

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### JUDICIARY COMMITTEE

Wednesday, September 8, 2010  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chris Griffin, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Chris Griffin, Lois Delmore, Edmund Gruchalla, Patrick R. Hatlestad, Kathy Hogan, Robert Kilichowski, Joyce M. Kingsbury, Lawrence R. Klemin, Kim Koppelman, William E. Kretschmar, Steven L. Zaiser; Senators Jim Dotzenrod, Stanley W. Lyson, Dave Nething, Mac Schneider

**Members absent:** Representative Lisa Wolf; Senator Curtis Olafson

**Others present:** John Walstad, Legislative Council, Bismarck

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

**It was moved by Representative Delmore, seconded by Representative Gruchalla, and carried on a voice vote that the minutes of the May 10, 2010, meeting be approved as distributed.**

### UNIFORM LAWS

Chairman Griffin called on Mr. Jay E. Buringrud, Commissioner, North Dakota Commission on Uniform State Laws, for testimony ([Appendix B](#)) regarding the recommendations of the commission for the 2011 legislative session. Mr. Buringrud said the North Dakota Commission on Uniform State Laws met during the annual meeting of the National Conference of Commissioners on Uniform State Laws (National Conference) to determine which uniform or model Acts to recommend to the next session of the Legislative Assembly. He said as the result of its meeting on July 19, 2010, the commission recommends the following Acts be introduced in the 2011 legislative session:

- **Insurable Interest Amendments to Uniform Trust Code.** These amendments address concerns regarding the purchase of life insurance trusts by trustees as it relates to insurable interest law. The amendments were approved by the National Conference in 2010.
- **Uniform Military and Overseas Voters Act.** This Act simplifies the process of absentee voting for United States military and overseas civilians who are unable to vote in person. This Act was approved by the National Conference in 2010.
- **Revised Uniform Law on Notarial Acts.** This Act updates the 1982 Act with respect to notary responsibilities, electronic recording, interstate

recognition, and remedies. This Act was approved by the National Conference in 2010.

- **Uniform Electronic Recording of Custodial Interrogations Act.** This Act addresses the use of audio or videotaping to record law enforcement officers' interviews of criminal suspects who are in custody and mandates audio recordings of interrogations. This Act was approved by the National Conference in 2010.
- **Amendments to Uniform Commercial Code Article 9.** These amendments modify the existing Article 9 to respond to filing issues and address other matters that have arisen following a decade of experience with the 1998 version of Article 9, especially as to the name of an individual debtor to be provided on a financing statement. The amendments were approved by the National Conference in 2010.
- **Uniform Real Property Transfer on Death Act.** This Act allows an owner of real property to pass the property simply and directly to a beneficiary on the owner's death without probate, by means of a recorded transfer on death deed. This Act was approved by the National Conference in 2009.
- **Uniform Unsworn Foreign Declarations Act.** This Act permits in state court proceedings unsworn declarations under penalty of perjury to be executed by witnesses physically located outside the United States in lieu of other sworn court filings, similar to federal law allowing an unsworn declaration executed outside the United States to be recognized as the equivalent of a sworn affidavit. This Act was approved by the National Conference in 2008 and was enacted in Minnesota and Wisconsin in 2010.

Mr. Buringrud said upon being placed in bill draft form, the commission will distribute the uniform Acts to the State Bar Association of North Dakota and other interested entities for review before the 2011 legislative session.

Chairman Griffin called on Mr. Alvin A. Jaeger, Secretary of State, for comments regarding the uniform Acts. Mr. Jaeger said his office would like to work with the Legislative Council staff on the preparation of the uniform law bill drafts. He said this would allow everyone to be comfortable with the

format of the uniform Acts at the time of introduction. He said this will also result in the need for fewer amendments during the legislative session. He said his office is interested in the Uniform Military and Overseas Voters Act, the Revised Uniform Law on Notarial Acts, and the amendments to the Uniform Commercial Code Article 9.

