

2021 HOUSE ENERGY AND NATURAL RESOURCES

HB 1081

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1081

1/15/2021

relating to authority of the game and fish department employees to enforce laws

Chairman Porter opened the hearing on HB 1081 opened the hearing at 9:11 AM. Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, M Ruby, Zubke, Guggisberg, and Ista.

Discussion Topics:

- To allow the department to better manage their assets
- Common violations
- Some ranchers have a distrust of the G&F having anything more to do with their land
- Where the fees go
- Enforcement
- Compensation
- Consider amending the language to allow local authorities to be the enforcing agents
- Game wardens authority expanded

Rep Zubke introduced the bill #695.

Jodi Smith ND Land Commissioner #885

Scott Peterson Deputy Director ND Game and Fish #851

Melanie Gaebe Policy Analyst, Dept of Agriculture #1111

Mary Graner Independent Beef Association #877

Michelle Ziesch ND Resident of Pettibone #887

Subcommittee appointment: Representatives Heinert, Ista, Anderson 10:18 am.

Chairman Porter closed hearing at 10:20 AM.

Kathleen Davis, Committee Clerk

Testimony to the House Energy and Natural Resources Committee

Chairman Porter

House Bill 1081

Chairman Porter and members of the Energy and Natural Resources Committee. My name is Denton Zubke and I am the representative from District 39 which encompasses the counties of Adams, Billings, Bowman, Golden Valley, Slope, McKenzie and parts of Dunn. I am here to support HB 1081.

The Land Department is seeking to modify N.D.C.C. § 20.1-02-15.1 to grant North Dakota Game and Fish authority to enforce state laws and rules on lands owned and managed by the Board of University and School Lands to allow the Department to better manage assets. North Dakota Game and Fish has been involved in the development of the bill and are agreeable to the change and support the efforts on this bill. The Land Department and Game and Fish are prepared to finalize a MOU for costs incurred. The Commissioner of the Land Department and someone from the Game and Fish are present to answer any questions you may have.

Respectfully

Representative Denton Zubke

HOUSE ENERGY & NATRUAL RESOURCES COMMITTEE HB 1081



January 15, 2021

ND Department of Trust Lands Testimony
Commissioner Jodi Smith

NORTH
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Testimony of Commissioner Jodi Smith

Chairman Porter and members of the House 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 Surface Management Division (Division) manages more than 706,000 surface acres owned by the various trust funds under the Board's control. The major source of income from these lands comes from agricultural leases (grassland, crop and hay land uses), with significant revenue generated from rights-of-way, surface damage agreements, and construction aggregate mining. The objective of the Division is to obtain a "fair market" return from the trust lands while maintaining or improving the condition of the land.

Professional staff work day-to-day on land management projects that result in the generation of surface revenue and land improvement on trust lands. These projects include:

- Linear easements.
- Oil well pad, saltwater disposal sites, pipeline and road siting, and reclamation.
- Developing water wells, pipelines, dams and dugouts for livestock water, and wildlife enhancement.
- Grazing management plans for improving range condition and productivity.
- Cooperative trash site clean-up and abandoned water well sealing.
- Gravel and scoria mine site reclamation.
- Noxious weed chemical and biological control.
- Coal mine reclamation.
- Monitoring flood affected tracts.
- Seismic permitting.
- Lessee and right-of-way contracts and public inquiries.

The trust lands have been leased by generations of North Dakotans for agricultural purposes. The land is leased in a series of auctions held each fall and spring. All auctions are open to the public and the lease goes to the highest bidder. The minimum bid is set by the Commissioner based upon the Board's Fair Market Value Minimum Rent Policy. The Department currently manages approximately 4,800 active surface land leases. Leasing interest continues to be high with over 99 percent of the tracts offered being successfully leased. The Department generated \$17.4 million in rental income during the previous biennium through the surface lease program, an increase of \$1.5 million over the prior biennium.

The surface inspection program generates approximately 1,500 tract inspections on an annual basis. These inspections are generally fall integrity inspections, reclamation inspections, livestock grazing, noxious weed, unleased tract, and posting

inspections. Trained field staff inspect the surface acres managed by the Department at least once during the five-year lease period by to help with early detection of noxious and invasive weed species and to monitor land integrity. Reclamation inspections are conducted which results assist in determining whether a right-of-way having surface disturbance is meeting agreement vegetation standards, noxious and invasive weed control, and erosion.

