

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

JUDICIARY COMMITTEE

Tuesday, September 18, 2007
Roughrider Room, 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, Randy Boehning, Stacey Dahl, Lois Delmore, Brenda Heller, Joyce Kingsbury, Kim Koppelman, William E. Kretschmar, Jasper Schneider, Lisa Wolf; Senators Tom Fiebiger, Stanley W. Lyson, Carolyn Nelson, Dave Oehlke, Curtis Olafson

Members absent: Senator Dave Nething

Others present: See attached appendix

Representative Shirley Meyer, member of the Legislative Council, was also in attendance.

At the request of Chairman Klemin, committee counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

GAMING COMMISSION STUDY

At the request of Chairman Klemin, committee counsel presented a memorandum entitled [Formation of a North Dakota Gaming Commission - Background Memorandum](#).

Chairman Klemin called on Mr. Keith Lauer, Gaming Division, Attorney General's office, for testimony regarding the Gaming Commission study. Mr. Lauer said the Gaming Commission is made up of five members who are appointed by the Governor, with the consent of the Senate, to three-year terms. He said the Gaming Commission's only statutory duty is to adopt gaming rules. He said the 2007-09 biennial appropriation for the Gaming Commission is \$6,141. He said the 20-member Gaming Advisory Board provides assistance and recommendations to the Gaming Commission and the Attorney General on policy issues and gaming laws and rules. Mr. Lauer provided information regarding the membership of the Gaming Commission, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Mr. Lauer said although the only statutory duty of the Gaming Commission is to adopt rules, the Attorney General takes direction from the Gaming Commission regarding various gaming issues that may arise. He said there was a point in the history of charitable gaming when there was a disagreement between the gaming industry and the Attorney General. He said this disagreement led to the formation of the Gaming Commission. He said the gaming industry now has a very good working

relationship with the Attorney General. He said the Gaming Commission may not be needed as much as it was at the time of its formation.

In response to a question from Representative Kretschmar, Mr. Lauer said the Gaming Commission meets only when necessary. He said the last meeting of the commission was in July 2006. He said the commission's next meeting will be on October 18, 2007.

In response to a question from Representative Delmore, Mr. Lauer said the membership of the commission has been pretty stable. He said most of the members have served five to seven years. He said there are no restrictions on the number of terms a member may serve.

In response to a question from Representative Boehning, Mr. Lauer said there are 15 employees in the three divisions--investigations, auditing, and tax returns--of the Gaming Division of the Attorney General's office.

In response to a question from Senator Olafson, Mr. Lauer said consistency and accountability have not been a problem in the charitable gaming industry in the state. He said racing, charitable gaming, and the lottery are very different and distinct areas of gaming.

In response to a question from Senator Nelson, Mr. Lauer said because of the uniqueness of each type of gaming and because the commission members of each type of gaming in the state serve in a part-time capacity, it would be difficult for the members of a single gaming commission to have the expertise necessary to regulate all three types of gaming.

Chairman Klemin called on Mr. Chuck Keller, Director, North Dakota Lottery, for testimony regarding the Gaming Commission study. Mr. Keller said the first game of the North Dakota Lottery was launched in March 2004. He said the North Dakota Lottery employs eight full-time and two part-time employees. He said the North Dakota Lottery has the smallest staff of any lottery in the Western Hemisphere, but it is one of the most profitable. He said the five-member Lottery Advisory Commission meets at least once per quarter. He said the Lottery Advisory Commission provides an independent perspective to the Attorney General and the lottery director. He said although the role of the commission is advisory only, the Attorney General and the director rarely fail to concur or at least seriously consider the recommendations of the

advisory commission. He said the commission is involved in proposed new laws and other issues and makes recommendations regarding promotions, vendors, and advertising. He said the fact that the North Dakota Lottery is doing very well is due in large part to the interaction with the Lottery Advisory Commission. Mr. Keller distributed information regarding the lottery, including the critical success factors of the North Dakota Lottery, copies of which are on file in the Legislative Council office.

