

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**GOVERNMENT ADMINISTRATION COMMITTEE**

Wednesday, August 14, 2019  
 Roughrider Room, State Capitol  
 Bismarck, North Dakota

Senator Randy Burckhard, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Senators Randy Burckhard, Jay Elkin, Joan Heckaman, Richard Marcellais, Scott Meyer; Representatives Pamela Anderson, Glenn Bosch, Karen Karls, Jon O. Nelson, Austen Schauer, Cynthia Schreiber-Beck

**Members absent:** Senators John Grabinger, Kristin Roers; Representative Ben Koppelman

**Others present:** See [Appendix A](#)

The Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

**STUDY OF THE STATEWIDE INTEROPERABLE RADIO NETWORK**

The Legislative Council staff presented a memorandum entitled [Statewide Interoperable Radio Network - Background Memorandum](#). He said Section 10 of House Bill No. 1021 (2019) provides for a study during the 2019-20 interim regarding consolidated emergency and interoperable public safety communications system governance and funding options. He said the major state agencies and organizations working on the statewide interoperable radio network (SIRN) include the Division of State Radio in the Department of Emergency Services, the Information Technology Department (ITD), the Statewide Interoperability Executive Committee (SIEC), the Emergency Services Communications Coordinating Committee (ESC3), and the State Information Technology Advisory Committee (SITAC).

The Legislative Council staff said North Dakota Century Code Section 37-17.3-04 provides the director of the Division of State Radio is required to broadcast all dispatches and reports submitted that have a reasonable relation to or connection with the apprehension of criminals, the prevention of crimes, or the maintenance of peace and order in the state, including disaster emergency services. He said Section 37-17.3-09 allows the Division of State Radio to provide primary public safety answering point (PSAP) services to a political subdivision that has a population of fewer than 25,000 at the time an agreement is signed for services with the division. He said Chapter 57-40.6 relates to emergency services communications systems and defines a PSAP as a communications facility or combination of facilities which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.

The Legislative Council staff said Section 37-17.3-02 provides the chief information officer (CIO) of ITD is charged with the operation and maintenance of SIRN as directed by SIEC. He said Section 37-17.3-03 requires each county and city in North Dakota to furnish to its law enforcement, firefighters, and emergency medical personnel the appropriate personal and vehicular radios that can access SIRN. He said the state cost-share for each radio is \$1,500 unless the cost of the radio is less than \$1,500, in which case the state cost-share is the cost of the radio. He said the Legislative Assembly has appropriated a total of \$162.4 million to ITD for SIRN since the 2015-17 biennium, as follows:

|  | 2015-17<br>Biennium | 2017-19<br>Biennium | 2019-21<br>Biennium | Total         |
|--|---------------------|---------------------|---------------------|---------------|
| General fund                               | \$1,401,750         |                     |                     | \$1,401,750   |
| SIRN fund                                  |                     | \$13,700,000        | \$12,330,000        | 26,030,000    |
| Strategic investment and improvements fund |                     |                     | 20,000,000          | 20,000,000    |
| Bank of North Dakota loan                  |                     | 15,000,000          |                     | 15,000,000    |
| Bank of North Dakota profits               |                     |                     | 20,000,000          | 20,000,000    |
| Bank of North Dakota line of credit        |                     |                     | 80,000,000          | 80,000,000    |
| Total                                      | \$1,401,750         | \$28,700,000        | \$132,330,000       | \$162,431,750 |

### Information Technology Department

Mr. Duane Schell, Chief Technology Officer, Information Technology Department, presented information ([Appendix B](#)) regarding SIRN governance, plans for use of the funding provided for the 2019-21 biennium, and concerns or challenges related to SIRN and the consolidation of public safety communications. He said SIEC was formed by an executive order issued by Governor John Hoeven in 2007 and was codified by the 2013 Legislative Assembly. He said SIEC is required to prepare recommendations regarding SIRN and may adopt rules governing the connection or integration of PSAPs to SIRN. He said governance of SIRN includes SIEC dividing into a 12-member subcommittee, which further separates into four regional boards. He said each regional board aligns with emergency management regions and has one representative for each 911 jurisdiction.

In response to a question from Chairman Burckhard, Mr. Schell said Representative Glenn Bosch and Senator Dwight Cook are the legislative members of SIEC.

In response to a question from Representative Nelson, Mr. Schell said tribal community leaders may vote at regional board meetings and the executive director of the Indian Affairs Commission is a member of SIEC.

In response to a question from Representative Schauer, Mr. Schell said neighboring states do not have direct involvement with SIEC and the SIRN project, but it is a priority to maintain and improve interoperability with Montana, South Dakota, Minnesota, and the contiguous Canadian provinces.

In response to a question from Chairman Burckhard, Mr. Schell said the P25 standard is a national standard for interoperability that SIEC is working toward, which would comply with Department of Homeland Security standards and governance models.

Mr. Schell said during the 2011-13 biennium SIEC conducted a limited study regarding emergency services communications systems. He said during the 2013-15 biennium, SIEC coordinated funding from various public safety entities to conduct a study of North Dakota mission-critical radio communications systems used by public safety responders and public safety entities. He said SIEC selected Televate, LLC, to assess the current status of mission-critical land mobile radio networks statewide and to develop a strategic plan to combine communications into an expansive network that enhances public safety response statewide.