In response to a question from Representative Koppelman, Mr. Jaeger said the state has been a leader in this area of military and overseas voting procedures for the last 20 years. He said it is important to make sure that uniform laws work with existing state laws.

Mr. Buringrud said the North Dakota Commission on Uniform State Laws welcomes outside comments. He said it is preferable that issues with the uniform Acts are worked out in advance of the legislative session.

### STATUTORY REVISION

Chairman Griffin called on Mr. John Walstad, Code Revisor, Legislative Council, for the presentation of a bill draft [\[10177.0100\]](#) regarding technical corrections in the North Dakota Century Code. Mr. Walstad said the bill draft makes technical corrections, including improper, inaccurate, redundant, missing, or obsolete references. He said any additional corrections that may arise between now and the introduction of the bill draft will be offered as amendments during the legislative session.

In response to a question from Representative Klemin, Mr. Walstad said it would be more grammatically correct to remove the word "sanitary" on page 5, line 1, and to change "regulations" to "regulation" on page 5, line 2.

**It was moved by Representative Klemin, seconded by Representative Kretschmar, and carried on a voice vote that the bill draft regarding technical corrections be amended to remove the word "sanitary" on page 5, line 1, and to change "regulations" to "regulation" on page 5, line 2.**

**It was moved by Senator Nething, seconded by Representative Delmore, and carried on a roll call vote that the bill draft, as amended, relating to technical corrections to the North Dakota Century Code be approved and recommended to the Legislative Management.** Representatives Griffin, Delmore, Gruchalla, Hatlestad, Hogan, Kilichowski, Kingsbury, Klemin, Koppelman, Kretschmar, and Zaiser and Senators Dotzenrod, Lyson, Nething, and Schneider voted "aye." No negative votes were cast.

### UNIFORM DEBT-MANAGEMENT SERVICES ACT STUDY

At the request of Chairman Griffin, committee counsel presented a bill draft [\[10142.0100\]](#) relating to the regulation of debt-settlement services. She said the bill draft is based upon the bill draft presented to the committee by Mr. Tim Karsky, Commissioner,

Department of Financial Institutions, at the committee's May 10, 2010, meeting.

Representative Klemin said he asked the National Conference to comment on the bill draft prepared by Mr. Karsky. He said he received two documents from the National Conference. The first, he said, is a one-page memorandum of the deviations between Mr. Karsky's draft and the uniform Act ([Appendix C](#)). The second, he said, is a red-lined copy of the bill draft which indicates those areas of the bill draft which are different from the uniform Act ([Appendix D](#)). Also provided to the committee was information regarding the source of those portions of the bill draft which differed from the Uniform Debt-Management Services Act ([Appendix E](#)).

Chairman Griffin called on Mr. Karsky for the presentation of information regarding the bill draft. Mr. Karsky said the bill draft defines debt-settlement providers. He said the fee referred to in the deviations memorandum is a late payment fee. He said the bill draft provides for the establishment of a trust account and gives enforcement authority to the Attorney General. He said the bill draft would apply to both for-profit and nonprofit companies. He said under the bill draft, the state would license both types of companies. He said the uniform Act only regulates the for-profit companies. He said even if there is a federal law on debt-management services, a state law is helpful. He said the state is usually able to react much more quickly than the federal government. He said the state law can be more restrictive than the federal law.

In response to a question from Representative Delmore, Mr. Aaron Webb, Assistant Attorney General, Attorney General's office, said the authority for the Attorney General's enforcement power is included in North Dakota Century Code Section 13-11-27 of the bill draft as well as in Chapter 51-15 in current law.

In response to a question from Representative Koppelman, Mr. Karsky said the exclusions contained in subsection 6 of Section 13-11-01 of the bill draft were taken nearly word for word from the uniform Act.

