INFORMATION TECHNOLOGY COMMITTEE

Wednesday, July 1, 2020
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Corey Mock, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Corey Mock, Glenn Bosch, Shannon Roers Jones, Nathan Toman, Robin Weisz; Senators Kyle Davison, Merrill Piepkorn, Larry J. Robinson, Shawn Vedaa; Citizen Member Shawn Riley

Members absent: Representative Don Vigesaa; Senator Terry M. Wanzek

Others present: Representative Karen M. Rohr, Mandan, member of the Legislative Management
Allen H. Knudson, Legislative Council, Bismarck
See Appendix A for additional persons present.

It was moved by Senator Robinson, seconded by Senator Davison, and carried on a voice vote that the minutes of the June 4, 2020, meeting be approved as distributed.

CYBERSECURITY INSURANCE

Mr. Tag Anderson, Director, Risk Management Division, Office of Management and Budget, presented information (Appendix B) regarding the cybersecurity insurance policy of the state. He said the state has a cyber liability insurance policy that insures all state agencies in the event of a data breach or cyber-related incident, except the Bank of North Dakota, which has its own cybersecurity policy.

Mr. Anderson said the policy provides for $5 million in privacy and security liability coverage with a $250,000 per claim deductible. He said the policy provides a $2.5 million privacy and security breach response coverage with a $25,000 per security breach deductible.

Mr. Anderson said an additional $5 million of coverage with a $250,000 per claim deductible is available for business income and digital asset restoration, cyber extortion, multimedia liability, and payment card industry data security standards. He said costs related to data breaches would be paid from the risk management fund. He said entities responsible for a data breach often are required to notify affected individuals.

In response to a question from Chairman Mock, Mr. Anderson said the policy cost for fiscal year 2021 is approximately $146,000, which will be paid from the risk management fund. He said the cost of coverage is considered when determining the fee charged by the Risk Management Division to state agencies.

In response to a question from Representative Rohr, Mr. Anderson said the state cybersecurity insurance policy and Bank of North Dakota cybersecurity insurance policy do not duplicate each other but it is possible there may be cost-savings realized if the two policies were able to be combined.

In response to a question from Chairman Mock, Mr. Anderson said the Risk Management Division combined other state agency cybersecurity insurance policies into the combined state policy in February 2018.

In response to a question from Representative Bosch, Mr. Anderson said a third-party liability claim often is filed by a citizen when a state agency has citizen data that was compromised in a data breach. He said a first-party liability claim is filed by the Risk Management Division on behalf of a state agency when an agency experiences a data breach. He said the state agency must notify the Risk Management Division so affected parties can be informed of the breach.

In response to a question from Chairman Mock, Mr. Anderson said services such as credit monitoring or identity theft protection can be provided to individuals with breached data if the services are offered as part of the data breach notification with approval from the insurance carrier.

In response to a question from Chairman Mock, Mr. Anderson said the Risk Management Division has paid for the cost of credit monitoring or identity theft protection services only once for third-party claims. He said if a third-party claim is less than $10,000, the Risk Management Division makes the determination if those services will be provided to affected parties. He said for third-party claims of $10,000 or more, the director of the Office of Management and Budget (OMB) and Attorney General make the determination. He said approval from the insurance carrier is needed to provide credit monitoring or identity theft protection services for a first-party claim.

In response to a question from Chairman Mock, Mr. Anderson said industry standards encourage entities to not provide credit monitoring and similar services because data breach victims often can receive free credit monitoring elsewhere, few individuals use the services if offered, and often the services do not provide significant credit mitigation value after a data breach.

In response to a question from Chairman Mock, Mr. Anderson said if a political subdivision experiences a data breach using the statewide technology access for government and education network (STAGEnet), the state is not automatically liable for damages, but the state may have a responsibility to notify affected parties of the data breach. He said if a political subdivision has specific cybersecurity concerns, the state may have an obligation to address those concerns to prevent a data breach.

