

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

JUDICIARY COMMITTEE

Tuesday, April 15, 2008
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Lawrence R. Klemin, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Lawrence R. Klemin, Randy Boehning, Stacey Dahl, Brenda Heller, Joyce Kingsbury, William E. Kretschmar, Jasper Schneider, Lisa Wolf; Senators Tom Fiebiger, Stanley W. Lyson, Carolyn Nelson, Dave Nething, Dave Oehlke, Curtis Olafson

Members absent: Representatives Lois Delmore, Kim Koppelman

Others present: See attached [appendix](#)

Representative Shirley Meyer and Senators David O'Connell and Larry J. Robinson, members of the Legislative Council, were also in attendance.

It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a voice vote that the minutes of the January 8, 2008, meeting be approved.

LOTTERY REPORT

Chairman Klemin called on Mr. Chuck Keller, Director, North Dakota Lottery, for a report on the North Dakota Lottery. Mr. Keller said the mission of the lottery is to maximize net proceeds for the benefit of the state by promoting entertaining games; providing quality customer service to retailers and players; achieving the highest standards of integrity, security, and accountability; and maintaining public trust. He said the lottery's fixed appropriation for the 2007-09 biennium is \$1.412 million for salaries and benefits for 10.5 full-time equivalent (FTE) positions and \$2.519 million for operating expenses for a total of \$3.931 million. He said the lottery has a continuing appropriation for variable expenses of prizes, retailer commission, online gaming system vendor fees, and Multi-State Lottery Association (MUSL) game group dues. He said the appropriation funds nine FTE positions in the Lottery Division of the Attorney General's office, one FTE position in the Information Technology Division, and a .5 FTE position in the Finance and Administration Division. He said there is one FTE position that is currently vacant. He said the appropriation funds three part-time draw operators. He said the lottery recently celebrated its fourth anniversary and enjoys broad public support in the play of its games. He said the lottery has achieved exceptional success in ticket sales and generating state general fund revenue. He said the challenge facing the lottery is to increase ticket sales and state

general fund revenues each year in a very competitive market environment. He said the subscription service launched in November 2005 accounts for about 2.4 percent of total draw sales and it is trending toward the lottery's goal of 5 percent of total sales or about \$1.2 million per year.

Mr. Keller said for the 2005-07 biennium, the lottery had operating revenue of \$45.2 million, which was three times the amount initially projected and net proceeds of \$13.7 million or about five times the amount initially projected. He said for the 2007-09 biennium, the lottery has projected sales of \$47.8 million and net proceeds of \$12.4 million. He said the lottery is on track to meet or exceed these projections. He said year-to-date sales for the fiscal year ending June 30, 2008, are \$17.5 million. He said since the inception of the lottery on March 25, 2004, through June 30, 2008, sales of tickets will total about \$93.9 million; net proceeds will total about \$28.1 million; transfers to the compulsive gambling prevention and treatment fund will total \$1 million; transfers to the Attorney General multi-jurisdictional drug task force grant fund will total \$422,500; transfers to MUSL to fund the lottery's share of prize reserve pools will total about \$951,000; and the balance of the net proceeds will total about \$25.7 million and be transferred to the state general fund.

Mr. Keller said a vital part of the lottery's mission is to maximize revenue for the state's general fund. He said to do this, the lottery must be innovative, energetic, and offer exciting and attractive games that add value to the lottery's product mix for players to play, license retailers that are in convenient locations to sell tickets, develop attractive point-of-sale items, have creative marketing promotions, provide quality customer service to retailers and players, and control operating expenses. He said during the 2007-09 biennium, the lottery has done or has plans to relaunch each of the four games currently being played. He said during this biennium, the lottery is monitoring the development of another game planned for 2010 and plans to conduct a raffle with another state lottery, which is planned for the end of 2008. He submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Mr. Keller said he will be retiring from his position as director at the end of April 2008. He said a successor has not been named.