In response to a question from Senator Olafson, Mr. Keller said he would provide information to the committee at its next meeting on the regulatory differences among the different forms of gaming in the state.

In response to a question from Representative Kretschmar, Mr. Keller said although the amount varies by game, lottery winnings are about 50 percent of the amount of lottery ticket sales. He said he would provide a breakdown of those amounts at the next meeting. He said the North Dakota Lottery also transfers \$400,000 to the compulsive gambling prevention and treatment fund each biennium. He said there is an informal 12-member retailer advisory board that provides feedback at the retailer level on proposed game changes, promotions, and other issues.

In response to a question from Representative Klemin, Mr. Keller said the Lottery Advisory Commission receives the results of the annual audit of the lottery which is conducted by the State Auditor's office. He said the role of the Lottery Advisory Commission in the audit process is to receive the audit report and then make recommendations to the Attorney General and the director regarding any issues that are included in that report. He said so far there have not been any issues raised in the audit reports which needed to be addressed.

Representative Delmore said the clean audit reports speak to the integrity of the lottery and the lottery director.

Chairman Klemin called on Mr. Randy Blaseg, Director, North Dakota Racing Commission, for testimony regarding the Gaming Commission study. Mr. Blaseg said the Racing Commission is the regulatory body in charge of regulating live and simulcast racing in the state. He said the commission is a member of the Association of Racing Commissioners International, an organization that monitors racing on both a national and international level and is constantly creating and modifying rules for the regulation and improvement of racing. He said the organization has a national data base for use in seeking individuals who may have a ruling against them. He said this information may have a bearing on a person's ability to be licensed in North Dakota.

Mr. Blaseg said the Racing Commission's primary responsibilities are to regulate live and simulcast races as well as to license all of the participants, including simulcast service providers, tote operators, simulcast site operators, live track providers, simulcast

employees, and live racing participants, including owners, trainers, and jockeys. He said because racing deals with live horses, qualified veterinarians are hired to ensure the safety of the animals. He said certified stewards are needed for the regulation of the races. He said the winners of all races are tested for drugs to assure the integrity of racing. He said one of the most important areas of regulation is to protect the interest of the parimutuel wagers. He said audits, investigations, and inspections of the parimutuel facilities are done for the protection of those wagering in our state. He said compliance with the state's laws and rules is of utmost importance to the commission. He said parimutuel wagering is the driving force that supports the live horse racing industry in North Dakota. Mr. Blaseg submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Delmore, Mr. Blaseg said members of the Racing Commission are prohibited from serving consecutive terms. He said the commission refers audit discrepancies to the Attorney General's office.

In response to a question from Senator Olafson, Mr. Blaseg said there is no interaction in this state between racing and the two types of gaming.

In response to a question from Representative Klemin, Mr. Blaseg said the commission could benefit from a member being allowed to serve more than one term. He said allowing consecutive terms would allow for more expertise on the commission. He said racing is unlike any other kind of gaming. He said the law provides that one of the Racing Commission members must be chosen from a list submitted to the Governor from the various horse-related organizations. He said the remaining four members of the Racing Commission are selected at large by the Governor.

In response to a question from Representative Meyer, Mr. Blaseg said the dues paid to the Association of Racing Commissioners International are based upon a percentage of the handle. He said the dues were about \$5,000 last year. Representative Meyer said she understood that the dues were about \$11,000 last year.

In response to a question from Representative Klemin, Mr. Blaseg said the Association of Racing Commissioners International works to attain continuity in racing rules, such as rules regarding the medications for horses.

In response to a question from Representative Boehning, Mr. Blaseg said all horse racing in North Dakota is charitable gaming.

In response to a question from Representative Wolf, Mr. Blaseg said the Racing Commission's biennial budget is about \$400,000.

In response to a question from Senator Lyson, Mr. Blaseg said the new administrative rules would be finalized by January 1, 2008. Senator Lyson said the committee should receive a copy of the commission's administrative rules.

