

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

JUDICIARY COMMITTEE

Monday, April 2, 2018
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator David Hogue, Chairman, called the meeting to order at 10:30 a.m.

Members present: Senators David Hogue, John Grabinger, Diane Larson, Janne Myrdal; Representatives Roger Brabandt, Karen Karls, Lawrence R. Klemin, Kim Koppelman, Jeffery J. Magrum, Bernie Satrom, Luke Simons

Members absent: Representatives Lois Delmore, Terry B. Jones, and Shannon M. Roers Jones.

Others present: Senator Erin Oban, Bismarck, member of the Legislative Management
See [Appendix A](#) for additional persons present.

It was moved by Senator Grabinger, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the January 11, 2018, meeting be approved as distributed.

REPORTS

Chairman Hogue called on Dr. Rosalie Etherington, Superintendent, State Hospital, for presentation of the statutorily required biennial report ([Appendix B](#)) relating to the services provided at the State Hospital to individuals who have been committed to the care and custody of the Executive Director of the Department of Human Services.

In response to a question from Representative Klemin, Dr. Etherington said the hospital receives no more complaints than another hospital would.

In response to a question from Representative Koppelman, Dr. Etherington said during the 2015-17 biennium the sex offender treatment program was reduced from four units to three. She said because more patients have been released to outpatient treatment during this biennium, the sex offender treatment program has been further reduced to two units. She said several tests are used to identify the type and level of risk an individual has of reoffending. She said an individual's response to treatment also is assessed to use the least restrictive treatment option.

In response to a question from Senator Grabinger, Dr. Etherington said although there have been discussions in the past about transferring the oversight of the sexually dangerous individuals program to the Department of Corrections and Rehabilitation, the idea was abandoned because of several court decisions relating to the definition of treatment.

In response to a question from Representative Satrom, Dr. Etherington said although the rate of discharge from the program is higher than in prior years, the rate of reoffense upon release is very low. She said this can be attributed to the fact many of the individuals were committed in the early 1990s. She said the length of treatment is specific to an individual and is extremely important in ensuring the success an individual has upon release.

In response to a question from Chairman Hogue, Dr. Etherington said some patients and family members can be frustrated with a hospital being in the same physical location as a prison. She said the interactions between patients and employees of the Department of Corrections and Rehabilitation have been minimized.

Chairman Hogue called on Mr. Gunner laCour, Director, North Dakota Racing Commission, for presentation of the statutorily required biennial report (Appendices [C](#) and [D](#)) of the Racing Commission.

In response to a question from Representative Karls, Mr. laCour said prior to the new special assessments, the financial agreement between the North Dakota Horse Park in Fargo and the City of Fargo was working well and the park had avoided bankruptcy.

Chairman Hogue called on Mr. Randy Miller, Director, North Dakota Lottery, for presentation of the statutorily required report ([Appendix E](#)) of the North Dakota Lottery.

In response to a question from Chairman Hogue, Mr. Miller said the mobile device application is an option for consumers to utilize a subscription service that had previously been available only through the state lottery's website. In 2014, he said, the software was updated to allow for online purchases, and the mobile device will allow for the same.

In response to a question from Representative Klemin, Mr. Miller said a player must fund the player's wallet with at least \$10 and a player also may select certain retailers to receive commission on the sale of each play. He said the decision was made to allow players to select retailers because the app eliminates the need for a player to visit a physical retail location.

Chairman Hogue called on Mr. Troy Seibel, Chief Deputy Attorney General, for presentation of the statutorily required report (Appendices [E](#) and [G](#)) regarding the status and results of the human trafficking victims treatment and support services grant program. Mr. Seibel said the during the 2017-19 biennium to date, \$935,000 in grant funds have been administered through the Attorney General's office to various providers of victim services. He said \$124,000 came from the general fund and the remainder came through the Department of Trust Lands. He said the applications were reviewed by the Attorney General's office and the Board of University of School Lands. He said human trafficking is a problem in the state and the Attorney General's office is committed to combating the issue.

In response to a question from Representative Klemin, Mr. Seibel said the three grant recipients were the only applicants this biennium.

In response to a question from Representative Koppelman, Mr. Seibel said the carryover funds from the 2015-17 grant period were reawarded during this grant period.

In response to a question from Chairman Hogue, Mr. Seibel said although success is difficult to measure, the state is making incremental progress.

Chairman Hogue called on Mr. Tom Solberg, Deputy Director, Department of Human Services, for presentation of a task force report ([Appendix H](#)) on prevention of sexual abuse of children.

STUDY OF LEGAL NOTICE REQUIREMENTS

Chairman Hogue called on Mr. Jason Carian, Strategic Account Executive, OpenGov, for presentation ([Appendix I](#)) of the benefits and various uses of the OpenGov platform. Mr. Carian said OpenGov was created after the recession when a small city in California wanted to analyze data collection. He said the company was born out of the concern the information was difficult to extrapolate and analyze. He said OpenGov has contracts with several political subdivisions in the state, including Morton and Cass Counties and the Cities of Fargo and Grand Forks.