In response to a question from Representative Kretschmar, Mr. Keller said North Dakota and Puerto Rico are the only lotteries in the world which only conduct online games. He said in jurisdictions with instant win tickets, about 80 percent of the time and efforts of the lotteries are devoted to those games.

In response to a question from Senator Robinson, Mr. Keller said the lottery may have impacted charitable gaming during the first two years of the lottery. He said after those first two years, charitable gaming has increased. He said he believes tribal casino gaming is more likely than the lottery to be the cause of decreases in charitable gaming.

In response to a question from Representative Klemin, Mr. Keller said lottery games are relaunched to keep the games interesting and fresh. He said adding features to existing games makes the games more attractive to the public. He said credit cards may be used to purchase lottery subscriptions but not to purchase tickets. He said retailers are permitted to accept debit cards. He said subscriptions only may be purchased by North Dakota residents.

In response to a question from Representative Wolf, Mr. Keller said North Dakota's per capita sales tend to be higher than other states. For example, he said, the sales of Hot Lotto tickets are at par with the District of Columbia but are higher than the other 11 participating states.

In response to a question from Senator Fiebiger, Mr. Keller said \$50,000 per quarter is deposited into the compulsive gambling prevention and treatment fund. He said he will provide information to the committee on the number of persons served by that fund.

In response to a question from Senator Olafson, Mr. Keller said North Dakota may have higher per capita ticket sales because the online games are the only games available. He said all other states that have an online lottery also have instant tickets.

Chairman Klemin called on Mr. John Val Emter for testimony regarding the lottery. Mr. Emter said the lottery takes money out of the hands of poor people.

GAMING COMMISSION STUDY

Chairman Klemin said the committee was provided with a copy of the minutes of the March 12, 2008, meeting of the Legislative Council's Administrative Rules Committee during which that committee addressed administrative rules changes proposed by the Racing Commission as well as other concerns about activities of the Racing Commission, including issues related to use of breeders' fund money. He said because some of the issues addressed by the Administrative Rules Committee at this meeting are similar to the Racing Commission issues that have been addressed by the Judiciary Committee at recent meetings, he wanted the committee to be aware of the activities of the Administrative Rules Committee.

Chairman Klemin called on Mr. Randy Blaseg, Director of Racing, Racing Commission, for testimony regarding the study. Mr. Blaseg provided a summary

of the changes made to the administrative rules. He said the administrative rules changes regarding the breeders' fund were not adopted.

Mr. Blaseg provided information regarding the amount paid to charitable organizations in 2005, 2006, and 2007. He also provided information regarding the biennial budget of the Racing Commission. A copy of the information provided by Mr. Blaseg is on file in the Legislative Council office.

In response to a question from Representative Klemin, Mr. Blaseg said host fees are a part of the simulcast racing process. He said the Racing Commission does not have any control over host fees. He said the cost of the simulcast signal has been raised to the point that providers no longer believe it is profitable to operate.

In response to a question from Representative Wolf, Mr. Blaseg said racing proceeds are paid to the tracks in Fargo and Belcourt. He said Development Homes, Inc., and the Williston Convention and Visitors Bureau are the other recipients of racing proceeds.

Chairman Klemin called on Mr. Tom Secrest, Racing Commission, for testimony regarding the Racing Commission issues. Mr. Secrest said he was appointed to the commission two years ago. He said he has been involved in horse breeding and horse racing since the 1970s. He said members of the Racing Commission need to understand the simulcast side of racing as well as the live racing. He said the commission is still dealing with the scandals in the Fargo area. He said part of the commission's job is to prevent scandals. He said as a commission member, it is his job to look out for everyone in the racing industry, not just the horsemen.

Representative Meyer discussed concerns regarding the activities of the Racing Commission. She said the Horsemen's Advisory Council was forced to petition to get on the Racing Commission's agenda. She said there are concerns that the rules are being applied punitively to the horsemen. She said the Racing Commission agreed to accept the administrative law judge's findings regarding a breeder's fund issue, but has not done so. She said the matter may have to go to district court. She provided a copy of the ruling of the administrative law judge, a copy of which is on file in the Legislative Council office.

