

JUDICIARY COMMITTEE

The Judiciary Committee was assigned four studies:

- House Bill No. 1341 (2023) directed a study of those provisions of the North Dakota Century Code that place restrictions on carrying firearms and dangerous weapons. The study required an examination of the state's current firearm and weapon possession prohibitions as compared to the nation's historical regulations and restrictions on the time, place, and manner in which firearms and dangerous weapons may be restricted; and an assessment of recent federal court cases relating to firearm restrictions, including public carry, and examining the definition of a dangerous weapon and whether the current definition of a dangerous weapon should be maintained, narrowed, or expanded. The study also required input from the Attorney General, the Superintendent of Public Instruction, a representative of the North Dakota University System, and representatives of the Supreme Court, the North Dakota Association of Counties, the North Dakota League of Cities, the North Dakota State's Attorney's Association, the Commission on Legal Counsel for Indigents, the North Dakota Peace Officers Association, and an association or organization with an interest in firearm legislation.
- Section 6 of Senate Bill No. 2304 (2023) directed a study of statewide charitable gaming. The study required input from the Attorney General, stakeholders from large and small charitable organizations, local political subdivisions that authorize sites, gaming equipment manufacturers and distributors, gambling addiction counselors, and other industry leaders. The study also required an evaluation of the economic impact of charitable gaming on the state in urban and rural areas; gambling addiction and treatment services currently available; the civic benefit of charitable gaming to the communities most closely related to the gaming sites; the manner in which site authorization is approved and renewed, including whether charities have equitable access to sites; the gaming tax structure; public support for charitable gaming; statewide local restrictions placed on charitable gaming; gaming expansion; site locations where gaming is taking place; charitable gaming proceeds and the eligible uses of gaming proceeds, including the percentage of proceeds that may be used for administration; the categories of organizations that are allowed to conduct charitable gaming, including the missions of those organizations; the placement of gaming activity within a gaming site, including electronic pull-tab device placement; the rental rate paid by organizations to alcoholic beverage establishments; and the authority of the Attorney General to regulate alcoholic beverage establishments.
- Senate Bill No. 2376 (2023) directed a study of the recording practices of local and state law enforcement during custodial interrogations to determine the feasibility and desirability of uniform implementation of recording practices. The study required an assessment of the number of law enforcement agencies recording custodial interrogations and policies regarding how the recording of interrogations is conducted; the storage and retention practices associated with recording interrogations; the types of equipment used to record interrogations; the types of locations at which interrogations are recorded; the types of criminal investigations in which interrogations are recorded and the frequency at which those interrogations are recorded; the disclosure of recorded interrogations in criminal discovery; best practices and current requirements for the recording of interrogations, including adoption of the Uniform Electronic Recordation of Custodial Interrogations Act; the financial costs associated with the recording of custodial interrogations and implementation of uniform practices; and barriers to uniform implementation of the recording of custodial interrogations.
- Senate Bill No. 2278 (2023) directed a study of the laws and procedures relating to courts established under Chapter 40-18. The study required an examination of the number and geographic location of existing municipal courts; access to municipal court ordinances; jurisdiction of the municipal courts; municipal court judge qualifications and training; transfer of cases to district court; appeal of cases to district court; Supreme Court's general oversight of municipal courts; applicability of judicial administrative rules to municipal courts; requirements for recording proceedings in municipal court; and requirements to report information to the Supreme Court on the establishment or abolition of a court, the election, appointment and removal of municipal court judges and clerks, and annual caseload data and annual financial information on the imposition, collection, and disposition of fines and fees.

The Legislative Management assigned the committee the responsibility:

- To review uniform laws recommended by the North Dakota Commission on Uniform State Laws, pursuant to Section 54-35-02.
- For statutory and constitutional revision.
- To review any executive order issued by the President of the United States which has not been affirmed by a vote of Congress and signed into law, and recommend to the Attorney General and the Governor that the executive order be further reviewed to determine the constitutionality of the order and whether the state should seek an

exemption from the order or seek to have the order declared to be an unconstitutional exercise of legislative authority by the President, pursuant to Section 54-03-32.

The Legislative Management assigned the committee the responsibility to receive the following 10 reports:

- A report from the Attorney General by November 1 of each year summarizing activity regarding any civilly forfeited property, pursuant to Section 19-03.1-36.8(4).
- Annual reports from the Director of the Commission on Legal Counsel for Indigents containing pertinent data on the indigent defense contract system and established public defender offices, pursuant to Section 54-61-03.
- A biennial report from the North Dakota Racing Commission addressing the issue of the liability of charitable organizations that receive and disburse money handled through account wagering, pursuant to Section 53-06.2-04.
- A report from the North Dakota Lottery regarding the operation of the lottery, pursuant to Section 53-12.1-03.
- A report from the Department of Health and Human Services (DHHS) on services provided by the Department of Corrections and Rehabilitation relating to individuals at the State Hospital who have been committed to the care and custody of the Commissioner of DHHS, pursuant to Section 50-06-31.
- Annual reports from DHHS on the number of applications, registered qualifying patients, registered designated caregivers, registered compassion center agents, nature of debilitating medical conditions, identification cards revoked, health care providers providing written certifications, compassionate care centers, and expenses incurred and revenues generated by the department, pursuant to Section 19-24.1-39.
- Annual reports from the Supreme Court on the status of the program to assist rural counties and municipalities in recruiting attorneys, pursuant to Section 27-02.2-13.
- A report from the Supreme Court by June 1, 2024, regarding the Supreme Court's findings and recommendation and any legislation required to implement the statutory change of drug court to wellness court, pursuant to Section 55 of Senate Bill No. 2012 (2023).
- A report from the Supreme Court before September 1, 2024, on the implementation of a uniform bail schedule and the standard amount of bail for each state offense, pursuant to Section 29-08-03.1.
- A report from the Ethics Commission on the activities and operations of the commission, including information regarding the number of complaints received by the commission, education and outreach efforts, and the status of the commission's budget, pursuant to Section 4 of Senate Bill No. 2024 (2023).

Committee members were Senators Janne Myrdal (Chairman), Ryan Braunberger, Michael Dwyer, Judy Estenson, Diane Larson, Bob Paulson, and Jonathan Sickler and Representatives Claire Cory, Matt Heilman, Pat D. Heinert, Karen Karls, Jim Kasper, Lawrence R. Klemin, Ben Koppelman, Shannon Roers Jones, Bernie Satrom, Kelby Timmons, and Lori VanWinkle.

Representative Nico Rios served on the committee until his removal on January 9, 2024.

FIREARM AND DANGEROUS WEAPONS STUDY

House Bill No. 1341 (2023) directed a study of those provisions of the Century Code that place restrictions on carrying firearms and dangerous weapons. The study required an examination of the state's current firearm and weapon possession prohibitions as compared to the nation's historical regulations and restrictions on the time, place, and manner in which firearms and dangerous weapons may be restricted, and an assessment of recent federal court cases relating to firearm restrictions, including public carry, and the definition of a dangerous weapon and whether the current definition of a dangerous weapon should be maintained, narrowed, or expanded.

