs.

Mr. Zentner said for the first month of the 2001-03 biennium, actual Medicaid expenditures were

\$11,800,000, of which \$3,500,000 was from the general fund, which is \$300,000 less than projected, of which \$100,000 is from the general fund.

Mr. Zentner presented information on the status of the nursing facility bed reduction incentive program. He said to date 25 facilities have offered to delicense a total of 256 beds at a cost to the state of \$3.1 million.

Mr. Zentner presented the final report of the inter-governmental transfer program as required by 1999 Senate Bill No. 2168. He said as of August 1, 2001, the department has paid approximately \$1.1 million and has outstanding commitments of \$4.8 million to develop alternatives to nursing facility care under 1999 Senate Bill No. 2168.

Mr. Zentner said the government nursing facility funding pool payment made in July 2001 totaled \$15,400,000, \$366,000 more than the estimated payment of \$15,100,000. He said this resulted in an additional \$256,000 being deposited in the health care trust fund than was originally anticipated. Mr. Zentner provided the following estimates of the government nursing facility funding pool payments for the remainder of the program.

July 2002	\$11.7 million
July 2003	\$5.3 million
July 2004	\$5.1 million

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

Mr. Richard Rathge, North Dakota State Data Center, North Dakota State University, and Dr. Richard Ludtke, Center for Rural Health, University of North Dakota, presented information regarding the long-term care needs assessment and nursing facility payment system study. Mr. Rathge said that of the \$241,000 estimated cost to conduct the long-term care needs assessment and nursing facility payment system study, \$220,000 relates to the long-term care needs assessment and \$21,000 to the nursing facility payment system study. He said the universities are proposing the following five components as part of the long-term care needs assessment:

1. Service area model.
2. Elderly demand model.
3. Labor demand model.
4. Elderly profile.

5. Provider and facility profile.

Mr. Rathge said surveys will be used to gather much of the information needed to complete the assessment.

Representative Delzer asked how many surveys need to be returned to develop an accurate assessment. Mr. Rathge said an adequate response rate is between 40 and 60 percent.

Representative Price asked whether the assessment will address the availability of support services for the elderly in communities across the state. Dr. Ludtke said the universities' proposal limits the assessment to skilled nursing care services.

Representative Svedjan asked whether various components included in the long-term care needs assessment may be limited in order to reduce the total cost of the assessment and make additional funding available to contract separately for the nursing facility payment system portion of the study. Mr. Rathge said reducing the funding allocated to the long-term care needs assessment would result in less information being provided.

Representative Severson asked whether the surveys may be expanded to include the types of support services that are needed for people to remain in rural communities. Dr. Ludtke said the instruments could be expanded to collect this type of information.

Senator Lee suggested that it is important for legislators to have information on the types of support services that are available across the state.

Representative Porter suggested that information on the utilization of support services and medical providers is also an important factor to be addressed in the assessment.

Representative Delzer suggested the two universities utilize information that is available from other state agencies, organizations, and associations that would not need to be duplicated by the universities and could potentially reduce the cost of the long-term care needs assessment.

Representative Price stressed the importance of this study and said the study needs to provide legislators with a comprehensive assessment of long-term care, where services are lacking, what type of support services are needed, and where the Legislative Assembly needs to allocate the state's resources in order to allow elderly individuals to remain in their homes, if appropriate.

Mr. Duane Houdek, Policy Advisor, Governor's office, commented on the state's plan for addressing the Olmstead decision.

Mr. Houdek said Governor Hoeven issued an executive order on August 7, 2001, establishing an Olmstead commission to study North Dakota's compliance with the Olmstead requirements. He said the commission has received a starter grant from the federal government and has applied for a grant to study how the state may improve the provision of community-based treatment alternatives required by

the Olmstead decision within the state's available resources. He said although the amount of time allowed by the grant is 36 months, Governor Hoeven has asked the commission to provide recommendations for executive and legislative consideration in time for the 2003 Legislative Assembly. A copy of the report is on file in the Legislative Council office.

Representative Svedjan asked whether the Olmstead Commission's study will be gathering similar information as the long-term care needs study and whether some of the commission's information could be used to reduce the cost of the long-term care needs study. Mr. Houdek said the Olmstead Commission will be gathering some similar information, but he does not believe it will be as detailed as the information that will be gathered for the long-term care needs study.

In response to a question from Representative Cleary regarding the cost of the Olmstead Commission study, Mr. Houdek said the cost of the study may be up to \$1 million.