In response to a question from Representative Koppelman, Mr. Carian said by using OpenGov a local government is able to analyze the number of visitors per day and week while also looking at the period of time an individual spends on the website. He said OpenGov helps to drive engagement with citizens.

In response to a question from Senator Myrdal, Mr. Carian said OpenGov focuses on ease of use and provides accessibility guidelines.

In response to a question from Representative Klemin, Mr. Carian said the product is priced in accordance with the budget of the local government using the service. He said costs start at about \$2,500 a year for a small city or county.

In response to a question from Representative Magrum, Mr. Carian said OpenGov is a cloud-based service, which results in a one-time implementation fee rather than an annual maintenance fee.

In response to a question from Senator Myrdal, Mr. Carian said some counties have reported a 90 percent increase in efficiency since implementing OpenGov.

Chairman Hogue called on Mr. Allan Burke, Emmons County Record, for a presentation ([Appendix J](#)) on publishing legal notices.

In response to a question from Chairman Hogue, Mr. Burke said the newspaper industry is adapting to the changing preferences of the public by creating online editions.

At the request of Chairman Hogue, The Legislative Council staff reviewed a bill draft [19.0095.01000] relating to notice and publication requirements. The Legislative Council staff said the bill draft includes suggestions presented by the North Dakota Association of Counties at the committee's January meeting, which included revisions to several sections to shift the notice requirement from the county extension agent to the commodity group holding an election. She said the other sections would allow a county to publish election results on an official county website, and clarify a county is not required to publish disbursements.

Chairman Hogue said the committee's task is to study and explore specific legal notice requirements that could be eliminated or completed in another manner without the costs associated with newspaper fees.

Representative Koppelman said he would like to see the newspaper industry offer a solution.

Senator Myrdal said the local taxpayers should have input on the issue. She said the existing law is an unfunded mandate. She said counties should not be mandated to publish elections results because local newspapers should be reporting the information voluntarily as news.

Mr. Steve Andrist, Executive Director, North Dakota Newspaper Association, said his testimony remains the same from the committee's first meeting in October 2017. He said the requirement to publish minutes is the issue of the utmost concern.

Mr. Jack McDonald, North Dakota Newspaper Association, said the \$3.7 million referenced by the study directive likely includes all the legal publications, not just the minutes. He said although newspaper circulation might be down, readership of newspapers is not down as newspaper websites are among the top viewed.

Ms. Donnell Preskey Hushka, Government/Public Relations Specialist, North Dakota Association of Counties, said counties are required to publish 142 public notices. She said the top five requirements are those referenced in the bill draft.

ADOPTION STUDY

Chairman Hogue called on Ms. Julie M. Hoffman, Adoptions Administrator, Children and Family Services, Department of Human Services, for information relating to the adoption process. Ms. Hoffman introduced the committee to two parents who have adopted children in the state.

Ms. Christy Voller said she and her husband have adopted two infants through Adopted Charities North Dakota. She said their first daughter was adopted through the unidentified adoption process and their second daughter was an identified adoption. She said her experience with both types of adoption was positive and although the regulations can seem tedious, the ultimate goal is to protect the child.

Mr. Jason Lawson provided information ([Appendix K](#)) relating to his experience with the adoption process.

In response to a question from Senator Grabinger, Mr. Lawson said the only change he would suggest would be an exception to the process of relinquishing a parent's rights when it would be in the child's best interest.

At the request of Chairman Hogue, the Legislative Council staff reviewed a bill draft [19.0076.01000] relating to required reports of a child-placing agency. The Legislative Council staff said the bill draft addresses the changes suggested by Ms. Coleen Globke at the committee's January 2018 meeting. She said section one of the bill draft eliminates information that is required only for an identified adoption and section two removes a requirement for a statement or affidavit confirming the information in the report is accurate.

Ms. Hoffman said she would support the changes in section two of the bill draft, but she is very concerned about the changes in section one. She said simply because an adoption is identified does not mean the parties know one another.

Senator Oban said the state has four types of adoption--identified, unidentified, relative, and step-parent--and only one basic study process.

In response to a question from Senator Oban, Ms. Hoffman said the reason North Dakota Century Code has a specific chapter for identified adoption is to govern relinquishment.

It was moved by Representative Klemin, seconded by Representative Karls, and carried on a roll call vote that the first section of the bill draft relating to required reports of a child-placing agency [19.0076.01000] be removed. Senators Hogue, Larson, and Myrdal and Representatives Klemin, Brabandt, Karls, Satrom, and Simons voted "aye." Representative Magrum voted "nay."

No further business appearing, Chairman Hogue adjourned the meeting at 4:30 p.m.

Samantha E. Kramer
Counsel

ATTACH:11