Mr. Schell said the Legislative Assembly approved House Bill No. 1178 (2017) which established a 50-cent fee on assessed communication services. He said the revenue generated from this fee is collected by the State Treasurer for deposit in the SIRN fund. He said funds available in the SIRN fund will be used for the SIRN system core, network, and State Radio costs, as well as the \$1,500 state cost-share for personal and vehicular radios.

Mr. Schell said in January 2019, ITD awarded the SIRN contract and project to Motorola to provide a single, statewide solution for North Dakota public safety systems. He said the total estimated project is \$207.1 million and is expected to be a 5-year project. Of the \$207.1 million project total, he said, \$8.5 million is for the SIRN system core and PSAP costs, \$97 million is for the SIRN network such as towers and software, \$100 million is for subscriber devices and radios, and \$1.1 million is for network construction. He said the estimated operating cost of SIRN is \$5 million to \$10 million annually.

In response to a question from Representative Schauer, Mr. Schell said the \$5 million to \$10 million estimated annual operating cost is based on the contracts with Motorola and Dakota Carrier Network.

Mr. Schell said the SIRN project has two phases. He said Phase 1 includes the SIRN system core and PSAPs. He said the phase consists of two groups, one for execution and one for planning. He said the anticipated ending date for group one of Phase 1 is July 2020 and has an estimated cost of \$5.76 million. He said Phase 2 includes the radio frequency network and has an estimated cost of \$50 million.

Mr. Schell said of the \$132.33 million appropriated to ITD for SIRN for the 2019-21 biennium, ITD must spend \$25 million of the \$80 million Bank of North Dakota line of credit before the \$20 million transfer of Bank profits will occur.

In response to a question from Chairman Burckhard, Mr. Schell said all public safety systems are built to public safety grade and include best practice cybersecurity models and features, such as encryption and segmentation.

In response to a question from Representative Nelson, Mr. Schell said SIRN will have the ability to interoperate with 5G networks and future networks.

In response to a question from Representative Bosch, Mr. Schell said SIRN governance has been considered and the consensus is the current governance model is the best model to proceed with the project.

In response to a question from Representative Schauer, Mr. Schell said there has been a high level of participation and cooperation among the county and local jurisdictions for SIRN. He said not all the counties have been willing participants. He said for SIRN to be successful, not all counties are needed to participate, but interoperability with those counties will be necessary.

### **State Radio**

Mr. Dan Donlin, Director, State Radio, Department of Emergency Services, presented information ([Appendix C](#)) regarding SIRN and PSAPs, including the number of PSAPs, suggestions for consolidating PSAPs, and any concerns or challenges related to SIRN and the consolidation of public safety communications. He said there are 21 North Dakota PSAPs, including State Radio, which dispatches and answers 911 calls for 25 of the 53 North Dakota counties and several state agencies, including the Highway Patrol, Game and Fish Department, the Attorney General's Bureau of Criminal Investigation, North Dakota Parole and Probation, as well as various federal agencies. He said one Red River Regional Dispatch Center in Fargo serves Fargo, West Fargo, and Cass County as well as Moorhead and Clay County, Minnesota. He said the Lake Region Law Enforcement Center PSAP serves five counties and the PSAPs located in Bottineau, Stanton, and Hillsboro counties each serve two counties.

Mr. Donlin said local PSAP partners have concerns that PSAPs will be forced to consolidate. He said State Radio and local partners believe PSAP consolidation should occur only if PSAP operations and emergency communications would benefit from the consolidation, rather than mandating the dissolution of PSAPs. He said other than State Radio, all PSAPs are funded from local sources. He said as the new radio frequency trunking system is implemented as part of the SIRN project and there are fewer geographic location issues, consolidation of PSAPs may occur at the local level due to cost-savings and available resources.

In response to a question from Representative Anderson, Mr. Donlin said PSAPs know where emergency calls originate, which first responders to contact, and where to send the first responders. He said if an emergency call is made near a rural area but the closest emergency personnel cannot be utilized, the PSAP will follow approved protocols to contact the next closest jurisdiction to dispatch first responders to the emergency location.

### **Emergency Services Communications Coordinating Committee**

Mr. Jerry Bergquist, Chairman, Emergency Services Communications Coordinating Committee, presented information ([Appendix D](#)) regarding the role of ESC3, suggestions for consolidating PSAPs, and any concerns or challenges related to SIRN and the consolidation of public safety communications. He said ESC3 is a statutory committee consisting of four members from the North Dakota 911 Association, North Dakota Association of Counties, State Radio, and ITD. He said ESC3 has responsibility to bring Next Generation 9-1-1 services to North Dakota. He said Next Generation 9-1-1 is a nationwide initiative to improve 911 services between the public and PSAPs. He said ESC3 is required to provide recommendations to the Legislative Management regarding changes to the operating standards for emergency services communications. He said ESC3 is required to recommend to the Legislative Assembly the appropriate maximum emergency services communications service fee and to develop expenditures guidelines regarding the allowable uses of the fee revenue. He said ESC3 may initiate and administer statewide agreements among local government units to coordinate the procurement of emergency services communications equipment and services. He said this function is performed by the North Dakota Association of Counties through a joint powers agreement.