Chairman Griffin called on Representative Klemin for comments regarding the debt-management bill draft and the Uniform Debt-Management Services Act. He said the area of debt management is very complicated. He said the state's law will not be uniform if the bill draft prepared by the Department of Financial Institutions is adopted. He said the intent of uniform laws is to attain uniformity across the country. He said if the committee wants to recommend this bill draft, it should be introduced as a bill draft prepared by the Department of Financial Institutions, not as a uniform Act. He said he would like the committee to recommend the bill draft and then work with the Department of Financial Institutions to make it more like the uniform Act. He said the provisions in the uniform Act relating to debt-management services are not part of this bill draft. He said this bill draft only covers debt services. He said it is also important to

work with the new Federal Trade Commission ruling that came out in July to assure compliance with that ruling.

In response to a question from Representative Delmore, Representative Klemin said if the bill draft is recommended, amendments could be offered during the legislative session. He said he is not sure if the uniform Act is stronger than this bill draft.

In response to a question from Representative Koppelman, Representative Klemin said the state does not have to adopt uniform Acts, and the state can change a uniform Act to suit the state's needs. He said he is not sure what effect this bill draft would have on a company located in another state if the other state adopted the uniform Act and North Dakota did not.

Mr. Karsky said his department will not be introducing the bill draft as an agency bill if the committee does not recommend it. He said there are tools available to regulate the industry. He said the bill draft is consistent with other state laws. He said many of the concerns the National Conference had are covered in the bill draft but are located in different sections. He said the bill draft is organized in an entirely different format from the uniform Act.

In response to a question from Representative Koppelman, Mr. Karsky said there is not a lot of activity in the state regarding debt-management companies that want to set up their businesses here. He said The Village Family Service Center--a nonprofit company that provides debt counseling services--is not overly concerned about the effect this bill draft will have on it. He said there is a need for debt services activity to be regulated. He said cease and desist orders can be issued to out-of-state companies that do business in North Dakota.

In response to a question from Senator Schneider, Mr. Karsky said the bill draft retains private rights of action which would allow a person to sue a company in civil court.

In response to a question from Representative Zaiser, Mr. Karsky said the Attorney General currently registers nonprofit companies doing business in the state.

Mr. Webb said some of the concerns in the memorandum are addressed in different sections in the bill draft than in the uniform Act.

In response to a question from Senator Dotzenrod, Representative Griffin said those entities exempted from the definition of debt-settlement provider are listed on page 3 of the bill draft. He said banks are among those entities exempted.

Representative Hogan said The Village Family Service Center supports some type of regulation in the state. She said this organization is working to comply with the Federal Trade Commission ruling.

In response to a question from Senator Dotzenrod, Representative Delmore said those companies that would be affected by this bill draft will come forward during the legislative session.

Representative Klemin said while the bill draft should move forward, there may be a need for some amendments later.

**It was moved by Representative Delmore, seconded by Representative Zaiser, and carried on a roll call vote that the bill draft relating to the regulation of debt-settlement providers be approved and recommended to the Legislative Management.** Representatives Griffin, Delmore, Gruchalla, Hatlestad, Hogan, Kilichowski, Kingsbury, Klemin, Koppelman, Kretschmar, and Zaiser and Senators Dotzenrod, Lyson, Nething, and Schneider voted "aye." No negative votes were cast.

## **CHARITABLE GAMING AND RACING STUDY**

### **Racing**

Chairman Griffin called on Mr. Winston Satran, Director, Racing Commission, for the presentation of information ([Appendix F](#)) regarding the Racing Commission and account wagering in the state. Mr. Satran said the Racing Commission has licensed another account wagering company. He said the company, which is from the Isle of Man, has merged with another company already licensed in North Dakota. He said the Racing Commission is also reviewing a license application from Source One--a Florida account wagering company. He provided information regarding revenue projections for the next calendar year. He said to conduct race meets based on the 2009 and 2010 levels, the Racing Commission would need to generate \$845,000. He said the number of race days will need to be adjusted to meet the income levels. He said the Racing Commission will likely be introducing legislation relating to breakage and to the Racing Commission's access to the promotion fund money.