VENDOR LIABILITY

Mr. Anderson presented information (Appendix C) regarding a bill draft [21.0125.01000] related to vendor liability. He said North Dakota Century Code Section 32-12.2-15 authorizes state agencies to contractually limit the liability of a vendor for indirect loss resulting from the purchase or lease of certain products and services. He said state agencies must consult with the Attorney General's office and OMB regarding any contractual language and potential risk of loss to the state.

Mr. Anderson said the bill draft would allow state agencies to contractually limit a vendor's liability to the state when the potential direct loss is unknown, but the agreed upon amount may not be less than twice the total value of the contract. He said exceptions to this requirement include breach of data confidentiality obligations and personal injury or property damage.

In response to a question from Chairman Mock, Mr. Anderson said while the Risk Management Division has heard liability concerns from information technology (IT) vendors when trying to agree to a contract with the state, the division has been able to address those concerns while complying with vendor liability and contract laws.

Mr. Rod Backman, Deloitte Consulting, LLP, presented information (Appendix D) in support of the proposed bill draft regarding vendor liability. He said Section 32-12.2-15 restricts competition when bidding on state contracts. He said the risk of loss must be considered by a vendor when bidding on a state contract, but if the risk of direct loss is not known, it is difficult to bid on state contracts. He said Deloitte Consulting, LLP, would support a revision to the bill draft to limit direct damages in a contract to not more than twice the total value of the contract rather than not less than twice the total value of the contract.

REPORT FROM THE CHIEF INFORMATION OFFICER

Cybersecurity, Telework, and Digital Government Funding

Mr. Shawn Riley, Chief Information Officer, Information Technology Department, presented information (Appendix E) regarding estimated ongoing costs for the 2021-23 biennium of initiatives implemented with federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding during the 2019-21 biennium and the impact of these costs on Information Technology Department (ITD) charges to state agencies.

Mr. Riley said ITD was authorized $67,618,226 of federal funding from the state's allocation from the federal Coronavirus Relief Fund, of which $17 million is for cybersecurity, $23,868,226 is for telework, and $26,750,000 is for digital government.

Cybersecurity

Mr. Riley said of the $17 million allocated for cybersecurity, $5.6 million is for cybersecurity tools and software, $3.5 million is for professional services for the deployment of the tools and software, $3.5 million is for staff augmentation for cyber operations, $2 million is for third-party incident response to fraud and other pandemic-related cybersecurity issues, $1.6 million is for cybersecurity training and education, and $800,000 is for multifactor authentication costs to eliminate simple phishing attacks.

Mr. Riley said the estimated 2021-23 biennium ongoing costs for cybersecurity is $5.6 million. He said the estimated ongoing costs are related to cybersecurity tools and software licenses purchased. He said ITD will be responsible for the ongoing cybersecurity costs.

Telework

Mr. Riley said of the $23.87 million allocated for telework, $10.52 million is for the cost of purchasing telework equipment, such as computers, conference room equipment, network and server equipment, and hardware for system administration. He said the remaining $13.35 million will be spent on researching ways for state government to work differently as a result of the pandemic ($4.5 million), professional services for enterprise service management software ($4 million), the cost of software licenses and training for remote support tools ($3.2 million), and Microsoft Office 365 licensing expansion to enable telework voice capabilities, improve document management, and enhance data analytics ($1.65 million).

Mr. Riley said the estimated 2021-23 biennium ongoing costs for telework is $2.65 million. He said the estimated ongoing costs are related to the Microsoft Office 365 licensing expansion ($1.65 million), software licenses and training ($750,000), and equipment purchases ($250,000). He said ITD will be responsible for the ongoing costs related to software licenses and training. He said state agencies will be responsible for ongoing costs related to Microsoft Office 365 and equipment purchases.