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. In August 2019, 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 provided a response that we would use all available resources to enforce those rules. The Department recognizes there are limited resources and is now seeking the assistance of NDGF as a resource tool to better manage our assets.

The Department is seeking to modify N.D.C.C. § 20.1-02-15.1 regarding additional powers of the NDGF director, deputy director, chief game wardens, or district game wardens. The addition of “and on state owned lands managed by the board of university and school lands as defined by sections 15-06-01 and 15-07-01” will allow the Board to partner with Game and Fish to enforce Chapter 85-04-05, regarding public access and use on trust lands and assess a penalty fee when an activity is observed that violates those rules.

Some of the most common violations are illegal posting, off easement or permit vehicular access by persons other than the surface lessee or Department personnel, baiting, camping, unattended tree stands and hunting blinds, guiding and outfitting, and target shooting. If modification N.D.C.C. § 20.1-02-15.1 is passed, the Department will update the Board’s public access and use administrative rules to provide for an appropriate penalty and establish a Memorandum of Understanding with North Dakota Game and Fish to outline their authority to enforce our Administrative Rules and statutes. The Department would like to emphasize this bill will not allow for NDGF to enforce or regulate grazing, as this will continue to be monitored by the Department

By allowing NDGF the authority to assess penalties, the Department will be able to more effectively manage the trust assets. Currently, the Department does not have the staffing or expertise necessary to patrol trust lands. When individuals call asking the Department for assistance on land they are leasing 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, trust lands being used as a location for AK-47 target practice, vehicles being driven on leased land, hunters or other individuals trespassing, tree stands being erected, and the list continues.

HB 1081 will allow the Department the ability to enforce our Administrative Rules and statutes. Further, it would allow our lessees a tool to resolve these issues by reporting the issue to NDGF 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.



House Energy and Natural Resources Committee
Testimony on HB 1081

North Dakota Game and Fish Department
Scott Peterson, Deputy Director
January 15, 2021

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Scott Peterson and I'm the Deputy Director of the North Dakota Game and Fish Department. I am testifying today in support of HB 1081.

The Department of Trust Lands manages over 700,000 acres of land in North Dakota. Those lands, with a few minor exceptions, are open for recreation to hunters, anglers, and other types of compatible outdoor uses. It's important to our customer base that these lands remain open and are managed and regulated for the benefit of all, including farmers and ranchers. This is partly why our Department is willing to assist them with the enforcement of certain rules on their lands.

If HB 1081 is passed into law, our Department will need to enter into a Memorandum of Agreement (MOA) with the Department of Trust Lands before we could begin enforcing such rules. That MOA would identify which specific rules we could enforce. We also wish to make it clear that we have no interest in assisting the Department of Trust Lands in any surface management duties, such as livestock management, on those lands. Our interest would be the enforcement of state laws and rules on those lands only. Such laws and rules would likely include off-trail driving, baiting, guiding and outfitting and other hunting related prohibited activities. An agreement to facilitate the Department of Trust Lands to compensate the North Dakota Game and Fish Department will also need to be developed.

For these reasons, the North Dakota Game and Fish Department supports the passage of HB 1081 as currently written.

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.agdepartment.com

**Testimony of Melanie Gaebe
House Bill 1081
House Energy and Natural Resources Committee
January 15, 2021**

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Melanie Gaebe, Policy Analyst, and I am representing Agriculture Commissioner Doug Goehring. I am here today in opposition of House Bill 1081.

We are concerned with the provisions of this bill because it puts game and fish employees in the precarious situation of implementing the management policies established by the Board of University and School Lands. If the committee decides to move this bill forward, we would ask you to consider amending the language to allow local authorities to be the enforcing agents.

Chairman Porter and committee members, thank you for your consideration of my testimony. I would be happy to answer any questions you may have.

Testimony on HB 1081 presented to the House Natural Resources Committee on January 15, 2021

Good Morning Mr. Chairman and members of the House Natural Resource Committee. For the record, my name is Mary Graner. My husband and I ranch south of Mandan, North Dakota. I am a member and am here representing the Independent Beef Association of North Dakota (I-BAND). I-BAND is a dues paying organization of beef producers across North Dakota. The members vote on policies ranging on state and national issues. We work with our Washington, DC, delegation along with our national affiliates.

