

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### JUDICIARY COMMITTEE

Tuesday, January 10, 2012  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Dave Nething, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dave Nething, Jim Dotzenrod, David Hogue, Stanley W. Lyson, Carolyn C. Nelson, Curtis Olafson, Margaret Sitte; Representatives Stacey Dahl, Lois Delmore, Dennis Johnson, Joyce Kingsbury, Lawrence R. Klemin, Kim Koppelman, William E. Kretschmar, Andrew Maragos, Gary Paur

**Members absent:** Senator Mac Schneider; Representative Steven L. Zaiser

**Others present:** Representative Jerry Kelsh, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

Chairman Nething said that the minutes of the July 26, 2011, meeting will be corrected to reflect that the last paragraph on page 5 reads as follows: "Senator Hogue said one of the common complaints is that certain establishments are attracted to certain public-spirited organizations and, consequently, were able to crowd out other organizations.

In response to a question from Senator Hogue, Ms. Tesky said the bar owners have free choice to select the gaming organizations they want in their establishments."

Chairman Nething said the minutes of the July 26, 2011, meeting are approved as revised.

#### JUVENILE COURT JURISDICTION STUDY

Chairman Nething called on Judge William Herauf, Chairman, Juvenile Policy Board, for comments regarding the proposed juvenile transfer process. Judge Herauf said as the board attempted to prepare a bill draft regarding extended juvenile jurisdiction, a number of problems with the issue became evident. He said there are only about six automatic transfer cases per year. He said the board questioned how often such a law would be used. He said the board did not see an extended juvenile jurisdiction process as something that would be used on a consistent basis. He said the board is not in a position to draft the legislation but would be willing to comment on any bill draft that the committee may take under consideration.

In response to a question from Representative Koppelman, Judge Herauf said the board started a bill draft, but the bill draft is far from completion. He said the bill draft raised so many additional concerns that the board will not have time to complete the bill draft.

He said he could summarize the board's concerns and provide that information to the committee.

In response to a question from Representative Paur, Judge Herauf said when reviewing the extended juvenile jurisdiction laws of other states, Montana law seemed to be a better fit for North Dakota than Minnesota law. He said although the Montana law may be a better fit for North Dakota, there are problems making the Montana law work as well.

Chairman Nething called on Ms. Haley Wamstad, Assistant State's Attorney, Grand Forks County, Grand Forks, for testimony ([Appendix B](#)) regarding the juvenile court jurisdiction study. Ms. Wamstad said extended juvenile jurisdiction is an extra tool that enables the court to impose juvenile or adult sanctions, or both, on certain juvenile offenders. She said this extra tool provides a middle ground between overpunishment and underpunishment in juvenile court. She said under North Dakota's current transfer statute--North Dakota Century Code Section 27-20-34--there are certain offenses which are mandatorily transferred to adult court, such as certain gross sexual imposition offenses, drug offenses, and murder. She said this mandatory transfer provision takes away the ability of the juvenile court to assess what type of treatment or rehabilitation is best for the child, but rather deems the mere commission of these offenses an automatic transfer to adult court upon a showing of probable cause. She said extended juvenile jurisdiction is an extra tool the juvenile court can use to assess each case individually. Rather than sending a child directly to adult court, she said, the extended jurisdiction would give a child one last chance for treatment in juvenile court before facing the significant sanctions of adult court. She said the juvenile court would have the ability to first attempt to treat the child in juvenile court. Then, after a period of time, she said, if juvenile court determined that the disposition attempted was not successful, the juvenile court could revoke that disposition and sentence the child as an adult.