In response to a question from Representative Bosch, Mr. Bergquist said he believes there will be a time when SIEC and SITAC will consolidate into one committee but that would not be effective at this stage of the SIRN project.

Mr. Bergquist said the main source of funding to provide emergency services communications system services is through the fee levied on telecommunication services. He said all 53 counties and 1 city impose the fee. As of July 2019, he said, 33 of these jurisdictions charge the maximum fee of \$1.50 per assessed communication service while the remaining jurisdictions charge \$1.00. He said no state or federal funds have been used for the operations of the 20 local PSAPs.

In response to a question from Representative Bosch, Mr. Bergquist said of the \$1.00 or \$1.50 per month fee on assessed communication services, 5 cents is retained by telecommunication carriers as an administrative fee, 10 cents is paid to the North Dakota Association of Counties for statewide contracts, and if the county is in the State Radio jurisdiction, a portion of the fee is remitted to State Radio. He said after these costs are paid, the remaining revenue collected from the assessed communication service fee is used by the local jurisdiction for operational costs of the PSAP.

Mr. Bergquist said the three basic features of every PSAP are:

1. The PSAP must have a phone system that will receive 911 calls;
2. Dispatchers must be available to answer the 911 calls; and
3. It must have the ability to dispatch the appropriate public safety agencies, generally using public safety radio systems.

Mr. Bergquist said the ESC3 is responsible for implementing technologies that will efficiently and cost-effectively deliver 911 calls to a PSAP. He said SIEC is responsible for developing a statewide integrated public safety radio system that PSAPs and all emergency response agencies will utilize. He said it is essential that ESC3 and SIEC work together as new technologies are implemented.

Mr. Bergquist said in 2017, there were 233,416 emergency service calls answered by PSAPs, of which 81 percent were made from cell phones. He said ESC3 has pursued technological consolidation among PSAPs to reduce operational costs, but does not support physical PSAP consolidation unless local governments and the voting public decide the cost of a PSAP has become more than the community is willing to pay.

Mr. Bergquist distributed the ESC3 2018 biennial status report ([Appendix E](#)).

### Comments by Interested Persons

Mr. Stephen Devine, Director of Strategy and Policy, FirstNet, AT&T, presented information ([Appendix F](#)) in support of the SIRN project. He reviewed the FirstNet network and how it can collaborate with SIRN.

### Committee Discussion

Representative Bosch said because the SIRN project has received funding for the 2019-21 biennium, the committee should focus the interim study on governance of first responder communication systems and fee structures. He suggested the committee study if there is a better way to provide guidance to first responders.

Representative Schauer expressed concern of cost overruns and emergency services coverage availability of the SIRN project.

Senator Heckaman expressed concern regarding the lack of emergency service personnel available in the state to operate emergency systems, dispatch first responders, and respond to emergency situations.

### STUDY OF ACCESSIBILITY OF THE STATE CAPITOL

The Legislative Council staff presented a memorandum entitled [State Capitol Grounds Disability Accessibility - Background Memorandum](#). He said Section 1 of House Bill No. 1298 (2019) provides for a study during the 2019-20 interim regarding accessibility of the State Capitol grounds as related to the federal Americans with Disabilities Act of 1990 (ADA). He said the bill requires the study to include the effectiveness of the quantity and location of handicapped accessible parking spaces and the accessibility of entrances to the Capitol in consideration of security concerns.

The Legislative Council staff said the major buildings on the Capitol grounds include the Capitol tower with legislative and judicial wings, the Liberty Memorial Building, the State Office Building, the Governor's residence, the Department of Transportation building, and the Heritage Center. He said Section 54-21-18 provides the director of the Office of Management and Budget (OMB) has charge and control of the executive mansion, the Capitol, and the park and public grounds connected to these buildings. He said the director may adopt rules to promote the health, safety, and general welfare, to prohibit disturbances and disorderly assemblies, to keep the peace, and to regulate nuisances on the Capitol grounds and in any of the buildings located on the Capitol grounds. He said the rules may include regulation of public assemblies and accessibility to the buildings and grounds, obstructions, fees, insurance, forms, indemnification by users, and waiver of insurance and indemnity requirements by the director.

The Legislative Council staff said Chapter 48-10 establishes the Capitol Grounds Planning Commission and requires the commission to administer the Capitol building fund. He said the Board of University and School Lands is charged with the investment and management of the fund. He said the commission is provided a continuing appropriation to expend the interest and income of the Capitol building fund up to 50 percent of the unencumbered balance on the 1<sup>st</sup> day of any biennium, but total expenditures may not exceed \$250,000 per biennium.

The Legislative Council staff said Section 48-10-03 provides the commission must develop and modify long-term plans for the development of the Capitol grounds and requires the commission to approve or disapprove the basic style and exterior construction of any building, facility, monument, memorial, or work of art constructed on the

Capitol grounds. He said the commission is required to advise the director of OMB and the Legislative Council on matters relating to the physical and aesthetic features of the interior of all buildings on the Capitol grounds.