We appear before you in a **neutral position** on HB 1081. Most of the state-owned lands are pasture and our members are the tenants. As tenants, we are required to provide a level of care so I'm sure the Committee understands why we get concerned any time another agency is granted access or authority as issues with the tenants. We believe an advisory board which consists of the livestock groups and major farm organizations could benefit all.....not only on this issue but many others as well.

Thank you for hearing our concerns. I'd be happy to answer any questions.

I am in opposition of this bill. I believe it is a path to allow ND Game and Fish to eventually regulate the grazing and stocking management of the ND State Trust Lands. All Lessees are obligated to comply with laws and regulations of the Board of University and School Lands and all applicable state and federal laws. Any law enforcement including game wardens are already allowed to enter and enforce laws on state owned lands.

The terms and conditions of use and prohibited uses are spelled out on each lease agreement and are accepted when we sign and pay for the lease. Prohibited uses include: The land shall only be used for the purposes set forth above. Lessee may not cultivate additional acreage or change the location of fields. Other prohibited uses include, but are not limited to, equipment storage, hay storage, trash dumping, rock dumping, feedlots, feeding, draining water on or off the land, mining scoria, gravel, clay or any other minerals, cutting wood, or allowing others to do the same unless authorized in writing by the lessor.

I do not believe this bill is necessary and will eventually to lead to full management of surface leases to ND Game and Fish and will be detrimental to farmers and ranchers.

Sincerely,
Michelle (Shelly) Ziesch
Pettibone, ND

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1081 Subcommittee

1/29/2021

relating to authority of the game and fish department employees to enforce laws

10:30 AM

Chairman Heinert opened the hearing on HB 1081. Present: Representatives Heinert, Anderson, and Ista.

Also attending: Rep. Zubke, bill sponsor, Jodi Smith, director, ND State Trust Lands, Scott Peterson, Deputy Director, Game Warden, G&F, Scott Winkelman, Chief Game Warden, Mike Humann, State Trust Lands

Discussion Topics:

- G&F vs sheriff's departments
- Which agency to contact
- G&F delegating authority
- Other illegal activity
- An advisory board
- Representation at the table
- Enforcement of administrative rules
- State law - administrative rules differences
- Public comment period on website

#4238 Rep. Heinert – memorandum

11:26 AM hearing closed.

Kathleen Davis, Committee Clerk

MEMORANDUM OF UNDERSTANDING
Between the
NORTH DAKOTA GAME AND FISH DEPARTMENT
And the
OFFICE OF THE STATE ENGINEER
Concerning
ENFORCEMENT OF RULES ON SOVEREIGN LANDS

The parties to this MEMORANDUM OF UNDERSTANDING (MOU) are the North Dakota Game and Fish Department (Department) and the Office of the State Engineer (State Engineer).

I. PURPOSE:

The parties agree to work together in good faith to establish procedures under which the Department will provide enforcement of state law and related rules on sovereign lands of the State of North Dakota consistent with the State Engineer's and Department's missions.

II. AUTHORITY:

Sovereign lands are described in N.D.C.C. 61-33-01 as those areas, including beds and islands, lying within the ordinary high watermark of navigable lakes and streams. State Engineer is responsible for administering the state's non-mineral interests in the state's sovereign lands. State Engineer's authority to manage sovereign land is derived, in part, from N.D.C.C. 61-33-05, which states that the State Engineer shall "manage, operate, and supervise sovereign lands." State Engineer has adopted N.D.A.C. 89-10, to provide a framework to follow legislative directives in managing sovereign lands.

State Engineer does not employ enforcement personnel. As such, N.D.C.C. 61-33-05 authorizes State Engineer to enter agreements with Department to enforce N.D.C.C. chapter 61-33 and N.D.A.C. 89-10. N.D.C.C. 20.1-02-15.1 authorizes Department to enforce state laws and rules on sovereign lands.

III. GENERAL CONDITIONS:

1. State Engineer and Department will meet as necessary but not less than once per year to discuss this MOU and make any necessary changes. Decisions will be made cooperatively.

2. This MOU in no way restricts the State Engineer from obtaining services from other law enforcement entities.
3. The parties to this MOU do not intend this MOU to result in Department obtaining any ownership interest in, nor management, operation, or supervisory responsibilities for, the state's sovereign lands.
4. This MOU is not a mandate to Department. It is a mechanism to provide enforcement of state laws and rules on sovereign lands. Hunting, fishing, and related recreational pursuits are common activities on sovereign lands.

