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## JUDICIARY COMMITTEE

Thursday, September 24, 2020  
Senate Chamber, State Capitol  
Bismarck, North Dakota

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

**Members present:** Representatives Lawrence R. Klemin, Ruth Buffalo, Karla Rose Hanson, Pat D. Heinert, Mary Johnson, Terry B. Jones, Karen Karls, Jim Kasper, Kim Koppelman, Aaron McWilliams, Bob Paulson, Shannon Roers Jones, Steve Vetter; Senators JoNell A. Bakke, Michael Dwyer, John Grabinger, Diane Larson, Janne Myrdal

**Members absent:** Representative Daniel Johnston; Senator Larry Luick

**Others present:** Representative Karen M. Rohr, Mandan, member of the Legislative Management  
Emily L. Thompson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Representative Roers Jones, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the February 4, 2020, meeting be approved as distributed.**

## JUVENILE JUSTICE STUDY

Chairman Klemin called on Ms. Lisa Bjergaard, Director, Division of Juvenile Services, Department of Corrections and Rehabilitation, for a presentation ([Appendix B](#)) of a report relating to the work of the Commission on Juvenile Justice and proposed amendments ([Appendix C](#)) to the Uniform Juvenile Court Act.

In response to a question from Representative Heinert, Ms. Bjergaard said the majority of the language in the bill draft is existing law or reflects recommendations from best practice manuals in use by the juvenile court. She said a juvenile court director investigates reports from law enforcement officers relating to the actions of a juvenile.

### Committee Discussion

**It was moved by Senator Larson, seconded by Senator Bakke, and carried on a roll call vote that the bill draft [21.0150.02000] relating to juvenile justice be amended as proposed by Ms. Bjergaard.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal voted "aye." No negative votes were cast.

Chairman Klemin said the Commission on Juvenile Justice has worked with legislators and stakeholders throughout the summer to update North Dakota Century Code Chapter 27-20, known as the Juvenile Court Act. He said although the bill appears to include mostly new language, the desire of the commission was to separate Chapter 27-20 into multiple chapters resulting in a reorganization of existing law.

**It was moved by Representative Hanson, seconded by Senator Bakke, and carried on a roll call vote that the bill draft [21.0150.02000], as revised, relating to the Juvenile Court Act be approved and recommended to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal, voted "aye." No negative votes were cast.

Chairman Klemin said the bill draft [[21.0171.01000](#)] relating to a study of the juvenile justice process would continue the committee's study of the juvenile justice system through the 2021-22 interim.

Representative Koppelman said it is very important to continue the study.

Representative Buffalo said she would like the disproportionate number of native youth in the justice system to be part of the continued discussion.

**It was moved by Representative Koppelman, seconded by Representative Jones, and carried on a roll call vote that the bill draft [21.0171.01000] relating to the continuation of the study of the juvenile justice system be approved and recommended to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal, voted "aye." No negative votes were cast.

## **ARTICLE XIV OF THE CONSTITUTION OF NORTH DAKOTA STUDY**

### **Committee Discussion**

Chairman Klemin said the North Dakotans for Public Integrity provided a letter ([Appendix D](#)) in support of the bill drafts presented by Representative Hanson and invited committee members to express their wishes relating to the bill drafts before the committee for consideration.

**It was moved by Representative Hanson, seconded by Senator Grabinger, and failed on a roll call vote that the bill draft [21.0059.01000] relating to rulemaking, complaint procedures, and removal and immunity for the Ethics Commission be approved and recommended to the Legislative Management.** Representatives Buffalo, Hanson, and Kasper and Senators Bakke and Grabinger voted "aye." Representatives Klemin, Heinert, Johnson, Jones, Karls, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Dwyer, Larson, and Myrdal voted "nay."

**It was moved by Representative Hanson, seconded by Senator Grabinger, and failed on a roll call vote that bill draft [21.0060.01000] relating to political advertisements and reporting the ultimate and true sources of funds be approved and recommended to the Legislative Management.** Representatives Buffalo, Hanson, Johnson, and Kasper and Senators Bakke and Grabinger voted "aye." Representatives Klemin, Heinert, Jones, Karls, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Dwyer, Larson, and Myrdal voted "nay."