In response to a question from Representative Kretschmar, Mr. Satran said Belcourt had a good meet this summer. He said the Racing Commission provided \$207,500 in funding to the Belcourt track this year. He said \$637,000 was provided to the Fargo track last year. He said it is expensive to have races. He said account wagering is needed to continue to fund live racing in the state.

In response to a question from Senator Nething, Mr. Satran said the return on investment is to the state of North Dakota. He said racing benefits horse breeders and creates business activity. He said about \$30,000 was generated back to the Racing Commission.

In response to a question from Representative Griffin, Mr. Satran said about \$250,000 of handle is needed to be generated to sustain racing in the state.

### **Gaming Demonstration**

Chairman Griffin called on Mr. Chris Robertson and Mr. Bill Preslo, Diamond Game, Chatsworth, California, for the presentation of information relating to innovations in the game of pull tabs. Mr. Robertson

and Mr. Preslo presented to the committee information regarding a modern pull tab dispenser ([Appendix G](#)). Mr. Robertson said the benefits of the dispenser are as follows--significantly reduces labor; the single roll of tabs makes restocking fast and easy; the dispenser accepts cash, accumulates credits, dispenses tabs, validates tabs, and prints credit vouchers; the retailer validates and redeems credit vouchers only; accounting reports can be automatically generated; and the state has access to reports for audit purposes. He said the dispenser provides added security and counteracts counterfeit pull tabs, collusion, peeking tickets, and "watching the pot." Mr. Robertson also provided a packet of information and a DVD regarding the operation of the dispenser, copies of which are on file in the Legislative Council office.

In response to a question from Representative Delmore, Mr. Preslo said the benefit of the dispenser is that the player knows that he or she is playing an honest game. He said the dispenser helps to eliminate concerns about integrity of the game. He said the dispenser, which is an electronic pull tab reader, is more attractive, engaging, and entertaining than the current method. He said this device would help charitable gaming compete with tribal gaming.

In response to a question from Senator Lyson, Mr. Preslo said the purpose of their presentation is to provide information regarding a more secure method of dispensing pull tabs. Mr. Robertson said the dispenser would automate the process for the player. He said the process would also be simplified for the retailers.

In response to a question from Representative Delmore, Mr. Preslo said the dispenser includes a process to track winners. He said displaying how many winners are left actually hurts the integrity of the game. He said the device creates an even game for everyone.

In response to a question from Representative Kretschmar, Mr. Preslo said there are some players who will not like this style of play. He said they are not trying to duplicate the current pull tab game. He said this device makes the experience of sitting in front of a machine more engaging.

### **Gambling Treatment**

Chairman Griffin called on Mr. Don Wright, Assistant Director, Mental Health and Substance Abuse Division, Department of Human Services, for testimony ([Appendix H](#)) regarding gambling treatment information and budget information. Mr. Wright said the Department of Human Services was appropriated \$650,000 for the 2009-11 biennium for the treatment of problem gambling. He said the Mental Health and Substance Abuse Division manages this appropriation. He said the \$650,000 appropriation consists of \$400,000 from the North Dakota Lottery and \$250,000 from the general fund. He said the division contracts with Gamblers Choice--a program of

Lutheran Social Services--to provide treatment to problem gamblers.

In response to a question from Representative Zaiser, Mr. Wright said the state is in the infant stages of addressing gambling addiction. He said as the state builds the infrastructure for gambling addiction, there will be a need for more funding. He said people are not as aware of the services and treatment available for problem gambling as they are for other addictions. He said the promotion of problem gambling services is very important. He said about \$220,000 is spent per biennium for public information. He said when media efforts are down, referrals are down.

In response to a question from Representative Delmore, Mr. Wright said the Indian Gaming Association provides funding to Gamblers Choice. He said Gamblers Choice has services available in Fargo, Grand Forks, Williston, Devils Lake, Minot, and Bismarck.

In response to a question from Senator Lyson, Mr. Wright said it is working to provide services in all parts of the state.

