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## NATURAL RESOURCES COMMITTEE

Friday, September 25, 2020  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Robert Erbele, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Robert Erbele, Jim Dotzenrod, Dale Patten; Representatives Chuck Damschen, Gretchen Dobervich; Citizen Members Dorman Bazzell, David DeWald, Doug Goehring, Jason Horning, Brian Schanilec, Terry Steinwand, John Weinand, Ryan Younggren

**Member absent:** Citizen Member Joe Schettler

**Others present:** Representative Karen M. Rohr, Mandan, member of the Legislative Management  
See [Appendix A](#) for additional persons present.

**It was moved by Mr. Schanilec, seconded by Mr. Weinand, and carried on a voice vote that the minutes of the May 11, 2020, meeting be approved as distributed.**

### REVIEW OF PILOT PROJECT

Chairman Erbele called on Mr. Terry Steinwand, Director, Game and Fish Department, and Mr. Brian Hosek, Information Technology Coordinator, Game and Fish Department, for a presentation ([Appendix B](#)) regarding the status and performance of the land access pilot project. Mr. Steinwand said he was pleased with how the pilot project operated. He said 79 landowners signed up for the pilot project's online application, and 38,000 acres were designated as open or closed in the online application.

Chairman Erbele called on Mr. Jason Horning, Next Generation 9-1-1 Program Manager, North Dakota Association of Counties, for a presentation regarding counties' feedback on the pilot project. Mr. Horning said he reached out to the auditors of the three counties in the pilot project. Two of the counties had received no feedback from residents, and one county received a few questions regarding the county's participation in the project.

Chairman Erbele called on Mr. Dorman Bazzell, Chief Data Officer, Information Technology Department, and Mr. Bob Nutsch, GIS Project Manager, Information Technology Department, for a presentation ([Appendix C](#)) regarding geographic information system (GIS) data and technical issues related to expanding the number of counties participating in the pilot project.

In response to a question from Senator Dotzenrod, Mr. Nutsch said some counties have to contract with vendors to develop and maintain the counties' parcel data.

### CONSIDERATION OF BILL DRAFTS

Chairman Erbele called on Ms. Claire Ness, Counsel, Legislative Council, for a presentation of bill drafts [21.0159.02000](#), [21.0161.04000](#), [21.0163.02000](#), and [21.0196.01000](#) for the committee's consideration. Ms. Ness said bill draft [21.0159.02000](#) provides for a continuation of the study with the same committee membership and an expansion of the pilot project.

**It was moved by Senator Patten, seconded by Representative Dobervich, and carried on a roll call vote that the committee recommend bill draft [21.0159.02000](#).** Senators Erbele, Dotzenrod, and Patten; Representatives Damschen and Dobervich; and Citizen Members DeWald, Schanilec, and Weinand voted "aye." No negative votes were cast.

Ms. Ness said the recommended bill draft [\[21.0196.01000\]](#) would make electronic posting the equivalent of physical posting for purposes of the prohibition against hunting on posted land in North Dakota Century Code Title 20.1.

In response to a question from Chairman Erbele, Mr. Steinwand said all game wardens are connected to the Internet in the field and can determine whether land is posted electronically. He said hunters are responsible for knowing whether they are on posted land.

**It was moved by Mr. Weinand, seconded by Mr. DeWald, and carried on a roll call vote that the committee recommend bill draft [21.0196.01000](#).** Senators Erbele, Dotzenrod, and Patten; Representatives Damschen and Dobervich; and Citizen Members DeWald, Schanilec, and Weinand voted "aye." No negative votes were cast.

Ms. Ness said the recommended bill draft [\[21.0161.04000\]](#) would make trespassing on electronically posted land a criminal offense under Title 12.1; would allow a peace officer to cite an individual trespassing on electronically posted land rather than refer the matter for prosecution; and would make engaging in specified recreational purposes, except hunting, in rural areas on another person's land a criminal offense.

In response to a question from Senator Patten, Ms. Ness said, under the bill draft, a peace officer could cite an individual with a noncriminal offense if the landowner does not wish to pursue a criminal charge against the individual. She said an individual could not be both cited and charged with a criminal offense.

In response to a question from Mr. Schanilec, Mr. Steinwand said the Game and Fish Department could not host the electronic posting application if the bill draft became law because the application would be used for enforcement of nonhunting activities.

In response to a question from Senator Patten, Mr. Bazzell said the electronic posting application could be hosted by another agency.

Chairman Erbele said he recommends removing the new language regarding nonhunting activities on the bottom of page 1 of the bill draft and on lines 19 through 23 of page 2 of the bill draft. No motion was made to recommend the bill draft.

Ms. Ness said the bill draft [\[21.0163.02000\]](#) would clarify all fences are "enclosures" for purposes of the criminal trespass statute in response to a North Dakota Supreme Court case that said not all fences are enclosures; would make trespassing on land electronically posted a criminal offense; would make it optional for a landowner to include the landowner's name on posting signs; would allow a peace officer to cite an individual trespassing on electronically posted land rather than refer the matter for prosecution; and would make electronic posting equivalent to physical posting for purposes of the prohibition against hunting on posted land in Title 20.1.

Mr. Younggren said it would be difficult for prosecutors to prosecute a trespass offense if there were no names on the posting signs. He said the language regarding fences provides clarity.

Mr. DeWald said hunters would have a more difficult time contacting landowners for permission to hunt on their land if there were no names on posting signs.

Mr. Weinand said, under the bill draft, landowners could include their names on the signs if the landowners are open to being contacted by hunters.

Mr. Schanilec and Mr. DeWald said not requiring names on posting signs would be a dealbreaker for them.

Representative Damschen said he did not want to make it difficult for landowners to place restrictions on access to their land.

Senator Patten said language expanding the criminal trespass statute could be addressed in a future study.

Chairman Erbele said he suggests removing the language on lines 21 through 24 of page 1 and lines 13 through 16 of page 2 making trespass on electronically posted land a criminal offense and allowing peace officers to issue citations for that activity.

**It was moved by Senator Patten, seconded by Mr. Weinand, and carried on a roll call vote that the committee recommend bill draft [21.0163.02000](#) as amended by removing the changes on lines 21 through 24 of page 1 and lines 13 through 16 of page 2.** Senators Erbele, Dotzenrod, and Patten; Representatives Damschen and Dobervich; and Citizen Member Weinand voted "aye." Citizen Members DeWald and Schanilec voted "nay."

**It was moved by Representative Damschen, seconded by Mr. Weinand, and carried on a vote vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

**It was moved by Mr. Weinand, seconded by Mr. DeWald, and carried on a voice vote that the committee be adjourned sine die.**

No further business appearing, Chairman Erbele adjourned the committee sine die at 11:30 a.m.

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Claire Ness  
Counsel

ATTACH:3