

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

JUDICIARY B COMMITTEE

Tuesday, August 6, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Lois Delmore, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Lois Delmore, Curtis E. Brekke, David Drovdal, G. Jane Gunter, Lyle Hanson, Dennis E. Johnson, William E. Kretschmar, Jon O. Nelson, Todd Porter, Dorvan Solberg, Elwood Thorpe; Senators Dennis Bercier, Michael A. Every, Thomas Fischer, Ben Tollefson, John T. Traynor, Tom Trenbeath

Others present: See attached appendix

It was moved by Representative Drovdal, seconded by Senator Bercier, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

FEES AND POINT DEMERITS FOR TRAFFIC OFFENSES Speed Limit Bill Drafts

At the request of Chairman Delmore, committee counsel reviewed a bill draft [30011.0200] raising the speed limit on interstate highways to 75 miles per hour and a bill draft [30011.0300] removing the 55 mile per hour night time speed limit on paved two-lane highways, leaving a 65 mile per hour speed limit.

Representative Thorpe said he opposes a 75 mile per hour speed limit on the interstate. He said 70 miles per hour is fast enough for interstate highways. He said interstate highways are rough riding at 70 miles per hour. He said raising the speed limit should be done by a vote of the people.

Representative Solberg said he opposes a 75 mile per hour speed limit on the interstate. He said people will go 80 miles per hour and that speed is unsafe. He said traveling 65 miles per hour at night on two-lane highways is unsafe.

Senator Trenbeath said speed limits are a maximum and not a minimum so an individual may drive under the speed limit if that individual has safety concerns. He said the interstate system is designed for a higher speed limit. He said the interstate system was designed for the cars built in the 1950s traveling at 80 miles per hour. He said the speed limit was lowered in the 1970s because of gas consumption concerns. He said he has not heard any testimony against the increase in speed limits because of increased gas consumption. He said he is for the increase of speed limits to 75 miles per hour on

interstate highways and 65 miles per hour all the time on paved two-lane highways.

Senator Bercier said he agrees with Senator Trenbeath and the state's highways are in fair to good condition and can handle the higher speeds.

It was moved by Representative Porter, seconded by Senator Bercier, and failed on a roll call vote that the bill draft raising the speed limit on interstate highways to 75 miles per hour be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Johnson, Nelson, and Porter and Senators Bercier, Fischer, and Trenbeath voted "aye." Representatives Drovdal, Hanson, Kretschmar, Solberg, and Thorpe and Senators Every, Tollefson, and Traynor voted "nay."

It was moved by Representative Kretschmar, seconded by Senator Trenbeath, and carried on a roll call vote that the bill draft removing the night time speed limit on paved two-lane highways having a 65 mile per hour speed limit be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Hanson, Johnson, Kretschmar, and Nelson and Senators Every, Fischer, Tollefson, Traynor, and Trenbeath voted "aye." Representatives Porter, Solberg, and Thorpe and Senator Bercier voted "nay." After the vote, Senator Bercier said he intended to vote for the bill draft.

Speeding Fees and Points Bill Drafts

At the request of Chairman Delmore, committee counsel reviewed a bill draft [30033.0200] creating a singular point scale for driving in excess of the speed limit and a bill draft [30033.0300] making all fees for driving in excess of the speed limit \$5 for each mile per hour over the limit.

Mr. Kent Olson, Executive Director, North Dakota Professional Insurance Agents, presented testimony on the effect of point demerits on insurance rates. He said each company determines rates based on different underwriting criteria. He said most companies do not care about the number of points for an offense but are interested in the type of offense. He provided three examples of the effect of a speeding offense on a motor vehicle driving record. The first example showed a \$108 increase in premiums for a

speeding ticket and a \$141 increase for a driving while under the influence offense; the second example showed a \$79 increase in premiums; and the third example showed a 5 percent increase for every point demerit over three. He provided an outline of his testimony which is on file in the Legislative Council office.

In response to a question by Representative Delmore, Mr. Olson said increasing points for speeding offenses will result in higher insurance rates if the increase creates more offenses over two points. He said offenses with two or fewer points do not go on an individual's public driving record.

In response to a question from Representative Kretschmar, Mr. Olson said the insurance company may find out about the driver's violations for which fewer than three points are assigned if these points add up to 12 points, for which there is a suspension on record.