Digital Government

Mr. Riley said of the $26.75 million allocated for digital government, $11 million is for automation to quickly build software to improve citizen experience, improve business workflow, and provide efficiencies. He said $6 million is for a Coronavirus (COVID-19) unified data platform to reduce or eliminate manual data collection, primarily in State Department of Health systems. He said $5.25 million is for resources to establish an enterprise call center to replace individual agency-specific call centers. He said $4.5 million is for digital services to replace paper and in-person interactions.

Mr. Riley said the estimated 2021-23 biennium ongoing costs for digital government is $3.7 million. He said the estimated ongoing costs are related to the COVID-19 unified data platform ($1.8 million), automation ($1.5 million), and the enterprise call center ($400,000). He said the State Department of Health will be responsible for the ongoing costs of the COVID-19 unified data platform. He said the ongoing costs of automation and the enterprise call center will be the responsibility of state agencies utilizing these services.

Ongoing Costs Summary

Mr. Riley said the total estimated 2021-23 biennium ongoing costs related to cybersecurity, telework, and digital government is $11.95 million, of which $6.35 million will be the responsibility of ITD, $1.8 million will be the responsibility of the State Department of Health, and $3.8 million will be the responsibility of other state agencies.

Mr. Riley said potential options for state agencies to manage ongoing costs include replacing full-time equivalent (FTE) positions with automated processes, eliminating paper and manual processes, reducing travel costs, reducing turnover, and combining commodity services and contracts. He said an additional option is to terminate property leases because it is estimated approximately 40 percent of state employees will continue to work remotely indefinitely. He said ITD estimates remote working results in a productivity increase of 15 percent.

In response to a question from Chairman Mock, Mr. Riley said the ongoing cost estimates are provided only for the 2021-23 biennium. He said these costs will continue in perpetuity or until the technology is replaced. He said because of the rate in which IT software and equipment become outdated, it is possible the cybersecurity, telework, and digital government software and equipment may become obsolete or combined with other software and equipment after the 2021-23 biennium.

In response to a question from Representative Bosch, Mr. Riley said some costs being paid with funding from the state's allocation from the Coronavirus Relief Fund may have been requested from the 2021 Legislative Assembly, but due to the COVID-19 pandemic, these items were needed sooner to address costs incurred as a result of the pandemic. He said of the $5.6 million of ongoing costs for cybersecurity, ITD may have requested approximately $4 million for the 2021-23 biennium if the pandemic did not happen.

In response to a question from Representative Bosch, Mr. Riley said certain state agencies will be responsible for the replacement of telework equipment in future bienniums. He said agencies that pay ITD for desktop support services will have telework equipment replaced by ITD on either a 2-year or 4-year schedule.

In response to a question from Senator Davison, Mr. Riley said none of the funding approved for ITD from the state's allocation from the Coronavirus Relief Fund will be used for employee salaries or bonuses. He said ITD staff were awarded bonuses from ITD's existing salaries and wages budget for additional time worked in response to the COVID-19 pandemic.

Senator Davison and Representative Bosch expressed concern regarding large retention bonuses provided to state employees.

Telework Initiatives

In response to a question from Senator Davison, Mr. Riley said there are human resources concerns related to state employees working remotely because each agency handles human resources topics separately. He said the OMB Human Resource Management Services Division has issued a guidance policy regarding remote working, but each agency can make decisions to either follow the guideline policy or establish a different policy. He said the guidance policy does not provide for the reimbursement of utilities while working remotely or equipment purchased for in-home work.

In response to a question from Chairman Mock, Mr. Riley said while ITD estimates approximately 40 percent of state employees will continue to work remotely permanently, approximately 75 percent of state employees could work remotely permanently in the future. He said because the state spends approximately $20 million a biennium on rent for state employee office space in Bismarck, there are potential cost-savings by terminating property leases.

In response to a question from Senator Davison, Mr. Riley said ITD would like to encourage the concept of "hoteling," which provides for employees to work remotely, but to have a physical state-owned location available for use by multiple state employees when necessary, rather than the state providing a designated physical work space for each employee.