SENIOR CITIZEN MILL LEVY STUDY

The Legislative Council staff presented a memorandum entitled *Senior Citizen Mill Levy - Process to Change a Levy*. The Legislative Council staff said once a mill levy is authorized, a county or city may change it by one of the following methods:

1. By action of the county commission or city governing body to adjust the annual levy based on funding needs for senior citizen programs; however, the levy may not exceed the authorized senior citizen mill levy approved by the electors of the county or city.
2. By a majority vote of the qualified electors in the county or city as a result of action by the county commission or city governing body to place the issue of increasing the mill levy on the next general election ballot.
3. By a majority vote of the qualified electors in the county or city as a result of submission of a petition, signed by at least 10 percent of the qualified electors voting in the last general election to place the issue of increasing the mill levy on the next general election ballot.
4. By adjusting the levy as a result of a decline in taxable valuation in the county or city to maintain the dollars levied in the base year (the highest collections of the three most recent taxable years) pursuant to North Dakota Century Code (NDCC) Section 57-15-01.1. If the maximum mill levy authorized would result in a lesser amount being raised than the highest annual amount collected in the three most recent taxable years, this section would allow a city or county to increase its mill levy above the maximum authorized by law to provide the

same level of funding as raised in the highest of the three most recent taxable years.

5. By action of the county commissioners or governing body of a city to call a special election to authorize an excess levy pursuant to NDCC Chapter 57-17. Pursuant to provisions of this chapter, a board of county commissioners or a city governing body, by passage of a resolution, may call a special election to authorize an excess levy that may not exceed 50 percent of the maximum amount authorized by Chapter 57-15 (which, for the senior citizen mill levy, would be an additional one mill, for a total of three mills). The excess levy may not be authorized for more than two years.

Ms. Linda Wright, Aging Services Division Director, Department of Human Services, said the Aging Services Division could provide North Dakota State University and the University of North Dakota information on local support services receiving funding from the Aging Services Division to assist in the long-term care needs assessment study.

Ms. Wright distributed a schedule detailing the effect on each political subdivision of receiving state matching funds on one mill levied for each political subdivision based on tax year 2000 data. The schedule indicates that 17 counties and 1 city would be negatively impacted by limiting the state match to one mill. A copy of the report is on file in the Legislative Council office.

Representative Delzer suggested that, when available, similar comparative information be provided based on 2001 tax information and the increased appropriation provided by the 2001 Legislative Assembly.

Chairman Kliniske-Warnke asked that the department provide a comparison on the effect to each political subdivision if the state matches the first mill at 100 percent.

Mr. Charles Bosch, Project Director, Mandan Golden Age Services, commented on the senior citizen mill levy matching program. Mr. Bosch suggested the committee not change the current method of providing matching funds for the senior citizen mill levy. A copy of the testimony is on file in the Legislative Council office.

Representative Svedjan suggested that in order to maintain at least the current level of funding for all political subdivisions under the matching program, the committee consider a hold harmless clause if the mill levy matching program is limited to the first mill. He asked that the department consider this option and what statutory changes would be necessary to implement this type of system.

Mr. Brian Arett, Fargo Senior Commission, commented on the senior citizen mill levy matching program. He supported the committee receiving information on the impact of limiting the matching program

to the first mill based on the funding approved by the 2001 Legislative Assembly and the effect on each county if the first mill is matched at 100 percent.

DEVELOPMENTAL DISABILITIES SERVICES REIMBURSEMENT SYSTEM

Mr. Zentner presented a report on the status of the development on a new reimbursement system for developmental disabilities services providers. Mr. Zentner said the work group held its first meeting on July 9, 2001, and discussed four potential changes. Two involve the development of a prospective-type payment system and the other two involve improving the present retrospective payment process. He said the work group is consolidating the four concepts into two, one improving the retrospective system and the other to develop a prospective system. He said these two options will be discussed at the next work group meeting. A copy of the report is on file in the Legislative Council office.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Mr. John Hougen, Public Assistance Director, Department of Human Services, presented a report on the status of the reauthorization of the federal temporary assistance for needy families (TANF) program by Congress and on the status of the current TANF program, caseloads, expenditures, and new proposed initiatives. Mr. Hougen said early discussions in Congress indicate that federal funding levels should be maintained. He said it appears there will be an increased emphasis on marriage and the development of two-parent families and additional support for the working poor. Mr. Hougen said the current program does not expire until October 1, 2002.

Mr. Hougen said 43 North Dakota families will be affected by the 60-month limit on the receipt of TANF benefits during the six months from July to December 2002. He said some exemptions are allowed for families with certain situations such as medical concerns or disabilities. He said the department will be working with the counties to review these cases prior to July 2002.

Mr. Hougen said in July 2001 there were 2,957 TANF cases, an increase of 167 cases from July 2000. A copy of the report is on file in the Legislative Council office.