In response to a question from Representative Kretschmar, Mr. Olson said the insurance industry would like a full abstract, instead of being limited to those offenses exceeding two points. He said historically the Legislative Assembly has taken a contrary position because of a policy that speeding should not affect insurance rates if an individual is not driving too fast.

In response to a question from Representative Delmore, Ms. Lynn Heinert, Driver Improvement Services Manager, Drivers License and Traffic Safety Division, Department of Transportation, said the reporting to insurance companies of violations would remain about the same if the bill draft providing for a singular scale of points were enacted by the Legislative Assembly.

Representative Porter said he disagreed with the contention that the bill draft provided for a simpler point system. He said the point system was made simpler in the last session. He said the bill draft would change by one mile per hour the offenses that would be reported to the insurance industry and this would raise insurance rates. He said points are not a deterrent to speeding. He said fees are a better deterrent to speeding.

Representative Drovdal said the bill draft will lower violations and lower accidents. He said he was in favor of the bill draft.

Representative Delmore said a fee is a better vehicle for deterring speeding and increased points are not constituent friendly.

It was moved by Representative Drovdal, seconded by Senator Fischer, and failed on a roll call vote that the bill draft providing for a singular scale of points for speeding be approved and recommended to the Legislative Council. Representatives Drovdal and Kretschmar and Senator Fischer voted "aye." Representatives Delmore, Brekke, Hanson, Johnson, Nelson, Porter, Solberg,

and Thorpe and Senators Bercier, Every, Tollefson, Traynor, and Trenbeath voted "nay."

Ms. Heinert presented information on the fiscal impact of the bill draft to set the fee for speeding at \$5 for each mile per hour over the limit. She said the \$5 fee would increase revenues by approximately \$1.5 million. She said a bill that would set the fee at \$2 for each mile per hour over the limit would be almost revenue neutral. She said if the \$5 per mile per hour over the limit reduces speeding citations by 20 percent, then there will be an increase of approximately \$1 million. A copy of the tables used as the basis for her testimony is on file in the Legislative Council office.

Representative Kretschmar said he would like to see a base fee to which an additional fee per mile per hour over the limit was added to the base fee.

Senator Trenbeath said he would rather see the bill draft be revenue neutral--\$2 for each mile per hour over the limit. He said the bill draft provides a uniform and fair system for determining speeding fees.

It was moved by Representative Drovdal, seconded by Representative Solberg, and carried on a roll call vote that the bill draft providing a \$5 fee for each mile per hour over the speed limit be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Hanson, Johnson, Kretschmar, Nelson, Porter, and Solberg and Senators Bercier, Every, Fischer, Tollefson, Traynor, and Trenbeath voted "aye." Representative Thorpe voted "nay."

CENTRALIZED PROCESS FOR TRAFFIC VIOLATION ADMINISTRATION

At the request of Chairman Delmore, committee counsel presented the second draft of a bill draft [30084.0200] centralizing the process for state noncriminal traffic offenses. He said the second draft makes changes to the first bill draft [30084.0100] mainly by removing or changing "clerk of court" references to "department" or "proper authority." He provided a copy of a web page of the North Dakota Supreme Court relating to clerk of court funding. The handout said 11 counties have elected state funding and one has elected county funding for the 2003-05 biennium. He said the handout indicates the remaining counties are state contract-funded. A copy of the handout is on file in the Legislative Council office.

In response to a question from Representative Porter, Ms. Heinert said the centralized process would require two full-time employees and some temporary employees at the initial setup. She said the full-time employees could be contracted to the private sector. She said there would be a reduction in the amount of money going to clerks of court of approximately \$400 per county.

In response to a question from Senator Bercier, Ms. Heinert said there are other programs in the

Department of Transportation that are contracted to private parties.

In response to a question from Representative Porter, Ms. Heinert said the fees for traffic offenses under the bill draft would go to the state school fund and no money would be taken out for administration. She said all counties use the same fee scale.

Mr. Wade Williams, Association of Counties, presented testimony to the committee. He said counties acting under a home rule charter may not set fees for traffic offenses. He said there was a recent Attorney General's opinion on this subject. He said the counties would lose \$9,100 statewide per month if traffic offense administration were centralized. He said this money would be removed from contract counties.

