

**North Dakota Stockmen's Association**  
**Testimony to the**  
**House Energy and Natural Resources Committee on HB 1175**  
**Jan. 20, 2023**

Good morning, Chairman Porter and members of the House Energy and Natural Resources Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, a 93-year-old beef cattle trade organization representing more than 3,100 cattle-ranching families across our state.

Many of you on this committee will remember the historic work legislators and stakeholders accomplished together on posting and trespass reform during the 67<sup>th</sup> North Dakota Legislative Session. The collaborative and exhaustive effort has proven quite successful so far for both landowners and sportsmen, and I am thankful for all those who had a hand in it. And because of that success, I was really hoping we wouldn't have to talk about posting this session.

The bill before you, however, would be a departure from the progress we have made and have significant potential implications for state school land lessees – cattle ranchers, my members. And, so, we rise in opposition to HB 1175.

As the Trust Lands Department has described, it would negate the agency's ability to prohibit public access at any time and for any reason. That's not only a problem for cattle producers trying to utilize their leased ground for grazing, but for the department, which would lose its ability to deny public access even when other safety concerns exist.

Another flaw in the bill is that it references only grant lands, not those that were later acquired, and so HB 1175 would apply an inconsistent and, thereby, confusing standard on trust lands.

Here's the crux of our argument:

Public access on state school land is almost exclusively available right now. Last year, as an example, only 2.6 percent of the acres were closed to the public, and just 1.3 percent of the acres were approved to have "notify the lessee" signs, an even less restrictive option. Even with those acres figured in, more than 96 percent of the state school land acreage was fully open to the public. The data is similar for the years preceding it.

Limiting access on state school land is not only infrequent, but it is not something that just happens willy nilly and certainly not without the permission and criteria of the department. For example, for grazing, "closed

signs” can only be considered under these conditions:

- 1) Livestock are grazing on the trust land while the posted sign is valid, and lessees must submit a date range the animals will be on the tract. Plus, all signs expire on or before the end of the current year, meaning that lessees cannot request signs for multiple years at once.
- 2) Signs must be taken down if livestock are removed before the expiration date.
- 3) Trust lands cannot be managed with a substantial amount of private, federal or other state land. That helps ensure that the livestock will be located on the trust land the majority of the time while the tract is closed.
- 4) Additionally, the water source is to be located on or near the trust land to ensure that the animals are on the trust land the majority of the time the tract is closed as well.

It also important to note that the department randomly inspects closed tracts that overlap deer gun season to ensure compliance with the reason the tract was closed in the first place.

Moreover, lessees approved to have “notify the lessee” signs must have a valid contact number and make a good-faith effort to answer phone calls in order to get permission for one of these.

Disallowing the ability to restrict access in these very limited cases is bad policy. It would devalue the worth of the lease when cattle producers are not able to fully utilize the resource without worry of hunters, as just one example, shooting deer in the pasture while their animals are there grazing. This could be dangerous for both the animals and the people who have disturbed those animals.

This is such a small acreage and such an infrequent situation that it would not make a meaningful difference to the hunting access available in North Dakota. It could, however, frustrate livestock producers about providing access on other land and make some think twice about pursuing school land surface leases, which, altogether, generate approximately \$18 million for the state each biennium.

For these reasons, we urge a do-not-pass recommendation on HB 1175.