In response to a question from Representative Vetter, Chairman Klemin said the bill draft [21.0080.02000] relating to written advisory opinions regarding ethics would create a type of safe harbor and protect individuals who follow an advisory opinion relating to an ethics concern.

**It was moved by Senator Dwyer, seconded by Representative Koppelman, and carried on a roll call vote that the bill draft [21.0080.02000] relating to written advisory opinions regarding ethics be approved and recommended to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal voted "aye." No negative votes were cast.

## **REPORTS**

### **Technical Corrections**

Chairman Klemin called on Ms. Emily L. Thompson, Code Revisor, Legislative Council, for a presentation of a bill draft [21.0199.01000] relating to technical corrections to the North Dakota Century Code. Ms. Thompson said the changes in the bill draft are not substantive, but are intended to correct obsolete or incorrect language and cross references. She said the draft includes the following revisions:

- Section 4.1-01-19. The section, relating to the federal environmental law impact review fund, created in Section 4.1-01-21, is referenced twice in Section 4.1-01-10. Section 1 of the draft corrects the inadvertent omission of the word "review."
- Section 10-19.1-115. The section relates to involuntary dissolution under the North Dakota Business Corporation Act. Subsection 2 provides the manner in which a court may grant equitable relief or dissolve a corporation, which includes in an action brought by a shareholder when a corporation's period of duration has expired and an extension has not been granted. Section 10-19.1-115 references the extension provisions provided in Section 10-19.1-124. However, the extension provisions are provided in Section 10-19.1-127. The cross-reference error is corrected in this section of the bill draft.
- Section 15.1-07-33. The section references the North Dakota Educational Technology Council, which was repealed by Senate Bill No. 2215 (2019). The inadvertent failure to remove the reference to the repealed council is corrected in this section of the bill draft.
- Section 23-02.1-27. This section changes the reference to the "department of information technology" to the "information technology department", which is the correct name of the department.

- Section 23-07-07.6. This section references a "significant exposure" as defined in Section 23-07.3-01. However, Section 23-07.3-01 was repealed with the repeal of Chapter 23-07.3 in House Bill No. 1410 (2005). The definition provided in this section mirrors the definition of "significant exposure" provided in Section 23-07.3-01 before that section was repealed.
- Sections 43-17-06, 43-17-14, 43-17-17, 43-17-24, 43-17-25, and 43-17-30. These sections relate to the North Dakota Board of Medicine, which changed the title of the board's secretary-treasurer position to the title of executive director. The changes in these sections update the old position title to the new title of executive director.
- Section 57-07-01.2. The section provides the governor the power to appoint members of certain boards and commissions. Among the boards listed in this section is the state water pollution control board. However, this board was eliminated through the repeal of Section 61-28-03 by Senate Bill No. 2327 (2017). This section of the bill draft removes the reference to the repealed state water pollution control board.
- Section 57-51-16. This section provides the manner in which gross production tax revenue is allocated within counties under certain circumstances. The section directs gross production tax revenue to be allocated within the county in the manner provided in Section 57-51-15(3); however, county allocations are addressed in subsections 4 and 5 of that section as a result of past revision and renumbering of Section 57-51-15. This section of the bill draft corrects the incorrect subsection reference by referencing Section 57-51-15 broadly.
- Section 61-04-06.2. Senate Bill No. 2090 (2019) made various changes to laws pertaining to permits for the appropriation of water, including changing the fund in which application fees related to water use permits are deposited from the water use fund to the resources trust fund. The correction clarifies fees collected related to conditional water permits are deposited in the resources trust fund, rather than the water use fund.
- Section 61-03-05.1. This section of the bill draft repeals Section 61-03-05.1, which inadvertently was not repealed in Senate Bill No. 2090 (2019) and which contains a conflicting requirement to deposit the fees collected under Section 61-04-06.2 in the water use fund, which is no longer used by the State Water Commission.

**It was moved by Representative Karls, seconded by Representative Jones, and carried on a roll call vote that the bill draft [21.0199.01000] relating to technical corrections to Century Code be approved and recommended to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal voted "aye." No negative votes were cast.

