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## GOVERNMENT ADMINISTRATION COMMITTEE

Tuesday, September 14, 2021  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Randy A. Burckhard, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Randy A. Burckhard, Jerry Klein, Scott Meyer, Erin Oban; Representatives Glenn Bosch, Jared C. Hagert, Karla Rose Hanson, Pat D. Heinert, Karen Karls, Jim Kasper, Lawrence R. Klemin, Ben Koppelman, Todd Porter, Shannon Roers Jones, Dan Ruby

**Member absent:** Representative Rick Becker

**Others present:** Representative Kim Koppelman, Fargo, member of the Legislative Management  
Representative Jon O. Nelson, Rugby  
John Bjornson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

Mr. Alex Cronquist, Senior Fiscal Analyst, Legislative Council, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

### STUDY OF ATTORNEY AND LEGAL-RELATED POSITIONS IN STATE GOVERNMENT

Mr. Cronquist presented a memorandum entitled [Study of Attorney and Legal-Related Positions in State Government - Background Memorandum](#), regarding the committee's assigned study of the feasibility and desirability of consolidating attorney and legal-related positions in state government. He noted Workforce Safety and Insurance (WSI), the Department of Transportation (DOT), the Tax Commissioner, the Public Service Commission, the Insurance Commissioner, the Agriculture Commissioner, and the Securities Commissioner may employ attorneys to represent them.

Mr. Troy Seibel, Chief Deputy, Attorney General's office, presented information ([Appendix B](#)) regarding attorney and legal-related positions in state government, including special assistant attorneys general authorized by the Attorney General. He noted the Attorney General's office employs 41 assistant attorneys general, 8 paralegals, and 8 administrative assistants. He noted other state agencies employ nearly 30 special assistant attorneys general, including 8 at the Department of Human Services and 6 at WSI.

Mr. Doug Goehring, Agriculture Commissioner, presented information ([Appendix C](#)) regarding the need of the Agriculture Commissioner to employ an attorney. He indicated an attorney is needed for technical competence in regulatory enforcement, grain inspection, contract law, licensing, food safety, and other areas. He noted the legal needs of the Agriculture Commissioner have increased with changes in statutory responsibilities assigned to the agency.

In response to a question from the committee, Mr. Goehring indicated the assistant attorney general previously employed by the Attorney General's office and assigned to the Agriculture Commissioner was hired by the Commissioner to fill the new attorney full-time equivalent (FTE) position authorized by the 2021 Legislative Assembly.

Ms. Terra Miller Bowley, Deputy Director for Administration, Department of Transportation, presented information ([Appendix D](#)) regarding the need of the department to employ an attorney. She indicated DOT has two special assistant attorneys general who provide full-time, non-litigation legal services to the department. She noted DOT also employs three full-time and five part-time temporary administrative hearing officer positions, who are all

licensed attorneys, who conduct administrative hearings for the Motor Vehicle and Drivers License Divisions of the department.

In response to questions from the committee, Mr. Seibel indicated the agencies that hire attorneys pay more than the Attorney General's office. He noted the 2015 Legislative Assembly removed the special assistant attorneys general from the State Board of Higher Education and placed the positions in the Attorney General's office.

In response to a question from the committee, Mr. Tom Bodine, Deputy Commissioner, Department of Agriculture, noted the Agriculture Commissioner pays the attorney employed by the agency the same amount as the attorney received from the Attorney General's office.

### **STUDY OF FUNDING SOURCES FOR THE BUDGET OF THE RACING COMMISSION**

Mr. Cronquist presented a background memorandum entitled [Other Government Administration Committee Responsibilities - Background Memorandum](#). He noted the 2021 Legislative Assembly appropriated \$574,495, including \$407,894 from the general fund and \$166,601 from other funds to the Racing Commission for the 2021-23 biennium. He noted the Racing Commission is authorized to charge a license fee and the commission estimated approximately \$132,500 of fee revenue will be deposited in its operating fund during the 2021-23 biennium.

Mr. Jack Schulz, Executive Director, North Dakota Racing Commission, presented information ([Appendix E](#)) regarding the budget of the Racing Commission, including revenues generated by the agency. He noted:

- The Racing Commission is the state's regulatory body that oversees all pari-mutuel wagering, licensing, and regulatory activities of the state, and is comprised of two FTE and two temporary positions.
- During 2020 the Racing Commission's licensees experienced significant growth around the world, providing for increases in related tax collections.
- The horse racing-related tax collections deposited in the general fund have exceeded the general fund appropriation to the Racing Commission each biennium since the 2013-15 biennium.

In response to a question from the committee, Mr. Schulz indicated the Racing Commission is neutral regarding the source of funds for the Racing Commission budget. He noted it is safer for the Racing Commission to maintain a connection to the general fund and the current structure is beneficial to the state's general fund.

Members of the committee noted the current funding structure for the Racing Commission appears to be effective.