Ms. Wamstad said she disagrees with the conclusion of the Juvenile Policy Board. She said in the board's consideration of this matter, the board looked at the number of cases that are transferred to adult court. She said while that number may be small, the state should not legislate only for the masses. She said the state does not have many murder cases, but the state has a murder statute. In addition, she said, extended juvenile jurisdiction would affect many cases beyond just those that transfer to adult court. She said

it would also provide prosecutors with an extra tool to use for those cases that are not automatic transfers to adult court. She said extended juvenile jurisdiction could be used to give a child one last chance in adult court or to provide prosecutors with the ability to continue to treat a child if they have failed to comply with the juvenile court order, rather than allowing them to age out of the system.

Ms. Wamstad said as a juvenile prosecutor, one of the heaviest burdens she faces is the decision of whether a child should be charged as a juvenile or as an adult for an offense they committed as a child. She said a juvenile prosecutor also has to consider public safety and whether a juvenile court disposition would be enough to fully treat the child's needs. She said extended juvenile jurisdiction would give juvenile prosecutors the ability to wait and see--to first give the child the opportunity to be treated as a juvenile and then impose the adult sentence if what can be provided in juvenile court is not enough. She said she would encourage the committee to support and recommend legislation on extended juvenile court jurisdiction. She said in the Juvenile Policy Board's review of this matter, Mr. Jim Ganje, staff attorney, State Court Administrator's office, drafted a proposed bill. She said Mr. Ganje's bill draft is an excellent proposal. She said it is unfortunate that the Supreme Court has a policy that prohibits juvenile court officers from testifying before the committee. She said juvenile court officers are the people who work with the juveniles every day and are the people that know our current system best.

In response to a question from Representative Koppelman, Ms. Wamstad said the state should keep the automatic transfer provision. She said, however, the extended juvenile jurisdiction transfer process would go beyond the six cases that were cited. She said extended juvenile jurisdiction would address the category of cases which involves children who "age out" of the system before getting treatment. She said she would provide assistance to the committee. She said most states have some type of extended juvenile jurisdiction.

In response to a question from Representative Paur, Ms. Wamstad said extending the maximum age for juvenile court jurisdiction is one alternative. She said, however, under extended juvenile jurisdiction, if the child is approaching his or her 20<sup>th</sup> birthday and still needs treatment, extended juvenile jurisdiction would allow the court to extend jurisdiction over that child until he or she receives treatment or until the child has complied with the juvenile court sentence.

In response to a question from Senator Olafson, Ms. Wamstad said she has discussed extended juvenile jurisdiction with other state's attorneys, but formal conclusions have not been reached. She said it is a narrow and specific issue. She said unless a prosecutor works with these cases on a regular basis, it is difficult to understand the problem.

In response to a question from Senator Nething, Ms. Wamstad said she would be willing to work with other interested persons to provide a proposed bill draft

to the committee. She said she would use Mr. Ganje's proposed bill draft as a starting point.

Chairman Nething called on Mr. Ganje to discuss the proposal he drafted. Mr. Ganje said the bill draft is based on 2011 Senate Bill No. 2305. He said it appears that Senate Bill No. 2305 was modeled after Minnesota law. He said, however, the Minnesota law on extended juvenile jurisdiction appears to be based upon Montana law. He said Senate Bill No. 2305 would have required a jury trial for juveniles in certain cases. He said a jury trial in juvenile court would be difficult. He said juvenile court is intended to be a rehabilitative process rather than a punitive process. He said a jury trial process in juvenile court would change the process so much that the current juvenile court process would not be able to accommodate it.

In response to a question from Senator Nething, Mr. Ganje said the Juvenile Policy Board's primary concern is that there is not a sufficient need in the state to warrant the change. He said the extended juvenile jurisdiction process would require considerably more judge time. He said under the proposed process, all jury trial protections would apply in a juvenile case. He said the board feels such a change is not warranted at this time. He said the entire juvenile court system would have to be reconfigured to handle a few cases.

Chairman Nething said he would like to hear testimony at the next meeting from juvenile court officers regarding the need for extended juvenile jurisdiction.

