

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

JUDICIARY COMMITTEE

Tuesday, August 7, 2018
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator David Hogue, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators David Hogue, John Grabinger, Diane Larson; Representatives Roger Brabandt, Lois Delmore, Terry B. Jones, Karen Karls, Lawrence R. Klemin, Kim Koppelman, Jeffery J. Magrum, Luke Simons

Members absent: Senator Janne Myrdal; Representatives Shannon M. Roers Jones and Bernie Satrom

Others present: Representative Corey Mock, Grand Forks, member of the Legislative Management
See [Appendix A](#) for additional persons present.

It was moved by Senator Grabinger, seconded by Representative Delmore, and carried on a voice vote that the minutes of the April 2, 2018, meeting be approved as distributed.

REPORT

Chairman Hogue called on Mr. Jason Wahl, Director, Division of Medical Marijuana, State Department of Health, for presentation of the statutorily required report ([Appendix B](#)) on the number of applicants, registered qualifying patients, and registered designated caregivers, and the nature of debilitating medical conditions.

In response to a question from Chairman Hogue, Mr. Wahl said 3 months have passed since the selection of the manufacturing and distributing facilities. He said the selected facilities are waiting for approval from the respective cities and hope to be operational by the end of the year. He said the average implementation period is 18 to 24 months for states that have adopted similar laws and North Dakota began the process in April 2017.

In response to a question from Representative Klemin, Mr. Wahl said it would be speculative to comment on the future of the medical marijuana program if the measure relating to recreational marijuana passes in November. He said medical programs generally tend to stay intact to allow juveniles to use and possess medical marijuana.

In response to a question from Senator Larson, Mr. Wahl said cities and counties had an opportunity to implement requirements that would have restricted marijuana dispensaries from being located within a city or county. He said the only restriction in Bismarck and Fargo requires a manufacturing facility to be located in an industrial zone.

In response to a question from Representative Koppelman, Mr. Wahl said the unique security concerns relating to the operation of marijuana facilities are addressed in North Dakota Administrative Code. He said because marijuana remains classified as an illegal drug at the federal level, part of the delay in implementation has been because the program required extensive rules to avoid conflict with the federal government.

In response to a question from Representative Mock, Mr. Wahl said the Department of Health has collected \$95,000 in fees. Although there are various fees for dispensaries, manufacturing facilities, and patient registration fees, he said, the fees collected are the nonrefundable application fees from the 19 manufacturing facility applications.

In response to a question from Representative Delmore, Mr. Wahl said although the Department of Health is cognizant of the public's frustration with the limited number of dispensaries, the department is using a phased-in approach based on the amount of product available.

In response to a question from Representative Koppelman, Mr. Wahl said dispensaries will not be allowed to mail medical marijuana to qualified patients and will be required to personally deliver the product to verify the recipient is a registered qualified patient.

COMMENTS BY INTERESTED PERSONS

Sergeant Lyle Sinclair, Bismarck Police Department, provided information ([Appendix C](#)) relating to the use of drug dogs and the legalization of marijuana.

In response to a question from Representative Jones, Sergeant Sinclair said the State Crime Laboratory would have to make a determination as to whether marijuana is medicinal. He said just like tobacco comes in a variety of flavors, the intensity and amount of marijuana varies and would have to be determined in a laboratory rather than in the field.

COMMISSION ON UNIFORM STATE LAWS

Chairman Hogue called on Representative Lawrence R. Klemin, North Dakota Commission on Uniform State Laws, for a presentation ([Appendix D](#)) of the recommendations of the commission for the 2019 legislative session. He said the commission recommended the Uniform Nonparental Child Custody and Visitation Act, the Revised Uniform Law on Notarial Acts, and the Uniform Unsworn Domestic Declarations Act for introduction during the 2019 legislative session, and one uniform Act, the Uniform Family Law Arbitration Act, for the North Dakota Supreme Court Joint Procedure Committee to consider adopting.

TECHNICAL CORRECTIONS BILL DRAFT

Chairman Hogue called on Ms. Vonette J. Richter, Code Revisor, Legislative Council, for presentation of a bill draft [[19.0177.01000](#)] relating to technical corrections to the North Dakota Century Code.

Ms. Richter said the changes in the bill draft are not substantive, but are intended to correct obsolete or incorrect language and cross references. She said several of the sections relate to the rewrite of Title 4 regarding agricultural law. She said section 4 of the bill draft references the term "harm" in relation to the best interest of a child factors used to determine custody and visitation; however, the term is not defined. She said although there are a number of places in Century Code where the term "harm" is not defined, section 3 would be an option to address the missing definition.

Ms. Emily Thompson, Counsel, Legislative Council, said section 9 of the bill draft relates to a bill that provided an exemption for wetland property from the 1985 Legislative Assembly. She said the 1985 bill authorized the treasurer to receive the funding but did not specify the name of the program. She said section 10 removes language relating to income tax exemptions that have expired and section 11 removes references to outdated language relating to the allocation of coal conversion tax revenues.