Background

Federal Law

The Gun Control Act of 1968, codified at 18 U.S.C. § 922(g), is a federal law that regulates the firearms industry and firearm ownership. Due to constitutional limitations, the Act primarily is based on regulating interstate commerce by prohibiting interstate firearm transfers except by manufacturers, dealers, and importers licensed under a scheme set up under the Act. The Act was amended in 1993 to include a background check requirement of prospective firearm purchasers by licensed sellers, and to create a list of individuals to whom the sale of a firearm is prohibited. The 1993 amendment to the Act was aimed primarily at prohibiting firearm possession by convicted felons; however, the amendment also included prohibiting the following individuals from firearm possession and ownership:

- A fugitive from justice;

- An unlawful user of or individual addicted to any controlled substance;
- An individual who has been adjudicated as mentally defective or who has been committed to a mental institution;
- An alien who:
 - Is illegally or unlawfully in the United States; or
 - Has been admitted to the United States under a nonimmigrant visa;
- An individual who has been discharged from the armed forces under dishonorable conditions;
- A citizen of the United States, who has renounced their citizenship;
- An individual who, subject to a court order, is restrained from harassing, stalking, or threatening an intimate partner or child of the intimate partner; and
- An individual who has been convicted of a misdemeanor crime of domestic violence.

Federal law prohibits possessing a firearm on certain types of federal property, including the federal Capitol; in post offices; in airports and airplanes, and near schools.

North Dakota Law

Title 62.1 sets forth the provisions relating to weapons, specifically the possession of weapons, handguns, concealed weapons, machine guns, automatic rifles, silencers, and bombs. Under Section 62.1-01-01, a dangerous weapon does not include a spray or aerosol containing ortho-chlorobenzamalonitrile; alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses voltage for the defense of an individual, unless the device uses a projectile and voltage or the device uses a projectile and may be used to apply multiple applications of voltage during a single incident, then the term includes the device for an individual who is prohibited from possessing a firearm. Section 62.1-01-01 defines a firearm or weapon as any device that expels or is readily capable of expelling a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.

Chapter 62.1-02 provides the specific circumstances under which an individual may not possess a firearm and when an individual's right to possess a firearm may be restored. Section 62.1-02-01 sets forth the limitations as to who may not possess a firearm and prohibits the following individuals from possessing a firearm:

- An individual who has been convicted anywhere of a felony offense involving violence or intimidation;
- An individual who has been convicted anywhere of a felony offense or a Class A misdemeanor offense involving violence or intimidation and the use of a dangerous weapon;
- An individual who is or has ever been diagnosed and confined or committed to a hospital or other institution due to mental deficiency; and
- An individual under the age of 18 years, except while under the direct supervision of an adult for the purposes of firearm safety training, target shooting, or hunting.

Section 62.1-02-05 prohibits the possession of a firearm or dangerous weapon at a school or school-sponsored event on school property, a church or other place of worship; and a publicly owned or operated building.

Section 62.1-02-10 prohibits an individual from keeping or carrying a loaded firearm in a motor vehicle, including an off-highway vehicle or snowmobile. The section also sets forth several exceptions, such as a law enforcement officer or an individual engaged in lawful hunting or trapping.

Section 62.1-03-01 allows an individual to carry a handgun if the handgun is unloaded and in plain view or secured. However, there are 13 exceptions to the limitation of unloaded and in plain view or secured.

Section 62.1-04-02 prohibits an individual, other than a law enforcement officer, from carrying a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under Chapter 62.1-04. The section allows an individual who is not otherwise precluded from possessing a Class 2 firearm and dangerous weapon license under Chapter 62.1-04 and who has possessed for at least 30 days a valid driver's license or nondriver identification card issued by the Department of Transportation to carry a firearm concealed.

Testimony

The committee received testimony from representatives of the Bureau of Criminal Investigation and the North Dakota Peace Officers Association. According to the testimony, Section 62.1-02-04 prohibits an individual from entering or

remaining in that part of the establishment either set aside for the retail sale of alcoholic beverages and the consumption of purchased alcoholic beverages or used as a gaming site where bingo is the primary gaming activity, while knowingly possessing a firearm or dangerous weapon. The testimony contended the state has robust and pragmatic statutory firearm provisions and the law should not be amended to allow the possession of a firearm inside a liquor establishment.

The committee received testimony from representatives of the Commission on Legal Counsel for Indigents contending any restriction or expansion of the definition of dangerous weapon should not be used to enhance criminal sentences because minimum mandatory sentences have done nothing to curb alleged violence or protect society. Testimony indicated minimum mandatory sentences have increased jail populations, prison populations, and the number of cases requiring an attorney.

The committee received testimony from a representative of the North Dakota State's Attorneys' Association. The committee was informed the association does not have concerns regarding the state's firearm and dangerous weapon restrictions and the law should not be amended to allow firearms to be carried inside a liquor establishment due to the devastating consequences that arise when alcohol misuse is combined with firearms. Testimony indicated excessive alcohol consumption combined with firearm use is a leading cause of preventable injury and death in the United States. The committee was informed alcohol plays an outsized role in firearm fatalities and one in three individuals who committed homicide with a firearm had been heavily drinking when they murdered their victims. The testimony indicated more than 30 percent of gun homicide victims had been heavily drinking when they were killed.

The committee received testimony from representatives of the Department of Public Instruction and the University System. The committee was informed the federal Gun-Free Schools Act requires each state receiving federal Elementary and Secondary Education Act funds to have in effect a state law requiring local educational agencies to expel from school for a period of not less than 1 year a student who was determined to have brought a weapon to school. Testimony indicated the Gun-Free Schools Act does not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or to a firearm used in activities approved and authorized by the local educational agency, if the local educational agency adopts appropriate safeguards to ensure student safety. The committee was informed the University System opposes expansion of firearm possession and carry on college campuses because of concerns balancing rights with safety, especially in consideration of the elevated suicide risk in the traditional college-age population, the increased mental health crisis, the unsecured environments in the residence halls, the early brain development and impulse control in traditional college-aged students, and the lack of funding to provide equitable safe storage for an entire campus population.

The committee received testimony from representatives of the North Dakota Association of Counties and the North Dakota League of Cities indicating both counties and cities are in favor of the prohibition on possessing a firearm in a publicly owned or operated building. Testimony indicated counties support local governments having the authority to determine sensitive places within their jurisdictions which are locations a firearm can be prohibited without violating the Second Amendment. The committee was informed cities would appreciate the legal flexibility to adapt to changing needs and circumstances if substantial changes are made to state firearm and dangerous weapon restrictions. Testimony also indicated cities are concerned about firearms being allowed in liquor establishments.

The committee received testimony from the Attorney General stating in *New York State Rifle & Pistol Association Inc. v. Bruen*, the United States Supreme Court held firearm restrictions are constitutional only if there is a historical tradition of such regulation. In *U.S. v. Rahimi*, the Supreme Court applied the *Bruen* analysis to 18 U.S.C. 922(g)(8), which requires that an individual be found by a court to pose a credible threat to the physical safety of another person before the individual is temporarily prohibited from possessing a firearm. Ultimately, the Court determined the statute is consistent with the nation's historical tradition of firearm regulation because from the earliest days of the common law, firearm regulations have included provisions barring people from misusing weapons to harm or menace others.

Committee Considerations

The committee expressed support for the state's statutory firearm and weapon possession provisions as being one of the most pro-Second Amendment nationwide. The committee acknowledged the state's deep-rooted support and appreciation for the Second Amendment and that the state maintains a robust and pragmatic system for firearm ownership, possession, and prohibitions.