In response to a question from Representative Rohr, Mr. Riley said ITD has staff working in nine states outside North Dakota, including Arizona, Colorado, Idaho, Illinois, Minnesota, Missouri, Oregon, South Carolina, and Texas. He said there are usually only 1 or 2 FTE positions in each state, with the exception of Minnesota which has more. He said state salaries for IT and cybersecurity positions are not competitive with the private sector, resulting in ITD recruiting from other states and allowing the flexibility to work remotely from outside North Dakota. He said ITD generally does not expect these employees to move to North Dakota. He said it is difficult to find qualified IT and cybersecurity professionals in North Dakota. He said because the state does not have a talent office or central recruitment process, it is difficult to attract workers to come to North Dakota.

In response to a question from Representative Weisz, Mr. Riley said the type of positions working outside North Dakota include director level positions, a public information officer, cybersecurity staff, programmers, and other positions.

Chairman Mock expressed concern regarding state employees working remotely from other states with no expectation that the employees relocate to North Dakota.

In response to a question from Chairman Mock, Mr. Riley said he would inform the committee of how many ITD FTE positions are working remotely outside North Dakota and whether they are classified or unclassified and permanent or temporary positions.

Information Technology Department Building

In response to a question from Chairman Mock, Mr. Riley said ITD vacated its building located on Normandy Street in Bismarck in August 2019. He said the building will be available to resume occupancy in late July 2020. He said he does not anticipate ITD will reoccupy the building, instead opting to have employees work remotely permanently.

In response to a question from Chairman Mock, Mr. Riley said telework has resulted in various efficiencies, resulting in ITD exploring options to terminate the department's building lease. He said until the lease is terminated, ITD will continue to pay rent for the building regardless of whether ITD staff occupy the building.

In response to a question from Representative Roers Jones, Mr. Greg Hoffman, Director of Administrative Services, Information Technology Department, said the landlord of the building agreed to pay all construction expenses to fix the building. He said the landlord and ITD agreed any rental expenses incurred by ITD for additional locations leased while ITD staff were displaced from the building would be paid by ITD in lieu of paying the landlord. He said the state has not incurred any additional costs while the building has been under repair.

In response to a question from Chairman Mock, Mr. Riley said of ITD's 402 FTE positions, 1 FTE position is in the building permanently to manage equipment inventory and 17 FTE positions rotate between working in the building and working remotely. He said prior to the COVID-19 pandemic, ITD staff occupied 17 locations in Bismarck.

Coordination of Services

Mr. Duane Schell, Chief Technology Officer, Information Technology Department, presented information (Appendix F) regarding the coordination of services with political subdivisions and the North Dakota University System pursuant to Section 54-59-12. He said ITD has frequent discussions with representatives of the University System and political subdivision regarding IT needs of state and local government agencies.

Mr. Schell said the successful coordination of services is made possible primarily due to STAGEnet. He said services collaborated on with political subdivisions include cybersecurity, the statewide interoperable radio network (SIRN), social services, election systems, and criminal justice information services. He said services collaborated on with the University System include cybersecurity, distance education, and Peoplesoft.

Statewide Interoperable Radio Network

Mr. Schell presented information (Appendix G) regarding the SIRN project, which consists of three phases. He said Phase 1 relates to the SIRN core and public service answering points and includes two groups. He said Phase 2 relates to the SIRN network and towers and includes two groups--one for state towers and one for leased towers. He said Phase 3 relates to SIRN devices and radios.

Mr. Schell said the COVID-19 pandemic has delayed the SIRN project due to travel restrictions, equipment supply delays, and postponement of legal review. He said Phase 1, Group 1 has been delayed 30 days and is estimated to be completed on August 18, 2020. He said Phase 1, Group 2 was not delayed and is estimated to be completed on January 27, 2021. He said Phase 2, Group 1 and Group 2 have been delayed 180 days. He said the Phase 2 estimated completion dates are November 30, 2021, for Group 2 and December 27, 2022, for Group 1.