Ms. Karin Fischer, LaMoure County clerk of court, said she represented the Clerks of Court Association. She said at the clerks' conference at the end of June, only two clerks were in favor of a centralized process. She said three had no opinion and 36 wanted to keep the system the same. She said the Clerks of Court Association is in the process of preparing a resolution in opposition to this bill draft. She said the Department of Transportation does not have access to the court system's computers and inquiry access may be useful to the Department of Transportation. She said the Department of Transportation promoted the centralized process for traffic offense administration because of upcoming federal mandates relating to time requirements for the reporting of offenses under a commercial driver's license. She said the clerks can accommodate those time requirements. She said approximately 3.5 of the 7.5 full-time employees' time used throughout the state for traffic offense administration are in contract counties. She said the state-funded counties would not have any fiscal cuts as a result of this bill draft. She said traffic offense administration is a judicial responsibility and this was determined when the judicial system was centralized. She said a traffic citation is called a uniform complaint and summons, which is an indication of it being related to a court function.

In response to a question from Representative Delmore, Ms. Fischer said with education and information the clerks will accommodate the Department of Transportation.

In response to a question from Representative Nelson, Ms. Fischer said her deputy uses a portion of the deputy's time for traffic offense administration. She said if that duty were removed, then there would be a reason for that position to be removed by the board of county commissioners. She said this would remove an employment opportunity in rural North Dakota. She said LaMoure County receives approximately \$400 per month for traffic offense administration.

In response to a question from Representative Delmore, Ms. Fischer said the state-funded counties

will not lose any funding because of reported increased workloads in other areas.

Senator Trenbeath said the downsizing and the centralization of the judiciary are not good for smaller counties.

In response to a question from Senator Bercier, Ms. Fischer said she uses her deputy for two to three days a week.

In response to a question from Representative Nelson, Ms. Heinert said centralization of traffic offense administration would provide accurate motor vehicle record information to insurance companies in a faster manner.

Mr. David Kleppe, North Dakota Highway Patrol, said the Highway Patrol is neither for nor against the bill draft.

In response to a question from Representative Porter, Mr. Kleppe said the mobile data communication system is moving toward an interface with the state court system for the immediate transfer of traffic offense information. He said under the present system, Highway Patrol officers must carry multiple envelopes to provide to individuals issued a citation. He said a centralized process would require one envelope.

In response to a question from Representative Kretschmar, committee counsel said generally fees and bonds for traffic offenses go to the state school fund.

It was moved by Representative Johnson, seconded by Senator Traynor, and carried on a roll call vote that the bill draft providing for a centralized process for traffic offense administration not be approved or recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Gunter, Hanson, Johnson, Kretschmar, Nelson, Porter, and Solberg and Senators Bercier, Every, Fischer, Traynor, and Trenbeath voted "aye." No negative votes were cast.

RETENTION OF ELK

At the request of Chairman Delmore, committee counsel presented a resolution draft [33008.0100] urging Congress to pay for depredation caused by elk that move from the Theodore Roosevelt National Park.

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, provided testimony based on an article entitled *Walkabout Elk*. He said the article referred to two elk that moved over 640 miles in one month and returned to the Theodore Roosevelt National Park. He said this may not be typical because these were young bulls in search of mates. He said a transplant situation may be different and would depend upon the amount of human pressure. A copy of the article is on file in the Legislative Council office.

In response to a question from Representative Kretschmar, Mr. Rostvet said one example of elk

movement is of an elk that moved from 100 miles north of Great Falls, Montana, to Kansas City.

Mr. Brad Heidel, Regional Director, Rocky Mountain Elk Foundation, said the Rocky Mountain Elk Foundation ensures elk habitat and that providing elk habitat reduces depredation by providing elk with needed feed. He said any payment for depredation needs to be based on a scientific method and will require a long time to develop. He said the Game and Fish Department and Park Service are excellent providers of scientific information.

Representative Nelson said ranchers need immediate solutions to the loss of feed.

In response to a question from Representative Nelson, Mr. Heidel said the Rocky Mountain Elk Foundation cannot help ranchers with depredation. He said the purpose of the organization is to enhance the environment for elk. He said food plots around the state may be part of the solution.

In response to a question from Senator Bercier, Mr. Heidel said the manner in which elk eat is more damage-causing than the amount they eat.

Senator Traynor said he knows of an individual in this state who had struck a moose with a car and was severely injured. He said if the moose was an elk brought by the Park Service into this state, then that person should be able to recover from the Park Service for the damages caused by the elk. He suggested an amendment to include funding for personal injury and property damage caused by elk.