Conclusion

The committee makes no recommendation regarding its study of the state's current firearm and weapon possession prohibitions.

CHARITABLE GAMING STUDY

Section 6 of Senate Bill No. 2304 (2023) directed a study of statewide charitable gaming. The study required input from the Attorney General, stakeholders from large and small charitable organizations, local political subdivisions that authorize sites, gaming equipment manufacturers and distributors, gambling addiction counselors, and other industry leaders. The study also required an evaluation of the economic impact of charitable gaming on the state in urban and rural areas, gambling addiction and treatment services currently available, the civic benefit of charitable gaming to the communities most closely related to the gaming sites, the manner in which site authorization is approved and renewed, the gaming tax structure, public support for charitable gaming, statewide local restrictions placed on charitable gaming, gaming expansion, site locations where gaming is taking place, charitable gaming proceeds and the eligible uses of gaming proceeds, the categories of organizations that are allowed to conduct charitable gaming, the placement of gaming within a gaming site, the rental rate paid by organizations to alcoholic beverage establishments, and the authority of the Attorney General to regulate alcoholic beverage establishments.

Background

History of Charitable Gaming

In the first legislative session after statehood (1889-90), an attempt was made to establish the Louisiana lottery, which was seeking a new home in light of the impending revocation of its charter in its state of origin. The operators of the lottery were willing to offer the state an initial payment of \$100,000, followed by annual payments of \$75,000, for the privilege of operating a lottery. The scandal and controversy following this attempt led to the state's first constitutional amendment. The amendment added what eventually became Section 25 of Article XI of the Constitution of North Dakota and outlawed all forms of lotteries and gift enterprises.

The constitutional prohibition was maintained until 1976 when it was amended to allow certain forms of charitable gaming. Under the provision, the Legislative Assembly is permitted to authorize bona fide nonprofit veterans', charitable, educational, religious, or fraternal organizations, civic and service clubs, or such other public-spirited organizations as it may recognize, to conduct games of chance when the entire net proceeds of the games are devoted to educational, patriotic, fraternal, religious, or other public-spirited uses.

After passage of the constitutional amendment in 1976, a temporary law was passed by the 1977 Legislative Assembly followed by another temporary law in 1979, and finally legislation in 1981 which was codified as Chapter 53-06.1. All three laws became effective without the approval of the Governor holding office at the time of passage. Under the original 1977 law, the only games permitted were bingo, raffles, pull tabs, jars, and punchboards. A 1979 law added sports pools on professional sports. In 1981, charities were first permitted to conduct the game of twenty-one.

During the first 3 interims after the passage of Chapter 53-06.1 in 1981, Legislative Council interim committees studied charitable gaming and suggested many of the changes that have since been made to the law. The most comprehensive proposal was that of the 1981-82 interim Political Subdivisions Committee, which suggested a bill that, when enacted, contained 23 sections changing various aspects of the charitable gaming law. Changes from that session and others primarily have affected the kinds of games that can be held, the kinds of organizations that can hold the games, the allocation of expenses of conducting the games, administration of the charitable gaming law, enforcement of the charitable gaming law, and taxation of gaming proceeds.

In 1987, draw poker and stud poker were added to the list of permitted games. Also, that year, Chapter 53-06.2 was enacted which allows most charities to conduct horse racing under the pari-mutuel system. In 1989, eligible organizations were permitted to conduct calcuttas, allow off-track pari-mutuel betting on races held at licensed racecourses inside or outside the state, and use electronic video gaming devices in place of normal methods of playing otherwise allowable games of chance. However, legalization of electronic video gaming was referred and rejected at a special election on December 5, 1989. Paddlewheels were added as a game of chance in 1991, and electronic quick shot bingo, fifty-fifty raffle systems, and electronic pull tabs were added as games of chance in 2017.

Charitable Organizations and Taxation on Proceeds

There are two critical elements specifically mentioned in the constitutional amendment allowing charitable gaming--the kinds of organizations that can conduct the games and the use of the proceeds from the games. The constitutional provision requires the charity to be a bona fide nonprofit veterans', charitable, educational, religious, or fraternal organization, a civic or service club, or a public-spirited organization authorized by the Legislative Assembly. The constitutional provision also requires the net proceeds be used only for educational, charitable, patriotic, fraternal, religious, or other public-spirited uses.

All organizations must meet the first test to conduct charitable gaming. Some of these organizations also meet the second test and thus can use the net proceeds for the organization's own purpose. Organizations that meet only the first constitutional test must give the proceeds to beneficiaries that meet the second test.

A state tax has been imposed on the proceeds of charitable gaming since 1977. In the 1977 law, a tax of 3 percent of adjusted gross proceeds was established and allocated to the general fund of the state. The tax was part of the expense limit for the charity. The tax rate was increased to 5 percent in 1979, was payable from adjusted gross proceeds, and was not charged against the allowable expenses of the charity.

House Bill No. 1212 (2021) further amended the gaming tax structure in Section 53-06.1-12 to impose the charitable gaming tax on total adjusted gross proceeds and changed the charitable gaming tax to 1 percent of adjusted gross proceeds for a licensed organization with adjusted gross proceeds not exceeding \$50,000, and for a licensed organization with adjusted gross proceeds exceeding \$50,000, the tax is \$500 plus 12 percent of adjusted gross proceeds exceeding \$50,000.

House Bill No. 1509 from the 2021 special legislative session added as an exception to the gaming tax structure imposed by House Bill No. 1212 (2021) that for a licensed organization permitted to conduct raffles in this state with adjusted gross proceeds exceeding \$50,000, a gaming tax of 1 percent of gross proceeds is imposed on the total gross proceeds received by the licensed organization from raffles in a quarter. The tax must be computed and paid to the Attorney General on a quarterly basis on the tax return. The tax must be paid from adjusted gross proceeds and is not part of the allowable expenses.

Administration and Enforcement of Charitable Gaming

From the inception of charitable gaming, administration of the law has been the responsibility of the Attorney General and local officials. The phrase "licensing authority" has been used in each version of the law to refer to the Attorney General who has served as the primary licensing authority since 1977. Local government officials were the primary approving agency for what were known as Class B charities. Since 1979, local government officials have been the primary approving agencies for the issuance of a local permit or a charity local permit for conducting raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. Although the Attorney General now licenses charities, local officials remain involved in charitable gaming.

Gambling Addiction

During the 2021-22 interim, the Judiciary Committee completed a study of the economic and societal impacts of gambling addiction in the state. The committee received testimony indicating an increase in funding for gambling addiction services from charitable gaming provides an increased appropriation of \$10,000 per quarter for a total of \$40,000 each year. Roughly 1 in 20 individuals who participate in gambling have an addiction, and data from a study conducted in 2016-17 indicated about 19,000 individuals in the state have a gambling addiction. Electronic pull tabs are the source of most instances of gambling addiction in the state because the machines operate like a slot machine. In fiscal year 2020, 67 residents received gambling treatment services, 1,020 hours of in-person services were delivered, 441 hours of telebehavioral health services were delivered, and when filing health insurance for gambling treatment, 90 percent of claims were denied.