Chairman Klemin called on Ms. Jan DeRemer, Grand Forks, for testimony regarding racing proceeds. Ms. DeRemer said she is a board member of Development Homes, Inc., in Grand Forks and chair of the committee that oversees the organization's gaming operations. She said the board has concerns about the distribution of the racing proceeds to charitable organizations. She said the board and committee have struggled to understand the terms, percentages, and procedures in horse racing and wagering. She said because it is nearly impossible for a volunteer board to master a thorough understanding of this system, it may have been too willing to accept the assurances and explanations it has received from

the providers. She said the organization's only intention is to be able to participate in simulcast racing in a way that benefits the people it serves. She submitted written testimony, a copy of which is on file in the Legislative Council office.

Chairman Klemin called on Ms. Kara Odegaard, Director, Development Homes, Inc., Grand Forks, for testimony regarding racing proceeds to charitable organizations. Ms. Odegaard said her organization operates a simulcast racing site at Rumors Bar in Grand Forks. She said in the past its simulcast operations have brought in from \$40,000 to \$148,000 annually in net revenues. She said before 2007, her organization received a portion of the breakage and shared funds generated. She said these funds were a considerable portion of its total racing revenues. She said in spite of assurances that 2007 legislation would not adversely affect the organization's funding, that is what has happened. She said the changes in the racing industry threaten the organization's ability to provide services to those who need them. She submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Dahl, Ms. Odegaard said her organization was not given a reason for the denial of its request for promotional funds. Ms. DeRemer said Development Homes, Inc., and the North Dakota Association for the Disabled are the only real charities that participate in horse racing. She said these two charities are being squeezed out. She said they cannot continue to operate and lose money. She said the money is going somewhere other than to the charities.

In response to a question from Representative Schneider, Ms. Odegaard said about \$40,000 to \$148,000 of the organization's \$7 million budget comes from horse racing proceeds.

In response to a question from Representative Meyer, Ms. Odegaard said when she contacted Mr. Blaseg about the effect of 2007 House Bill No. 1126 on her organization, she was assured that as a result of the bill she would be getting as much or more of the breakage funds than before and that she should not oppose the legislation.

Chairman Klemin called on Mr. Kraig Rygg, North Dakota Association for the Disabled (NDAD), for testimony regarding horse racing proceeds to charitable organizations. Mr. Rygg said 2007 House Bill No. 1126, which became effective in July 2007, was enacted to direct 100 percent of the breakage funds generated in the state to the Racing Commission. He said this pool previously had been split evenly between the Racing Commission, simulcast provider, Lien Games Racing, and the simulcast site. He said when this bill was being considered by the Legislative Assembly, Mr. Blaseg contacted him and assured him that this change would be beneficial to the simulcast sites because the funds could be used for site improvements, additional promotion, and other things that benefit horse racing in the state. He said the Racing Commission denied

the NDAD's request for promotional funds in 2008. He said the 2007 legislation led to a renegotiation of the contract between the NDAD, as operator of the simulcast site at CHIPS in Bismarck, and Lien Games Racing. He said because of the legislation, breakage and shared funds were removed from the contract. He said in March 2008 Lien Games informed NDAD that it would no longer be providing a signal for its primary horse racing tracks. He said those tracks comprise 80 percent to 90 percent of the total handle and include the tracks that host the Triple Crown and this year's Breeders Cup. He said as a result, NDAD's total handle at CHIPS has dropped between 40 percent to 50 percent since the loss of the signal at the most popular tracks. He said operating under the current contract situation with the product it is able to provide, it will not be viable for NDAD to continue to operate a simulcast site at CHIPS. He provided written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Meyer, Mr. Rygg said he was told that 2007 House Bill No. 1126 would better serve the racing community.

In response to a question from Representative Kretschmar, Mr. Rygg said Lien Games is the only provider that serves the simulcast sites.