In response to a question from Senator Nelson, Mr. Blaseg said the membership of the Racing Commission includes several members whose families have been involved in horse racing. He said the membership also includes a veterinarian and two attorneys.

Representative Meyer said there are concerns and frustrations from the horse industry about the composition of the Racing Commission and the lack of interest and knowledge of racing of the members. She said putting more people from the horse industry on the commission would be an improvement.

Chairman Klemin called on Mr. Kurt Luger, Executive Director, North Dakota Indian Gaming Association, regarding the Gaming Commission study. Mr. Luger said the tribal casinos have a good relationship with the Attorney General's office. He said gaming is a very complicated and unique industry with a lot of money involved. He said the tribes strive to be compliant with the requirements set forth in the gaming compacts. He said the Attorney General's office has been extremely professional and consistent in its understanding of tribal gaming. He said he could not think of anything that needs to be improved with respect to the tribes' relationship with the Attorney General's office. He said each type of gaming industry in the state is so very unique.

In response to a question from Representative Kretschmar, Mr. Luger said the tribal-state gaming compacts provide for certain compliance checks to be done by the state. In North Dakota, he said, those checks are done by the Attorney General's office.

Chairman Klemin called on Mr. John Val Emter for testimony regarding the Gaming Commission study. Mr. Emter expressed concerns about the gaming activities at the tribal casinos.

COMMITTEE DISCUSSION

Chairman Klemin said the committee should receive information from Mr. Keller regarding the regulatory differences among the different forms of gaming in the state. He said the committee should receive information from Mr. Blaseg regarding the term limits of members of the Racing Commission and the new administrative rules for racing.

Representative Meyer said the term limit on a commission member is the only check and balance imposed on the Racing Commission. She said the Racing Commission is a two-person office and a five-member commission with a \$400,000 budget. She said the commission is not answerable to anyone.

Representative Kretschmar said he would like to see the Racing Commission answerable to some governmental entity.

Representative Wolf said advisory boards can be crucial to the success of programs. She said advisory boards are usually made up of persons who are directly involved in the activity.

In response to a question from Representative Wolf, Representative Meyer said as she recalls, the Racing Commission was removed from the Attorney

General's office due to the conflict of interest that arises when the same agency must promote and regulate the industry. She said the Racing Commission is the only commission on which the people in the industry are prohibited from serving.

Chairman Klemin requested that a bill draft be prepared to make the Gaming Commission solely an advisory board. He said the bill draft should give the Gaming Commission's rulemaking authority to the Attorney General and that the authority of the Gaming Commission should be similar to that of the Lottery Advisory Board.

Chairman Klemin requested that a bill draft be prepared to restore the authority over the Racing Commission to the Attorney General.

ABSTRACTERS, TITLE OPINIONS, AND TITLE INSURANCE STUDY

At the request of Chairman Klemin, committee counsel presented a memorandum entitled [Abstracters, Title Opinions, and Title Insurance - Background Memorandum](#).

Chairman Klemin called on Mr. Grant Shaft, State Bar Association of North Dakota, for testimony regarding the abstracters, title opinions, and title insurance study. Mr. Shaft said he has been in practice as an attorney since 1986. He said title insurance was unheard of in North Dakota at that time. He said only abstracters and title opinions were used. He said a change in lending policies regarding the sale of loans on the secondary market has resulted in the increased use of title insurance. He said the out-of-state companies that are buying the loan want title insurance, not just an opinion of a local law firm. He said title insurance is issued in about 98 percent of all real estate transactions in eastern North Dakota.

Mr. Shaft said North Dakota's method of assuring title, which requires an abstract of title and a title opinion before the issuance of title insurance, provides North Dakotans title assurance that is of the best quality at the lowest cost and in the most efficient manner. He said Minnesota, which does not require an abstract or a title opinion before the issuance of title insurance, has a higher title insurance claims rate than North Dakota. He said North Dakota should continue to require title opinions before title insurance may be issued. He said the methods used in Minnesota to conduct searches are inconsistent and have resulted in increased title insurance claims. He said a county tax title does not make the title marketable. He said examining a title is an acquired skill that should be done by an attorney. He said the method used in North Dakota works well and is cost-effective. He said most of the opposition to the process used in North Dakota comes from the out-of-state transactions. He said North Dakota should not follow Minnesota's example.