In fiscal year 2016, after the creation of the compulsive gambling prevention and treatment fund, the Department of Human Services established the Problem Gambling Advisory Council to focus on raising awareness about problem gambling, gambling addiction and treatment services, and resources. Before 2021, Gamblers Choice, a program offered by Lutheran Social Services of North Dakota, was the sole provider of accredited counseling services for problem gamblers and their families in the state. The program used two certified problem gambling counselors on the east side of the state and two on the west side who provide outpatient individual and group counseling services. According to a 2016 survey of problem gambling services in the United States, North Dakota ranked 3rd out of the 50 states in terms of per capita public funds invested in problem gambling services. In December 2022, the Gamblers Choice program was placed permanently with DHHS.

Testimony

The committee received testimony from representatives of DHHS. Testimony indicated Gamblers Choice provides outpatient treatment services to problem gamblers and treatment services are personalized and include assessments of court-ordered evaluations, group and individual counseling, family education, relapse prevention counseling, aftercare services, and ongoing recovery maintenance programming such as alumni groups. The committee was informed Gamblers Choice collaborates in addressing prevention and responsible gambling messages and activities.

The committee received testimony from representatives of the Charitable Gaming Association of North Dakota and the North Dakota Gaming Alliance. Testimony contended the authority of cities or other regulatory authorities regarding site authorization should be limited to the authority to deny access to bad actors or those not in good standing. The ability for bars and charities to negotiate and voluntarily enter contracts, when both entities proactively agree to work together for mutual benefit, should be preserved. The committee was urged to resist any proposal allowing cities or other regulatory authorities to choose which charities can operate in specific bars.

The testimony indicated 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. According to the testimony, the charitable gaming industry created 2,100 jobs and \$71 million in labor income. The North Dakota Gaming Alliance recommended retaining the current categories and qualifications for a gaming license and a focus on enforcement and transparency regarding gaming operations.

The committee received testimony from the Attorney General indicating a gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and the tax must be computed and paid to the Attorney General on a quarterly basis on the tax return. According to the testimony, rent for electronic pull tabs increased per device to \$175 for the first 5 devices and \$75 per additional device with a maximum of 10 devices per site. The committee was informed the Gaming Division has encountered an issue with third parties soliciting nonprofits and offering to conduct gaming for the nonprofits, ensuring the nonprofits receive at least 40 percent of revenue for charitable purposes. The testimony indicated money laundering is nearly impossible to detect or regulate and is occurring in North Dakota, although the state cannot quantify how frequently it occurs or in what amounts.

The testimony indicated charitable gaming organizations use "eligible use" money to benefit their site owners. Expenses that typically were paid by the bar are now paid by the charitable organizations to encourage the bars to continue hosting gaming activities. The committee was informed gaming entities in the state have been involved in different forms of scams, including bars strongarming the charities, enticements to bars to acquire sites, third parties entering the market to manipulate the charities, and entities creating nonprofits to collect gaming money.

Committee Considerations

Committee members expressed concern regarding money laundering and the inability to track whether criminals are cleaning money using electronic pull-tab machines. The committee considered a bill draft relating to charitable gaming. Testimony received in support of the bill draft indicated a need to clarify 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. Testimony received in opposition to the bill draft contended charitable gaming is an important funding mechanism for the Bismarck-Mandan Convention and Visitors Bureau and removing tourism from the definition of a public-spirited organization would have a devastating effect on the organization.

Conclusion

The committee recommends a bill draft [\[25.0280.01000\]](#) relating to the definition of a public-spirited organization.

CUSTODIAL INTERROGATIONS STUDY

Senate Bill No. 2376 (2023) directed a study of the recording practices of local and state law enforcement during custodial interrogations to determine the feasibility and desirability of uniform implementation of recording practices. The study required an assessment of the number of law enforcement agencies recording custodial interrogations and policies regarding how the recording of interrogations is conducted; the storage and retention practices associated with recording interrogations; the types of equipment used to record interrogations; the types of locations at which interrogations are recorded; the types of criminal investigations in which interrogations are recorded and the frequency at which those interrogations are recorded; the current disclosure of recorded interrogations in criminal discovery; best practices and current requirements for the recording of interrogations, including adoption of the Uniform Electronic Recordation of Custodial Interrogations Act; the financial costs associated with the recording of custodial interrogations and implementation of uniform practices; and barriers to uniform implementation of the recording of custodial interrogations.

Background

In 2010, the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission (ULC), approved and recommended the Uniform Electronic Recording of Custodial Interrogations Act for enactment in all states. This Act addresses issues that accompany interrogations conducted by law enforcement officials. The Act, which requires law enforcement to electronically record custodial interrogations, is intended to promote truth finding and judicial efficiency and to further protect the rights of law enforcement and those under investigation.

In summarizing the Act, the ULC notes false confessions may occur no matter how well-meaning the interrogating officer or how strong the officer's belief in the suspect's guilt. Conflicting testimony sometimes results in judges or jurors believing the wrong tale, and other times allows for frivolous suppression motions wasting the court's time and impugning careful, professional, and honest police officers. A wrongful conviction or acquittal means an innocent person may be sent to prison and the guilty offender may go free, perhaps to offend again. The ULC's primary justification for recommending the Act is to promote truth finding.

The Act mandates the electronic recording of the entire custodial interrogation process by law enforcement. However, the Act provides individual states discretion regarding the locations and the types of crimes to which the mandate applies, as well as the means by which the interrogation must be recorded. The Act allows states to vary the scope of the mandate

based upon local variations in cost, perceived degree of need for different categories of criminal or delinquent wrongdoing, or other pressing local considerations. The ULC contends combined audio and video recording remains the ideal, and the advantages of recording exist wherever custodial interrogation occurs and for whatever criminal or delinquent wrong is involved. The Uniform Electronic Recording of Custodial Interrogations Act was among the 2010 recommendations of the North Dakota Commission on Uniform State Laws for introduction in the 2011 legislative session. The Act was introduced as Senate Bill No. 2125 (2011).

In response to the mixed testimony received for Senate Bill No. 2125 during the 2011 legislative session, an amendment was adopted to conduct a study of the Uniform Electronic Recording of Custodial Interrogations Act during the 2011-12 interim. The study was assigned to the interim Judiciary Committee. The interim Judiciary Committee made no recommendation to the 63rd Legislative Assembly regarding the adoption of the Uniform Electronic Recording of Custodial Interrogations Act.

As of January 2018, over 50 percent of the country has passed legislation or voluntarily committed to recording custodial police interviews; however, when and why the recordings are made varies significantly by state. Of the 27 states that record, only 4 (Alaska, Arkansas, Minnesota, and Montana) require all interviews for all offenses be recorded, while Indiana, New Mexico, Utah, and Wisconsin require recording only for felony charges. The majority of the remaining states (Colorado, Connecticut, Illinois, Kansas, Maine, Maryland, Michigan, Missouri, Nebraska, New Jersey, New York, North Carolina, Texas, Vermont, and Washington, D.C.) reserve recording requirements for specific, major offenses, such as capital murder and rape charges, as well as certain other sex crimes, aggravated crimes, and other serious or violent offenses. California and Oregon have limited their legal requirements with extreme specificity. California mandates recording only if a juvenile is suspected of murder. Oregon mandates recording only when an individual is suspected of aggravated murder, is facing a mandatory minimum offense, or is a juvenile who will be processed in adult criminal court.