Chairman Klemin called on Mr. Thomas L. Trenbeath, Attorney General's office, for testimony regarding the two bill drafts under consideration by the committee. Mr. Trenbeath said the Attorney General's office does not have any objections to the bill draft [\[90024.0100\]](#) that establishes a gaming advisory commission. He said, however, he would recommend increasing the size of the commission from five members to seven members. He said he also recommends removing the mandatory quarterly meetings for the commission. He said two meetings per year would be adequate. He said the current Gaming Commission operates well but the Attorney General's office will not oppose the change if the Legislative Assembly wants to change the commission to an advisory commission.

In response to a question from Senator Fiebiger, Mr. Trenbeath said having the Attorney General appoint members of the Gaming Commission has not been a problem as far as the issue of a conflict of interest.

Mr. Trenbeath addressed the bill draft [\[90025.0100\]](#) that would make the Racing Commission subject to the supervision and direction of the Attorney General. He said there is some concern about having oversight without the ability to appoint the members of the Racing Commission.

Chairman Klemin called on Ms. Heather Benson, Horse Race North Dakota, for testimony regarding the Racing Commission issues. Ms. Benson said in the national landscape of racing legislation, North Dakota and Oregon stand out as possessing the most advantageous tax structure for advanced deposit wagering. She said although North Dakota possesses

some of the most nationally competitive gaming legislation available today, it does not, from outside appearances, possess an internal structure that is attractive to would-be advanced deposit wagering companies. She said Oregon's Racing Commission has been strongly supported by both its state legislators and horsemen and, as a result, has become home to many of today's top advanced deposit wagering companies. She said when faced with continual North Dakota headlines wherein the very existence of the state's Racing Commission is in question, it makes attracting new business to the state a very difficult proposition. She said a stable and progressive-minded regulatory infrastructure is crucial in enticing new or existing advanced deposit wagering companies to reside in the state. She said as advanced deposit wagering is the No. 1 growth industry in pari-mutuel racing, it is vital to our horsemen and women that we capture as much of that growth as possible. She said creating an atmosphere of stability in the state should become the No. 1 priority of both the legislators of the state and the horsemen and women they serve. She said stability in leadership, direction, and legislative expectations are key to the continued growth of the horse racing industry in the state. She said it is important that there is a central regulatory body for horse racing in North Dakota--the North Dakota Racing Commission. She said continuity of leadership, focus of direction, and serving the best interests of the majority should be the focus of the Racing Commission. She said it is estimated that in 2007 the racing industry in the state contributed over \$11 million to the North Dakota economy by purchases of services and goods directly related to the breeding, raising, and racing of horses in this state. She said it is integral to the overall health of the racing industry that the Racing Commission continues as the central regulatory body as further growth of this multimillion dollar industry would be effectively impossible without the Racing Commission in place. She provided written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Senator Nething, Ms. Benson said she is not opposed to oversight of the Racing Commission by the Attorney General, but a central body with a director is important.

Senator Olafson said there appears to be a need for more open discussion between the groups involved in the racing industry. He said legislators will need more education to understand the issues. He said it will be important to keep the big picture in mind.

Chairman Klemin called on Mr. Curt Rohweder, North Dakota Thoroughbred Association, for testimony regarding the Racing Commission issues. Mr. Rohweder said there is dissension between the horsemen and the racing industry. He said most are fairly content with the Racing Commission and the director. He said there is a need for some changes but not all involved believe the problems are insurmountable. He said there is a need for a central

body for those involved in the industry to take their concerns. He said for this reason, the Racing Commission should not be abolished.

In response to a question from Representative Klemin, Mr. Rohweder said he believes that because the members of the Racing Commission are appointed by the Governor that they are answerable to the Governor. He said he does not oppose the bill draft that would give supervisory authority over the Racing Commission to the Attorney General.

Chairman Klemin called on Mr. Scott A. Horst, North Dakota Thoroughbred Association, for testimony regarding the Racing Commission issues. Mr. Horst said the industry is running out of money. He said part of the problem is due to the fees to be paid to the tracks. He said the Racing Commission should be retained.