Chairman Griffin called on Ms. Lisa Vig, Gamblers Choice, Lutheran Social Services, Fargo, for testimony regarding gambling treatment. Ms. Vig said Gamblers Choice is one of 19 Lutheran Social Services programs. She said Gamblers Choice treated 109 clients in 2008 and 130 in 2009. She said the program has had significantly more women seeking treatment in recent years. She said problems with casino gambling have been more prevalent, but charitable gambling is also indicated as a problem. She said most individuals are involved in the treatment program for six months to eight months. She said the treatment is not a quick fix and requires a significant commitment to lifestyle changes. She said those seeking treatment may also have other mental health issues that need to be addressed. She provided information regarding client statistics ([Appendix I](#)).

In response to a question from Representative Delmore, Ms. Vig said the tribes have consistently provided \$40,000 per year for the treatment program. She said the tribal casinos and lottery retailers have signage about the availability of problem gambling services. She said the tribal casinos have signage that includes the 800 number for treatment information. She said the lottery has informational signs at all lottery retailer locations. She said about 50 percent of those treated indicate they are in recovery from another addiction like drugs or alcohol.

In response to a question from Representative Zaiser, Ms. Vig said the program continues to see more people reach out for treatment. She said it takes consistency and repetition to educate about the addiction and where to get help. She said for some people there may be a need for a residential-type setting for treatment. She said outpatient treatment does not work for everyone. She said at some point those people for whom outpatient treatment does not

work may end up in a mental health facility. She said Minnesota has an in-patient program, which is subsidized by the state of Minnesota for Minnesota residents. She said there is a proportionate increase in the number of clients treated with increases in promotion and educational campaigns. She said it is more difficult to get people to seek help when they still have money. She said it is when they are broke or nearly broke that they seek help. She said the state has a responsibility to help those with problem gambling because the state promotes gaming. She said North Dakota has an addiction to gaming tax proceeds.

In response to a question from Representative Hogan, Ms. Vig said many of those treated are a result of self-referral. She said Gamblers Anonymous is a support group. She said the addicted individual needs the treatment element, as well as the support that can be found in a support group. She said, however, the support group alone is not enough.

In response to a question from Representative Koppelman, Ms. Vig said a full seven- to eight-month treatment costs about \$3,600. She said if a client is able to pay, the client is asked to do so. She said costs are assessed on a case-by-case basis. She said the treatment program is based on a 12-step model. She said of the 12 counselors across the state, 6 are certified nationally as gambling addiction counselors. She said there appears to be a connection between the immediacy of the game and the propensity to have a gambling problem. She said except for the scratch-off tickets, the lottery does not have that immediacy element.

In response to a question from Senator Schneider, Ms. Vig said both traditional and electronic pull tabs offer immediate play and results. She said electronic pull tabs are not necessarily more likely to result in a problem gambling than traditional pull tabs.

In response to a question from Representative Hogan, Ms. Vig said fewer clients are being treated in Burleigh County than in other parts of the state. She said Gamblers Choice has limited service in Bismarck.

In response to a question from Representative Delmore, Ms. Vig said through all sources of funding, including state funding, tribal contributions, United Way funding, and self-pay clients, the program operates on a budget of about \$300,000 to \$315,000 per year.

### **Charitable Gaming Bill Draft**

At the request of Chairman Griffin, committee counsel presented a bill draft [\[10141.0100\]](#) regarding gaming taxes and allowable expenses. She said the bill draft provides for the consolidation of the allowable expense limit from a graduated rate to a flat rate of 60 percent for all organizations. She said the bill draft also consolidates all taxes into a flat rate of 1 percent of gross proceeds rather than a graduated tax on adjusted gross proceeds.

