

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

ADMINISTRATIVE RULES COMMITTEE

Monday, December 3, 2018
Prairie Room, State Capitol
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 8:30 a.m.

Members present: Representatives Bill Devlin, Josh Boschee, Kim Koppelman, Scott Louser, Brandy Pyle, Mike Schatz, Mary Schneider, Nathan Toman, Robin Weisz; Senators Howard C. Anderson, Jr., Joan Heckaman, Jerry Klein, Curt Kruen, Scott Meyer, Nicole Poolman, David S. Rust

Members absent: None

Others present: See [Appendix A](#)

It was moved by Representative Toman, seconded by Representative Louser, and carried on a voice vote that the minutes of the September 12, 2018, meeting be approved as distributed.

DEPARTMENT OF FINANCIAL INSTITUTIONS

Chairman Devlin called on Mr. Corey Krebs, Acting Assistant Commissioner, Department of Financial Institutions, for testimony ([Appendix B](#)) regarding the January 2019 rules of the Department of Financial Institutions.

In response to a question from Representative Koppelman, Mr. Krebs said the Credit Union Association of the Dakotas (CUAD) objected to the fixed asset limit, the merger procedures, and the risk monitoring and credit grading process, and to the duplication of federal rules. He said adjustments were made to alleviate the concerns, including amendments to the notification process for mergers and adding credit union board of directors discretion over the frequency of third-party loan reviews, subject to safety and soundness examinations by the department. He said consideration was given to CUAD's comments related to the fixed asset limit, risk monitoring and credit grading process, and duplication of existing federal rules; however, the changes requested were not made. He said the conclusion was the proposed fixed asset change provided more flexibility to credit unions while still making clear the regulatory expectation. He said the risk monitoring and credit grading policy was not modified as recommended by CUAD because the modification would have made it inconsistent with the risk management standards currently in place at credit unions in North Dakota. He said CUAD's concern about duplicative state and federal rules was reviewed, but no changes were made. He said the rules were duplicated purposely to address confusion with federal rule applicability since the federal rules are not clear whether the federal rules apply to a state-chartered credit union. He said duplicating the federal rules in the North Dakota rules makes it clear to credit unions these rules apply.

STATE DEPARTMENT OF HEALTH

Chairman Devlin called on Mr. Dave Glatt, Chief, Environmental Health Section, State Department of Health, for testimony ([Appendix C](#)) regarding October 2018 rules (North Dakota Administrative Code Sections 33-16-03.1-13 and 33.1-16-03.1-13) carried over from the September 12, 2018, meeting. Mr. Glatt said the State Department of Health consulted the North Dakota Stockmen's Association and the North Dakota Livestock Alliance to address the concerns regarding the use of the term "significant revisions to a facility's nutrient management plan." He said all parties to the discussion agreed to the suggested rule change.

Ms. Julie Ellingson, Executive Vice President, North Dakota Stockmen's Association, said the association is pleased with the proposed language. She said she appreciated the input from the State Department of Health.

It was moved by Senator Anderson, seconded by Representative Boschee, and carried on a roll call vote that the rules proposed by the State Department of Health to Sections 33-16-03.1-13 and 33.1-16-03.1-13, be approved. Representatives Devlin, Boschee, Koppelman, Louser, Pyle, Schatz, Schneider, Toman, and Weisz and Senators Anderson, Heckaman, Klein, Kreun, Meyer, Poolman, and Rust voted "aye." No negative votes were cast.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Chairman Devlin called on Mr. Tom Bachman, Air Quality Division, State Department of Health, for testimony ([Appendix D](#)) regarding the January 2019 rules of the Department of Environmental Quality.

In response to a question from Senator Heckaman, Mr. Bachman said when a federal regulation is changed, the federal Environmental Protection Agency typically does not impose a time limit within which the state must amend its administrative rules to be in compliance with the federal regulation. He said adopting the federal regulation by reference helps to expedite the compliance process.

DEPARTMENT OF HUMAN SERVICES

Chairman Devlin called on Mr. Jonathan Alm, Legal Advisory Unit, Department of Human Services, for testimony ([Appendix E](#)) regarding the January 2019 rules of the Department of Human Services.

In response to a question from Senator Heckaman, Ms. Robyn Throlson, Acting State Director, Division of Vocational Rehabilitation, Department of Human Services, said the local administrator is responsible for any waivers or adjustments to the client's financial participation. She said the calculation of financial participation is based on a sliding scale fee schedule. She said the intent is to provide vocational rehabilitation services without imposing financial hardship.

Senator Kreun said when developing child support guidelines, consideration should be given to the income of both parents and the expenses of each following the divorce or separation. He said an analysis should be done to ensure the child support is used to support the child and not other persons living in the household. He said when a child reaches the age of 18, the obligor should be made aware the obligor has to go back to court to have the child support obligation reduced for any remaining minor children.

BOARD OF UNIVERSITY AND SCHOOL LANDS

Chairman Devlin called on Ms. Jodi A. Smith, Commissioner, Department of Trust Lands, for testimony ([Appendix F](#)) regarding the January 2019 rules of the department.

In response to a question from Senator Heckaman, Ms. Smith said the authority of the Board of University and School Lands to grant an exception in Section 85-01-01-02 refers to the rules regarding unclaimed property.

In response to a question from Senator Heckaman, the Legislative Council staff said as written, the exception in Section 85-01-01-02 would apply to any provision in Title 85. She said the rules regarding unclaimed property are in Article 85-03.

It was moved by Senator Heckaman, seconded by Representative Koppelman, and carried on a roll call vote that Section 85-01-01-02 be amended to change "this title" to "article 85-03". Representatives Devlin, Boschee, Koppelman, Louser, Pyle, Schatz, Schneider, Toman, and Weisz and Senators Anderson, Heckaman, Kreun, Meyer, Poolman, and Rust voted "aye." No negative votes were cast.

No further business appearing, Chairman Devlin adjourned the meeting at 9:45 a.m.

Vonette J. Richter
Legal Division Director

ATTACH:6