In states that have voluntarily committed to recording, Rhode Island records for all capital offenses and Hawaii records for all serious crimes. Idaho, which has no formal statewide recording commitment, reports 22 percent of its law enforcement agencies record. A Supreme Court ruling in Massachusetts, expressing a preference for all interrogations to be recorded, has led to an unofficial statewide mandate. As of 2014, the United States Department of Justice requires interview recording by many of its law enforcement agencies.

Testimony

The committee received testimony from representatives of the Bureau of Criminal Investigation, the Attorney General's office, the North Dakota State's Attorneys' Association, the North Dakota Association of Counties, the North Dakota League of Cities, and the Burleigh County Sheriff's Department. Some testimony contended the Uniform Electronic Recordation of Custodial Interrogations Act addresses a problem that does not exist in North Dakota. The committee was informed if legislation mandating recorded interviews in all circumstances is enacted, it will undermine the credibility of sworn law enforcement officers' testimony and could create a number of unintended consequences.

The testimony indicated many law enforcement agencies are headquartered in buildings without space for a separate interview room or lack the funds to build or outfit an interview room with recording equipment. The committee was informed costs will be a concern regarding the mandatory retention of recorded interrogations. Server space, hard drive space, and cloud space are at a premium, and costs may increase significantly when more storage is required. Testimony indicated the Act is unnecessary because there are remedies to law enforcement failing to record an interview. For instance, a prosecutor may decline to pursue charges. If charges are sought, the defense may subject the officer to a robust cross-examination.

The testimony contended a legislative mandate to record all custodial interrogations is not needed. The Uniform Electronic Recordation of Custodial Interrogations Act would be superfluous to law enforcement agencies that use body cameras. According to the testimony, the estimated cost of implementing the Act on a statewide basis would be about \$7.5 million, plus maintenance and updating costs. The cost estimate assumed no law enforcement agency has any of the required equipment. It was noted in addition to the cost of equipment, law enforcement agencies may not have sufficient physical space to meet the requirements of the Act.

The committee received testimony from representatives of the Commission on Legal Counsel for Indigents and the Great North Innocence Project. The committee was informed nearly a third of individuals wrongfully convicted but later exonerated by DNA evidence made a false confession or incriminating statement. Testimony indicated this may be caused by factors, including perceived intimidation or the compromised reasoning ability by the accused. Testimony contended the recording of custodial interrogations would serve to protect the accused by allowing their counsel to review a confession in its entirety.

The testimony contended the adoption of the Uniform Electronic Recordation of Custodial Interrogations Act would promote fundamental fairness in the criminal justice system and would make the criminal justice system better. The testimony indicated the Act is not unfair to law enforcement if a recording is not made. The Act does not punish officers for equipment failures or if officers believed the Act did not apply at the time. Violations of the Act do not automatically result in excluded evidence but would become a factor for the court to consider. Testimony contended the Act promotes cost-savings to the state. When an interview is recorded, prosecutors and defense attorneys accurately can assess the facts of the case and give clients the best advice based on accurate information. It was argued the number of pretrial motions and trials before the court will be reduced which would lead to a cost-savings.

Committee Considerations

The committee noted most law enforcement agencies record custodial interrogations and, based on the testimony received from law enforcement agencies, the North Dakota League of Cities, and the North Dakota Association of Counties, for those law enforcement agencies that do not record custodial interrogations because of cost issues, grants may be available to help defer some of the initial investment in equipment, facilities, and electronic storage. The committee determined recording custodial interrogations does not appear to be a problem in the state.

Conclusion

The committee makes no recommendation regarding its study of the recording practices of local and state law enforcement during custodial interrogations to determine the feasibility and desirability for uniform implementation of recording practices.

MUNICIPAL COURT STUDY

Senate Bill No. 2278 (2023) directed a study of the laws and procedures relating to courts established under Chapter 40-18. The study required an examination of the number and geographic location of existing municipal courts; access to municipal court ordinances; jurisdiction of the municipal courts; municipal court judge qualifications and training; transfer of cases to district court; appeal of cases to district court; Supreme Court general oversight of municipal courts; applicability of judicial administrative rules to municipal courts; requirements for recording proceedings in municipal court; and requirements to report information to the Supreme Court on the establishment or abolition of a court, the election, appointment and removal of municipal court judges and clerks, and annual caseload data and annual financial information on the imposition, collection, and disposition of fines and fees.

Background

The establishment, requirements, jurisdiction, and procedures of municipal courts and judges are codified in Chapter 40-18.

Number of Municipal Courts

Eighty-seven of the 355 incorporated cities in North Dakota have established a municipal court. The 87 municipal courts are served by 63 municipal judges, 22 of whom are law-trained. A city that did not establish a municipal court when it was first incorporated may create a municipal court by resolution of the governing body.

Jurisdiction, Training, and Qualifications of a Municipal Judge

A municipal judge within a city having a population of 5,000 or more must be licensed to practice law in this state unless a licensed individual is not available in the city. In a city with a population of less than 5,000, the municipal judge need not be licensed to practice law in this state, nor may the judge be required to be a resident of the city. The municipal judge has jurisdiction to hear, try, and determine offenses against the ordinances of the city except certain violations involving juveniles. The municipal court lacks jurisdiction over juveniles because Section 27-20.2-03 vests exclusive original jurisdiction over children under the age of 18 who are alleged to be delinquent, unruly, or deprived with the juvenile court. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a 4-year term. Section 40-18-03 provides a vacancy occurring between elections is filled by the executive officer of the municipality with the consent of the governing body of the municipality. North Dakota Supreme Court Administrative Rule 36 requires each new municipal judge to complete a judicial orientation program within 3 months of taking office. All municipal court judges and alternate judges must complete 18 hours of continuing education during each 3-year reporting period. If a municipal judge fails to meet this requirement without an excused absence from the Continuing Judicial Branch Education Commission, the judge's name is referred to the Judicial Conduct Commission for disciplinary action.

Transfer of Municipal Ordinance Cases to District Court

Section 40-18-06.2 requires a city to obtain the agreement of the governing body of the county, the presiding judge of the district court, and the State Court Administrator before a city may transfer some or all municipal ordinance cases to the district court. A city may obtain the template for the contract to transfer municipal ordinances to district court by calling or emailing the State Court Administrator's office. The template includes transfer of cases to the district court for

jury trial so there is no need to execute two contracts. These cases are deemed district court cases for purposes of appeal.

Section 40-18-15.1 provides a municipal matter may be transferred to district court for trial if, within 28 days after arraignment, the defendant has requested in writing to transfer the case to district court and to exercise the defendant's right to a jury trial. After a transfer to district court, if the defendant waives a jury trial, the matter must be remanded to the municipal court for disposition if the defendant and prosecuting attorney agree to the remand. Unless remanded to the municipal court by agreement of the parties, the district court retains jurisdiction for sentencing. The city must provide a prosecuting attorney and, in the case of any indigent defendant, a defense attorney. The city may contract with the county, state, or any individual or entity for prosecution or defense services. The city, county, and state may agree in the contract to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected from cases transferred, which must be paid to the city and county treasury and state general fund at least once each quarter. At the time of payment, the clerk of district court shall account under oath to the city auditor, county, and State Treasurer for all money collected. The city, county, and state also may agree in the contract to a division of expenses, including jury and witness expenses, related to cases transferred under this section. In the absence of a contract, all fees, fines, costs, forfeitures, and any other monetary consideration collected from transferred cases must be deposited in the state general fund.