IV. RESPONSIBILITIES:

1. **THE NORTH DAKOTA GAME AND FISH DEPARTMENT SHALL:**
 - a. Department shall provide enforcement of state laws and rules on sovereign lands to the extent practicable.
 - b. Department shall provide State Engineer an annual report describing expenses, violations cited, problems, and recommendations.
 - c. Department shall provide State Engineer a quarterly invoice that identifies the cost of its enforcement duties. Costs shall be billed at an hourly rate as described in section V below. Department shall set up specific cost tracking codes for enforcement duties on sovereign lands.
2. **THE OFFICE OF THE STATE ENGINEER SHALL:**
 - a. State Engineer shall provide Department access to sovereign lands to conduct enforcement duties.
 - b. State Engineer shall review the quarterly invoice provided by Department and, upon approval of Department's invoice, shall reimburse Department for the actual costs of Department's enforcement duties based on the rate described below.

V. Costs:

Department shall bill State Engineer for and State Engineer will pay actual costs. The Department will also provide a billing statement. ~~rates will at an hourly rate. The hourly rate will include salary, overhead, and indirect costs. Hourly be billed as either regular hours or overtime hours.~~

1. ~~**Regular Hours:**~~ Time charged during regular daily enforcement operations.

~~Rate: \$ 75 per hour~~

2. ~~**Overtime Hours:**~~ Time charged to specific operations or after regular duty hours.

~~Rate: \$100 per hour~~

VI. BENEFITS:

Department's enforcement under this MOU will allow State Engineer to provide riparian landowners and the public with a safer environment and controlled access for legal recreational pursuits on sovereign lands that are consistent with the missions of both the State Engineer and the Department.

VII. TERM:

This MOU and all its terms and conditions shall be in force and effect for an undefined time period beginning with signage of the MOU by both parties.

Either party may terminate their involvement in this MOU through a 60-day written notification to the other party.

State Engineer
Office of the State Engineer

Date

Director
North Dakota Game and Fish Department

Date

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1081 Subcommittee

2/5/2021

relating to authority of the game and fish department employees to enforce laws

10:00 AM

Chairman Heinert opened the subcommittee hearing.

Present: Representatives Heinert, Anderson, Ista

Discussion Topics:

- Building trust
- Administrative rules
- Sheriffs and local states attorneys

Rep D Anderson moved to recommend to the full committee to make no amendments, seconded by Ista. All voted aye. Motion carried.

10:06 AM

Kathleen Davis, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1081
2/11/2021

relating to authority of the game and fish department employees to enforce laws

Chairman Porter opened the hearing at 9:13 AM.

Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, M Ruby, Zubke, Guggisberg, and Ista, absent: Roers Jones.

Discussion Topics:

- Easier to find Comment Section
- Utilizing sheriff dept not G&F
- Memorandum of understandings (MOU)
- Landowner trust issues with G&F and ND Trust Land Dept

Rep Zubke moved a Do Pass, second by Rep Heinert.

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	N
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	N
Representative George Keiser	Y
Representative Mike Lefor	Y
Representative Andrew Marschall	N
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 11 – 3 – 0 Rep Heinert is carrier.

9:19 AM hearing closed.

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1081: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB
1081 was placed on the Eleventh order on the calendar.

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1081

2/19/2021

relating to authority of the game and fish department employees to enforce laws

Chairman Porter opened the hearing at 9:00 AM.

Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, M Ruby, Roers Jones, Zubke, Guggisberg, and Ista.

Discussion Topics:

- Amendment 01002
- Game wardens
- Hog house
- Administrative rules
- Law enforcement
- Penalties

9:15 AM Recessed to get Scott Winkelman, G&F or Casey Miller, BCI input on penalties.

10:28 AM Reconvened on HB 1081

Rep Zubke, #6994, #6995, #7000, #7001

Rep. Roers Jones moved to reconsider HB 1081, seconded by Rep Ista. Voice vote, motion carried.

Rep Ista moved to amend removing Section 1 and renumber accordingly (01001), seconded by Rep Anderson. Voice vote, motion carried.

Rep Ista moved to further amend by adding language on page 3 lines 26 and page 4 lines 18-19, seconded by Rep Roers Jones. Voice vote, motion carried.