In response to a question from Representative Dahl, Mr. Ganje said Ms. Wamstad's proposal sounds like something less than extended juvenile jurisdiction but more than we have now. He said he is not sure what a middle ground might be.

In response to a question from Senator Sitte, Mr. Ganje said abolishing mandatory sentencing would undo the work of a 1990s task force work that put mandatory sentencing in place. He said that sentencing was put in place following a crime by a juvenile that involved egregious circumstances.

Chairman Nething called on Mr. Aaron Birst, North Dakota Association of Counties, for testimony regarding the juvenile justice jurisdiction study. Mr. Birst said the issues raised in Senate Bill No. 2305 may have merit but were not ripe at the time. He said the process proposed in the bill was flawed and needed further study. He said Ms. Wamstad is the only state's attorney in the state who has contacted him regarding the issue. He said the current process is clean--the case is either in juvenile court or it is in adult court. He said Ms. Wamstad's proposal would be a hybrid that would give a juvenile a possible adult sentence if the juvenile fails to comply with a juvenile sentence.

In response to a question from Senator Olafson, Mr. Birst said from a prosecutor's perspective, more discretion is considered a good thing. He said there is currently some flexibility for prosecutors regarding juvenile cases, but there are certain offenses for which the case is not permitted to be kept in juvenile court. He said he will have more discussions with other state's

attorneys around the state to get more input on the issue.

Chairman Nething said he would like the committee to continue to work with Ms. Wamstad and others to come up with a middle ground to improve the situation and the prosecution of these issues.

Ms. Wamstad said she would work with Mr. Ganje, Mr. Birst, and committee counsel to develop a proposal by April.

### **UNIFORM LAW RECOMMENDATIONS**

Chairman Nething called on Mr. Jay E. Buringrud, Commissioner, North Dakota Commission on Uniform State Laws, for testimony ([Appendix C](#)) regarding the commission's recommendations for the 2013 legislative session. Mr. Buringrud said the commission meets during the annual meeting of the National Conference of Commissioners on Uniform State Laws and determines which uniform or model Acts to recommend to the next session of the Legislative Assembly. He said as the result of its meeting on July 11, 2011, the commission determined that the following uniform Acts may be appropriate for recommendation to the Legislative Management for introduction during the 2013 legislative session:

- Uniform Electronic Legal Material Act, approved by the national conference in 2011.
- Uniform Certificate of Title for Vessels Act, approved by the national conference in 2011.
- Model Protection of Charitable Assets Act, approved by the national conference in 2011.
- Uniform Collaborative Rules/Law Act, approved by the national conference in 2009 and amended in 2010.

Mr. Buringrud said the commission will be distributing these Acts to interested parties for review before making a final recommendation to the Judiciary Committee. He provided the committee a copy ([Appendix D](#)) of the Uniform Electronic Legal Material Act. He said there are concerns about online-only published materials and whether the online version is the official text. He said this Act would provide that if a state only publishes online, the state must verify the publication's accuracy, the online publication must be preserved, and it must be accessible to the public.

Representative Kretschmar said there may be more uniform law recommendations to present to the committee after the commission's summer 2012 meeting.

### **REVISED UNIFORM LIMITED LIABILITY COMPANY ACT STUDY**

Chairman Nething called on Mr. Alvin A. Jaeger, Secretary of State, for testimony ([Appendix E](#)) regarding the status of the Revised Uniform Limited Liability Company Act study. Mr. Jaeger said little has changed regarding the Revised Act since he appeared before the committee on July 26, 2011. He said there are still only six jurisdictions that have adopted the Revised Act, and in those jurisdictions, the Revised Act

has been adopted with many amendments. He said his counterparts in Minnesota have indicated that they did not expect any action to be taken on the Revised Act by the Minnesota Legislature during the 2012 session. He said it continues to be the recommendation of Mr. William L. Guy III and his office that North Dakota not move ahead on the Revised Act until it is more widely accepted in other states, especially in Minnesota.