The Legislative Council staff said the 2019 Legislative Assembly appropriated \$4.22 million from the Capitol building fund, including \$2 million for a Capitol south entrance project, \$1.9 million for extraordinary repairs, and \$320,000 for special assessments. He said the 2019 Legislative Assembly estimated the 2019-21 biennium ending balance in the fund will be \$2.6 million.

### **Office of Management and Budget**

Mr. John Boyle, Director, Facility Management Division, Office of Management and Budget, presented information ([Appendix G](#)) regarding the accessibility of the State Capitol grounds, including any concerns and suggestions to improve accessibility to comply with the ADA. He said OMB, with approval by the Capitol Grounds Planning Commission, ensures the Capitol grounds are in compliance with the ADA. He said since the implementation of the ADA, changes made to the Capitol include the addition of a handicap bathroom stall in the restrooms, replacing stairs with ramps on the ground floor, installing a lift in the entrance of the Brynhild Haugland Room, and the replacement of four elevators. He said six handicap parking spaces were added to the west parking lot and nine handicap parking spaces were added to the north of the Capitol.

Mr. Boyle said as a result of the Oklahoma City Federal Building bombing and the September 11, 2001, terrorist attacks, many local, state, and federal agencies implemented setback distances for the safety of individuals in government facilities. He said OMB implemented a 100-foot setback for vehicles located north of the Capitol. He said the installation of a new parking plan on the north side of the Capitol replaced the original 9 handicap parking spaces with a separate parking lot with 15 handicap accessible parking spaces, resulting in a total of 21 handicap accessible parking spaces located to the north and west of the Capitol. He said there are also 4 handicap parking spaces in the visitor's parking lot, located southeast of the Capitol, totaling 25 handicap parking spaces around the Capitol building.

In 2016, Mr. Boyle said, Highway Patrol implemented additional security measures by requiring all visitors to enter through the south entrance of the Capitol and allowing entrance through the north and west entrances by only card access, reducing use of the 21 handicap accessible parking spaces to the north and west of the Capitol. He said to allow individuals to continue using the handicap accessible parking spaces north and west of the Capitol, the Highway Patrol has offered to allow individuals access to the Capitol from the north and west entrances if an individual engages the door notification. He said the Highway Patrol also escorts individuals to and from vehicles if requested.

In response to a question from Representative Nelson, Mr. Boyle said 25 handicap parking spaces is an adequate number for the parking lots surrounding the Capitol, but because 21 of the spaces are no longer readily accessible due to recently implemented security policies, the remaining 4 spaces are not adequate.

Mr. Boyle said while the Capitol is in compliance with the ADA, there are areas where public access for handicap individuals could be improved, especially during legislative sessions. He said to ensure compliance with the ADA, OMB has been working with the Protection and Advocacy Project to organize a Capitol accessibility workgroup of up to eight individuals to assist with preparing a report for the committee's use. He said the report will address the accessibility of the Capitol grounds and any area within the Capitol not in compliance with the ADA.

Mr. Boyle said OMB has hired an architectural firm for the Capitol south entrance project, which will be designed to meet all ADA standards. He said the project will include raising the floor and building a ramp from the entrance to the visitor lot. He said he anticipates the project will be complete prior to the 2021 legislative session.

In response to a question from Senator Meyer, Mr. Boyle said there are certain actions that can provide additional accessibility convenience in the Capitol for minimal or no cost, such as removing chairs in committee rooms to allow space for individuals in wheelchairs.

In response to a question from Representative Nelson, Mr. Boyle said a removable accessibility ramp has been used in the legislative chambers. He said a similar solution could be built or purchased for little cost.

In response to a question from Representative Nelson, Mr. Boyle said the Capitol accessibility workgroup includes individuals with disabilities. He said the last time OMB had an external report on Capitol ADA compliance was 14 years ago and the Capitol was compliant at that time. He said OMB does an internal ADA review each year.

### **Comments by Interested Persons**

Mr. Jerry Christiansen, Accessibility Specialist, Freedom Resource Center for Independent Living, Fargo, expressed concerns regarding the accessibility of the Capitol. He said all ADA requirements are included in the

International Building Code (IBC) and that the IBC has additional accessibility requirements not contained in the ADA. He said not all parking spaces on the Capitol grounds comply with ADA standards.

Ms. Madonna Logosz said prior to the ADA, Section 504 of the 1973 Rehabilitation Act was the most significant legislation regarding the accessibility of public buildings for individuals with disabilities. She said while the Capitol grounds have become more accessible, additional improvement is needed. She recommended the Capitol Grounds Planning Commission include members who have disabilities and who are knowledgeable of the ADA. She said additional signs are needed to identify where accessible parking is located and the services available to individuals with disabilities while visiting the Capitol.

Ms. Carel Two-Eagle, Bismarck, said of the four handicap accessible parking spaces in the visitor's lot, only two are useful due to the distance of the spaces from the building. She said many restrooms in the Capitol are not accessible for individuals with disabilities.