Rep Ista moved a Do Pass as twice amended, seconded by Rep Zubke.

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative George Keiser	N
Representative Mike Lefor	Y
Representative Andrew Marschall	N
Representative Shannon Roers Jones	Y

Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 12 – 2 – 0 Rep Ista is carrier.

10:47 AM hearing closed.

Kathleen Davis, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1081

Page 1, line 1, after "to" insert "create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; to"

Page 1, line 2, after "laws" insert "; and to provide a penalty"

Page 2, after line 5, insert:

"SECTION 2. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties; or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 3. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 4. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities.

The following activities and items are prohibited on trust lands:

1. Target shooting, explosives, and exploding targets;
2. Camping, picnicking, or campfires;
3. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
4. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
7. Dog training;
8. Metal detecting;
9. Guiding and outfitting;
10. Collecting plant parts for sale or other commercial purposes;
11. Trapping, unless authorized in writing by the commissioner;
12. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
13. Beehives, unless specifically authorized in a surface land lease; and
14. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.

SECTION 5. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;

- b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school land's fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 6. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

Any person who willfully violates sections 15-08-28, 15-08-29, and 15-08-30 is guilty of a class B misdemeanor."

Renumber accordingly

February 19, 2021

2/19/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1081

Page 1, line 1, after "to" insert "create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; to"

Page 1, line 2, after "laws" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"**SECTION 1.** Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties;
or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 2. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 3. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

07
2/19/21

15-08-30. Prohibited activities - Penalty.

1. The following activities and items are prohibited on trust lands:
 - a. Target shooting, explosives, and exploding targets;
 - b. Camping, picnicking, or campfires;
 - c. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
 - d. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
 - e. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
 - f. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
 - g. Dog training;
 - h. Metal detecting;
 - i. Guiding and outfitting;
 - j. Collecting plant parts for sale or other commercial purposes;
 - k. Trapping, unless authorized in writing by the commissioner;
 - l. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
 - m. Beehives, unless specifically authorized in a surface land lease; and
 - n. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.
2. An individual who violates subdivision n of subsection 1 is guilty of a class B misdemeanor.

SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:

- JB
2/19/21
- a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

An individual who violates any provision of this chapter, for which another penalty is not specifically provided, or any applicable administrative rule for a substantially similar offense, is guilty of a noncriminal offense for which a fee of one hundred dollars must be assessed."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1081: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; to"

Page 1, line 2, after "laws" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties; or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 2. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 3. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities - Penalty.

1. The following activities and items are prohibited on trust lands:
 - a. Target shooting, explosives, and exploding targets;
 - b. Camping, picnicking, or campfires;
 - c. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
 - d. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
 - e. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
 - f. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
 - g. Dog training;
 - h. Metal detecting;
 - i. Guiding and outfitting;
 - j. Collecting plant parts for sale or other commercial purposes;
 - k. Trapping, unless authorized in writing by the commissioner;
 - l. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
 - m. Beehives, unless specifically authorized in a surface land lease; and
 - n. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.
2. An individual who violates subdivision n of subsection 1 is guilty of a class B misdemeanor.

SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;

- c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

An individual who violates any provision of this chapter, for which another penalty is not specifically provided, or any applicable administrative rule for a substantially similar offense, is guilty of a noncriminal offense for which a fee of one hundred dollars must be assessed."

Renumber accordingly

21.0438.01001
Title.

Prepared by the Legislative Council staff for
Representative Zubke
February 18, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1081

Page 1, line 1, after "to" insert "create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; to"

Page 1, line 2, after "laws" insert "; and to provide a penalty"

Page 2, after line 5, insert:

"SECTION 2. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties; or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 3. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 4. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities.

The following activities and items are prohibited on trust lands:

1. Target shooting, explosives, and exploding targets;
2. Camping, picnicking, or campfires;
3. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
4. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
7. Dog training;
8. Metal detecting;
9. Guiding and outfitting;
10. Collecting plant parts for sale or other commercial purposes;
11. Trapping, unless authorized in writing by the commissioner;
12. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
13. Beehives, unless specifically authorized in a surface land lease; and
14. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.

SECTION 5. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;

- b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school land's fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 6. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

Any person who willfully violates sections 15-08-28, 15-08-29, and 15-08-30 is guilty of a class B misdemeanor."