Mr. Schell said $76.8 million has been obligated for the SIRN project, of which $71.4 million is from state funds and $5.4 million is from local funds. He said $12.3 million of communication service fees have been deposited in the SIRN fund since the creation of the fund in 2017. He said ITD has not borrowed any funding from the Bank of North Dakota, but may do so later in the biennium.

Mr. Schell said through June 2020, seven political subdivisions have submitted reimbursement claims totaling approximately $300,000 for the purchase of personal and vehicular radios.

Mr. Schell said ITD is confident all political subdivisions will participate in SIRN by the end of the project.

In response to a question from Senator Piepkorn, Mr. Schell said ITD estimates the SIRN project will include 136 towers, including leased towers and towers owned by the state.

Automation

Mr. Riley presented information (Appendix H) regarding state government automation initiatives. He said ITD's goal is to automate 20 percent of state government processes, which ITD believes will save the state more than $600 million each biennium in efficiencies and FTE position salary savings. He said the state has approximately $1.09 billion of outdated software technology in 528 applications. He said of these applications, less than 2 percent are designed for mobile usage and less than 16 percent are using cloud hosting or storage.

Mr. Vernon Dosch, Contact Tracer Facilitator, State Department of Health, presented information (Appendix I) regarding state government automation initiatives and possibilities. He said ITD and the State Department of Health collaborated to develop the contact tracing application for COVID-19.

In response to a question from Chairman Mock, Mr. Dosch said the contact tracing application may be used for vaccine and other health-related purposes.

In response to a question from Chairman Mock, Mr. Riley said the biggest challenge of automating state systems and processes is changing culture and perceptions of FTE positions and budgets. He said if an agency has a process automated and realizes efficiencies for certain FTE positions, the expectation is the FTE position can be removed rather than allowing the agency to retain the FTE position and using it for other purposes.

In response to a question from Chairman Mock, Mr. Riley said ITD is working on automation projects in the Department of Transportation, Department of Labor and Human Rights, Department of Human Services (DHS), and

other agencies. He said ITD and DHS have identified more than 250 DHS processes that can be automated. He said many of these projects would have been completed if the COVID-19 pandemic did not happen. He said some of the automation initiatives may be paid using funding from the state's allocation from the Coronavirus Relief Fund.

LARGE PROJECT REPORTING

Department of Transportation

Mr. Brad Schaffer, Director, Driver's License Division, Department of Transportation, presented information (Appendix J) regarding the driver's license project. He said the business process modeling portion of the project was completed on March 30, 2020, at a cost of $216,350. He said the business process modeling project will reduce waiting and processing times and increase availability of services. He said the estimated start time for the motor vehicle and driver's license system implementation portion of the project is September 2020.

Mr. Schaffer said the motor vehicle and driver's license system implementation project budget was increased from $22.5 million to $28.7 million, an increase of $6.2 million related to COVID-19 technology costs. He said the project will include the purchase and distribution of 52 self-service kiosks throughout the state and the creation of a motor vehicle and driver's license mobile application.

Department of Trust Lands

Ms. Jodi Smith, Commissioner, Department of Trust Lands, presented information (Appendix K) regarding the department's IT project pursuant to Section 10 of House Bill No. 1013 (2019). She said the 2017 Legislative Assembly appropriated $3.6 million for an IT system replacement project. She said the current IT system includes data management systems no longer supported by vendors. She said the IT project includes the replacement of all department software and IT equipment, which is being done in coordination with ITD and OMB.

Ms. Smith said major components of the IT project include unclaimed property, financial management and accounting, and land management. She said the unclaimed property system go-live date was April 29, 2019. She said the estimated completion date for the financial management and accounting system replacement is July 2020. She said the land management system should be completed in 2022.