Senator Trenbeath said the amendment may jeopardize the effectiveness of the resolution draft. He said although the federal government should pay for the damage caused by elk, the amendment adds an additional concept, thereby lessening importance of depredation funding.

It was moved by Senator Traynor, seconded by Senator Tollefson, and carried on a roll call vote that the resolution draft urging Congress to pay for depredation caused by elk that move from the Theodore Roosevelt National Park be amended to include funding for personal injury and property damage caused by these elk. Representatives Delmore, Brekke, Drovdal, Gunter, Hanson, Johnson, Kretschmar, and Solberg and Senators Every, Fischer, Tollefson, and Traynor voted "aye." Representatives Nelson, Porter, and Thorpe and Senators Bercier and Trenbeath voted "nay."

Representative Drovdal said ranchers do not really want compensation for depredation but instead would like the elk to be removed from the park.

It was moved by Senator Traynor, seconded by Senator Trenbeath, and carried on a roll call vote that the resolution draft urging Congress to pay for depredation caused by elk that move from the Theodore Roosevelt National Park, as amended, be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Gunter, Hanson, Johnson, Kretschmar, Nelson,

Porter, Solberg, and Thorpe and Senators Bercier, Every, Fischer, Tollefson, Traynor, and Trenbeath voted "aye." No negative votes were cast.

RESIDENT AND NONRESIDENT HUNTING ISSUES

Limits on Nonresident Hunters

At the request of Chairman Delmore, committee counsel reviewed four bill drafts placing limits on the number of nonresident waterfowl hunters which had been presented at previous meetings. He said the bill draft [30063.0200] with two 7-day blocks followed by two 10-day blocks for nonresident hunters was redrafted to clarify the timelines in the bill draft.

At the request of Chairman Delmore, committee counsel presented two bill drafts limiting the number of nonresident waterfowl hunters. He said one bill draft [30154.0100] had no hunting zones and three blocks--two 10-day periods with a limit of 10,000 nonresident hunters for each 10-day period followed by a block of the remainder of the season with unlimited nonresident hunters. He said the licenses would be issued on a first-come, first-served basis from the Game and Fish Department. He said the other bill draft [30158.0100] keeps the law as it is presently and requires the Governor to place a limit on nonresident hunters based upon the total hunting pressure.

Mr. Rostvet provided testimony based on a document entitled *Summary of Concepts for Future Management of Waterfowl Hunter Numbers*. He said the document contains three concepts for limiting nonresident waterfowl hunters--wetland habitat condition, fixed caps, and hunter pressure. He said the hunting pressure concept had the most interest by groups at the Game and Fish Advisory Board meetings. He said the hunting pressure concept uses historic averages to set the number of hunters that are allowed to hunt or the size of "the stadium." He said the concept includes the idea that nonresidents are more intense hunters than residents based on daily bag limits. He said the concept assumes fewer hunters are tolerated in dry conditions. A copy of his handout is on file in the Legislative Council office.

Mr. Rostvet said this fall there will be a cap of 30,000 nonresident hunters. He said there will be three zones and there is no free zone. He said a nonresident may hunt the entire state for a seven-day period. He said the licenses are issued on a first-come, first-served basis through the Game and Fish Department. He said the centralized administration provides for more efficient administration and prevents fraud. He said it appears the waterfowl season will open one week earlier for residents to hunt ducks and geese.

In response to a question from Senator Traynor, Mr. Rostvet said the 30,000 person cap on nonresident hunters is statewide, so theoretically all 30,000 hunters could hunt in one zone.

In response to a question from Representative Delmore, Mr. Rostvet said it is difficult to develop a long-term plan for limiting nonresident hunters because of serious differences in philosophy. He said this is indicated by the deadlock as to what to do with nonresident hunters for this season with the Game and Fish Advisory Board. He said the department is trying to receive information and provide useful information to legislators so that legislators may make an informed decision. He said the Legislative Assembly represents more interests that need to be taken into consideration than are represented by the Game and Fish Department.

In response to a question from Representative Nelson, Mr. Rostvet said the breeding duck population is not a good indicator for placing caps on nonresident hunters and the hunting pressure concept is not based on the breeding duck population. He said the concept is based on the places available to hunt.

Senator Every said he is not pleased with the Governor's decision to cap nonresident hunters at 30,000. He said this state has not reached its peak of capturing the economic opportunity from nonresident hunters. He said the Game and Fish Advisory Board meetings did not attract local people, but instead the same special interest groups went to the advisory board meetings around the state.