Appeal from Municipal Court to District Court

Section 40-18-19 provides a judgment of conviction or order deferring imposition of sentence in a municipal court may be appealed to the district court in accordance with the North Dakota Rules of Criminal Procedure. An appeal is perfected by notice of appeal. A perfected appeal to the district court transfers the action to the district court for a new trial. The district court takes judicial notice of the ordinances of the city in an appeal from a determination in a municipal court. A filing fee may not be required in district court for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance. Expenses necessary for the adequate defense of a needy person in an appeal to district court from a judgment of conviction for the violation of a municipal ordinance, as approved by the presiding district judge, must be paid by the city wherein the alleged offense took place.

Supreme Court Oversight

Section 1 of Article VI of the Constitution of North Dakota provides the judicial power of the state is vested in a unified judicial system consisting of a supreme court, a district court, and other courts as may be provided by law. The Chief Justice of the Supreme Court is the administrative head of the unified judicial system with the authority to adopt rules of procedure to be followed by all courts of the state. Municipal courts are statutorily created courts and as such are part of the unified judicial system.

Testimony

The committee received testimony indicating all municipal court judges are required to complete 18 hours of approved continuing education during each 3-year reporting period. To assist the judges in meeting this requirement, the court system offers an annual municipal court conference consisting of 6 hours of continuing education. The Conference of State Court Administrators has identified four essential elements to strengthen and protect the delivery of court services in limited jurisdiction courts. The elements include requiring municipal judges be members of the state bar in good standing and requiring a record of all municipal proceedings.

The committee was informed 67 percent of all municipal court cases involve traffic citations, 27 percent involve misdemeanor offenses, and 5 percent involve infractions.

The testimony contended municipal courts are efficient and effective. They are a vital component of the state's justice system and are integral in maintaining order, fairness, and accessibility. The committee was informed, in 2022, the Williston Municipal Court adjudicated 5,357 cases, sometimes hearing as many as 650 cases per month.

Testimony received from prosecutors indicated some issues include municipal courts not being eligible for Odyssey and therefore, all files are paper files. In addition, municipal judges who are not law-trained may not be able to interpret city ordinances and may not know or understand the rules of criminal procedure and a defendant's rights.

Committee Considerations

The committee expressed a need for municipal courts to be updated and reorganized to better serve the state and its rural communities in a more cost-effective manner and considered a bill draft relating to municipal courts. Testimony received in support of the bill draft indicated the bill draft would provide explicit authority for the district court to hear ordinance cases for cities of fewer than 5,000 people; allow two or more cities to create a joint municipal court and share the operating costs; allow two or more cities to have separate municipal courts, but share resources such as the courtroom and staff; and implement two options when a defendant's fitness to proceed is questioned. If the defendant's

fitness to proceed is questioned, the municipal judge may either transfer the case to the district court or, if the prosecutor moves to dismiss, the case may be dismissed.

Testimony received in opposition to the bill draft indicated the bill draft does not address the need for municipal judges to be licensed to practice law in the state and the municipal court is granted excessive authority to sentence an individual to jail for up to 30 days for nonpayment of fines.

Recommendation

The committee recommends a bill draft [\[25.0279.02000\]](#) to provide authority for the district court to hear city ordinance cases for cities of fewer than 5,000 people; allow two or more cities to create a joint municipal court and share the operating costs; allow two or more cities to have separate municipal courts, but share resources such as the courtroom and staff; and implement two options when a defendant's fitness to proceed is questioned.

UNIFORM LAWS REVIEW

The North Dakota Commission on Uniform State Laws consists of 11 members. The primary function of the commission is to represent North Dakota in the ULC, also known as the National Conference of Commissioners on Uniform State Laws. The ULC consists of representatives of all states, and its purpose is to promote uniformity in state law on all subjects on which uniformity is desirable and practicable and to serve state government by improving state laws for better interstate relationships. Under Sections 54-35-02 and 54-55-04, the state commission may submit its recommendations for enactment of uniform laws or proposed amendments to existing uniform laws to the Legislative Management for its review and recommendation during the interim between legislative sessions.

The commission presented these recommendations to the committee:

- The Uniform Child Abduction Prevention Act (UCAPA), which the ULC approved in 2006, provides states with mechanisms to deter domestic and international child abductions by parents and agents of parents. Under UCAPA, courts must analyze several factors to determine whether a child is at risk for abduction, including previous abductions, previous attempts to abduct the child, threats of abduction, domestic violence, negligence, refusal to obey a court-ordered child custody determination, the abandonment of employment, the liquidation of assets, the purchase of travel tickets or travel documents, or the desire to obtain the child's school or medical records. Under UCAPA, if a court determines a child is at risk of abduction, the court may enter an order aimed to prevent abduction. If abduction appears imminent, a court may issue a warrant to take physical custody of the child, direct law enforcement officers to attempt to locate and return the child or exercise police powers under state law. An individual served with a warrant must be afforded a hearing no later than the next judicial day or the next possible judicial day if the next day is impossible.
- The Uniform Commercial Real Estate Receivership Act (UCRERA), which the ULC approved in 2015, provides uniform provisions to provide predictable transactions for lenders and borrowers. The UCRERA provides guidance to trial courts on the receivership process while preserving the court's discretion when determining an appropriate remedy. For receiverships involving commercial property, the UCRERA offers a consistent set of rules relating to due process; receiver appointment; receiver identity and independence; powers and duties of appointed receivers; use or sale of receivership property; existing contracts, leases, and creditor claims; and reporting requirements.
- The Uniform Electronic Estate Planning Documents Act (UEEPDA), which the ULC approved in 2022, authorizes using electronic signatures and documents in an individual's estate plan. The UEEPDA applies to nontestamentary documents only and is designed to supplement the Uniform Electronic Wills Act. An estate planning document executed under the UEEPDA is effective despite being electronically executed or in an electronic medium.
- The Uniform Special Deposits Act (USDA), which the ULC approved in 2023, addresses special deposit transactions. The Act clarifies the definition of "special deposit," the treatment of a special deposit in the event of a depositor's bankruptcy, the applicability of creditor process to a special deposit, and the legality of the bank exercising a set-off or right of recoupment against a special deposit unrelated to a payment to a beneficiary or the special deposit. The Act creates a definite and clear right to payment when a contingency is satisfied and upon notice to the bank. The USDA provides a low-cost mechanism to return earnest money to its rightful owner.

Conclusion

The committee makes no recommendations regarding these uniform Acts.