In response to a question from Representative Meyer, Mr. Shaft said the current state of the law is

that an updated abstract and a title opinion are required before title insurance may be issued. He said local customs in some counties provide for a different process but those practices are in violation of state law.

In response to a question from Senator Olafson, Mr. Shaft said advances in technology have allowed for some electronic access to records. He said Grand Forks County was forced to recreate records by using a document imaging process after many records were destroyed or damaged by the 1997 flood. He said the ability to access records electronically will spread statewide eventually. He said it is much more cost-effective for the larger counties to convert records to digital images than it is for the smaller counties. He said the title search process that took several weeks in the 1980s can now be done in one to three days.

Chairman Klemin called on Ms. Phyllis Sutherland, President, North Dakota Land Title Association, for testimony regarding the study. Ms. Sutherland said the association was surprised that Senate Bill No. 2217 was amended to provide for this study; however, the association is confident the study will validate the role of the abstractor in the orderly and efficient transfer of real property. She said abstractors are professionally trained in the research of real estate records and are the first line of defense in assuring good title. She said abstractors are required to pass an intensive exam that is drafted by and administered by the North Dakota Abstractors' Board of Examiners, the members of which are appointed by the Governor. She said it is a difficult test to pass. She said certified abstractors are required to complete 18 hours of continuing education every three years in order to retain their licenses. She said abstractors are professional, key players in the title industry. She said abstractors provide the expertise to thoroughly research land records and prepare the abstracts of title upon which attorneys rely in their examination and preparation of title opinions.

Ms. Sutherland said the law that requires an updated abstract and a title opinion issued by an attorney before title insurance may be issued has been a source of controversy because some interested persons want a short path to title insurance. She said these interested persons believe the law should be modified to eliminate either the requirement for the abstractor or the title opinion or both. She said it is undeniable that the combination of title work prepared by a licensed abstractor and the examination by a North Dakota attorney is the magic that results in relatively trouble-free titles in North Dakota. She said some individuals believe that the title insurance agents, their employees, or other unlicensed persons are capable of doing the research and examination required to write quality title insurance. She said the reason some want to use this circumvented method is to help the consumer because it will be faster and cheaper. She said this faster and cheaper service will result in incorrect data and damage to the consumer. She said while defects

can be corrected later, those corrections come at added cost and frustration to the consumer. She said all of those added costs and frustrations can be avoided if the proper research and examination process are done. She said "faster-cheaper-better" is not always the most accurate and efficient way to conduct a title search. She said North Dakota Century Code (NDCC) Sections 43-01-15.1 and 43-01-16 provide for penalties for abstractors who do not complete their work in a timely manner. She said an uncertified title researcher is not subject to the statutory fee schedule and may charge as much as the market will bear. She said any argument that abstracting fees cost the consumer more money is unfounded, especially if an unregulated, nonprofessional search results in a defective title. She said North Dakota has some of the lowest title insurance claims due to its certified search and examination procedures. She said there is a misconception that there are only a few states that require title evidence from a title plant as a prerequisite to title insurance. She said there are approximately 18 plant states, including South Dakota, which have very rigid, similar requirements dictating that title insurance may be produced only when title evidence is obtained from a title plant. She said several states do not have the title plant requirement to issue title insurance. She said those states may have higher title research and examination fees and higher title insurance premiums than North Dakota as well as greater incidences of claims. She said the North Dakota Land Title Association believes the committee should investigate the motives of the critics of Section 26.1-20-05. She said there may be a self-serving interest in eliminating the abstractors and attorneys from the title insurance process. She said if the desire is truly to benefit the consumer, due caution should be used before any changes are recommended. She said the current system has been used over a long period of time and has been tested, refined, and improved as technology has advanced. She submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Ms. Sutherland said an abstract plant is a complete set of records and a complete set of transactions. She said each abstract office has its own set of records which are a duplicate of the county recorder's records.