Renumber accordingly

21.0438.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1081

Introduced by

Representative Zubke

A BILL for an Act to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands;
to amend and reenact section 20.1-02-15.1 of the North Dakota Century Code, relating to
authority of the game and fish department employees to enforce laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-15.1 of the North Dakota Century Code is
amended and reenacted as follows:

**20.1-02-15.1. Additional powers of director, deputy director, chief game wardens, or
district game wardens.**

1. The director, deputy director, chief game wardens, or district game wardens have the
power of a peace officer in the following circumstances:

~~4.~~ a. To enforce state laws and rules on any game refuge, game management area, or
other land or water owned, leased, or managed by the department ~~and~~ on
sovereign lands as defined by section 61-33-01, and on state-owned lands
managed by the board of university and school lands as defined in sections
15-06-01 and 15-07-01.

~~2.~~ b. When responding to requests from other law enforcement agencies or officers for
aid and assistance. For the purposes of this ~~subsection~~subdivision, a request
from a law enforcement agency or officer means only a request for assistance as
to a particular and singular violation or suspicion of violation of law, and does not
constitute a continuous request for assistance outside the purview of
enforcement of the provisions of this title.

~~3.~~ c. The powers and duties conferred are supplemental to other powers and duties
conferred upon the director, deputy director, chief game wardens, or district game

1 wardens and do not constitute an obligation beyond the regular course of duty of
2 those officers.

3 4. d. To enforce chapter 20.1-15.

4 5. e. To enforce chapter 20.1-13.1.

5 6. f. To enforce chapter 39-24.1.

6 2. This section may not be construed to limit the powers or duties of any peace officer
7 within this state.

8 **SECTION 2.** Section 15-08-28 of the North Dakota Century Code is created and enacted as
9 follows:

10 **15-08-28. Vehicular access.**

11 The use of vehicles on trust lands is prohibited, except:

12 1. Within thirty-three feet [10.06 meters] of section lines;

13 2. As allowed by the terms of a lease, permit, or easement issued by the board of
14 university and school lands;

15 3. When used for travel on a public road easement issued by the board;

16 4. When used by government personnel in the performance of official duties; or

17 5. When hunting under a special permit issued by the director of the game and fish
18 department to shoot from a stationary vehicle and with written permission from the
19 lessee and commissioner.

20 **SECTION 3.** Section 15-08-29 of the North Dakota Century Code is created and enacted as
21 follows:

22 **15-08-29. Public access.**

23 1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best
24 interests of the trusts, unless:

25 a. Specifically prohibited by the commissioner; or

26 b. A lessee of any lands under the control of the board of university and school
27 lands posts the land with signage issued by the department, which:

28 (1) Requires notification to the lessee before entry by the public; or

29 (2) Closes the trust lands to all public access.

30 2. A lessee of any lands under the control of the board may not lease, sell, or otherwise
31 be compensated for access to, on, across, or over leased trust lands.

SECTION 4. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities.

The following activities and items are prohibited on trust lands:

1. Target shooting, explosives, and exploding targets;
2. Camping, picnicking, or campfires;
3. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
4. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
7. Dog training;
8. Metal detecting;
9. Guiding and outfitting;
10. Collecting plant parts for sale or other commercial purposes;
11. Trapping, unless authorized in writing by the commissioner;
12. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
13. Beehives, unless specifically authorized in a surface land lease; and
14. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.

SECTION 5. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school land's fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 6. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

Any person who willfully violates sections 15-08-28, 15-08-29, and 15-08-30 is guilty of a class B misdemeanor.

21.0438.01002
Title.

Prepared by the Legislative Council staff for
Representative Zubke
February 19, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1081

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties;
or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 2. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

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 - (1) Requires notification to the lessee before entry by the public; or
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2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

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4. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
7. Dog training;
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10. Collecting plant parts for sale or other commercial purposes;
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SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

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1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;

- b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

Any person who willfully violates sections 15-08-28, 15-08-29, and 15-08-30 is guilty of a class B misdemeanor."