In response to a question from Representative Koppelman, Mr. Jaeger said the premise of the Revised Act is to provide uniformity from state to state. He said a number of states have rejected the Revised Act since last July. He said North Dakota has a history of keeping its limited liability company law updated. The current law is working well, he said, and the state is recognizing limited liability companies from other states.

### **UNIFORM ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS ACT STUDY**

Chairman Nething called on Mr. Tom Trenbeath, Deputy Attorney General, Attorney General's office, for the presentation of information ([Appendix F](#)) regarding the projected costs of implementing the Uniform Electronic Recording of Custodial Interrogations Act. Mr. Trenbeath said the estimated cost of implementing the uniform Act on a statewide basis would be about \$7.5 million not including maintenance. He said while some law enforcement agencies may have some of this equipment, they may not have both audio and video. He said the cost estimate is based on the assumption that no law enforcement agency has any of the required equipment. He said in addition to the cost of equipment, law enforcement agencies may not have sufficient physical space to meet the requirements of the uniform Act.

Chairman Nething called on Mr. Birst for testimony ([Appendix G](#)) regarding the uniform Act. Mr. Birst said the conclusion among the state's attorneys in the state regarding this uniform Act is that mandating such a practice will result in more, not less, litigation and will result in extra costs for both law enforcement and prosecutors. He said for these reasons the North Dakota State's Attorneys Association does not support the uniform Act that was the basis of this study. He said imposing a "one size fits all" solution could result in the erosion of an officer's flexibility in doing his or her job.

In response to a question from Senator Nething, Mr. Birst said there is not a need for this uniform Act in North Dakota.

Chairman Nething called on Mr. Fritz Fremgen, North Dakota State's Attorneys Association, for testimony regarding the uniform Act. Mr. Fremgen said the uniform Act raises the issue of whether there is respect for law enforcement in the state. He said juries in this state respect law enforcement. He said the uniform Act seems to say that the recording must be

done at the police station; however, a custodial interrogation often takes place in the field. He said this leads to the question of what is a "fixed location." He said there are also concerns about the costs of audio and video equipment, the quality of the recordings, the consequences of having equipment fail, and the verification of whether a duplicate copy of a recording is an exact duplicate.

In response to a question from Senator Nething, Mr. Fremgen said as a whole, state's attorneys in the state do not like this uniform Act. He said recordings are important in some cases like domestic violence cases. He said while recordings are good in some cases, there should not be a mandate to record in all cases. In most cases, he said, the Jamestown area law enforcement officers carry recording equipment. He said the Highway Patrol does not require officers to carry recording equipment.

Chairman Nething called on Mr. Jeff Ubben, Assistant State's Attorney, Burleigh County, for testimony regarding the uniform Act. Mr. Ubben said the intent of the uniform Act is good but may have unintended consequences. He said the uniform Act is neither practical nor necessary for law enforcement or prosecutors. He said the result of this uniform Act may be that justice is denied for crime victims.

In response to a question from Senator Hogue, Mr. Ubben said the uniform Act provides that law enforcement is required to comply with the requirements of the uniform Act, and if law enforcement does not comply, the use of the recording may be denied.

Senator Hogue said a judge can give instructions to a jury on what to consider and can suppress a confession. He said he does not believe the uniform Act would result in a lot of suppression motions for noncompliance with the uniform Act.

Chairman Nething called on Sheriff Pat Heinert, Burleigh County, for testimony regarding the uniform Act. Sheriff Heinert said Burleigh County has recording equipment. He said Burleigh County does not have the physical space to add an interrogation room. He said every bed in the county's facility is in use. He said the problem is not just the cost but also the physical space.

In response to a question from Representative Koppelman, Sheriff Heinert said recording equipment does not always work in the field. He said there are instances in which this uniform Act would interfere with the way interrogations are handled in his office. He said he is concerned with the technicalities this uniform Act would create.