In response to a question from Senator Every, Mr. Rostvet said not letting private businesses sell licenses because the process was centralized is a moot point because when licenses are limited, most people buy them in advance. He said there would be very few sales if businesses were allowed to sell licenses. He said the trend is for the department to make it easier to purchase licenses through use of the Internet and the telephone. He said a business could provide a telephone or a computer terminal for people to purchase licenses at that business. He said this would save a business money by freeing up the time used by staff to sell licenses. He said it is very difficult to administer a cap without a centralized process.

In response to a question from Representative Porter, Mr. Rostvet said the hunting pressure and wetland habitat condition concepts are adjusted from year to year based upon relevant information. He said these concepts do not count all wetlands but just the semipermanent and permanent wetlands. The small wetlands that are affected by short-term weather conditions are not included in the concepts.

Senator Traynor said he is concerned with ducks leaving a zone because of pressure.

In response to a question from Senator Traynor, Mr. Rostvet said the Governor can restrict the number of hunters in a zone through an emergency amendment to the proclamation if the Governor finds the birds are moving out because of pressure.

Mr. Dan Bueide, Fargo, said he is an avid hunter and has experienced the increase in pressure. He

said he moved back to this state partly because of hunting. He said he hunts more since becoming a resident. He testified in favor of the hunting pressure concept because it could be adjusted for changing factors. He said use of licenses by residents and hunting conditions are considered under the concept. He said the concept uses science and not politics to set the cap. He said under this concept the historical tourism pipeline is filled.

In response to a question from Senator Every, Mr. Bueide said the reason residents were not complaining about pressure in the 1970s when there were more resident hunters is because residents mainly hunted snow geese at that time and now the pressure is related to duck hunting. He said residents put less pressure on the resource than nonresidents.

In response to a question from Representative Nelson, Mr. Bueide said his mindset has changed a little since he has become a resident, but he would rather come back as a nonresident three out of four years and have a premier hunt than four out of four and have a compromised hunt.

In response to a question from Senator Bercier, Mr. Bueide said it is becoming more common for residents and nonresidents to buy or lease land for hunting purposes.

Mr. John French, Grand Forks County Wildlife Federation, said since 1990 there has been a 16 percent increase per year in nonresident waterfowl hunters. He said last year, residents shot 149,000 ducks and nonresidents shot 409,000 ducks. He said nonresidents hunt much harder for the 7 to 14 days they are in the state than residents. He said nonresidents pressure ducks out of the state through the intense pressure in the first few weeks of the season and by water hunting practices. He said he is in favor of the hunting pressure concept, which has the support of most hunting groups even though it provides for a higher cap than is wanted by most groups. He said the concept first deals with the resource and the water and places North Dakota residents above nonresidents. He said once the concept is in place it can work year after year.

Mr. Mike Donahue, United Sportsmen, presented testimony in support of the hunting pressure concept. He said his organization supports the hunter concept bill draft.

Mr. John Kopp, North Dakota Wildlife Federation, said the Wildlife Federation, the United Sportsmen, the Sportsmen's Alliance, and other groups met on July 31 and there was unanimous support for the hunting pressure concept.

Mr. Roy Hoffit said there is a problem with nonresidents buying land at inflated prices. He said this affects farmers and ranchers. He said part of the solution would be for guides to be guaranteed licenses so that nonresidents would not have to buy land to go hunting.

Mr. Sandy Barnes, North Dakota Sportsmen's Alliance, said he is in favor of the hunting pressure concept.

Mr. Bob Purcell said if land in this state is sold and leased for hunting purposes at the present rate, soon residents will have to go out of state to hunt. He said once the resource is given away it is very difficult to get it back.

In response to a question from Representative Nelson, Mr. Purcell said posted areas have grown and continue to grow. He said it is difficult to find anywhere to hunt. He said he cannot afford to buy or lease land for hunting purposes.

Representative Nelson said he lives in the Devils Lake area and there is adequate land to hunt. He said landowners are upset with resident hunters and access may be more difficult to obtain in the future.

In response to a question from Representative Drovdal, Mr. Purcell said the Legislative Assembly should not restrict to whom a person can sell land. He said nonresidents would not buy land for hunting purposes if they were not guaranteed a license.