Ms. Smith said the cost of the unclaimed property system replacement was $66,956. She said the cost of the financial management and accounting system replacement was $1,816,657 through June 2020. She said the estimated cost of the land management system replacement is $2,558,085, excluding unknown costs from ITD.

Ms. Smith said the department anticipates an additional $1.6 million will be needed to complete the land management system replacement. She said the department will request a line item transfer during the 2019-20 interim or request additional funding from the 2021 Legislative Assembly for the additional funding needed.

In response to a question from Representative Bosch, Ms. Smith said having department employees working remotely was challenging because surface and mineral leases could not be issued due to current software, processes, and printing requirements. She said department staff cannot properly perform job duties with laptops at home because the screens are too small for the nature of the work performed.

In response to a question from Representative Bosch, Ms. Smith said because the state owns the building in which the department is located, the department does not save money by having staff work remotely. She said of the department's 28 FTE positions, 22 have resumed working onsite.

EDUCATION-RELATED INFORMATION TECHNOLOGY UPDATES

Large Project Reporting

Mr. Darin King, Vice Chancellor of Information Technology/Chief Information Officer, North Dakota University System, presented information (Appendix L) regarding the 2019 fourth quarter summary status report (Appendix M) on large information technology projects.

Mr. King said the facilities asset management information system cloud project, also known as FAMIS, was completed during the fourth quarter of 2019. He said the project was completed at a cost of 20.2 percent more than the original baseline and 0.5 percent more than the revised baseline. He said the project was completed 81.7 percent behind the original baseline schedule and 63.1 percent behind the revised baseline schedule.

Mr. King said the Novelution electronic grants administration project is in green status. He said the project is under budget by 12.4 percent and is on schedule compared to the revised baseline. He said North Dakota State University (NDSU) and the University of North Dakota (UND) went live with the first project module in November 2019 and January 2020, respectively.

Mr. King said the Online Dakota Information Network, also known as ODIN, is in green status. He said the project is under budget by 6.2 percent and is on schedule.

Coordination of Services

Mr. King presented information (Appendix N) regarding the coordination of services with ITD pursuant to Section 54-59-12. He said the University System and ITD have weekly interactions with network teams and frequent meetings with executive teams. In February 2020, he said, the University System and ITD participated in a strategic IT security planning event. He said the University System and ITD intend to participate in an IT and cybersecurty collaboration committee starting in the summer of 2020.

College Scheduler Mobile Application

Mr. King presented information (Appendix O) regarding the development of systems to allow higher education students to register for classes using mobile devices. He said the University System worked with UND and NDSU on a mobile application pilot project called Target - X, which will replace the current mobile application for course registration. He said the University System has deployed the application to all campuses.

STUDY OF BLOCKCHAIN IN STATE GOVERNMENT

Higher Education

Mr. King presented information (Appendix P) regarding blockchain and distributed ledger technology initiatives and possibilities. He said potential areas for the University System blockchain implementation include student records and credentialing, digital rights protection and copyrights, and digital identity. He said challenges of implementing blockchain technology include experiencing significant process changes, creating government regulations, and the creation and modification of technology standards.

In response to a question from Chairman Mock, Mr. King said the University System has not analyzed potential government barriers to implementing blockchain technology for higher education campuses. He said the University System anticipates evaluating blockchain use in higher education within the next 6 to 12 months.

Securities Department

Ms. Karen Tyler, Commissioner, Securities Department, presented information (Appendix Q) regarding the potential for blockchain-related securities fraud and other regulatory concerns related to distributed ledger technology. She said blockchain technology can be used to create and sell a digital asset through a transaction called an initial coin offering or security token offering, which is a new way for businesses to raise capital from investors. She said this type of transaction also is a new way for criminals to steal money from investors.

