

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### ADMINISTRATIVE RULES COMMITTEE

Wednesday, March 11, 2009  
Brynhild Haugland Room, State Capitol  
Bismarck, North Dakota

Senator Tom Fischer, Chairman, called the meeting to order at 3:00 p.m.

**Members present:** Senators Tom Fischer, John M. Andrist, Jerry Klein; Representatives Randy Boehning, Chuck Damschen, Duane DeKrey, Mary Ekstrom, Chris Griffin, Kim Koppelman, Jon Nelson, Louise Potter, Blair Thoreson, Dwight Wrangham

**Members absent:** Senators Layton W. Freborg, Tracy Potter; Representatives David Drovdal, Rod Froelich

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

**It was moved by Representative DeKrey, seconded by Representative Nelson, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

#### BOARD OF ADDICTION COUNSELING EXAMINERS

Chairman Fischer called on Ms. Anna Johnson, Vice President, North Dakota Board of Addiction Counseling Examiners, for testimony relating to April 2009 rules of the board ([Appendix B](#)).

#### NORTH DAKOTA LOTTERY

Chairman Fischer called on Mr. Randy Miller, Director, North Dakota Lottery, for testimony ([Appendix C](#)) relating to April 2009 rules of the lottery.

Senator Andrist said the rules refer to an automated clearinghouse card and asked what that reference includes. Mr. Miller said an automated clearinghouse card is used to draw funds from a checking or saving account, similar to use of a debit card.

Senator Klein asked if the lottery has a significant number of subscription sales of lottery tickets. Mr. Miller said the subscription sales process began in November 2005. He said approximately 2.5 percent of sales were made through subscriptions. He said uncertainty of whether credit cards could be used led to a decline in sales in December 2008 and subscription sales have been reduced about 2 percent of lottery sales currently.

#### GAME AND FISH DEPARTMENT

Chairman Fischer called on Mr. Paul Schadewald, Game and Fish Department, for testimony ([Appendix D](#)) relating to April 2009 rules of the Game and Fish Department.

#### STATE DEPARTMENT OF HEALTH

Chairman Fischer called on Mr. Tom Bachman, Air Quality Division, State Department of Health, for testimony ([Appendix E](#)) relating to April 2009 rules of the department.

#### WORKFORCE SAFETY AND INSURANCE

Chairman Fischer called on Ms. Anne Jorgenson Green, Staff Counsel, Workforce Safety and Insurance, for testimony ([Appendix F](#)) relating to April 2009 rules of Workforce Safety and Insurance.

Committee counsel said correspondence addressed to the chairman of the Legislative Council was received by the Legislative Council office in October 2008. He said the correspondence was from Mr. Mark Schneider, a Fargo attorney representing several clients before Workforce Safety and Insurance, expressing concerns and objections to the pain impairment rule as proposed by Workforce Safety and Insurance. He said the correspondence contained a substantial amount of material relating to the objections. He asked whether Mr. Schneider's concerns and objections were resolved during consideration of the rules adopted by Workforce Safety and Insurance. Ms. Green said Mr. Schneider expressed his concerns and objections to Workforce Safety and Insurance and the prepared testimony provided to the committee describes those concerns and objections and the response of Workforce Safety and Insurance.

#### BOARD OF VETERINARY MEDICAL EXAMINERS

Chairman Fischer called on Dr. John R. Boyce, Executive Secretary, Board of Veterinary Medical Examiners, for testimony ([Appendix G](#)) relating to April 2009 rules adopted by the board.

#### STATE WATER COMMISSION

Chairman Fischer called on Mr. Gerry Heiser, State Water Commission, for a presentation of testimony ([Appendix H](#)) prepared for State Engineer Dale Frink.

Representative DeKrey said the rules allow the State Water Commission to impose a fee as a noncriminal offense for certain rule violations. He asked how the authority is provided to the State Water Commission to impose these fees and how the fees will be assessed. Mr. Heiser said the Game and Fish

Department has the authority to enforce noncriminal fees for certain violations of rules occurring on sovereign lands and this authority also would apply to the State Water Commission on lands under its control. He said the enforcement methods are being developed. He said the rules relating to fees for violations are consistent with Game and Fish Department rules on violations. He said the State Water Commission also would be able to enter enforcement agreements with any law enforcement entity.

**It was moved by Representative DeKrey, seconded by Representative Nelson, and carried on a voice vote that the meeting be adjourned at 5:00 p.m.**

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John Walstad  
Code Revisor

ATTACH:8