In response to a question from Senator Nething, Sheriff Heinert said the concerns he expressed are with respect to his department, not other law enforcement agencies.

Mr. Michael J. Ness, President, North Dakota Peace Officers Association, provided written testimony ([Appendix H](#)) regarding concerns with the uniform Act.

Mr. William Vandal, Chief, North Dakota State University Police Department, Fargo, provided written testimony ([Appendix I](#)) in opposition to the uniform Act.

## CHARITABLE GAMING ORGANIZATION ELIGIBILITY REQUIREMENTS STUDY

At the request of Chairman Nething, Ms. Missy Tesky, Licensing Administrator, Attorney General's office, provided to the committee a list ([Appendix J](#)) of organizations licensed in the state to conduct charitable gaming.

Chairman Nething called on Mr. John Harris, President and Chief Executive Officer, Prairie Public Broadcasting, for testimony ([Appendix K](#)) regarding the organization's purpose as it relates to charitable gaming. Mr. Harris said Prairie Public Broadcasting's first gaming site opened in October 1981. Since that time, he said, gaming has been and continues to be an essential supporting revenue source for the operation of the company's media services. He said while gaming revenue does not cover all expenses, it provides an important part in completing the picture for support from other sources. He said gaming is a source of revenue that allows Prairie Public Broadcasting to continue to provide robust, valuable services to homes, schools, and workplaces across the state.

In response to a question from Senator Nething, Mr. Harris said Prairie Public Broadcasting has numerous gaming sites around the state, including sites in Bismarck and Fargo. He said the games conducted at the sites include pull tabs, blackjack, and bingo.

Chairman Nething called on Mr. Marvin Knutson, Milnor Bison Booster Club, Milnor, for testimony ([Appendix L](#)) regarding the organization's primary purpose as it relates to charitable gaming. Mr. Knutson said the booster club is organized to help support student activities in the community and school. He said the organization operates under the rules of gaming to the best of its ability and would be very disappointed if a decision is made to not let the organization continue to operate.

Chairman Nething called on Mr. Steve Kottsick, Minot Junior Golf Association, Minot, for testimony regarding the organization's primary purpose as it relates to charitable gaming. Mr. Kottsick said the Minot Junior Golf Association provides opportunities for youth in the community. He said the Minot Junior Golf Association, through charitable gaming, is able to provide lessons and equipment to help teach golf to the children of the Minot area. He said the program is a way to nurture children and to help them learn a lifetime game. He said the organization is continually looking for sources of funding to operate the program. He provided information (on file in the Legislative Council office) regarding the Minot Junior Golf Association's program.

In response to a question from Representative Klemin, Mr. Kottsick said the organization has five charitable gaming sites in Minot and one outside city limits. He said the games include blackjack, pull tabs, bingo, and pig wheel. He said not all games are played at every site.

In response to a question from Representative Kretschmar, Mr. Kottsick said children aged 12 and under are eligible to participate in the program. Without charitable gaming, he said, the organization could not operate all the youth programs that are being offered.

In response to a question from Representative Klemin, Mr. Kottsick said the organization tries to use all of the gaming revenue for children's programs or needs. In 2011, he said, the organization paid \$46,000 to the park board; \$10,000 to junior bowling; \$1,500 to the Minot High School golf team; \$500 to the Minot exceptional children program; \$5,000 to the Minot Fire Department for Christmas gifts for underprivileged children, as well as funding for the American Red Cross and other community programs.

In response to a question from Representative Delmore, Mr. Kottsick said the organization has received great community support. He said about \$25,000 has been spent to clean the silt off the courses. He said about \$75,000 will be spent to get the course ready for use in 2012.

In response to a question from Representative Kelsh, Mr. Kottsick said the organization makes more on charitable gaming than it pays in gaming taxes. He said the recently enacted gaming tax breaks will be very helpful.

In response to a question from Representative Klemin, Mr. Kottsick said the Minot Junior Golf Association is a 501(c)(3) organization.

