

JUDICIARY COMMITTEE

Thursday, March 7, 2024
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Janne Myrdal, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Janne Myrdal, Ryan Braunberger, Michael Dwyer, Judy Estenson, Diane Larson, Bob Paulson, Jonathan Sickler; Representatives Claire Cory*, Matt Heilman, Pat D. Heinert, Karen Karls, Jim Kasper, Lawrence R. Klemin, Ben Koppelman, Bernie Satrom, Kelby Timmons, Lori VanWinkle

Member absent: Representative Shannon Roers Jones

Others present: See [Appendix A](#)

**Attended remotely*

It was moved by Representative Kasper, seconded by Senator Estenson, and carried on a voice vote that the minutes of the November 7, 2023, meeting be approved as distributed.

CUSTODIAL INTERROGATIONS STUDY

Ms. Stephanie Dassinger Engebretson, Deputy Director, North Dakota League of Cities and Mr. Aaron Birst, Executive Director, North Dakota Association of Counties, provided testimony ([Appendix B](#)) regarding the recording practices of county and city law enforcement agencies during custodial interrogations. They noted:

- More than 90 percent of local law enforcement agencies record custodial interrogations. Of the local law enforcement agencies that record custodial interrogations, 80 percent record all custodial interrogations, 17 percent only record felony offense interrogations.
- The Uniform Electronic Recording of Custodial Interrogations Act requires custodial interrogations to occur at a place of detention. The Act defines a place of detention as a "fixed location under the control of a law enforcement agency." Forty percent of local law enforcement agencies do not have dedicated space for recording custodial interrogations. Requiring agencies to build a dedicated space would be costly and a hindrance to implementing recordation of custodial interrogations.
- If the Uniform Electronic Recording of Custodial Interrogations Act is adopted, suppression of a custodial interrogation should not be the remedy for an interrogation not recorded; the provision requiring custodial interrogations to occur in a dedicated space should be omitted and only the audio recording of custodial interrogations should be required; video recording custodial interrogations should not be required.

Sheriff Kelly Leben, Burleigh County Sheriff's Department, provided testimony ([Appendix C](#)) regarding the use and costs associated with implementing body cameras by local law enforcement agencies.

CHARITABLE GAMING STUDY

Dr. Cullen Goenner, Consultant, Charitable Gaming Association of North Dakota, provided testimony ([Appendix D](#)) regarding charitable gaming and the economic impact to the state. He noted:

- Charitable gaming generated \$222 million in adjusted gross revenues in fiscal year 2022, which resulted in \$74 million in charitable contributions and nearly \$20 million in gaming taxes. The charitable gaming industry also created 2,100 jobs and \$71 million in labor income.
- Charitable gaming also indirectly benefited other sectors in North Dakota's economy, including finance and insurance; real estate; professional, scientific, and technical services; and health and social services, which experienced an increase in sales totaling \$55.8 million.

Ms. Deborah McDaniel, Director, State Gaming Commission, Attorney General's office, provided testimony ([Appendix E](#)) regarding electronic pull tabs and money laundering, and charitable gaming and site location.

Chairman Myrdal provided testimony regarding a bill draft ([25.0056.02000](#)) relating to the definition of a public-spirited organization. She noted:

- The bill draft clarifies the definition of a public-spirited organization by removing vague categories from the definition to better align the definition with the intended purpose for allowing charitable gaming.
- The bill draft amends the definition of a public-spirited organization by removing references to organizations the primary purpose of which relates to amateur sports competitions, educational activities, educational public service, and economic development.
- The bill draft applies to eligible organizations applying for or renewing a license after the effective date of the bill draft.
- The bill draft is a starting point for meaningful discussion. Input and revisions from the committee are welcomed.

Mr. Scott Meske, Lobbyist, North Dakota Gaming Alliance, provided testimony ([Appendix F](#)) regarding the committee's study on charitable gaming.

REPORTS

Mr. Lance Gaebe, Director, North Dakota Lottery, Attorney General's office, provided a report ([Appendix G](#)) on the operation of the lottery. He noted:

- The North Dakota Lottery is responsible for administering, regulating, enforcing, and promoting the state's participation in multi-state lotteries.
- The agency's appropriation for the 2023-25 biennium is \$2.4 million for salaries and fringe benefits for 10 full-time equivalent positions, and \$3.2 million for operating expenses, totaling \$5.6 million.
- The agency administers the multi-state games of Powerball, Mega Millions, Lucky for Life, Lotto America, and 2BY2.
- During the 2021-23 biennium, approximately \$68.5 million in lottery tickets were purchased in North Dakota. The allocation of the ticket sale proceeds included 52 percent to prizes, 10 percent to the lottery system contractor, \$1.6 million to the multijurisdictional drug task force grant fund, \$640,000 to the compulsive gambling prevention and treatment fund, and \$13 million to the general fund.

Mr. Bruce Johnson, Executive Director, Racing Commission, provided a report ([Appendix H](#)) on the operation of the commission and the liability of charitable organizations that receive and disburse money handled through account wagering as required by North Dakota Century Code Section 53-06.2-04.

Mr. Travis Finck, Executive Director, Commission on Legal Counsel for Indigents, provided a report ([Appendix I](#)) on the indigent defense contract system and the established public defender offices. He noted:

- The mission of the Commission on Legal Counsel for Indigents is to provide high-quality, professional, and effective legal representation to eligible clients, consistent with the guarantees of the constitutions of the United States and North Dakota, and applicable North Dakota statutes and rules, at a reasonable cost to the community.
- The most common service the commission provides is an attorney to represent an individual in a criminal, juvenile, or appellate case.
- The commission has a 22 percent vacancy rate and struggles to retain case attorneys and support staff. The commission cannot offer a competitive salary sufficient to attract new candidates or retain existing public defenders.
- Many public defenders choose to leave to become prosecutors; often receiving yearly wages of \$20,000 more than the commission can offer.

Mr. Scott Johnson, Assistant State Court Administrator, Supreme Court, provided a report ([Appendix J](#)) on the court's findings and recommendations and draft legislation required to implement the statutory change of drug court to wellness court.

No further business appearing, Chairman Myrdal adjourned the meeting at 3:30 p.m.

Christopher S. Joseph
Assistant Legal Division Director

ATTACH:10