Chairman Griffin called on Mr. Keith Lauer, Director, Gaming Division, Attorney General's office,

for a presentation of information and testimony ([Appendix J](#)) regarding the bill draft. Mr. Lauer said based on the current wagering level and average tax rate, each one-half percent decrease in the tax rate on gross proceeds represents a \$1.25 million decrease in taxes collected per year, or \$2.5 million per biennium. He said if the tax rate on gross proceeds were reduced from 3.16 percent, as was reflected in the bill draft considered by the committee at the May 10, 2010, meeting, to 1 percent of gross proceeds, the tax collections would be reduced to \$2.5 million per year, or \$5 million per biennium. He said because the original bill was revenue-neutral to the state, the new subsection 3 of Section 3 of the bill draft was not adjusted from the current 3 percent of total gaming taxes collected which is allocated back to cities and counties for law enforcement purposes. He said the current tax payback to cities and counties is limited to a maximum of \$510,000 per biennium. He said the percentage of taxes used for this purpose would need to be adjusted if the consolidated gaming tax is reduced from 3.16 percent and the Legislative Assembly desires to continue this payback practice to cities and counties.

In response to a question from Senator Nething, Mr. Lauer said the impact of the 1 percent flat tax on gross proceeds would be a reduction in taxes collected from about \$15.8 million per biennium to \$5 million per biennium.

In response to a question from Representative Hogan, Mr. Lauer said how the money that goes to the cities and counties is used varies by community. He said Fargo uses the money to hire a separate employee for gaming enforcement. He said other communities use the money to offset law enforcement costs.

In response to a question from Representative Zaiser, Mr. Lauer said charitable gaming in the state is done by either local permit or state license. He said local permits, which cost \$25, have annual prize limits. He said Fargo, in its issuance of local permits, uses the same criteria for issuing local permits as the state requires for a state license. He said using the state criteria for local permits is not required by law. He said the City of Fargo has opted to use the state criteria. He said cities and counties can set their own gaming policy. He said the state lottery law does not allow for any local control, but charitable gaming gives gaming control to local governments.

In response to a question from Representative Griffin, Mr. Lauer said to keep the same amount distributed to cities and counties, the percentage in subsection 3 of Section 3 would need to change from 3 percent to about 10 percent.

In response to a question from Representative Delmore, Mr. Lauer said about 30 counties and cities receive the tax allocation. He said the amount is based on the level of activity. He said the majority of the allocations go to the larger cities. He said there are no allocations to a city or county if the gaming activity is less than \$200.

In response to a question from Representative Klemin, Mr. Lauer said how each city or county uses the money depends on how much money that city or county receives. He said Fargo uses the money to hire a full-time gaming auditor; Bismarck uses the money to fund some auditing services; and other cities and counties deposit the money in their city or county general fund to offset enforcement costs.

In response to a question from Representative Delmore, Mr. Lauer said the amount that is distributed to cities and counties comes out of the amount collected as state tax not the amount that goes to the charity.

**It was moved by Senator Nething, seconded by Senator Dotzenrod, and carried on a voice vote that the bill draft regarding gaming taxes and allowable expenses be amended on page 4, line 1, to change 3 percent to 10 percent.**

Chairman Griffin called on Mr. Rusty Steffan, President, Charitable Gaming Association of North Dakota, Fargo, for testimony ([Appendix K](#)) regarding the bill draft. Mr. Steffan said the tax rate of 1 percent is very significant for the gaming industry because it provides relief for all sizes of organizations. He said he supports the bill draft.

Chairman Griffin called on Ms. Diane Sheppard, Executive Director, The ARC, Upper Valley, Grand Forks, for testimony ([Appendix L](#)) regarding the bill draft. Ms. Sheppard said the current tax rate has been a burden for her charity as well as others. She said a 1 percent flat tax on gross proceeds should be seriously considered. She thanked the committee for its consideration of a 1 percent flat tax.

Chairman Griffin called on Mr. Harvey Peterson, Commander, Harley Salzman American Legion Post #5, Beach, for testimony ([Appendix M](#)) regarding the bill draft. Mr. Peterson said the change proposed in the bill draft would allow an additional \$15,281 to be placed into the post's trust and an additional \$4,319 in allowable expenses. He said the big winner would be the charitable uses for which gaming was established. He urged support of the bill draft.