### **STUDIES OF SPACE NEEDS AND THE AMOUNT, TYPE, COST, AND OCCUPANCY OF PROPERTY LEASED BY THE STATE**

Mr. Cronquist presented a memorandum entitled [Studies of Space Needs and Property Leased by the State - Background Memorandum](#). He noted:

- Space needs and accessibility of the State Capitol were studied in the 2009-10, 2013-14, and 2019-20 interims.
- The 2021 Legislative Assembly appropriated \$2.9 million from the Capitol building fund, including \$518,000 for a building automation project, \$500,000 for extraordinary repairs, \$350,000 for a building consolidation study, \$300,000 for special assessments, \$500,000 for interior and exterior signs, \$750,000 for accessibility improvements, and \$25,000 for accessibility compliance consulting services.
- The Legislative Assembly estimated the 2021-23 biennium ending balance in the fund will be \$1.8 million.

Mr. Joe Morrisette, Director, Office of Management and Budget, presented information ([Appendix F](#)) regarding work location policies, the authority of the Office of Management and Budget (OMB) to determine executive branch space needs, and the authority of OMB to negotiate leases entered into by state agencies. He noted:

- There is no statewide policy that dictates work location for state employees.
- Each agency determines the most appropriate work location policy based on the needs of the agency.
- State agencies will supply necessary equipment and materials for employees, but commuting expenses, internet, utilities, rent, and various supplies typically are not reimbursed by the state to the employees.

In response to questions from the committee, Mr. Morrissette noted there could be exceptions in which an employee working remotely is reimbursed for traveling to the agency office in Bismarck. He noted there is not a statutory preference given to North Dakota residents in the hiring process for state employees.

Mr. John Boyle, Director of Facility Management, Office of Management and Budget, presented information ([Appendix G](#)) regarding accessibility of the State Capitol grounds. He indicated OMB will be making changes to the State Capitol to ensure compliance with the Americans with Disabilities Act.

Mr. Trevor Vannett, Bismarck, commented regarding accessibility issues at the State Capitol.

Representative Nelson commented regarding \$25,000 appropriated by the 2021 Legislative Assembly to OMB to contract with a consultant to determine compliance with accessibility standards.

Mr. Royce Schultze, Executive Director, Dakota Center for Independent Living, commented regarding the urgent need to fix accessibility issues at the State Capitol.

Ms. Sally Holewa, State Court Administrator, Supreme Court, presented information ([Appendix H](#)) regarding work location policies, current space, and total space needs of the court system. She noted:

- The judicial branch does not have a specific policy regarding work location.
- The court has 27,764 square feet of space on the first and second floors of the judicial wing of the State Capitol and no longer leases office space.
- Architects were contracted to determine the feasibility of converting the Liberty Memorial Building into a new Supreme Court building in 2015 and the judicial branch still is in favor of that proposal.

Mr. David Thiele, Executive Director, North Dakota Ethics Commission, presented information ([Appendix I](#)) regarding work location policies, current space, and the total space needs of the Ethics Commission. He noted the Ethics Commission has entered a 10-year lease for 1,344 square feet of space in north Bismarck for \$19.50 per square foot per year. He indicated the Ethics Commission opposes being located in the State Capitol because it could limit independence of the commission and discourage individuals from contacting the commission with concerns.

Mr. Greg Hoffman, Director of Administrative Services, Information Technology Department, presented information ([Appendix J](#)) regarding work location policies, current space, and the total space needs of ITD. He noted:

- ITD entered a lease of an 85,000 square foot building in north Bismarck in June 2014 with an expiration date of June 2025 at a cost of \$17 per square foot per year.
- ITD staff was required to vacate the building from July 2019 through September 2020 due to necessary structural repairs.
- ITD's space needs have changed since the COVID-19 emergency and the agency is now subleasing 40,000 square feet of the building to the Department of Environmental Quality.
- ITD has a telework policy that identifies state and employee responsibilities.
- 94 percent of ITD staff live in North Dakota, with a large majority living in Burleigh and Morton Counties.

In response to a question from the committee, Mr. Hoffman indicated there have been occasions in which ITD reimbursed employees for traveling to the agency office in Bismarck.

Mr. John Bjornson, Director, Legislative Council, presented information ([Appendix K](#)) regarding work location policies, current space, and the total space needs of the legislative branch. He noted:

- The most significant changes in legislative committee rooms over the last 3 decades occurred during the 2021 legislative session due to the need for social distancing resulting from the COVID-19 emergency.
- The 2021 changes expanded the legislative presence in the judicial wing of the State Capitol through the construction of four new committee rooms.
- Most feedback from legislators and others regarding the newly constructed meeting rooms was positive and many legislators expressed interest in continuing to use the rooms.

- The legislative branch has retained control over the four new rooms since the conclusion of the 2021 legislative session; however, the long-term jurisdiction over the rooms has not been formally resolved.

At the request of the committee, Chairman Burckhard requested the Legislative Council staff to draft a bill to permanently transfer space in the judicial wing of the State Capitol to the legislative branch and to include time on the agenda for the committee's next meeting for the judicial branch to further discuss its proposal to convert the Liberty Memorial Building into a new Supreme Court building.

No further business appearing, Chairman Burckhard adjourned the meeting at 3:35 p.m.

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Alex J. Cronquist  
Senior Fiscal Analyst

ATTACH:11