Representative Porter asked for additional information on the 43 families that will be impacted by the 60-month limit, including the number of those that have mental or physical disabilities or medical or other concerns.

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

ALTERNATIVES-TO-ABORTION SERVICES STUDY

The Legislative Council staff distributed information requested by the committee at its last meeting on the percentage of abortions in Pennsylvania since 1990, statistics on abortions in North Dakota, outcome data on clients of the AAA Pregnancy Clinic in Fargo, and a copy of the federal Title X regulations relating to family planning services.

Ms. Sandra Anseth, Maternal and Child Health Division Director, State Department of Health, presented information regarding family planning services provided in North Dakota. Ms. Anseth said the Title X regulations require family planning programs to provide pregnant women with information on prenatal care and delivery, infant care, foster care, or adoption. She said pregnancy termination was not included in the original regulations developed when the Title X program was approved by Congress in 1970 but were incorporated into the regulations in 1976. She said the regulatory language providing that family planning projects must offer this type of information was added in January 2001.

Ms. Anseth provided the following service statistics for the Community Action and Development Program in Dickinson and the Custer Family Planning Program in Bismarck.

	1990	Percentage	2001	Percentage
Total pregnancy tests	367		621	
Negative tests	249	68%	509	82%
Positive tests	118	32%	112	18%
Information provided to clients with positive pregnancy tests				
Prenatal care	89	75%	87	78%
Adoption	1	1%	3	3%
Options - Information regarding all legal options	23	19%	18	16%
Other	5	4%	4	3%
Woman's decision at the end of the clinic visit				
Prenatal care	91	77%	93	83%
Adoption	1	1%	0	0%
Abortion	6	5%	7	6%
Unknown	17	14%	8	7%
Other	3	3%	4	4%

Ms. Anseth reviewed factors that contribute to crisis pregnancies based on information available from 1996 and 1999 surveys and birth certificates. Ms. Anseth said the 1996 survey showed that 59 percent of pregnant women reported they had not consumed alcohol during the three months before becoming pregnant. This number was 48 percent in the 1999 survey. Based on birth certificate information, Ms. Anseth said for 1996 and 1999, 98.5 percent of the birth mothers responded that they had not consumed alcohol during pregnancy.

Ms. Anseth said the family planning programs also provide services to men. She said in calendar year 2000, 664 men made 927 visits to family planning programs across the state to receive medical, counseling, and referral services. A copy of her report is on file in the Legislative Council office.

Ms. JoElle Thomas, Custer Family Planning Center, Bismarck, presented information on the services and statistics of the Custer Family Planning Center. Ms. Thomas said the center serves Morton, Grant, Sioux, Oliver, Mercer, Emmons, and Burleigh Counties. Ms. Thomas said the majority of pregnant clients choose prenatal care. She said a small number chose abortion. She said the center's experience has been that most women who chose abortion were adamant about their choice before they were told they were pregnant. Ms. Thomas reviewed outcome information from calendar year 2000. She said the center provided 406 pregnancy tests with 83 being positive. Of the positive tests, she said, 64 received prenatal care, 8 chose abortion, and 11 had unknown outcomes. A copy of the report is on file in the Legislative Council office.

Ms. Lisa Clute, First District Health Unit, Minot, presented information on the services and statistics of the family planning program administered by the First District Health Unit. Ms. Clute said the program serves Burke, Bottineau, McHenry, McLean, Renville, Sheridan, and Ward Counties. She said in 2000, 1,301 clients were provided family planning services, with 59 percent of the clients between the ages of 20 and 34. She said 147 pregnancy tests were administered, 69 of which were positive. The 69 clients who tested positive met with a social worker and were informed of the options available to the client. Ms. Clute said the program is unaware of how many women chose abortion. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Kliniske-Waranke, Ms. Clute said the First District Health Unit receives \$59,000 per year in federal Title X family planning program funds.

Ms. Robin Iszler, Central Valley Family Planning Program, Jamestown, provided information on the services provided by the Central Valley Family Planning Program. Ms. Iszler said the program serves Barnes, Dickey, Eddy, Foster, Griggs, Kidder, LaMoure, Logan, McIntosh, Ransom, Sargent, Stutsman, and Wells Counties. She said in calendar year 2000 the program provided services to 1,269 individuals. The program conducted 97 pregnancy tests, 32 of which were positive. Of the 32 positive tests, 28 received information on prenatal care, 1 on adoption, and 3 on all options. A copy of the report is on file in the Legislative Council office.

Mr. Tim Lindgren, North Dakota Life League, Fargo, commented on the alternatives-to-abortion services study. Mr. Lindgren said he plans to arrange for an expert on the Title X program to provide information to the committee at its next meeting.