Chairman Griffin called on Mr. Marvin Knutson, Bison Booster Club, Milnor, regarding the bill draft. Mr. Knutson urged support for the bill draft. He said the changes proposed in the bill draft would give organizations a chance to get caught up financially.

**It was moved by Senator Nething, seconded by Representative Delmore, and carried on a roll call vote that the bill draft, as amended, relating to gaming taxes and allowable expenses be approved and recommended to the Legislative Management.** Representatives Griffin, Delmore, Gruchalla, Hatlestad, Hogan, Kilichowski, Kingsbury, Klemin, Kretschmar, and Zaiser and Senators Dotzenrod, Lyson, Nething, and Schneider voted "aye." No negative votes were cast.

Senator Nething said the beneficiary of this bill draft will be the charities, which was the initial intent of charitable gaming. He said this bill draft does not expand gaming, but rather it makes gaming fairer.

## CRIMINAL OFFENSES AND PENALTIES STUDY

At the request of Chairman Griffin, committee counsel presented a bill draft [[10070.0200](#)] regarding the penalties for crimes for which a monetary amount triggers the level of penalty.

Chairman Griffin called on Mr. Al Austad, Executive Director, North Dakota Association for Justice, regarding the bill draft. Mr. Austad expressed his support for the bill draft.

Chairman Griffin called on Mr. Aaron Birst, legal counsel, North Dakota Association of Counties, for testimony regarding the bill draft. Mr. Birst said out of 103 prosecutors who received a copy of the bill draft, he only received feedback from 4. He said three of those thought the changes were unnecessary. He said if the Legislative Assembly wants to increase the monetary amounts in certain criminal statutes, the North Dakota Association of Counties will work with the counties to implement the policy.

In response to a question from Representative Griffin, Mr. Birst said although the result of the bill draft may be that a crime that previously would have been a felony would become a Class A misdemeanor, the punishment for a Class A misdemeanor is still significant.

Representative Klemin said if the amount that triggers a particular crime increases, perhaps the fines associated with the penalty also should increase.

Representative Griffin said there have been increases in courts' fees that are associated with the level of crimes.

In response to a question from Representative Gruchalla, Mr. Birst said he did not think the interest in making the changes in the bill draft was the result of bad checks.

Senator Lyson said regardless of whether the monetary amounts may need to be adjusted because of inflation, the individual is still stealing. He said theft should be a felony not a misdemeanor.

Senator Nething said he was surprised by the lack of interest from the prosecutors. He said that may indicate they are content with the way it is.

Representative Griffin said lack of interest may also be viewed as support. He said the reasons for the proposed changes are to make the system work more efficiently. He said DNA testing is required with a felony charge. He said there are efficiency reasons for making these changes. He said one option may be to make the crime a felony for a second offense.

In response to a question from Senator Lyson, Representative Griffin said the monetary amounts that trigger certain penalties are the same for bad checks as they are for theft.

Representative Klemin said the state does not need to increase the incentives for crime in the state. He said the biggest group that would benefit from this bill draft would be the criminals.

Representative Griffin said thefts in the \$500 range are rarely prosecuted as felonies.

**It was moved by Representative Zaiser that the bill draft relating to the penalties for crimes for which a monetary amount triggers the level of penalty be approved and recommended to the Legislative Management. The motion failed for lack of a second.**

Committee counsel also presented a bill draft [\[10144.0100\]](#) regarding the penalties for the crime of causing a catastrophe.

In response to a question from Senator Schneider, Mr. Birst said he is not aware of any recent cases involving the crime of causing a catastrophe.

Chairman Griffin said the committee would not take any action on the second bill draft.

**It was moved by Representative Kretschmar, seconded by Senator Nething, and carried that the chairman and the staff of the Legislative Council**

**be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

**It was moved by Senator Nething, seconded by Representative Koppelman, and carried that the committee be adjourned sine die.**

No further business appearing, Chairman Griffin adjourned the meeting at 2:30 p.m.

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Vonette J. Richter  
Committee Counsel

ATTACH:13