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## **AGRICULTURE AND NATURAL RESOURCES COMMITTEE**

Tuesday, October 3, 2023  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Paul J. Thomas, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Representatives Paul J. Thomas, Mike Beltz, Mike Brandenburg, Hamida Dakane, Scott Dyk\*, Dori Hauck, Jeff A. Hoverson, David Monson, SuAnn Olson, Mitch Ostlie, Bill Tveit; Senators Cole Conley, Greg Kessel, Randy D. Lemm, Larry Luick, Janne Myrdal\*, Kent Weston

**Members absent:** Representative Dwight Kiefert; Senators Terry M. Wanzek, Mark F. Weber

**Others present:** See [Appendix A](#) for additional persons present.

*\*Attended remotely*

Mr. Dustin Richard, Counsel, Legislative Council, presented a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

### **MITIGATION PLANS RELATING TO THE OPERATION OF ENERGY CONVERSION OR TRANSMISSION FACILITIES STUDY**

Mr. Richard presented a memorandum entitled [Mitigation Plans Relating to the Siting and Operation of Energy Conversion or Transmission Facilities Study - Background Memorandum](#).

Ms. Julie Fedorchak, Commissioner, Public Service Commission, provided testimony ([Appendix B](#)) relating to the Public Service Commission's (PSC's) role regarding mitigation plans for the siting and operation of energy conversion or transmission facilities. In response to questions from committee members, she noted:

- Effective communication with landowners during the siting process is sometimes a difficult task due to the number of parties and the complexity of some transactions.
- The PSC does not determine the spacing between wind towers.
- The economic impacts are discussed primarily by local authorities during the local permitting process.
- The PSC primarily focuses on the environmental impacts during the state permitting process.

Mr. Greg Link, Division Chief, Conservation and Communications Division, Game and Fish Department, provided testimony ([Appendix C](#)) relating to the Game and Fish Department's role regarding mitigation plans for the siting and operation of energy conversion or transmission facilities. In response to questions from committee members, he noted:

- Per megawatt, approximately 3 to 6 birds and 1 to 30 bats are killed each year by wind towers in the state.
- Indirect impacts are considered due to the advancement of technology and science.
- The Game and Fish Department only may make recommendations relating to the location of wind tower sites.
- A balance must be struck between environmental mitigation and agricultural production to satisfy all parties affected by the siting of energy conversion or transmission facilities.

Mr. Doug Goehring, Agriculture Commissioner, provided testimony ([Appendix D](#)) relating to the Department of Agriculture's role regarding mitigation plans for the siting and operation of energy conservation or transmission

facilities, associated administrative rules, and environmental impact mitigation fund disbursements. In response to questions from committee members, he noted:

- The department is on notice of every siting project in the state; however, the department is not required to provide feedback to the PSC for every siting project.
- The department is not required by law to track the number of acres of farmland lost each year to siting projects.
- There are over 2 million acres of grassland easements in the state.

### **TOWNSHIP PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM STUDY**

Mr. Richard presented a memorandum entitled [Township Participation in the National Flood Insurance Program Study - Background Memorandum](#).

Mr. Aaron Carranza, Director, Regulatory Division, Department of Water Resources, provided testimony (Appendices [E](#) and [F](#)) regarding the Department of Water Resources' role in tracking and updating land use authority for National Flood Insurance Program (NFIP) purposes. In response to questions from committee members, he noted:

- Certain township boards elect not to participate in the NFIP due to a lack of resources, expertise, and knowledge relating to floodplain management.
- Any township not participating in the NFIP is permitted to join at a later date.
- Unorganized civil townships are subject to county zoning requirements.

Mr. Jon Godfread, Commissioner, Insurance Department, provided testimony ([Appendix G](#)) regarding the Insurance Department's role in tracking and updating land use authority for NFIP purposes. In response to questions from committee members, he noted:

- The Department of Water Resources may be best equipped to facilitate and administer NFIP participation and floodplain mapping in North Dakota.
- North Dakota lacks a central repository to identify which townships are participating in NFIP.
- Some township representatives are unaware of whether the township is a participating community under NFIP.

Mr. Justin Messner, Disaster Recovery Chief, Homeland Security Division, Department of Emergency Services, provided testimony ([Appendix H](#)) regarding the Department of Emergency Services' role in tracking and updating land use authority for NFIP purposes. In response to questions from committee members, he noted:

- Under federal and state law, a participating community is a body that has the authority to zone for floodplain management.
- Administration of NFIP by a county, rather than a township, may be the most efficient method to ensure all NFIP policies are legally effective.

### **OWNERSHIP OF PROPERTY AND ASSETS BY FOREIGN ADVERSARIES IN NORTH DAKOTA STUDY**

Mr. Richard presented a memorandum entitled [Business Operation and Property and Asset Ownership by Foreign Adversaries in North Dakota Study - Background Memorandum](#).

Mr. Michael Howe, Secretary of State, and Mr. Michael Monroe, Director, Business Services Unit, Secretary of State's office, provided testimony ([Appendix I](#)) relating to the role of the Secretary of State in regulating foreign adversaries in North Dakota. In response to questions from committee members, they noted:

- The Secretary of State's office is an administrative agency without investigative and enforcement powers.
- Businesses are authorized to conduct business in North Dakota after the Secretary of State's office reviews and approves the required application packet.
- Businesses dissolved in the state of origin cannot legally conduct business in North Dakota.
- A blanket moratorium on the registration of all businesses in an effort to preclude foreign adversaries from

conducting business in North Dakota would cause extreme harm to the business climate in the state.

- When reviewing business applications, the Secretary of State's office assumes the information provided is accurate, truthful, and lawful.

Ms. Claire Ness, Chief Deputy Attorney General, Ms. Lindsay Wold, Supervisory Special Agent, State and Local Information Intelligence Center, Bureau of Criminal Investigation, and Mr. Lonnie Grabowska, Director, Bureau of Criminal Investigation, provided testimony (Appendices [J](#) and [K](#)) relating to the role of the Attorney General and the Bureau of Criminal Investigation in regulating foreign adversaries in North Dakota. In response to questions from committee members, they noted:

- The Bureau of Criminal Investigation has access to the federally administered Financial Crimes Enforcement Network (FinCEN).
- Partnerships between the state of North Dakota, the Department of Homeland Security, the Central Intelligence Agency, and the Bureau of Federal Investigation is critical to carry out the provisions of Senate Bill No. 2371 (2023).
- A state version of the Committee on Foreign Investment in the United States may provide an effective conduit to receive intelligence resources from the federal government.
- The federal government is under no obligation to share intelligence with the states.
- The state is reliant to a large extent on the willingness and authority of a federal agency to share intelligence with the state.

No further business appearing, Chairman Thomas adjourned the meeting at 2:54 p.m.

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Dustin A. Richard  
Counsel

ATTACH:11