TECHNICAL CORRECTIONS

The committee continued the practice of reviewing the Century Code to determine if there are inaccurate or obsolete name and statutory references or superfluous language. The committee considered a bill draft addressing the following statutory provisions:

- Section 1 of the bill draft merges 14 definitions contained in individual definition sections in Chapter 1-01 into the list of definitions provided in Section 1-01-49.
- Section 2 of the bill draft removes an outdated reference to Section 12.1-22-03.1(2), which was repealed in 2001.
- Section 3 of the bill draft corrects an inaccurate cross-reference to Chapter 12.1-32.2, resulting from a typographical error. No such chapter exists. The reference is corrected to reference Chapter 12.1-31.2, related to disorderly conduct restraining orders.
- Section 4 of the bill draft changes an outdated cross-reference to Chapter 23-37 to Chapter 23.1-12, relating to the petroleum tank release compensation fund. Provisions related to the petroleum tank release compensation fund were moved from Chapter 23-37 to Chapter 23.1-12 when the Department of Environmental Quality was created and certain duties and responsibilities of the State Department of Health relating to environmental quality were transferred to the Department of Environmental Quality following the enactment of Senate Bill No. 2327 (2017).
- Section 5 of the bill draft corrects an inaccurate cross-reference to Section 27-20.3-36, resulting from a typographical error. No such section exists. The reference is corrected to reference the appropriate section related to permanency hearing limitations in Section 27-20.3-26.
- Section 6 of the bill draft corrects a minor drafting error that omitted the word "of" in Section 45-13-01(19), regarding the definition of "partnership."
- Section 7 of the bill draft changes a reference to the "midwest independent system operator" to reflect the updated name of the electric grid operator. The electric grid operator changed its name to the "midcontinent independent system operator" in 2013 when the operator expanded its region to include states outside of the Midwest.
- Section 8 of the bill draft corrects the reference to the senate industry, business and labor standing committee to instead refer to the senate industry and business standing committee, which is the correct name of this standing committee beginning in the 2023 legislative session.
- Section 9 of the bill draft removes an obsolete reference to the "state information technology advisory committee." The committee was repealed in 2023 following the enactment of House Bill No. 1159 (2023).
- Section 10 of the bill draft corrects an inaccurate cross-reference to Chapter 54-42, resulting from a typographical error. The reference is corrected to reference the appropriate chapter related to the Public Employees Retirement System in Chapter 54-52.
- Section 11 of the bill draft removes the word "unremarried" as it relates to a surviving spouse claiming the disabled veterans' credit. House Bill No. 1212 (2023), in part, made the disabled veterans' property tax credit available to a surviving spouse of a qualifying veteran who receives United States Department of Veterans Affairs dependency and indemnity compensation, including when eligibility for dependency and indemnity compensation is determined after the qualifying veteran's death. As part of this change, references to "unremarried" surviving spouses were removed in House Bill No. 1212. The reference to "unremarried" in Section 57-02-08.8(3) was inadvertently left in this section and is therefore removed in the bill draft.
- Section 12 of the bill draft removes an outdated reference to Chapter 11-37, which was repealed in 2015.
- Section 13 of the bill draft corrects a reference to a federal law that has been renumbered. In 1991, Public Law 102-83 renumbered 38 U.S.C. 1901 to 38 U.S.C. 3901.
- Section 14 of the bill draft accompanies the changes in Section 1 of the bill draft. This section of the bill draft repeals the 14 individual definition sections in Chapter 1-01 which were merged into the definition list in Section 1-01-49.
- Section 15 of the bill draft provides Sections 11 and 12 of the bill draft are effective for taxable years beginning after December 31, 2024.

Recommendation

The committee recommends a bill draft [\[25.0302.01000\]](#) to make technical corrections throughout the Century Code.

REVIEW OF EXECUTIVE ORDERS

Pursuant to Section 54-03-32, the Legislative Management delegated to the committee the responsibility to review any executive order issued by the President of the United States which has not been affirmed by a vote of Congress and signed into law, and recommend to the Attorney General and the Governor that the executive order be further reviewed to determine the constitutionality of the order and whether the state should seek an exemption from the order or seek to have the order declared to be an unconstitutional exercise of legislative authority by the President. The committee monitored and reviewed the executive orders issued between April 2022 and April 2024.

Conclusion

The committee makes no recommendation regarding the executive orders issued between April 2022 and April 2024.

REPORT ON CIVILLY FORFEITED PROPERTY

The committee received a report from the Attorney General, pursuant to Section 19-03.1-36.8, relating to civil asset forfeiture cases in the state for the preceding fiscal year, including information about the type, approximate value, and disposition of any civilly forfeited property and the amount of proceeds received. The report indicated of the counties that submitted reports, the net total of forfeited currency in the state from July 1, 2022, through June 30, 2023, was \$204,169. In addition, four motorized vehicles were seized with gross proceeds of sales totaling \$50,334 and three firearms were held, sold, or disposed of with a value totaling \$725.

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS ANNUAL REPORT

The committee received a report from the Director of the Commission on Legal Counsel for Indigents, as required by Section 54-61-03, regarding pertinent data on the operation, needs, and cost of the indigent defense contract system and any established public defender offices. The report indicated the commission provides legal services to persons who are indigent and who are charged with misdemeanors and felonies in state district court. The commission also provides counsel to indigent persons who are parties in some juvenile cases and other miscellaneous matters.

The report indicated in fiscal year 2023, the commission provided legal counsel services in over 16,200 case assignments. The commission's 2021-23 biennium budget consisted of \$19,294,363 from the general fund and \$1,994,850 from the commission's special fund, for a total of \$21,289,213. The special fund consists of statutory fees paid by defendants, which include the court administration fee, an indigent defense/facility improvement fee of \$100, and the \$35 indigent defense application fee from criminal cases. The report indicated during the last fiscal year 72 percent of case assignments were adult criminal, 13 percent were juvenile cases (delinquency, child in need of protection, guardianship) and 15 percent were appeals, postconviction, or other.

The report indicated the commission has a 22 percent vacancy rate and an insufficient number of attorneys to cover the South Central Judicial District. Some of the commission's attorneys have taken 148 percent of a normal caseload to try bridge the workforce gap but the commission is unable to pay enough in salary to attract new candidates or to retain existing public defenders; therefore, the commission is experiencing high turnover. Many public defenders choose to leave the commission to become prosecutors, often receiving yearly salaries \$20,000 more than the commission is able to offer.

NORTH DAKOTA RACING COMMISSION REPORT

The committee received a report from the Director of the North Dakota Racing Commission pursuant to Section 53-06.2-04. The report indicated the commission's primary responsibilities are to regulate live and simulcast races as well as to license all 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.

The report indicated the commission established an internship program in 2020 and has employed eight college students over the past 4 summers. The commission made direct contributions to the state's equine industry totaling over \$2 million during the 2021-23 biennium, which includes grants and payments to Chippewa Downs and Horse Race North Dakota, North Dakota Thoroughbred Association, North Dakota Quarter Horse Racing Association, salaries, and dozens of North Dakota horsemen, including owners and breeders. The report stated the commission helps support over 500 full- and part-time jobs annually throughout the state. Many of these jobs are located at Chippewa Downs on the Turtle Mountain Band of Chippewa Indians lands.

LOTTERY REPORT

The committee received a report from the Director of the North Dakota Lottery regarding the operation of the lottery pursuant to Section 53-12.1-03. The report indicated, for the 2023-25 biennium, the lottery had a fixed appropriation of \$2.4 million for salaries and fringe benefits for 10 full-time equivalent (FTE) positions and \$3.2 million for operating expenses, totaling \$5.6 million. The lottery has a continuing appropriation for variable expenses of prizes, retailer commissions, online gaming system vendor fees, and Multi-State Lottery Association group dues which have a direct

incremental relationship with sales but are unable to be budgeted. The appropriation funds 8 FTE positions in the Attorney General's office Lottery Division, 1 FTE position in the Information Technology Division, and 1 FTE position in the Finance and Administration Division. Also, the appropriation funds 2 part-time draw operators.