In response to a question from Representative Dahl, Ms. Sutherland said a defective title results in additional attorney's fees and recording costs for the consumer.

In response to a question from Representative Meyer, Ms. Sutherland said an abstract company must meet certain requirements, including having a set of its own records. She said an abstract company also must have a certificate of authority to operate.

In response to a question from Representative Kretschmar, Ms. Sutherland said there is an average of one abstract company per county. She said some

of the larger counties have more than one company. She said having abstract fees set by statute is a way of protecting the consumer due to the lack of competition. She said the statutory fees are maximums.

Chairman Klemin called on Mr. Dean Rindy for testimony regarding the study. Mr. Rindy said he has been practicing law for over 20 years and is licensed in North Dakota and Minnesota. He said 2005 Senate Bill No. 2082 established the circumstances under which an abstracting company may operate in another county. He said the fees charged for abstracting services should not be regulated by statute. He said due to the lack of competition, there may have been a need in the past to regulate fees, but that regulation is no longer needed. He said technology has changed the way abstracters do their work. He said all real estate records in Richland County have been digitally imaged. He said digital image signatures allow for the digital recording of signatures. He said this study will put the issue of eliminating the abstractor and title opinion requirements to rest. He said insurance rates are based upon risk. Risk in North Dakota, he said, is low due in large part to the requirement of abstracts and title opinions. He said North Dakota has one of the lowest title insurance rates and claims rates in the country. He said he would suggest further changes be made to NDCC Section 26.1-20-05 which are similar to those proposed in 2007 Senate Bill No. 2218. He said out-of-state title insurance companies will write title insurance on any title evidence. He said there is a difference between marketable title, one which is free of defects, and insurable title, one which the insurance company will insure in spite of defects. He said inferior work done now causes problems later. He said the result of eliminating the process currently being used in North Dakota will be the erosion of the quality of title over time. He said when that happens, title insurance companies will either raise rates or get out of the title insurance business in the state. He said title insurance companies do not use an abstract and therefore are not limited to statutory fees. He said about 70 percent of his real estate transactions is done in North Dakota and about 30 percent in Minnesota. He said the number of problems with the Minnesota transactions versus the North Dakota transactions is about 20 to 1.

In response to a question from Representative Meyer, Mr. Rindy said if an abstractor company that has a certificate of authority to do abstract work in another county is not getting the work done in a timely manner, the company can be put "on the clock" by the Abstracters' Board of Examiners. He said two weeks is considered timely.

Senator Lyson said Williams County agreed to take on the abstractor work of Dunn County when Dunn County was without an abstractor. In response to Senator Lyson, Mr. Rindy said Williams County should work with the Abstracters' Board of Examiners to get abstracts done in a timely manner.

Chairman Klemin called on Mr. Steve Tomac, Farm Credit Services, for testimony regarding the study. Mr. Tomac said Farm Credit Services is the major agricultural real estate lender in the state. He said the agency has over \$1 billion in outstanding real estate loans. He said for the state to move forward, modernization must take place. He said there are two abstract offices in the state without fax machines. He said a timely service is important. He said not every abstract office has competition and not all abstract offices have an attorney. He said North Dakota consumers do not have a choice. He said the requirement of an updated abstract and a title opinion before the issuance of title insurance is a double cost to consumers. He said consumer expectations have changed. He said the abstractor fees should be regulated by statute because of the lack of competition in most counties. He said Farm Credit Services' interest is to get a timely turnaround on the real estate transactions.

In response to a question from Senator Oehlke, Mr. Tomac said a license is required to sell title insurance. He said a 2004 study of title insurance rates indicated that the rates were about 76 cents per acre in South Dakota and Montana and about \$1.08 per acre in North Dakota. He said title insurance is a one-time, upfront premium. He said a lender's policy provides a guarantee to the lender against title defects. He said an owner's policy protects the owner while the owner owns the land.