Ms. Tyler said distributed ledger technology and blockchain can be used in an initial coin offering or security token offering to create virtual coins or tokens, which can be purchased by investors with traditional currency like dollars or digital currency like bitcoin. She said the invested capital often is used to fund development of a digital platform, software, or other project, and the virtual coins or tokens may be used to access these projects. She said after virtual coins or tokens are issued, they may be resold on virtual currency exchanges or other secondary markets. She said when virtual coins or tokens possess the characteristics of an investment contract, they are considered security instruments.

Ms. Tyler said the primary violations associated with raising virtual currency using blockchain have been:

- Failure of a legitimate business to comply with federal or state security laws to register the currency offering or qualify for an exemption from registration; and
- Financial criminals committing fraud on the Internet by exploiting innovation, social media, and investor fears.

Ms. Tyler said when a company issues and sells securities in exchange for investor funds to capitalize a business, there are securities laws that must be followed. She said there have been noncompliance issues associated with initial coin offerings or security token offerings facilitated through blockchain.

Ms. Tyler said blockchain has led to additional investment fraud with virtual currency. In May 2018, she said, United States and Canadian securities regulators started Operation Cryptosweep to address the increase in securities fraud facilitated through blockchain. She said 330 investigations have been completed through June 2020. She said the North Dakota Securities Department participated in 7 of these investigations, which included the department issuing cease and desist orders.

Ms. Tyler said investigating fraudulent initial coin or token offerings are challenging for regulators and law enforcement because a business may not have a physical location, verification of promoter identification is difficult, there often is a lack of bank records and no money trail, there is an inability to seize records or freeze assets, and the fraud may originate from a foreign jurisdiction. She said these challenges make it unlikely investors that are victims of initial coin or token fraud will recover money lost. She said the best defense against this type of fraud is regulatory enforcement actions and education programs, heightened public awareness, and increased investor due diligence.

Ms. Tyler said while existing Century Code provisions appear adequate, five states have enacted legislation to exclude digital instruments not designed as investment contracts from security law regulations. She said eight additional states are considering similar legislation. She said there have been no federal security laws passed that apply to initial coin offerings or security token offerings, but the Securities Exchange Commission has issued guidance for businesses.

In response to a question from Chairman Mock, Ms. Tyler said in the states that have enacted legislation to exclude certain digital instruments from security law regulations, if a citizen had a fraud concern, the concern likely would be addressed in manner similar to other consumer protection concerns with that state's attorney general's office.

Department of Financial Institutions

Ms. Lise Kruse, Commissioner, Department of Financial Institutions, presented information (Appendix R) regarding regulations of virtual currencies and distributed ledger technologies.

Ms. Kruse said virtual currency is a medium of exchange that can operate like currency but does not have all the attributes of traditional currency. She said the Financial Crimes Enforcement Network (FinCEN) is a bureau of the United States Department of the Treasury that collects and analyzes information about financial transactions to investigate financial crimes.

Ms. Kruse said FinCEN treats virtual currency, such as bitcoin or other blockchain-based currency, as traditional currency. She said there are 47 companies in the country that report virtual currency as the primary business activity for the company. She said North Dakota is not 1 of 15 states that regulate virtual currency.

Ms. Kruse said the benefits of virtual currency or blockchain regulation include requiring licenses and registration, net worth minimum and financial soundness, bond requirements, requiring permissible investments to cover outstanding liabilities, and implementing reporting requirements; all of which increase consumer confidence.

Ms. Kruse said the Century Code does not prohibit banks or credit unions from utilizing blockchain technologies. She said the Department of Financial Institutions provides guidance to financial institutions regarding blockchain cybersecurity. She said blockchain for financial institutions is considered a form of money transmission, which is defined in Section 13-09-02 as engaging in the sale or issuance of payment instruments, stored value, or receiving money or monetary value for transmission to locations within or outside the United States.