Chairman Nething called on Mr. Keith Lauer, Gaming Division, Attorney General's office, for testimony regarding charitable gaming regulation costs. Mr. Lauer said as a result of changes in the gaming tax structure which were passed in 2011, the tax revenue to the state will be reduced from about \$16 million per biennium to just over \$9 million per biennium. He said gaming regulation costs are about \$2.2 million per biennium.

In response to a question from Senator Nething, Mr. Lauer said many of the tribal gaming compacts are eligible for renewal this year. He said the compacts have possible five-year extensions.

In response to a question from Representative Maragos, Mr. Lauer said there are more than 300 charitable gaming organizations in the state. He said the types of licensed organizations include 20 charitable, 31 civic and service, 6 educational, 28 fraternal, 46 public safety, 3 religious, 131 public-spirited, and 55 veterans' organizations.

In response to a question from Senator Dotzenrod, Mr. Lauer said about \$510,000 is paid to local governments for enforcement costs. He said the law requires that an organization must have been regularly and actively fulfilling its primary purpose within the state during the two years immediately preceding its application for licensure.

Ms. Tesky said when reviewing gaming license applications, the Attorney General's office looks at the definition of public-spirited organization and whether the organization meets those requirements. She said the Attorney General's office has never had to revoke a

license due to the failure to continue to meet the definition of a public-spirited organization.

## STATUTE OF LIMITATIONS AND VENUE REQUIREMENTS FOR CIVIL ACTIONS STUDY

At the request of Chairman Nething, committee counsel reviewed a bill draft [\[13.0024.01000\]](#) that would change the statute of limitations on civil actions from six years to three years. She said the bill draft provides that the Act would apply to causes of action accruing after July 31, 2013.

Chairman Nething called on Mr. Jeff Weikum for testimony regarding the bill draft. Mr. Weikum said he opposes the bill draft. He said the current six-year statute of limitations law works, and it aids in reaching a compromise in cases. He said shortening the statute of limitations would push cases into litigation and would take away the time for compromise. He said he also practices law in Montana and South Dakota--both of which have a three-year statute of limitations. He said his cases have a higher percentage of litigation in those states.

In response to a question from Representative Kretschmar, Mr. Weikum said the statute of limitations in motor vehicle claims is four years beyond the last payment of medical claims. He said a change in the civil action statute of limitation to three years would make the situation untenable if the three-year statute of limitations preceded the four-year statute of limitations on the motor vehicle accident claims.

In response to a question from Senator Olafson, Mr. Weikum said there was a concern that the state's longer statute of limitations leads to venue or forum shopping by residents of other states. He said the North Dakota Supreme Court addressed that issue in a recent decision on proper venue.

Chairman Nething called on Mr. Alan Austad, Executive Director, North Dakota Association for Justice, for testimony ([Appendix M](#)) regarding the bill draft. Mr. Austad said members of the association are trial lawyers. He said the bill draft is a bill in search of a problem. He said the United States Chamber of Commerce ranks North Dakota as second in the nation for having the best lawsuit climate for business in the country. He said there is no good legal reason to change the law. He said the two issues raised by the proponents of the idea--to bring North Dakota into the mainstream and to provide parties with finality--are not legal reasons to change a law that has served North Dakota well for over 100 years.

In response to a question from Representative Dahl, Mr. Austad said there is little data available on the number of claims which are filed after the statute of limitations expires. He said Kansas is the only state that does a valid job of tracking such cases.

Chairman Nething called on Mr. Larry Boschee, North Dakota Defense Lawyers Association, for testimony regarding the bill draft. Mr. Boschee said the association supports this bill draft for three reasons--to

prevent stale claims, to help prevent forum shopping, and to bring North Dakota into the mainstream. He said most cases are brought within two to three years, but some are brought just within the six-year limitation. He said it is likely in those cases that a law enforcement claim was not made, and there are no longer witnesses available. He said it may then take two more years before the case goes to trial. He said there are 35 nonresident asbestos cases in Grand Forks County which were filed by out-of-state plaintiffs. He said even though Minnesota has the same statute of limitations as North Dakota, North Dakota may be a more desirable venue because cases can get to trial faster in North Dakota.

