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## NATURAL RESOURCES COMMITTEE

Wednesday, December 15, 2021  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Robert Erbele, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Senators Robert Erbele, Dale Patten, Merrill Piepkorn\*; Representatives Gretchen Dobervich, Bill Tveit; Citizen members David DeWald, Doug Goehring, Jason Horning, Brian Schanilec, Joe Schettler, John Weinand, Jeb Williams, Ryan Younggren\*

**Member absent:** Citizen member Shawn Riley

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

*\*Attended remotely*

### COMMITTEE RESPONSIBILITIES

Mr. Dustin Assel, Counsel, Legislative Council, presented the committee's statutory responsibilities and a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

### LAND ACCESS STUDY

Mr. Assel presented a memorandum entitled [Background Memorandum - Land Access Study](#). He noted the land access study is a continuation of the study conducted by the 2019-20 interim Natural Resources Committee. He noted the memorandum summarizes changes enacted pursuant to Senate Bill No. 2144 (2021) to statutory provisions regarding criminal trespass and the posting of lands by owners to prohibit hunting.

Mr. Brian Hosek, Business Operations Manager, Game and Fish Department, provided an update ([Appendix B](#)) on the status and performance of the land access database pilot project, including the function of the database and related issues. He noted:

- Posting of land in the electronic database relies on tax roll parcel information provided by counties to the statewide land parcel project;
- Parcel information is aggregated and added to the state's centralized database;
- The information has many uses, including for electronic posting in the land access database;
- The land access database and mobile application performed well;
- Most of the feedback regarding the database and application was positive, but not all landowners and sportsmen were comfortable with the new system;
- Over 2,000 land owners participated in posting nearly 4 million acres to the system;
- Ownership of parcels posted to the system is validated using North Dakota driver's licenses; however, an alternative validation method may be needed for nonresidents who own land in the state and would like to use the posting system;
- Updates and additional data will be posted to the system on February 1;
- The department has discussed incorporating a streamlined method for allowing owners to renew postings each season; and

- The department is considering establishing rules to clarify and provide guidelines for the electronic posting system.

In response to questions from committee members, Mr. Hosek noted:

- A hunting license applicant is required to verify the applicant understands the law regarding the electronic posting of land before a hunting license will be issued by the department.
- Landowners will be able to designate land for next season, and on February 1 the system will be updated with the new designations and postings.
- Designations must be updated annually to account for sales and ownership changes of land parcels.

Mr. Jason Horning, Next Generation 9-1-1 Program Manager, North Dakota Association of Counties, provided an update ([Appendix C](#)) regarding county geographic information system data and the performance of the land access database pilot project.

Mr. David DeWald, President, North Dakota Wildlife Federation, provided an update ([Appendix D](#)) on the performance of the land access database pilot project from the sportsmen's perspective.

Mr. Brian Schanilec, sportsman, representing all other sportsmen groups, provided an update on the performance of the land access database pilot project from the sportsmen's perspective. He noted the 1<sup>st</sup> year of the program has been a great success despite a few minor issues and concerns.

Mr. Joe Schettler, member, North Dakota Stockmen's Association, presented an update on the performance of the land access database pilot project from the landowners' perspective. He noted most landowners are very pleased with the overall performance of the system. He noted several landowners who did not enroll land in the electronic database during the 1<sup>st</sup> year intend to participate in the future based on the system's success.

Mr. John Weinand, member, North Dakota Grain Growers Association, presented an update on the performance of the land access database pilot project from the landowners' perspective. He noted he was impressed with the operation and function of the system.

### Comments by Interested Persons

Ms. Jodi A. Smith, Commissioner, Board of University and School Lands, provided information ([Appendix E](#)) regarding the land access database and application. She noted the electronic posting program has been very successful. She also noted several concerns as the program relates to trust lands in the state and offered recommendations to enhance the system.

In response to a question from a member of the committee, Ms. Smith noted trust lands closed to public access are listed on the Department of Trust Lands website. She noted hunters may not understand state trust land is not included in the land access database.

Mr. Hosek noted the Game and Fish Department is discussing with the Department of Trust Lands a way to share information regarding posted land.

Mr. Jim Miller provided written information ([Appendix F](#)) regarding the land access database and mobile application.

Mr. Joe Keller, member of the North Dakota Wildlife Federation, noted feedback regarding the system has been very positive. He noted several landowners and sportsmen have indicated frustration with the time required to download the mobile application. He noted individuals also are frustrated that land that was not physically posted in the past now is being posted online.

Mr. Shawn Schafer noted although the system works well, he is concerned with the ability of an owner or an individual authorized by the owner to post large quantities of land. He noted land not physically posted in the past is being posted to the system by an individual who is not the owner. He indicated he would like the law only to allow an individual with a vested interest, either an owner or tenant, to be able to post the land.

Mr. Assel noted:

- While an individual authorized by an owner has a legal right to post the land, an individual who is not authorized and posts the land of another is guilty of a Class B misdemeanor;

- The law previously allowed a tenant to post the land, but the authorization for a tenant was removed in Senate Bill No. 2144 (2021); and
- A tenant can be selected as an individual authorized by the owner to post the land.

Mr. John Bradley, Executive Director, North Dakota Wildlife Federation, noted he has heard positive feedback regarding the electronic posting system.

### **Committee Discussion and Staff Directives**

A committee member indicated a desire to provide the Game and Fish Department a legislative appropriation to continue the administration and enhancement of the electronic posting system.

The committee discussed concerns with the ability of sportsmen to access state and federal lands that do not abut a road or other easily accessible access point.

In response to questions from the committee, Mr. Assel noted although the Game and Fish Department does not have express authority under North Dakota Century Code Section 20.1-01-17 to adopt rules regarding the electronic posting system, likely the department has authority to adopt administrative rules pursuant to the Administrative Agencies Practices Act under Chapter 28-32. He noted administrative rules have the force of law, but rules may not contradict legislative intent or change who is authorized to post land for hunting because that is established in the statutory provision.

The committee requested the Game and Fish Department review the option of adopting administrative rules relating to the electronic database and application.

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

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Dustin Assel  
Counsel

ATTACH:6