Ms. Kruse said money transmitters include person-to-person transfers, business-to-business transfers, stored value or prepaid gift cards, and electronic wallet services. She said a money transmitter company must be licensed to hold money for a customer. She said money transmitter companies in North Dakota must register with FinCEN and the Department of Financial Institutions. She said there are 128 companies licensed to conduct money transmissions in North Dakota, but only 1 company is located in the state. She said the only state that does not license money transmitters is Montana.

Ms. Kruse said in October 2017, the Uniform Law Commission issued the Virtual Currency Business Act (VCBA), which covers exchanges, transfers, and certain custodial or fiduciary services and establishes registration and licensing thresholds. She said Rhode Island is the only state that has adopted the VCBA, while Louisiana has adopted a modified version of the VCBA. She said the VCBA does not address permissible investments, so if adopted by North Dakota, current money transmitter laws still would be needed. She said the department does not recommend North Dakota adopt the VCBA.

Ms. Kruse said the Uniform Law Commission is working on the Uniform Money Services Act (UMSA), which will provide guidance for money transmissions, including blockchain, and will provide consumer protection regulation, preserve public confidence, and prevention of unlawful individuals from entering the money services industry. She said the UMSA is more updated than the VCBA, is less burdensome on financial companies, and provides an option to regulate virtual currency.

Ms. Kruse said the UMSA has not been released, but if available by 2021, the department may request the 2021 Legislative Assembly to adopt the UMSA. She said another state considering adoption of the UMSA estimates needing an additional 2.5 FTE positions to implement and monitor virtual currency UMSA regulations.

In response to a question from Senator Piepkorn, Ms. Kruse said the department believes the only legislation necessary for North Dakota which is related to the regulation of money transmissions, including virtual currencies using blockchain, is to adopt the UMSA. She said the department does not anticipate any modification from the UMSA will be necessary.

In response to a question from Chairman Mock, Ms. Kruse said because it is unknown how many virtual currency companies may start doing business in North Dakota if the UMSA were adopted, it is not clear if the department's dues and fees structure could pay for any additional FTE positions approved for the department.

STATE DEPARTMENT OF HEALTH

Vital Records Report

Mr. Darin Meschke, State Registrar/Director, Division of Vital Records, State Department of Health, presented information (Appendix S) regarding an electronic access to vital records report pursuant to Section 7 of House Bill No. 1004 (2019). He said the intent of this section was for the department to implement a program to expand access to vital records either through web access or by kiosks located in at least eight different locations in the state.

Mr. Meschke said Division of Vital Records requests are received through the department's secure web application (51.6 percent), mail (32.5 percent), or in-person (15.9 percent); although in-person requests are not available currently due to the COVID-19 pandemic.

Mr. Meschke said the department has not authorized county issuance of birth records since the mid-1990s. He said allowing county issuance would add costs to the department's budget. He said training county staff would increase security risks related to vital record documents compared to providing services with limited staff in a controlled and secure location in Bismarck.

Mr. Meschke said the most efficient and inexpensive option to increase access to vital records is to expand online ordering. He said the department is working with ITD to identify ways to improve online processes for vital record requests, including adding mobile capabilities to the department's online records system.

Cloud Migration Project

Dr. Tracy Miller, State Epidemiologist, State Department of Health, presented information (Appendix T) regarding the department's cloud migration project. She said the department partnered with Amazon Web Services, Abilis Corp, Sandord Health, and ITD to launch a machine learning pilot project related to influenza burden in North Dakota to determine if machine learning models are an appropriate tool for public health, if data analysis efficiencies can be improved, to better estimate the true influenza burden, and improve the overall health of North Dakotans. She said the pilot project was completed in October 2019.

Dr. Miller said the project led to discussion on the creation of a "data lake," which is a shared source of data, to improve data quality and sharing. She said the next steps for the project include adding additional health care facilities; expanding data sources, documents, and other information in the "data lake," and combining multiple data sets.

No further business appearing Chairman Mock adjourned the meeting at 3:30 p.m.

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Levi Kinnischtzke
Fiscal Analyst

ATTACH:20