Mr. Tom Bodine, North Dakota Farm Bureau, said he does not support the hunter pressure concept. He said the concept does not look at conservation more than it looks at people management. He said the breeding duck numbers have increased even though there are more nonresident hunters. He said he does some guiding and 50 percent of the hunts are in fields and not on wetlands. He said there are a lot more areas to hunt than are being considered under the hunting pressure concept.

In response to a question from Representative Delmore, Mr. Bodine said there needs to be a long-range plan based on a compromise between sportsmen, landowners, and economic development.

In response to a question from Senator Bercier, Mr. Bodine said there are a lot of conservation programs in the farm bill. He said producers are being pushed to create and sustain wildlife and should be able to profit from it.

Mr. Carroll Wentland said he is in favor of the hunting pressure concept. He said tourism in North Dakota is decreasing even as nonresident hunters have increased. He said tourism has nothing to do with hunting.

Mr. Mark Mazaheri said he is in favor of the hunting pressure concept. He said it is a good compromise and the best solution offered to date. He said the reason to limit nonresident hunters is to preserve the heritage of hunting much like the heritage of family farmers is preserved by anticorporate farming laws. He said hunting is the reason he has stayed in this state. He said landowners' rights should come first, followed by management of wildlife.

Mr. Hal Lee, Wildlife Federation, testified in support of the hunting pressure concept. He said nonresidents and residents buying land for hunting purposes has the effect of increasing taxes.

Representative Nelson said the taxable value on agricultural property is not based on an assessed value.

Senator Trenbeath said he is intrigued by the hunting pressure concept and it makes the most sense of the ideas to date.

It was moved by Senator Fischer, seconded by Representative Solberg, and carried on a roll call vote that the bill draft setting a limit on nonresident hunters based on total hunting pressure be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Gunter, Hanson, Johnson, Kretschmar, Porter, Solberg, and Thorpe and Senators Bercier, Fischer, Tollefson, Traynor, and Trenbeath voted "aye." Representative Nelson and Senator Every voted "nay."

Representative Porter said he supports the bill draft, but it may need changes, for example, a lottery or providing an allotment to guides and outfitters, which can be added during the legislative session.

Representative Drovdal said the major issue is access and this bill draft does not guarantee access. He said access is gained by developing relationships with landowners. He said hunting is a recreational activity and not a necessity and this bill draft will not solve all the problems.

Senator Trenbeath said he has not heard from the hospitality industry on the hunting pressure concept. He said this is the best idea to date, but a better idea may come in the future.

It was moved by Representative Porter, seconded by Representative Drovdal, and carried on a voice vote that the committee take no further action on the bill draft [30062.0100] providing seven-day blocks throughout the season with a 5,000 person cap on nonresidents.

It was moved by Representative Hanson, seconded by Representative Solberg, and carried on a voice vote that the committee take no further action on the bill draft [30045.0100] placing a 15,000 person cap on nonresident hunters and requiring five or more zones.

It was moved by Senator Every, seconded by Senator Bercier, and carried on a voice vote that the committee take no further action on the bill draft [30064.0100] creating four 7-day blocks in the first 28 days of the season and offering half-price nonresident waterfowl licenses for the last two blocks.

Representative Nelson said he hoped the committee would forward more than one concept to the Legislative Council. He said other ideas the committee has reviewed have merit.

Special Private Property Nonresident Waterfowl License

At the request of Chairman Delmore, committee counsel presented a bill draft [30093.0100] to create a

special private property license for nonresident waterfowl hunters.

Senator Traynor said the intent of the bill draft is to allow someone that lives out of state to return to hunt on the family farm; however, the intent is to not limit the license to relatives.

Senator Trenbeath said if the intent is for relatives to return to the family farm, then some level of consanguinity must be defined in the bill draft.

In response to a question from Representative Porter, committee counsel said the term "actively farms and ranches" includes land that an individual has in the conservation reserve program.

In response to a question from Representative Drovdal, committee counsel said the special licenses would be in addition to the caps placed on regular licenses.

In response to a question from Representative Kretschmar, committee counsel said an individual could get a regular and a special license.

In response to a question from Senator Bercier, committee counsel said an individual with a special license could hunt throughout the season without any limitation on the number of days.

Representative Porter said a leasing arrangement by a nonresident might allow for that nonresident to receive a special license under the bill draft. He said this would increase the purchasing and leasing of land by nonresidents in this state. He said he is opposed to the bill draft in its present form but not necessarily against the intent of the bill draft.