Mr. Boschee said only three states--North Dakota, Minnesota, and Maine--have a six-year statute of limitations on civil actions. He said if a state does not have the discovery rule, like Maine, it makes more sense to allow more time in its statute of limitations to file an action. He said 16 states have a three-year statute of limitations; 27 states have a two-year statute of limitations; and 2 states have a one-year statute of limitations.

In response to a question from Senator Olafson, Mr. Boschee said most of the asbestos cases brought by out-of-state plaintiffs were brought by the same attorney and have been distributed among Ward, Burleigh, Cass, and Grand Forks Counties.

In response to a question from Senator Hogue, Mr. Boschee said Maine is an oddity that it does not have a discovery rule. He said most states have an outer limit on the discovery rule. He said North Dakota has an outer limit on medical malpractice cases.

In response to a question from Representative Delmore, Mr. Boschee said about 20 percent of cases are brought in the last year of the six-year limitations period. He said most cases are brought within the first two years. He said most of the cases brought in the last year of the six-year limitations period lack merit. He said the statute of limitations for claims against the state is three years. He said it seems appropriate that the statute of limitations for private actions would be the same.

In response to a question from Representative Klemin, Mr. Boschee said in a sense it could be forum shopping for in-state residents to sue in a different county to get a better outcome.

In response to a question from Representative Kelsh, Mr. Boschee said a shorter statute of limitations would require people to bring legitimate suits earlier.

In response to a question from Senator Nelson, Mr. Boschee said the state does bear the costs of cases filed in the state by out-of-state residents. He said, however, that the same applies when a North Dakota plaintiff files a case in another state.

In response to a question from Senator Hogue, Mr. Boschee said the privileges and immunities clause

of the Constitution of the United States would apply if North Dakota said out-of-state residents cannot sue in North Dakota.

Chairman Nething called on Mr. Pat Ward, Bismarck, for testimony regarding the statute of limitations bill draft. Mr. Ward said he represents Property Casualty Insurers Association of America. He said his position is similar to the testimony Mr. Paul Sanderson provided to the committee at its July 26, 2011, meeting. He said cases filed at the end of the statute of limitations period tend to be those cases that the lawyer wished he or she had not taken. He said the good cases are pushed because they make money. He said reducing the statute of limitations to three years would not increase the number of cases. He said those cases filed late in the statute of limitations period often get dropped or are settled for a minimal amount. He said changing the law will not change whether or not North Dakota is a better place for business. Rather, he said, it will just get cases moving more quickly.

## COMMITTEE DISCUSSION

Representative Klemin said he would like a bill draft that addresses venue requirements. He said the bill draft should amend Section 28-04-05 to change the last sentence of that section to provide that if none of the defendants reside in the state, the action must be brought in the county in which the plaintiff resides.

Chairman Nething said the committee will receive a final update on the status of the Revised Limited Liability Company Act before the end of the interim.

Chairman Nething said no further action will be taken on the Uniform Electronic Recording of Custodial Interrogations Act. He said final action on the study will be addressed at a future meeting.

Chairman Nething said the committee will receive information on the status of the gaming tax changes at a future meeting.

Chairman Nething said the committee may receive information at a future meeting on the issue of a recent federal ruling on Internet gambling. He said there is another issue relating to a federal ruling on states' criminal statutes relating to rape which may be discussed at a future meeting. He said he would discuss the issues with the chairman of the Legislative Management.

No further business appearing, Chairman Nething adjourned the meeting at 2:30 p.m.

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Vonette J. Richter  
Committee Counsel

ATTACH:13