Renumber accordingly

21.0438.01002

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1081

Introduced by

Representative Zubke

A BILL ~~for an Act to amend and reenact section 20.1-02-15.1 of the North Dakota Century Code, relating to authority of the game and fish department employees to enforce laws.~~for an Act to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Section 20.1-02-15.1 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**20.1-02-15.1. Additional powers of director, deputy director, chief game wardens, or district game wardens.**~~

~~1. The director, deputy director, chief game wardens, or district game wardens have the power of a peace officer in the following circumstances:~~

~~1. a. To enforce state laws and rules on any game refuge, game management area, or other land or water owned, leased, or managed by the department and, on sovereign lands as defined by section 61-33-01, and on state-owned lands managed by the board of university and school lands as defined in sections 15-06-01 and 15-07-01.~~

~~2. b. When responding to requests from other law enforcement agencies or officers for aid and assistance. For the purposes of this subsectionsubdivision, a request from a law enforcement agency or officer means only a request for assistance as to a particular and singular violation or suspicion of violation of law, and does not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this title.~~

~~3. c. The powers and duties conferred are supplemental to other powers and duties conferred upon the director, deputy director, chief game wardens, or district game wardens and do not constitute an obligation beyond the regular course of duty of those officers.~~

~~4. d. To enforce chapter 20.1-15.~~

~~5. e. To enforce chapter 20.1-13.1.~~

~~6. f. To enforce chapter 39-24.1.~~

~~2. This section may not be construed to limit the powers or duties of any peace officer within this state.~~

SECTION 1. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
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 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.

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4. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
5. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
6. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
7. Dog training;
8. Metal detecting;
9. Guiding and outfitting;
10. Collecting plant parts for sale or other commercial purposes;
11. Trapping, unless authorized in writing by the commissioner;
12. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
13. Beehives, unless specifically authorized in a surface land lease; and
14. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.

SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
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 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

Any person who willfully violates sections 15-08-28, 15-08-29, and 15-08-30 is guilty of a class B misdemeanor.

2021 SENATE ENERGY AND NATURAL RESOURCES

HB 1081

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1081
3/12/2021

Relating to access to and activities on trust lands; and to provide a penalty.
--

Hearing called to order, all senators are present: **Bell, Schaible Piepkorn, Roers, Patten, and Kreun. [9:31]**

Discussion Topics:

- Department of Trust Land in statute
- Placing land departments administrative rules in the NDCC

Rep. Denton Zubke, provided testimony in favor #8766 [9:32]

Jodi Smith, ND Department of Trust lands provided testimony in Favor #8938

[9:38]

Hearing Adjourned [10:00]

Sheila Froehlich, Committee Clerk

Testimony to the Senate Energy and Natural Resources Committee

Chairman Kruen

House Bill 1081

Chairman Kruen and members of the Energy and Natural Resources Committee. My name is Denton Zubke and I am the representative from District 39 which encompasses the counties of Adams, Billings, Bowman, Golden Valley, Slope, McKenzie and parts of Dunn. I am here to support HB 1081.

HB 1081 comes to your committee by way of a hog house amendment. Originally HB 1081 would of allowed the Land Department to modify N.D.C.C. § 20.1-02-15.1 to grant North Dakota Game and Fish authority to enforce state laws and rules on lands owned and managed by the Board of University and School Lands to allow the Department to better manage assets. This created angst with some farmers particularly in eastern North Dakota and a number of farm groups. The remedy was to amend the bill with a hog house amendment to place the land departments administrative rules in the century code. Even though the administrative rules have the force of law, this is not commonly known or has been debated at times. This removes any ambiguity.

Respectfully

Representative Denton Zubke



**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 Sheriff'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 statutes and Administrative Rules and provide penalty. However, there is a significant gap when neither the Sheriff'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 Sheriff'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 Sheriff'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.

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1081
3/18/2021

A BILL for an Act to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; and to provide a penalty.

Hearing called to order, all senators are present: **Bell, Schaible Piepkorn, Roers, Patten, and Kreun. [9:15]**

Discussion Topics:

- North Dakota Land Trust Debt
- Statute of limitations

Senator Schaible [9:16] moved to DO PASS

Senator Roers [9:16] seconded the motion

Senators	Vote
Senator Curt Kreun	Y
Senator Jim P. Roers	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Donald Schaible	Y
Senator Jessica Unruh Bell	Y

The motion passes 6-0-0

Senator Piepkorn carried

Hearing adjourned [9:20]

Sheila Froehlich, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1081, as engrossed: Energy and Natural Resources Committee (Sen. Kreun, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1081 was placed on the Fourteenth order on the calendar.