### Uniform Laws

Chairman Klemin, Commissioner, North Dakota Commission on Uniform State Laws, presented a memorandum entitled [Recommendations of the North Dakota Commission on Uniform State Laws - 2021 Legislative Session](#) relating to the recommendations of the commission for the 2021 legislative session. He said the commission recommended the Revised Uniform Athlete Agents Act, the Uniform Electronic Wills Act, the Faithful Presidential Electors Act, and the Unclaimed Property Act for introduction during the 2021 legislative session, and one uniform Act, the Uniform Pretrial Release and Detention Act, for the North Dakota Supreme Court to consider adopting the appropriate portions of this Act in the form of court rules.

### Civilly Forfeited Property

Chairman Klemin called on Mr. Troy T. Seibel, Chief Deputy Attorney General, for a report ([Appendix E](#)) on civilly forfeited property. Mr. Seibel said the information in the report is preliminary as some of the data is still being reconciled. He said although nine counties have reported seizing assets, most of the forfeitures are part of the drug task force.

In response to a question from Representative Koppelman, Mr. Seibel said although the Attorney General will attempt to provide a more detailed analysis in the final report, the report is only as good as the data provided.

In response to a question from Senator Dwyer, Mr. Seibel said the Attorney General welcomed the transparency required through the new reporting requirements because the data will dispel many of the misconceptions of law enforcement abuse.

### Human Trafficking Victims Treatment and Support Services Grant Program

Chairman Klemin called on Mr. Seibel for a report ([Appendix F](#)) on the human trafficking victims treatment and support services grant program. Mr. Seibel said this is the 3<sup>rd</sup> biennium the program has been administered and although human trafficking is a statewide issue, the biggest area of concern continues to be Fargo.

In response to a question from Representative Jones, Mr. Seibel said he does not recall receiving applications from any group associated with Native Americans.

In response to a question from Senator Myrdal, Mr. Seibel said the program provides reimbursement grants and requires an organization to submit expenses before any funds are distributed.

### CHARITABLE GAMING STUDY

Chairman Klemin called on Mr. Ryan Taylor, Director of Public Policy, Ducks Unlimited, for a presentation ([Appendix G](#)) relating to modernizing charitable raffles.

Mr. Terry Lassiter, Regional Director, Ducks Unlimited, said the organization relies on volunteers to raise the majority of funds and as a result of the pandemic, it has become nearly impossible to run a raffle.

Chairman Klemin called on Ms. Collette Brown, Executive Director, Gaming Commission, Spirit Lake Casino and Resort, for a presentation (Appendices [H](#), [I](#), and [J](#)) relating to charitable gaming.

In response to a question from Chairman Klemin, Ms. Brown said the Spirit Lake Tribe has sent three letters to the Attorney General relating to the possible violations of the Gaming Compact and has yet to receive a response.

In response to a question from Senator Dwyer, Ms. Brown said she was not aware of the discussion relating to the authorization of electronic pull tabs during the 2017 legislative session.

### CIVIL COMMITMENT STUDY

#### Committee Discussion

Chairman Klemin invited the committee members to express their wishes regarding the bill draft [[21.0038.01000](#)] relating to preliminary treatment and involuntary treatment hearings and references to an individual who is chemically dependent.

Representative Karls said the testimony indicated an issue with a lack of uniformity in how the commitment process is used across the state.

Senator Myrdal said the application of existing law is the issue.

**It was moved by Senator Myrdal, seconded by Senator Dwyer, and carried on a roll call vote that the bill draft [[21.0038.01000](#)] relating to preliminary treatment and involuntary treatment hearings and references to an individual who is chemically dependent be approved and recommended to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal voted "aye." No negative votes were cast.

### COMMITTEE DISCUSSION

Chairman Klemin thanked the committee for their diligence throughout the interim and said although the work of the committee was interrupted by the pandemic, the committee was creative.

**It was moved by Representative Hanson, seconded by Senator Myrdal, and carried on a voice vote that the Chairman and Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.** Representatives Klemin, Buffalo, Hanson, Heinert, Johnson, Jones, Karls, Kasper, Koppelman, McWilliams, Paulson, Roers Jones, and Vetter and Senators Bakke, Dwyer, Grabinger, Larson, and Myrdal voted "aye." No negative votes were cast.

It was moved by Representative Hanson, seconded by Senator Dwyer, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Klemin adjourned the meeting sine die at 1:30 p.m.

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Samantha E. Kramer  
Counsel

ATTACH:10