In response to a question from Senator Olafson, Mr. Tomac said there is a need for North Dakota to digitize and modernize its system. He said North Dakota cannot be an island to those who do business around us. He said there must be a quick turnaround time in order to get rate locks for the customers.

In response to a question from Representative Klemin, Mr. Tomac said very little title insurance is sold in the rural areas. He said Grand Forks County is the only county that is totally online. He said the county recorders have a system called "INRED." He said about 20 counties participate in this system which, for a subscription fee, allows for access of the records of the participating counties. He said the records, however, only date back to 1995.

Chairman Klemin said that Mr. Robert Stroup, who was unable to attend the meeting, submitted written testimony regarding this study. A copy of Mr. Stroup's testimony is on file in the Legislative Council office.

Chairman Klemin called on Mr. Emter for testimony regarding the study. Mr. Emter expressed concerns about the fairness of the title search process.

COMMITTEE DISCUSSION

Chairman Klemin said the committee should receive more information regarding Mr. Rindy's suggestion to provide for a definition of title evidence. He said a representative of the Abstracters' Board of Examiners should be invited to discuss the statutory requirements of abstractors.

Chairman Klemin said the committee should receive information from the County Recorder's Association regarding its electronic record network.

Chairman Klemin said the committee should receive information from the Insurance Department regarding title insurance, including the licensing of agency, educational requirements, and continuing education requirements.

Chairman Klemin said the committee should invite Mr. Stroup to discuss some of the issues raised by Mr. Stroup in his letter to the committee.

STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION SYSTEM STUDY

At the request of Chairman Klemin, committee counsel presented a memorandum entitled [Establishing a Statewide Automated Victim Information and Notification System - Background Memorandum](#).

Chairman Klemin called on Ms. Pam Schafer, Information Technology Department, for testimony regarding the statewide automated victim information and notification system study. Ms. Schafer said in December 2006, the Information Technology Department submitted an application to the federal Bureau of Justice Assistance for a federal grant for a statewide automated victim information and notification (SAVIN) system. If the grant is awarded, she said, the department will work to implement the program authorized by 2007 House Bill No. 1219. She said the awarding of the grant is conditioned upon a dollar-for-dollar match. She said the update to the Supreme Court's USIS system qualifies as an in-kind match. She said she has been in contact with the Bureau of Justice Assistance and it appears very likely that North Dakota will receive the grant. She said notification regarding the status of the grant should be received within a few weeks. Ms. Schafer submitted information regarding the grant application, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Klemin, Ms. Schafer said the Information Technology Department will not be moving forward on the statewide automated system until the grant is awarded. She said the Supreme Court received an appropriation in the 2007 legislative session to update the USIS system.

COMMITTEE DISCUSSION

Chairman Klemin said the committee should receive an update from Ms. Schafer at its next meeting regarding the status of the SAVIN grant application.

CRIME VICTIMS COMPENSATION FUNDING STUDY

At the request of Chairman Klemin, committee counsel presented a memorandum entitled [Crime](#)

[Victims Compensation Funding - Background Memorandum](#).

Chairman Klemin called on Mr. Dave Krabbenhoft, Department of Corrections and Rehabilitation, for testimony regarding the crime victims compensation funding study. Mr. Krabbenhoft distributed information regarding the claims for compensation and the amount of expenditures of the crime victims funding program. He said the crime victims funding program has always exceeded its budget. He said the point in the biennium at which the program depletes its funds has been occurring earlier and earlier each biennium. He said the 2007 Legislative Assembly gave the department a one-time appropriation of \$500,000 to help the program get current with its bills. He said the state's sources of funding for the crime victims compensation program include Roughrider Industries, from which 5 percent of the income is deposited into the crime victims compensation fund, and offender supervision fees. He said the program also receives about \$150,000 to \$200,000 per biennium in federal funds through the federal Victims of Crime Act (VOCA). He said the program is important and the department would like to see it adequately funded. He said the program needs about \$1 million per biennium to be adequately funded. A copy of the information distributed by Mr. Krabbenhoft is on file in the Legislative Council office.