Projected lottery sales for the 2023-25 biennium are \$63.7 million, anticipating transfers of \$16.2 million with \$13.6 million to the general fund; \$640,000 to the compulsive gambling prevention and treatment fund; and \$2 million to the multijurisdictional drug task force grant fund. Unaudited ticket sales through December 2023 are \$22.8 million. This reflects a \$289,567 decrease in sales compared to the same period the previous year. The report indicated the lottery is slightly below projections because there is an ebb and flow of jackpot runs that drive sales. The lottery will maintain projected sales of \$32 million and transfers of \$8.1 million with \$6.8 million to the state general fund; \$320,000 to the compulsive gambling prevention and treatment fund; and \$1 million to the multijurisdictional drug task force grant fund for the first year of the biennium. Through December 31, 2023, \$6.38 million was payable to North Dakota players and \$5.7 million was paid to the Multi-State Lottery Association to fund national prizes.

STATE HOSPITAL REPORT ON SEXUALLY DANGEROUS INDIVIDUALS TREATMENT PROGRAM

The committee received a report from DHHS, pursuant to Section 50-06-31, regarding the State Hospital's program for the evaluation and treatment of sexually dangerous individuals. The report indicated the evaluation and treatment program for sexually dangerous individuals has operated at the State Hospital since 1997. The State Hospital has 62 residential beds for this purpose, including transitional home beds for patients who are in the late stages of treatment and scheduled for discharge from the program. The program is designed as a psychiatric rehabilitation program with special programming for patients with sex offense histories. The program includes a multidisciplinary team that uses both cognitive behavioral and rehabilitation approaches in providing group and individual therapy. The annual program cost per patient is \$229,212. There are 67.5 FTE positions assigned to the program, including treatment, direct care, and security personnel.

DEPARTMENT OF HEALTH AND HUMAN SERVICES REPORT ON IMPLEMENTATION OF MEDICAL MARIJUANA

The committee received a report from DHHS, as required by Section 19-24.1-39, regarding the number of applications, registered qualifying patients, registered designated caregivers, nature of debilitating medical conditions, identification cards revoked, health care providers providing written certifications, compassionate care centers, expenses incurred, and revenues generated by the department.

The report indicated that during fiscal year 2023, the number of registered qualifying patients continued to increase. As of June 30, 2021, there were approximately 5,750 registered qualifying patients. As of June 30, 2023, there were over 9,550 registered qualifying patients. In fiscal years 2021 and 2022, there were 10 and 16 registry identification cards revoked, respectively. In fiscal year 2023, there were seven registry identification cards revoked. All seven revocations were qualifying patients. The two registered manufacturing facilities are in Bismarck and Fargo with eight registered dispensaries in Bismarck, Devils Lake, Dickinson, Fargo, Grand Forks, Jamestown, Minot, and Williston.

In fiscal year 2023, the total dispensary sales were \$21,606,000, which 66 percent were dried flowers and leaves, compared to total sales of \$19,970,000 in fiscal year 2022, which 69 percent were dried flowers and leaves.

REPORT ON ATTORNEY RECRUITMENT PROGRAM

Senate Bill No. 2233 (2021) established the Attorney Recruitment Program, codified as Chapter 27-02.2, to encourage attorneys to live and work in rural communities with an incentive payment of \$45,000 paid in equal installments over 5 years. Cities with a population of 5,000 or less or counties with a population of 16,000 or less are eligible to apply for the program and applications are reviewed by an ad hoc committee of three who are appointed by the Chief Justice. The report indicated there are seven eligible attorneys on the program roster and nine eligible communities on the community roster. As of June 30, 2024, there are five contracts in place with three additional contracts pending. The state's cost for the program for fiscal year 2024 is \$9,000. To date, the program has paid out a total of \$36,000 in incentive payments. The state has paid \$18,000, contracted communities have paid \$12,600, and the State Bar Association of North Dakota has paid \$5,400. There have been no other direct costs to the program.

REPORT ON DRUG COURT TO WELLNESS COURT

The committee received a report from the Supreme Court regarding the Supreme Court's findings and recommendation and any legislation required to implement the statutory change of drug court to wellness court, pursuant to Section 55 of Senate Bill No. 2012 (2023). The report indicated the name "wellness court" was soundly rejected by stakeholders and participants in the adult drug courts. "Treatment court" is the preferred alternate name because it will match the change to the national best practice standards for drug courts. The Department of Corrections and Rehabilitation also favored term "treatment court" over "wellness court." Stakeholders in the juvenile drug courts were

more open to the term "wellness court" but also were open to the term "treatment court." The Department of Health and Human Services favored the term "wellness court" and the Attorney General's office did not raise any objections to the term "wellness court."

The report indicated the term "treatment court" is consistent with recent changes made by the National Drug Court Institute and the National Drug Court Resource Center that recently changed their respective names to the Treatment Court Institute and the National Treatment Court Resource Center. The emphasis derived from the term "drug court" is a focus on what is wrong with the individual who is enrolled in the program. A less-stigmatizing name that focuses on the intended positive outcome of drug courts would be "wellness court," "treatment court," or "recovery court."

Recommendation

The committee recommends a bill draft [\[25.0100.01000\]](#) relating to changing the term drug court to treatment court throughout the Century Code. The bill draft does not implement any substantive changes to law.

UNIFORM BAIL SCHEDULE REPORT

The committee received a report from the Supreme Court regarding the implementation of a uniform bail schedule and the standard amount of bail for each state offense. The report indicated the purpose of bail is not for punishment but to ensure a defendant will appear for court proceedings. A workgroup was created to establish and implement a uniform bail schedule in accordance with Section 29-08-03.1, which concluded the arresting officer should determine whether to arrest or hold an individual. The final rule sent to the Supreme Court by the workgroup provided for release of an individual on a promise to appear, excluding exceptions such as having a felony or active warrant, in which case the individual may be held until the individual can be seen by a judicial officer.

ETHICS COMMISSION REPORT

The committee received a report from the Ethics Commission on the activities and operations of the commission, including information regarding the number of complaints received by the commission, education and outreach efforts, and the status of the commission's budget pursuant to Section 4 of Senate Bill No. 2024 (2023). The report indicated the commission was created in 2018 by passage of an initiated measure which created Article XIV of the Constitution of North Dakota. The commission is governed by Article XIV of the state constitution and Chapter 54-66. The commission consists of five commissioners, an executive director, a general counsel, and an operations administrator.

The report indicated the number of complaints received by the commission has increased steadily over the past 5 years. Of the 70 total complaints filed with the commission, 27 are pending, 13 are under initial review, 1 is in informal resolution, and 13 are in the investigation phase.

The commission's report indicated the appropriation for the 2023-25 biennium is \$1,138,242 and as of July 30, 2024, the commission's remaining budget is \$595,891. The commission's projected expenditures for August 1, 2024, through June 30, 2025, are \$586,173. Based on these numbers, the commission's ending balance for the biennium is projected to be \$9,718. The appropriation included one-time appropriations of \$25,000 for office remodeling and \$72,000 for professional fees to cover attorney's fees through the 2023-25 biennium. Of the \$1,138,242 appropriation for the 2023-25 biennium, \$50,000 is a contingency appropriation for professional services.