Senator Traynor suggested replacing the term "person" with the term "resident" on page 2, line 4, to address Representative Porter's concerns. Representative Porter said Senator Traynor's changes did not fully address his concerns.

Senator Traynor said the change would ensure that the nonresident and the active farmer and rancher were not the same person.

Records of Guides and Outfitters Bill Draft

At the request of Chairman Delmore, committee counsel presented the third draft [30016.0300] of a bill draft that requires the director to keep proprietary information collected from guides and outfitters confidential except for aggregated information used for statistical purposes. He said the first bill draft [30016.0100] required names and addresses. He said the second bill draft [30016.0200] required names and addresses and made that information confidential but required disclosure for tax enforcement purposes.

Representative Porter said the bill draft removed the tax enforcement language and provided confidentiality. He said the bill draft would allow the Game and Fish Department to provide statistical information to legislators so that informed decisions could be made on guide and outfitter issues.

It was moved by Representative Porter, seconded by Senator Trenbeath, and carried on a roll call vote that the bill draft requiring the director of the Game and Fish Department to keep proprietary information collected from guides and outfitters confidential be approved and recommended to the Legislative Council. Representatives Delmore, Brekke, Drovdal, Gunter, Hanson, Johnson, Kretschmar, Nelson, Porter, Solberg, and Thorpe and Senators Bercier, Every, Fischer, Traynor, and Trenbeath voted "aye." No negative votes were cast.

Board of Guide and Outfitters Bill Draft

At the request of Chairman Delmore, committee counsel presented a bill draft [30043.0100] for the licensing by a board of guides and outfitters. He said the bill draft provides for different licenses for hunting guides, hunting outfitters, and fishing outfitters. He said the bill draft retains present law and applies that law to a situation in which guides and outfitters are licensed by a board. He said the bill draft places a number of conditions on guides and outfitters, including drug testing. He said the bill draft is based on previous testimony made by the North Dakota Professional Guide and Outfitter Association. He said gap-filling provisions were placed in the bill draft based on other boards already codified in law.

In response to a question from Representative Kretschmar, committee counsel said an outfitter may act as a guide.

Mr. Kyle Blanchfield, North Dakota Professional Guide and Outfitter Association, said the bill draft should be changed so there are two members on the board from the North Dakota Professional Guide and Outfitter Association and only one appointed by the Governor. He said the association would like to have all the members appointed by the association; however, the Governor and the director of the Game and Fish Department appoint members because of political concerns.

In response to a question from Representative Hanson, Mr. Blanchfield said removing the license from a guide or outfitter for a violation is a more severe punishment than a Class B misdemeanor. He said there needs to be tough and fair regulation of the guide and outfitter industry. He said there needs to be a large penalty for being a guide or outfitter without a license.

In response to a question from Representative Nelson, Mr. Blanchfield said there is a 300 hunting guide outfitter limit because of public pressure. He said this number allows more than enough hunting outfitters at present.

In response to a question from Representative Delmore, Mr. Blanchfield said there are caps on the number of guides and outfitters in states with big game; however, in states in which the majority of

guided hunts are for waterfowl, there is little or no regulation.

In response to a question from Representative Porter, Mr. Blanchfield said he understands the challenge of passing a bill that creates a new board. He said the guides and outfitters need to have control over their own destiny.

Representative Porter said it is already illegal to possess or traffic in drugs and he said he does not see the need for drug testing in the bill draft. He said he has a problem with allowing nonresidents to be hunting guides. He said nonresident hunting guides would place undue pressure on the resource.

In response to a question from Representative Porter, Mr. Blanchfield said nonresidents can presently be outfitters but cannot be guides. He said he would rather have it be the other way around, so at least the resident would be the one making the most money.

In response to a question from Representative Porter, Mr. Blanchfield said the association did not propose the authority of the board to inspect guides and outfitters even though it was in the bill draft.

Senator Traynor said he is not as concerned about the establishment of the board to govern guides and outfitters as Representative Porter. He said the people of the state would be for the board because of the high-profile nature of guide and outfitter issues.

Mr. Bueide said the bill draft is on the right track. He said there needs to be a limitation placed on the number of guides and outfitters. He said there needs to be a limit on the number of acres a guide or outfitter may control. He said the number of guides and outfitters does not matter as much as the number of acres controlled by guides and outfitters.

No further business appearing, Chairman Delmore adjourned the meeting at 3:15 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:1