Mr. Martin Wishnatsky, Fargo, commented on the alternatives-to-abortion services program. Mr. Wishnatsky said he considers birth control funding to be immoral and said the state should not provide

funding for birth control. He said contraception is not effective and results in more abortions.

Representative Price asked that the committee receive detailed statistical information on abortions in North Dakota for calendar year 2000. Chairman Kliniske-Warnke asked the State Department of Health to provide this information as well as information on the number of abortions at each location in North Dakota.

CHARITABLE CHOICE STUDY

Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, presented information on Department of Human Services contracts with faith-based organizations and the department's methods of evaluating services and maintaining accountability of private providers. Ms. Weisz presented a schedule detailing the department's contracts with the 16 faith-based organizations. She said the department spent \$10.9 million, \$3.3 million of which is from the general fund in contracts with these organizations during the 1999-2001 biennium.

Ms. Weisz said the department enters into approximately 900 contracts each biennium, the majority of which involve federal funds. She said the federal government establishes monitoring requirements for contracts involving federal funds. For each contract entered into, the specific program administrator is responsible to ensure that the contract service is delivered according to contract terms. She said the majority of contracts requires reports to be submitted at various intervals throughout the contract period to provide service data and to measure results. Payment requests submitted throughout the contract are reviewed prior to payment by both the program administrator and the designated department accountant. In addition, she said, many contracts are reviewed through onsite programmatic reviews.

Ms. Weisz said the department has a contract-monitoring function within the Fiscal Administration Division that includes:

1. A desk review to capture fiscal data needed to finalize a grant.
2. A desk review of selected expenditures listed on reimbursement requests.
3. An onsite fiscal review.
4. A review of reports filed by certified public accounting firms and the State Auditor relating to audits of local subdivisions and other state agencies under contract.

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

Mr. Bob Rutten, Special Education Director, Department of Public Instruction, commented on the department's involvement with faith-based organizations. Mr. Rutten said he is not aware of any contracts with faith-based organizations by the Special Education Division of the department. He said the Special Education Division does work with

private schools in the state regarding special education services. He indicated the department would further review its contracts and report to the committee at its next meeting on department contracts with faith-based organizations.

Ms. Kathy Hogan, Cass County Social Services, commented on the Charitable Choice study. She said the decision to contract with faith-based organizations is very complex. She said one experience in Cass County related to refugee services, where refugees refuse to receive translator services from individuals of a different religion.

COMMITTEE DISCUSSION

Representative Price commented on the long-term care needs study. She said the 2001 Legislative Assembly authorized the study and provided funding to the Department of Human Services. She suggested the department consider the committee's concerns as it continues with its long-term care needs assessment and nursing facility payment system study so that the information is available for the Legislative Assembly to make informed decisions regarding long-term care funding.

It was moved by Representative Svedjan, seconded by Representative Pollert, and carried on a voice vote that the Budget Committee on Human Services encourage the Department of Human Services to proceed with its long-term care needs assessment and nursing facility payment system study to complete the study within the appropriated amount and to consider:

1. **Preparing and distributing a request for proposal for the nursing facility payment system portion of the study.**
2. **Seeking 50 percent federal matching funds for the nursing facility payment system portion of the study.**
3. **Prioritizing the use of the funding remaining after allocating the needed amount for the nursing facility payment system study among the five categories included in the long-term care needs assessment proposal presented by North Dakota State University and the University of North Dakota, with priority given to those areas that will provide the most benefit for long-term care in the state.**
4. **Collaborating with other state agencies and organizations in the collection and assimilation of the data needed for the long-term care needs assessment and nursing facility payment system study.**
5. **Monitoring the Governor's Olmstead Commission study and the information that may be gathered and available as a result of that commission's work.**

Representative Svedjan said the long-term care needs study is very important. He said it will provide

direction for the state relating to long-term care services for a number of years. He said the committee should allow the department the flexibility to carry out the study that has been approved by the Legislative Assembly.

Representative Cleary expressed concern that the estimated cost of the long-term care needs study is more than budgeted. She said the department and the universities have not been given adequate resources to complete a comprehensive study as needed by the Legislative Assembly.

Chairman Kliniske-Warnke announced that the next meeting is tentatively scheduled for Thursday, January 17, 2002, in Bismarck.

It was moved by Senator Fischer, seconded by Senator Kroeplin, and carried on a voice vote that

the meeting be adjourned subject to the call of the chair. The meeting was adjourned at 3:30 p.m.

Allen H. Knudson
Assistant Legislative Budget Analyst and Auditor

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1