Mr. Royce Schultze, Executive Director, Dakota Center for Independent Living, Bismarck, said the ADA has minimum standards to adhere to, but there are opportunities to improve on those standards.

**Committee Discussion**

Representative Anderson suggested the Capitol accessibility workgroup provide periodic updates to the committee regarding its progress identifying accessibility needs of the Capitol.

Senator Meyer suggested the Capitol accessibility workgroup submit its final Capitol accessibility report to the committee.

Senator Heckaman said the Legislative Procedure and Arrangements Committee should address accessibility concerns in legislative meeting rooms.

Representative Schauer suggested the committee receive testimony from the Highway Patrol regarding Capitol ADA compliance and security policies.

**STUDY OF STATE AND FEDERAL VETERANS' PROGRAMS**

The Legislative Council staff presented a memorandum entitled [State and Federal Veterans' Programs - Background Memorandum](#). He said House Concurrent Resolution No. 3047 (2019) provides for a study during the 2019-20 interim regarding state and federal veterans' programs, the programs' eligibility requirements, and the efficiency of public or private entities responsible for the administration of state and federal veterans' programs to ensure all current and future North Dakota veterans receive the care, assistance, and benefits to which the veterans are entitled. He said the study must include consultation with the Administrative Committee on Veterans' Affairs, the Department of Veterans' Affairs, the Adjutant General, and any veterans' organization seeking to provide input. He said the select major organizations serving veterans include the United States Department of Veterans Affairs (VA), Administrative Committee on Veterans' Affairs (ACOVA), North Dakota Department of Veterans' Affairs (NDVA), the Veterans' Home, county veterans' service officers (VSO), the North Dakota National Guard, the ND Cares Task Force, the Task Force for Veterans Affairs, and veteran service organizations. He reviewed select support, education, entrepreneurship, mental health, tax credit, and other services available to North Dakota veterans. He provided a summary of funding for North Dakota veterans' programs for the 2009-11 through 2019-21 bienniums:

|                                       | 2009-11<br>Biennium | 2011-13<br>Biennium | 2013-15<br>Biennium | 2015-17<br>Biennium | 2017-19<br>Biennium | 2019-21<br>Biennium |
|---------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| General fund                          | \$24,869,777        | \$15,500,327        | \$22,100,136        | \$22,148,052        | \$19,911,279        | \$22,049,910        |
| Other funds                           | 17,022,780          | 15,592,023          | 16,797,205          | 15,781,985          | 21,415,729          | 21,502,044          |
| Total funds                           | \$41,892,557        | \$31,092,350        | \$38,897,341        | \$37,930,037        | \$41,327,008        | \$43,551,954        |
| <b>Funding Increase (Decrease)</b>    |                     |                     |                     |                     |                     |                     |
| General fund                          | N/A                 | (\$9,369,450)       | \$6,599,809         | \$47,916            | (\$2,236,773)       | \$2,138,631         |
| Other funds                           | N/A                 | (1,430,757)         | 1,205,182           | (1,015,220)         | 5,633,744           | 86,315              |
| Total funds                           | N/A                 | (\$10,800,207)      | \$7,804,991         | (\$967,304)         | \$3,396,971         | \$2,224,946         |
| <b>Percentage Increase (Decrease)</b> |                     |                     |                     |                     |                     |                     |
| General fund                          | N/A                 | (37.7%)             | 42.6%               | 0.2%                | (10.1%)             | 10.7%               |
| Other funds                           | N/A                 | (8.4%)              | 7.7%                | (6.0%)              | 35.7%               | 0.4%                |
| Total funds                           | N/A                 | (25.8%)             | 25.1%               | (2.5%)              | 9.0%                | 5.4%                |

### **Administrative Committee on Veterans' Affairs**

Mr. Dean Overby, Chairman, Administrative Committee on Veterans' Affairs, presented information ([Appendix H](#)) regarding its oversight of the Department of Veterans' Affairs and the Veterans' Home, programs available to North Dakota veterans, and ways to improve the care, assistance, and benefits available to veterans. He said ACOVA was established by the 1971 Legislative Assembly and is responsible for the organization, policy, and general administration of all veterans' affairs in North Dakota. He said ACOVA consists of 15 voting members nominated by veteran service organizations and appointed by the Governor. He said the Governor appoints one member each year from a list of two names submitted by the American Legion, Veterans of Foreign Wars, Disabled American Veterans, AMVETS, and Vietnam Veterans of America. He said the Adjutant General, director of the United States Department of Veterans Affairs for the North Dakota VA regional center, and the executive director of Job Service North Dakota serve as nonvoting members of ACOVA.

Mr. Overby said ACOVA appoints the commissioner of NDVA, who must be a resident of North Dakota and must qualify as a veteran as defined in Section 37-01-40. He said the commissioner serves as the nonvoting executive secretary of the ACOVA subcommittee on NDVA. He said ACOVA makes rules, regulations, and policies for the administration of veterans' aid fund loans and sets policies on programs utilizing the veterans postwar trust fund. He said the chairman and secretary of ACOVA appoint a seven-member governing board for administration of the Veterans' Home. He said the governing board has the power to establish qualifications for and selection of an administrator. He said at least one member of ACOVA serves on the Veterans' Home Governing Board.