In response to a question from Representative Boehning, Mr. Krabbenhoft said one of the major causes of the increase in violent crime in the state is alcohol abuse.

In response to a question from Senator Olafson, Mr. Krabbenhoft said assessing fees to offenders is one way to fund programs, such as the crime victims compensation program. He said, however, offenders rarely have the money to pay the fees. He said everything that can be done to get offenders to pay for victims' programs is being done.

In response to a question from Representative Klemin, Mr. Krabbenhoft said the additional \$500,000 that was appropriated to the program was the result of funding designated for a drug treatment pilot project. He said the pilot project fell through, making the money available for the crime victims compensation program.

In response to a question from Senator Fiebiger, Mr. Krabbenhoft said he would provide information on whether there have been any victims who had received \$25,000, which is the maximum amount that can be paid under the program.

Chairman Klemin called on Ms. Bonnie Palecek, Executive Director, North Dakota Council on Abused Women's Services and the Coalition Against Sexual Assault in North Dakota, regarding the crime victims compensation funding study. Ms. Palecek said it is important that this fund is solvent. She said the money may be paid out in small amounts, but for each victim, that amount of money is important. She said the fund helps domestic violence victims pay for medical treatment, counseling, and lost wages. She

said medical costs, especially for head injury cases, can be very high. She said the program has negotiated with medical providers to accept payment of 80 percent of the billed services. She said the medical providers often must wait until the next biennium to receive payment. She said it has been over 10 years since there has been an increase in the funding for the program. She said the program has been sliding further and further into the red. She said the state needs to make an investment of general fund dollars. She said there are many offender fees being assessed and more were added in 2007. She said her organization would provide any information the committee may need. Ms. Palecek provided written testimony, a copy of which is on file in the Legislative Council office.

Representative Delmore said the state needs to address victim needs as much as offender needs.

In response to a question from Representative Boehning, Ms. Palecek said society has a responsibility to make victims whole. She said there have been requests made to the Department of Corrections and Rehabilitation in the past to include crime victim funding in the Governor's budget. She said this study has put the issue on the radar. She said there are charitable contributions that are used to provide emergency assistance funds to victims. She said charitable contributions are not enough and do not provide consistency.

In response to a question from Representative Boehning, Ms. Palecek said it will take two years for the matching VOCA funds to respond to the one-time, \$500,000 appropriation that was made in 2007.

Chairman Klemin called on Mr. Emter for testimony regarding the crime victims compensation funding study. Mr. Emter expressed concerns about the need for increased funding.

COMMITTEE DISCUSSION

Chairman Klemin said the committee should receive the following information from the Department of Corrections and Rehabilitation: a list of offender fees, the efforts made to use offender assets to help victims, information regarding VOCA funding, and a comparison of offender funding versus victim funding.

AUCTIONEER PRACTICES AND LAWS STUDY

At the request of Chairman Klemin, committee counsel presented a memorandum entitled [Review of Laws and Practices of the Sale of Real Estate by Auctioneers - Background Memorandum](#).

In response to a question from Representative Meyer, committee counsel said there are concerns in the auction industry regarding the auction procedure used when selling multiple parcels of land. She said the concern arises when the high bidder is given the first option to buy any or all of the parcels for the high bid price.

COMMITTEE DISCUSSION

Representative Kretschmar requested that a bill draft be prepared which is based upon South Dakota Administrative Rule 20:69:06:07 regarding the sale of multiple parcels of land.

Chairman Klemin said the committee should receive information from the Public Service Commission regarding auctioneers, including the reason why auctioneers are licensed by the Public Service Commission, auctioneer licensing requirements, whether there have been any license revocations, and surety bond requirements for auctioneers.

OTHER BUSINESS

Representative Koppelman said the Council of State Governments will be holding a meeting in Bismarck on June 22-24, 2008. He said the meeting will involve representatives of all three branches of state government and will address interbranch issues.

No additional business pending, Chairman Klemin adjourned the meeting at 3:45 p.m.

Vonette J. Richter
Committee Counsel

ATTACH:1