Chairman Klemin called on Mr. Leon Glasser, North Dakota Thoroughbred Association, for testimony regarding the Racing Commission issues. He said he does not have a problem with the Attorney General having supervisory authority over racing. He said the Racing Commission should be abolished. He said the commission is never willing to negotiate. He said he hopes Ms. Benson will be able to bridge the horsemen with the racing industry.

In response to a question from Representative Meyer, Mr. Glasser said the Racing Commission did not abide by the decision of the administrative law judge. He said there is a need for oversight.

COMMITTEE DISCUSSION

Senator Nelson said the bill draft regarding the creation of a gaming advisory commission should be amended to reflect the changes proposed by Mr. Trenbeath, including changing the membership from five members to seven members, removing the words "or a member" on page 2, line 17, and changing the mandatory meetings from quarterly to twice per year. She said the members of the gaming advisory commission should receive the same pay as legislators receive for attending interim meetings.

Chairman Klemin said the changes would be made and the committee would consider the bill draft again at the next meeting.

Regarding the bill draft that would give the Attorney General supervisory authority over the Racing Commission, Representative Meyer said the Racing Commission does not work well as a "stand-alone" agency. She said there is no accountability.

It was moved by Representative Boehning, seconded by Senator Nelson, and carried on a voice vote that the bill draft regarding the Racing Commission be amended to provide that the members of the Racing Commission should be paid at the same rate as members of the Legislative Assembly are paid for attendance at interim meetings.

It was moved by Senator Nething, seconded by Senator Lyson, and carried on a roll call vote that

the bill draft regarding the authority of the Attorney General over the Racing Commission, as amended, be approved and recommended to the Legislative Council. Representatives Klemin, Boehning, Heller, Kingsbury, Schneider, and Wolf and Senators Fiebiger, Lyson, Nelson, Nething, Oehlke, and Olafson voted "aye." Representatives Dahl and Kretschmar voted "nay."

STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION SYSTEM

Chairman Klemin called on Ms. Pam Schafer, Information Technology Department, for testimony regarding the statewide automated victim information and notification (SAVIN) system project. Ms. Schafer said at its March 19, 2008, meeting, the Budget Section authorized the expenditure of the Bureau of Justice SAVIN grant. She said the Criminal Justice Information Sharing (CJIS) staff has refined the cost estimates for the SAVIN project and the necessary ongoing funding required for maintaining the program. She said matching funds will come from the Supreme Court's replacement project of its current UCIS application and the CJIS Interface Projects that will supply data to the SAVIN system as well as the CJIS portal. She said the court's replacement project was approved by the 2007 Legislative Assembly and the funding is in the court's budget. She said implementation estimates were provided by the vendor given the state's size and functional requirements. She said these estimates plus estimated nonvendor costs range from \$1.2 million to \$1.4 million, indicating that the project can be accomplished using the federal grant funds awarded. She said the grant award is for a two-year implementation cycle. She said the grant must be expended by June 30, 2009, with a possibility for a one-year extension. She said CJIS is applying for the one-year extension since the approval for expending funds did not occur until March 19, 2008. She said this will extend the project to June 30, 2010. She said the interview process for a SAVIN project manager has begun. She said a manager should be hired within a few weeks. She provided written testimony, a copy of which is on file in the Legislative Council office.

Chairman Klemin called on Mr. Charles R. Placek, Department of Corrections and Rehabilitation, for testimony regarding the SAVIN study. Mr. Placek said during its January 2008 meeting, the CJIS Executive Committee discussed the SAVIN project. He said the discussion centered on the current different sections of state law which cover victim notification. He said he was requested to bring this matter to the attention of the Judiciary Committee. He said the committee may wish to consider legislation that would change the current victim notification laws to require the victim and other concerned citizens to register with SAVIN to receive their victim notifications. He said most of the

current victim notification provisions are found in North Dakota Century Code Chapter (NDCC) 12.1-34. He said Chapter 12.1-35 covers juvenile victims' issues. He said Section 12.1-32-15 covers sexual offender registration and some of the community notification concerns. He said he is concerned about changing the current sections of law without knowing when the SAVIN system will be totally operational. He said SAVIN could provide notifications for some instances by August 1, 2009. He said the court's notification provisions may not be implemented until the 2009-11 biennium. He said this is based upon the assumption that the court will receive the appropriation for the system and its implementation. He provided written testimony, a copy of which is on file in the Legislative Council office.