Mr. Overby said adding additional full-time equivalent (FTE) positions to the NDVA budget would improve the care, assistance, and benefits available to North Dakota veterans. He said areas of need are for VSOs, women veteran coordinators, and loan and grant officers. He said additional funding for outreach, website improvements, advertising, and staff training also is needed.

In response to a question from Representative Anderson, Mr. Overby said there are no women members on ACOVA at this time but there have been in previous years. He said ACOVA encourages more participation from female veterans and veterans younger than 40 years old.

In response to a question from Representative Bosch, Mr. Overby said the ND Cares Task Force focuses primarily on mental health, but some of the work performed by ACOVA and the task force is similar.

In response to a question from Representative Schauer, Mr. Overby said the commissioner of NDVA started a Signs, Ask, Validate, and Encourage and Expedite (SAVE) program to assist North Dakota veterans with suicide prevention and to recognize signs of suicide.

### **North Dakota Department of Veterans' Affairs**

Mr. Bryan Watters, Veterans Service Officer Supervisor, North Dakota Department of Veterans' Affairs, presented information ([Appendix I](#)) regarding the mission and role of the department, the department's programs and services provided to North Dakota veterans, and any concerns or suggestions regarding services and benefits available to veterans. He said the mission of NDVA is to assist veterans of North Dakota and their dependents in obtaining all benefits to which they are entitled, both federal and state, either by direct contact or through the assistance of county and tribal VSOs. He said there are currently more than 54,000 veterans in North Dakota. He said NDVA develops, accepts, and completes VA compensation and pension claims and counsels veterans on employment, educational programs, financial assistance, vocational rehabilitation, disability benefits, medical care programs, nursing home assistance, death benefits, and other veterans' benefits.

Mr. Watters said NDVA administers the veterans aid loan program and the hardship assistance grant program to assist veterans financially with services, such as dental, hearing, optical, transportation, and housing needs. He said NDVA administers and supports several transportation programs to help transport veterans to the Fargo VA Medical Center, the Miles City VA Medical Center in Montana, and the Fort Meade VA Medical Center in South Dakota. He said NDVA has the responsibility of training newly appointed tribal and county VSOs. He said NDVA helps veterans and their dependents access various programs, benefits, and resources, including programs related to health care, mental and behavioral health, education and training, financial assistance and programs, employment and entrepreneurship, housing, burial and memorial, outreach, legal services, women and minority specialized services, veteran appreciation, and other assistance services.

Mr. Watters said the State Approving Agency is under the supervision of the commissioner of NDVA. He said the State Approving Agency is federally funded and works with the VA to manage veteran education benefits and approves and supervises programs of education and training for eligible veterans, dependents, National Guard members, and reservists.

Mr. Watters said veteran suicide prevention and awareness is a concern of NDVA. He said nationally there is an average of 20 veteran suicides each day, of which 14 are not receiving services from the VA. He said the majority of these veterans are veterans of the Vietnam War. He said the VA crisis line receives more than 2,000 calls per day.

In response to a question from Representative Anderson, Mr. Watters said the number of North Dakota veterans is expected to decrease in future years.

Senator Marcellais distributed information ([Appendix J](#)) regarding the Multi-County Veterans Wellness Conference.

### Veterans' Home

Ms. Susie Schlecht, Marketing and Admissions Coordinator, Veterans' Home, presented information ([Appendix K](#)) regarding the mission and role of the Veterans' Home, including services provided for North Dakota veterans, and any concerns or suggestions regarding services and benefits available to veterans. She said the Veterans' Home mission statement is "Caring for Americas Heroes" and the Veterans' Home vision statement is to create a home for veterans of North Dakota. She said to be eligible for admission to the Veterans' Home, a veteran must meet one of the following criteria:

- Be a bona fide resident of North Dakota for 30 days;
- Must have served in a North Dakota regiment;
- Must have entered armed services as a North Dakota resident; or
- Be a spouse or surviving spouse of a veteran meeting the above qualifications.

Ms. Schlecht said applicants for admission to the Veterans' Home must have 9 to 12 months of documented sobriety prior to applying for admission. She said individuals with unstable mental health, behavioral issues, traumatic brain injuries, or other complex medical conditions often need more structured environment than the Veterans' Home can provide. She said individuals receiving kidney dialysis are not admitted because transportation is not always available. She said while the Veterans' Home has received interest from North Dakota National Guard service members for placement in the Veterans' Home, National Guard service members often do not qualify as veterans as defined in Section 37-01-40.

Ms. Schlecht said the Veterans' Home contracts with local primary care service providers to work with Veterans' Home nursing staff to provide quality care for residents. She said the local providers make referrals to the Fargo VA Medical Center or other health centers for specialty care, such as cardiology, neurology, or podiatry services. She said Veterans' Home staff provide transportation to resident appointments in Fargo and other local areas. She said the Veterans' Home also contracts with psychiatrists, psychologists, and physical, occupational, and speech therapists. She said there is an onsite pharmacy available for residents. She said there are a variety of recreational activities available for residents, such as card games and dances.