Ms. Richter said section 12 repeals several provisions. She said North Dakota Century Code Section 4.1-55-22.1 relates to State Fair Association operations and maintenance costs and was inadvertently codified in Chapter 4.1-55. She said Sections 6-09-04, 6-09.11-02, and 61-21.1-02 were inadvertently omitted in the repeal sections of the 2017 agricultural law rewrite bills, and Chapter 4-36 is obsolete and was repealed by 2017 Senate Bill No. 2026. She said Section 15-08.1-09 authorizes a continuing appropriation from the strategic investment and improvements fund and all principal and interest to the common schools trust fund on any loans from the fund to the developmentally disabled loans fund program Nos. 2 and 3. She said the authority ceases when all loans are repaid and because all loans have been repaid, the section is obsolete.

It was moved by Representative Klemin, seconded by Representative Koppelman, and carried on a roll call vote that the bill draft relating to technical corrections to the North Dakota Century Code be approved and recommended to the Legislative Management. Senators Hogue, Grabinger, and Larson and Representatives Brabandt, Delmore, Jones, Karls, Klemin, Koppelman, Magrum, and Simons voted "aye." No negative votes were cast.

BILLS BEFORE THE COMMITTEE FOR CONSIDERATION

At the request of Chairman Hogue, the Legislative Council staff reviewed a bill draft [[19.0040.02000](#)] relating to the possession of firearms. The Legislative Council staff said the amendments are not substantive changes, but amend language to make the sections easier to understand.

Chairman Hogue directed the committee to previously received testimony from Mr. Paul Hamers ([Appendix E](#)) and Mr. James Bardwell ([Appendix F](#)).

In response to a question from Representative Koppelman, Chairman Hogue said the charge of the committee is to review Title 62.1 and make the title more readable and remove any inconsistencies.

It was moved by Representative Karls, seconded by Representative Klemin, and carried on a roll call vote that the bill draft [[19.0040.02000](#)] be amended to replace "or" with "and" on page 6, line 9; replace

"sunrise" with "sunset" on page 6, line 10; replace "sunset" with "sunrise" on page 6 line 10; after "is" insert "only" on page 7, line 30; and at the end of page 8, line 2, insert "The rights and privileges conveyed by a class 1 or class 2 firearm and dangerous weapon license within the state of North Dakota are identical." Senators Hogue, Grabinger, and Larson and Representatives Brabandt, Delmore, Jones, Karls, Klemin, Koppelman, Magrum, and Simons voted "aye." No negative votes were cast.

It was moved by Senator Grabinger, seconded by Representative Klemin, and carried on a roll call vote that the bill draft [19.0040.02000], as amended, relating to the possession of firearms, be approved and recommended to the Legislative Management. Senators Hogue, Grabinger, and Larson and Representatives Brabandt, Delmore, Jones, Karls, Klemin, Koppelman, Magrum, and Simons voted "aye." No negative votes were cast.

At the request of Chairman Hogue, the Legislative Council staff reviewed a bill draft [19.0076.02000] relating to required reports of a child placing agency. The legislative Council staff said the bill removes a requirement for a statement of affidavit confirming the information in the report is accurate.

It was moved by Senator Grabinger, seconded by Representative Klemin, and carried on a roll call vote that the bill draft [19.0076.02000] relating to required reports of a child placing agency, be approved and recommended to the Legislative Management. Senators Hogue, Grabinger, and Larson and Representatives Brabandt, Delmore, Jones, Karls, Klemin, Koppelman, Magrum, and Simons voted "aye." No negative votes were cast.

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

It was moved by Representative Magrum, seconded by Representative Simons, and carried on a roll call vote that the bill draft [19.0095.01000] relating to public notice requirements be amended to remove lines 10 through 30 on page 4 and lines 1 through 10 on page 5. Representatives Brabandt, Jones, Karls, Koppelman, Magrum, and Simons voted "aye." Senators Hogue and Larson and Representatives Klemin and Delmore voted "nay."

Representative Klemin said the discussion relating to notice requirements will be continued during the 66th Legislative Assembly.

Chairman Hogue said the bill represents good policy; however, the majority of people already find information through digital means.

It was moved by Senator Grabinger, seconded by Representative Klemin, and carried on a roll call vote that the bill draft [19.0095.01000] as amended, relating to public notice requirements, be approved and recommended to the Legislative Management. Senators Hogue, Grabinger, and Larson and Representatives Brabandt, Delmore, Jones, Karls, Klemin, Koppelman, Magrum, and Simons voted "aye." No negative votes were cast.

COMMITTEE DISCUSSION

It was moved by Representative Klemin, seconded by Representative Koppelman, 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.

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

No further business appearing, Chairman Hogue adjourned the meeting sine die at 1:40 p.m.

Samantha E. Kramer
Counsel

ATTACH:6