Senator Nething requested that Legislative Council staff work with Mr. Placek and others to prepare a bill draft that would address the statutory changes regarding notification which will be necessary when the SAVIN project is operational. He said the bill draft should provide for a contingent effective date.

In response to a question from Senator Olafson, Mr. Placek said local law enforcement and state's attorneys are responsible for some of the victim notification under NDCC Chapter 12.1-34.

CRIME VICTIM COMPENSATION STUDY

Chairman Klemin called on Mr. Placek for testimony regarding the crime victim compensation study. Mr. Placek said the Department of Corrections and Rehabilitation's crime victim compensation program has a legislatively authorized appropriation of \$942,258 this biennium. He said of that amount, \$515,855 was a general fund allowed carryover from the 2005-07 biennium. He said due to the program's inability to pay presented bills in the 2005-07 biennium that carry over of \$515,855 was spent by August 1, 2007. He said as of February 29, 2008, the program has \$165,233 of the original appropriation. He said it is projected that the program will end the biennium with a deficit of \$350,000 to \$500,000.

Mr. Placek said he compiled information regarding other states' benefits and funding sources. He said 11 states have annual appropriations and the remaining have a funding source that generates revenue from their crime victim compensation fund. He said two neighboring states have annual appropriations--Montana has a \$587,000 general fund appropriation and Minnesota has a \$1,828,750 general fund appropriation. He said Wisconsin uses a mixed appropriation of \$488,000 in offenders' fees and approximately \$1,512,000 in general funds.

Mr. Placek said the state's crime victim compensation program needs additional funding. He said the current funding sources are made up of federal funds, gifts, donations, restitution, inmate industry salaries, and from offender supervision fees and other correctional fees. He provided written

testimony and information on the funding sources of other states, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Mr. Placek said the Department of Corrections and Rehabilitation does not have an opinion on a funding source for this program.

In response to a question from Representative Meyer, Mr. Placek said most of the funds are used for medical costs. He said both the number of victims and the amounts requested are increasing.

In response to a question from Representative Wolf, Mr. Placek said the crime victim compensation fund is a payer of last resort.

In response to a question from Representative Klemin, Mr. Placek said the \$426,403 appropriation, which has not changed since 1993, does not include any general fund money.

In response to a question from Representative Wolf, Senator Lyson said in light of the court administration fees and other costs already imposed on offenders, increasing offender fees would not be a reliable way to provide additional funding for victim compensation.

It was moved by Representative Kingsbury, seconded by Senator Fiebiger, and carried on a roll call vote that the Legislative Council interim Judiciary Committee recommend that the 61st Legislative Assembly provide \$550,000 in additional funding to adequately fund the Department of Corrections and Rehabilitation's crime victim compensation program. Representatives Klemin, Boehning, Dahl, Heller, Kingsbury, Kretschmar, Schneider, and Wolf and Senators Fiebiger, Lyson, Nelson, Nething, Oehlke, and Olafson voted "aye." No negative votes were cast.