Ms. Schlecht said the Veterans' Home has 52 skilled care beds. She said the Veterans' Home has 98 basic care beds for individuals who are independent in their daily living activities. She said residents of basic and skilled care have private rooms and bathrooms in a household of 12 to 13 residents. She said the Veterans' Home has 142 private rooms and 4 semi-private rooms, each with a private bathroom. She said nursing services are available 24 hours a day for basic care and skilled care resident needs.

Ms. Schlecht said basic care rent is calculated at 55 percent of a veterans' monthly income, less medical expenses. She said the current maximum chargeable rent is \$1,850 for basic care. She said spouses of veterans pay the maximum rate regardless of income or expenses. She said skilled care residents are charged a daily rate developed by the North Dakota human services case mix system. She said monthly rent for skilled care can range from \$6,800 to \$20,000. She said basic care residents can leave the Veterans' Home for up to 96 hours without cost to the resident. She said if a resident exceeds the 96-hour limit, the resident will be charged a per diem rate of \$47.36 for each day they were not in Veterans' Home facilities.

In response to a question from Senator Heckaman, Ms. Schlecht said the Veterans' Home coordinates with hospice care provided by CHI Health and Hospice of the Red River Valley. She said the VA will pay for hospice care of a veteran at private, contracted nursing home facilities, but not state-owned nursing homes like the Veterans' Home.

Ms. Schlecht distributed a Veterans' Home service brochure ([Appendix L](#))

### Adjutant General - National Guard

Brigadier General Robert Becklund, Deputy Adjutant General, presented information ([Appendix M](#)) regarding National Guard enlistment trends, National Guard programs available to North Dakota veterans, and any concerns or suggestions regarding services and benefits available to North Dakota veterans. He said National Guard programs are offered at family assistance centers in Bismarck, Fargo, Minot, Devils Lake, Grand Forks, and Jamestown. He said there are education benefits offices in Bismarck and Fargo. He said survivor outreach services are available in Bismarck. He said in 2015, Governor Jack Dalrymple issued an executive order to establish the ND Cares Coalition, also known as the ND Cares Task Force, which consists of more than 40 providers and partners dedicated to understanding the needs and improving services for North Dakota veterans and service members.

General Becklund said concerns of the National Guard for service members include the lack of providers of behavioral health and mental health services, the lack of providers that will accept TRICARE insurance, and education of the benefits and services available to service members. He said the location of in-network TRICARE providers and scheduling availability often are concerns of service members. He said there are low reimbursement rates and frequent contract changes for TRICARE dental insurance.

General Becklund said a way to improve services and benefits available to National Guard service members would be to increase the number of behavioral health, mental health, and TRICARE insurance providers by working with licensing boards and increasing incentives for providers to come to and stay in North Dakota.

In response to a question from Representative Nelson, General Becklund said a concern with TRICARE insurance providers is low reimbursement rates for service members. He said of the 14 Bismarck dental providers, only 4 providers accept TRICARE.

In response to a question from Senator Heckaman, General Becklund said there was an issue with a federal dual compensation policy change that prevented North Dakota Army National Guard members from receiving federal tuition assistance while also receiving GI Bill funding. He said the issue has been remedied, as National Guard members are now able to receive state tuition assistance while receiving GI Bill funding.

General Becklund said the current North Dakota Army National Guard enlistment is 2,928. He said the fiscal year 2013 enlistment was 3,441. He said the allowable number of North Dakota service members was reduced by almost 400 from fiscal year 2017 to fiscal year 2018. He said the projected fiscal year 2023 enlistment is 3,029. He said current North Dakota Air National Guard enlistment is 1,129. He said the projected fiscal year 2023 enlistment is 1,224. He said the Army National Guard has approximately 300 open positions and the Air National Guard has approximately 100 open positions.

In response to a question from Representative Schreiber-Beck, General Becklund said the ND Cares program personnel, military outreach coordinators, and licensed social workers, collaborate with the federal government to provide mental and behavioral health services to service members.

General Becklund distributed a service member and family support brochure ([Appendix N](#)) and the *Fall 2018 North Dakota Military Data Book* ([Appendix O](#)).

In response to a question from Senator Marcellais, General Becklund said the Adjutant General's office would provide information to the committee regarding the status of a publication the 2013 Legislative Assembly provided funding for related to all veterans having a relationship with the state.

### Committee Discussion

Representative Anderson suggested studying ways to work within federal regulations to help underserved veteran populations as well as ways to provide veterans with additional mental and behavioral health services and to prevent veteran suicides.

### STUDY OF OTHER USES OF THE VETERANS' HOME FACILITIES

The Legislative Council staff distributed a memorandum entitled [Revenue-Generating Uses of the Veterans' Home - Background Memorandum](#).

#### Veterans' Home

Mr. Mark B. Johnson, Administrator, Veterans' Home, presented information ([Appendix P](#)) regarding a history of the Veterans' Home and its facilities, occupancy rates for basic care and skilled care, and potential uses of Veterans' Home facilities and grounds for other revenue-generating uses and any concerns regarding these activities, including the affect of federal funds requirements and on the availability of federal funds. He said the Veterans' Home has 52 skilled care beds and 98 basic care beds.

