

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

### Minutes of the

## ADMINISTRATIVE RULES COMMITTEE

Tuesday, June 11, 2019  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Bill Devlin, Josh Boschee, Kim Koppelman, Mike Schatz, Mary Schneider, Nathan Toman; Senators Howard C. Anderson, Jr., Joan Heckaman, Jerry Klein, Curt Kreun, Scott Meyer, David S. Rust

**Members absent:** Representatives Scott Louser, Brandy Pyle, Robin Weisz; Senator Nicole Poolman

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

**It was moved by Senator Klein, seconded by Representative Rust, and carried on a voice vote that the minutes of the March 15, 2019, meeting be approved as distributed.**

### RETIREMENT BOARD

Chairman Devlin called on Mr. Scott Miller, Executive Director, Public Employees Retirement System, for testimony ([Appendix B](#)) regarding the rules of the Retirement Board carried over from the March 15, 2019, meeting.

In response to a question from Representative Koppelman, Mr. S. Miller said it would be decades before the fund has a surplus. He said the board may consider adopting rules to address the return of a fund surplus.

### COMMISSIONER OF AGRICULTURE

Chairman Devlin called on Ms. Melanie Gaebe, Policy and Research Analyst, Department of Agriculture, for testimony ([Appendix C](#)) regarding the rules of the Agriculture Commissioner.

In response to a question from Representative Koppelman, Ms. Gaebe said the revisions in the rules are the result of departmental restructuring.

### ATTORNEY GENERAL (LOTTERY)

Chairman Devlin called on Mr. Randy Miller, Director, North Dakota Lottery, for testimony ([Appendix D](#)) regarding the July 2019 rules of the lottery.

In response to a question from Senator Klein, Mr. R. Miller said in 2016, the lottery had all-time record sales of \$35.6 million. He said the sales for the fiscal year ending June 30, 2019, are expected to be near \$35 million, which would be the lottery's second highest sales year. He said the large jackpots for Mega Millions and Powerball contributed to the higher sales over the past year. He said the advent of electronic pull tabs in the state has had little effect on lottery sales. He said pull tabs and the lottery have a different player base.

### HIGHWAY PATROL

Chairman Devlin called on Ms. Jackie Darr, Motor Carrier Permit Supervisor, Highway Patrol, for testimony ([Appendix E](#)) regarding the July 2019 rules of the Highway Patrol.

### SUPERINTENDENT OF PUBLIC INSTRUCTION

Chairman Devlin called on Mr. Jim Upgren, Assistant Director, Office of School Approval and Opportunity, Department of Public Instruction, for testimony ([Appendix F](#)) regarding the July 2019 rules of the Superintendent of Public Instruction.

In response to a question from Senator Rust, Mr. Upgren said fewer than 10 principals in the state have a Level II credential. He said because those Level II principals will be grandfathered in under the new rules, those principals will not be affected by internship requirements.

In response to a question from Senator Heckaman, Mr. Upgren said the cost of the principal mentoring program is expected to be about \$4,500 per year. He said federal grants are expected to cover about two-thirds of the cost. He said the responsibility for the remaining \$1,500 is a local school district decision. He said it is likely the school district will assume that cost.

### **PUBLIC SERVICE COMMISSION**

Chairman Devlin called on Mr. John Schuh, Legal Counsel, Public Service Commission, for testimony ([Appendix G](#)) regarding the July 2019 rules of the Public Service Commission.

In response to a question from Senator Rust, Mr. Schuh said the Public Service Commission recognizes the need for balance when it comes to the siting of infrastructure. He said with commercial-scale energy development, there can be competing interests among the rights of the developing property owner, interests of the developing company, environmental concerns, and the avoidance areas with an environmental impact. He said the commission also may consider the effects on agricultural production, land suitable for irrigation, and agricultural quality of cropland, and the effects on family farms and ranches. He said the rules allow for flexibility to consider a project while retaining the authority to address the concerns through the siting process.

In response to a question from Senator Heckaman, Mr. Schuh said some counties may keep databases on land identified as prime farmland.

### **REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD**

Chairman Devlin called on Mr. Corey Kost, Vice Chairman, North Dakota Real Estate Appraiser Qualifications and Ethics Board, for testimony ([Appendix H](#)) regarding July 2019 rules of the board.

In response to a question from Representative Koppelman, Mr. Kost said the board thought the change in the qualifications of board members to require at least two of the three qualified real estate appraisers to be certified appraisers would create a board with more real world appraisal experience and a broader experience base. He said to assist the board in covering educational review costs, the board increased the apprentice fee from \$100 to \$300 per year and added a nonpermitted appraiser educational review fee of \$300. He said the \$300 for nonpermitted appraisers was added because North Dakota does not require a permit while getting appraisal experience. He said the fee is an attempt to spread the cost of education review for nonpermitted appraisers so the licensed and permitted appraisers are not bearing the cost.

In response to a question from Representative Koppelman, Mr. Kost said a federally related transaction is any transaction insured by the federal government. He said the term does not include Fannie Mae and Freddie Mac transactions. He said a small percentage of federally related transactions are single family transactions. He said the transactions are more likely to be commercial and farmland appraisals. He said Title XI of the Federal Financial Institutions Reform, Recover, and Enforcement Act of 1989 gave the Appraisal Foundation the responsibility for establishing, improving, and promoting minimum uniform appraisal standards and appraiser qualifications criteria. He said the federal law requires all state trainee, licensed, and certified appraisers to meet the minimum education, experience, and examination requirements set by the Appraisal Qualifications Board of the Appraisal Foundation. He said because all states must meet the minimum requirements set by the Appraisal Qualification Board, the state board determined the best route would be to incorporate the *Real Property Appraiser Qualification Criteria and Interpretation of the Criteria*, May 2018 edition, by reference.

Senator Klein said it is refreshing to hear the board is working to remove barriers to licensure.

**It was moved by Representative Koppelman, seconded by Representative Schneider, and carried on a roll call vote to add the following sentence to the rules to North Dakota Administrative Code Sections 101-02-02-03(4), 101-02-02-05(3), and 101-02-02-05.1(3): These requirements may be found in the Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, Effective May 1, 2018, appraiser qualifications board, appraisal foundation.** Representatives Devlin, Boschee, Koppelman, Schatz, Schneider, and Toman and Senators Anderson, Jr., Heckaman, Klein, Kreun, Meyer, and Rust voted "aye." No negative votes were cast.

No further business appearing, Chairman Devlin adjourned the meeting at 11:15 a.m.

---

Vonette J. Richter  
Legal Division Director

ATTACH: 8