ABSTRACTERS, TITLE OPINIONS, AND TITLE INSURANCE STUDY

Chairman Klemin called on Mr. Robert Entringer, Department of Financial Institutions, for the presentation of information regarding the regulation of out-of-state lenders. Mr. Entringer said the Department of Financial Institutions oversees the licensing of money brokers under NDCC Chapter 13-04.1. He said as of April 14, 2008, the department had 369 active licensed money brokers, 49 of which are located in North Dakota. He said the vast majority of these companies engage in real estate lending although there are a number that strictly do commercial lending. He said the department also oversees the licensing of consumer finance companies. He said these companies are limited to loans up to \$35,000. He said if these companies are engaging in home equity lending they would also obtain a money broker license so they could exceed the \$35,000 limitation. He said state law offers exemptions for banks, credit unions, saving and loan associations, insurance companies, farm credit

administration, real estate brokers, salespersons who assist a client in obtaining financing, and various other types of entities. He said the regulator for out-of-state banks, credit unions, and thrifts may be the department's counterpart state regulatory agency for the home state of the bank or credit union or a federal agency. He submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Mr. Entringer said if the out-of-state lender does not have a physical presence in the state, the lender is likely regulated by federal law for the law of another state.

Chairman Klemin called on Mr. Dean Rindy, Fargo, for testimony regarding proposed legislation regarding title evidence. Mr. Rindy said changing the term "record title" to "a certified abstract" would clarify the term and there would not be a question of interpretation. He said the proposed legislation also changes the term "domestic corporation" to "person." He said the other change in the proposed legislation would allow for flexibility on the part of the Insurance Department with respect to the revocation or suspension of a certificate of authority or an insurance producer license for violations of NDCC Section 26.1-20-05. He provided a copy of proposed legislation regarding title evidence, a copy of which is on file in the Legislative Council office.

In response to a question from Senator Nething, Mr. Rindy said the proposed language changes would give the Insurance Commissioner discretion depending on the severity of the violation.

In response to a question from Representative Meyer, Mr. Rindy said an abstract is only a compilation or a history. He said a completed abstract does not assume good title. He said title insurance is used to assure clean title.

In response to a question from Senator Nething, Mr. Rindy said title insurance can be purchased for the buyer and the lender.

Chairman Klemin called on Mr. Larry Maslowski, Property and Casualty Director, Insurance Department, for comments regarding the proposed legislation. Mr. Maslowski said he worked with Mr. Rindy on the language regarding "person" and the penalty provision. He said the Insurance Commissioner does not oppose these proposed changes.

At the request of Chairman Klemin, committee counsel provided information on the title evidence requirements and title insurance costs of other states, a copy of which is on file in the Legislative Council office.

Senator Nething said this study has raised concerns about the ambiguities involving NDCC Section 26.1-20-05. He said while there also is concern about the impact this section has on consumers, these ambiguities and concerns are not serious enough to warrant legislative changes.

It was moved by Senator Nething, seconded by Senator Oehlke, and carried on a roll call vote that

the committee make no recommendation regarding the abstracters, title opinions, and title insurance study. Representatives Klemin, Boehning, Heller, Kingsbury, Kretschmar, Schneider, and Wolf and Senators Fiebiger, Nelson, Nething, Oehlke, and Olafson voted "aye." No negative votes were cast.

OTHER BUSINESS

Chairman Klemin called on Senator Robinson for the presentation of information regarding the possession of firearms by certain individuals. Senator Robinson said NDCC Section 62.1-02-01 prohibits certain offenders from possessing or using firearms for a number of years after the completion of a period of probation. He said perhaps the court could have more discretion in this matter, especially in the case of deferred imposition of sentence cases. He said there are mixed opinions on this issue. He said he would be willing to work with the committee or with individual legislators on the issue.

In response to a question from Representative Dahl, Senator Robinson said the impact of this law overflows onto the family of the offender. He said there may be some need for judicial discretion.

Senator Lyson said the committee should receive information regarding federal gun possession laws and regulations. He said before it can be determined what changes to state law can be made, Senator Robinson and the committee may wish to review the federal laws to determine what options the state has.

Chairman Klemin said due to events that will conflict with the committee's proposed June 25, 2008, meeting date, the next meeting of the committee will be held on August 12, 2008.

Chairman Klemin adjourned the meeting at 2:45 p.m.

Vonette J. Richter
Committee Counsel

ATTACH:1