In response to a question from Representative Nelson, Mr. Johnson said the Veterans' Home has 8 basic care pods, of which 2 are closed due to low census. He said census numbers often increase during winter months.

Mr. Johnson said as of July 2019, there were 54 individuals in the basic care unit, an occupancy rate of 55 percent and 52 individuals in the skilled care unit, an occupancy rate of 100 percent. He said a majority of the Veterans' Home residents are veterans of the Vietnam War. He said other states with veterans' homes also have experienced low basic care occupancy, including Minnesota (60 percent), Massachusetts (57 percent), Pennsylvania (55 percent), Iowa (50 percent), Ohio (45 percent), New Mexico (40 percent), and Kansas (33 percent). He said Colorado has maintained a high basic care census at 92 percent occupancy.

Mr. Johnson said there is a moratorium on nursing home beds. He said there has been an increase in private sector assisted living beds.

Mr. Johnson said obstacles to filling basic care beds include a declining number of World War II and Korean War veterans, community in-home care programs, the VA hospice care program, and the VA in-home care program. He said the VA hospice care program covers a veteran's hospice care costs if the veteran is a resident of a private nursing home, but not a state's veterans' home. He said the VA in-home program provides family caregivers \$26,500 each year to care for a family veteran at home rather than admitting the veteran in a nursing home. He said obstacles for the Veterans' Home include advertising, the Veterans' Home paying for the cost of medication for basic care residents, staff education, and staff turnover due to private sector salaries being higher than state employees.

In response to a question from Senator Marcellais, Mr. Johnson said the Veterans' Home may accept homeless veterans if they have not committed crimes against moral turpitude, such as sex offenses, predatory crimes, or crimes against children. He said the Veterans' Home only accepts applicants who will keep the Veterans' Home safe for all residents.

Mr. Johnson said in addition to changing the basic care rent rate calculation, potential revenue-generating uses of the Veterans' Home that would be eligible for federal VA funding include:

- Adding additional skilled care beds;
- Adding an adult day care program; and
- Remodeling basic care areas into independent assisted living units.

Mr. Johnson said the Minnesota Veterans' Home added an adult day care program but the program has not been successful and is losing revenue. He said the North Dakota Veterans' Home would have difficulties having success with an adult day care program in a small town. He said if the Veterans' Home remodeled basic care areas to assisted living units, the VA will provide 65 percent of the remodel cost with the state providing the 35 percent match. He said an assisted living remodel would include adding a kitchenette to rooms and adding larger rooms and spouse rooms. He said assisted living services would include resident fees for housekeeping, medication, meal plans, and nursing care. He said disadvantages of a potential remodel would be the loss of eight rooms and rent structure changes.

Mr. Johnson said there are VA barriers to adding new services in the Veterans' Home. He said the Veterans' Home is not allowed to have less than 75 percent veteran occupancy in the facility or the Veterans' Home will lose federal per diem payments, which accounts for approximately 33 percent of the Veterans' Home revenue. He said this may trigger a federal recapture clause, which could result in the state having to repay the federal government \$15.3 million. He said other concerns include state contracts, technology expenditures, legal fees, motor pool costs, VA transportation, pharmacy costs, and staff turnover.

Mr. Johnson said as of September 2017, there were nearly 20 million veterans nationwide, of which 51,677 were North Dakota veterans. Of this number, he said, 4,937, or 9.6 percent, were women, 5,437, or 10.5 percent, were military retirees, and 22,033, or 42.6 percent, were age 65 or older. He said the VA estimates the number of veterans in 2045 will decrease to 12 million nationwide and 42,000 in North Dakota.

In response to a question from Representative Nelson, Mr. Johnson said the Veterans' Home has not started the demolition of the administrator's residence. He said there is a private organization that has approached the Veterans' Home with intentions of converting the administrator's residence into a museum instead of demolishing the building.

### Committee Discussion

Representative Nelson suggested the committee study the potential to remodel basic care areas of the Veterans' Home into assisted living units.

Senator Marcellais said he serves on the Governor's Task Force for Veterans' Affairs. He said the task force is studying veteran policy, organization, and governance changes. He said the task force is studying various veteran assistance issues, including homeless veterans, suicide prevention, and health care services.

### OTHER COMMITTEE RESPONSIBILITIES

The Legislative Council staff distributed a memorandum entitled [Other Government Administration Committee Responsibilities Background Memorandum](#). He said in addition to the committee's studies, the 2019-20 interim Government Administration Committee has been assigned the following duties:

- Receive a report from OMB by October 15 of each even-numbered year, regarding the reports received by OMB from each executive branch state agency, excluding entities under the control of the State Board of Higher Education, receiving federal funds, a plan to operate the state agency when federal funds are reduced by 5 percent or more of the total federal funds the state agency receives.
- Approve any agreement between a North Dakota state entity and South Dakota to form a bistate authority.

No further business appearing, Chairman Burckhard adjourned the meeting at 3:45 p.m.

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Levi Kinnischtzke  
Fiscal Analyst

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