



**TESTIMONY OF JODI SMITH  
COMMISSIONER  
North Dakota Department of Trust Lands**

**House Bill 1081**

**Senate Energy and Natural Resources Committee  
March 12, 2021**

Chairman Kreun and members of the Senate Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify in support of House Bill 1081.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund (CSTF) and 12 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages five additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the CSTF.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program.

The Department's Surface Management Division (Division) manages more than 706,000 surface acres, spread across 70,762 square miles and in 49 counties. The major source of income from these lands comes from agricultural leases (grassland, crop and hay land uses) with the majority of the land leased for grazing purposes (630,423 acres), with significant revenue generated from rights-of-way, surface damage agreements, and construction aggregate mining.

Effective January 1, 2020, the Board adopted Chapter 85-04-05 of the North Dakota Administrative Code (Chapter 85-04-05), see <https://www.legis.nd.gov/information/acdata/pdf/85-04-05.pdf>, relating to public access and use of lands owned and managed by the Board. Prior to enactment of those rules, the Department held a public comment period regarding all proposed rules, including those addressing Public Access and Use. Comments were received from North Dakota Game and Fish Department (NDGF) seeking clarification under what statutory/jurisdictional authority the Department would enforce and provide a penalty for the new rules. The Department responded it would use all available resources to enforce those rules.

Since the adoption of Chapter 85-04-05, the Department has realized additional enforcement authority is necessary to ensure public access and use of trust lands is done in a respectful and responsible manner. The Department is seeking to enact N.D.C.C. §§ 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 relating to access to and activities on trust lands, and to provide a penalty.

Currently, the Department does not have the staffing or expertise necessary to patrol trust lands. When individuals have called asking the Department for assistance on land they lease or on other trust lands, the Department has been unable to assist them in resolving the issues. The Department has received calls concerning:

- Cars being blown up
- Target shooting (such as AK-47 target practice)
- Vehicles being driven on leased land which can be damaging to land
- Hunters or other individuals trespassing
- Tree stands being erected
- Abandoned vehicles
- Unauthorized ATV use
- Hunters driving off road
- Big game baiting
- Permanent hunting blinds
- Camping/parking horse trailers and campers
- Illegal posting, not authorized by the Department
- Dumping deer carcasses or other trash

Currently, if there is a civil infraction relating to state statute, the Sherriff's Department can respond to a call to enforce the statute and provide penalty. Additionally, if there is a violation relating to NDGF, the NDGF can respond and enforce their statues and Administrative Rules and provide penalty. However, there is a significant gap when neither the Sherriff's Department nor the NDGF have the authority to respond to calls from the Department and constituents.

HB 1081 will place the Department's current North Dakota Administrative Code Chapter 85-04-05 in statute as N.D.C.C. § 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32. This will provide the Sherriff's Department the authority to respond to issues regarding public access and use of trust lands, thus, allowing the Department to manage the trust assets more effectively. Further, it would provide the Department's lessees and the public a tool to resolve these issues by reporting the issue to Sherriff's Department and requesting their assistance in resolution.

We look forward to working with the Committee on these issues and would be happy to answer any questions.