



**TESTIMONY OF JOSEPH HERINGER  
COMMISSIONER  
North Dakota Department of Trust Lands**

**House Bill 1175**

Senate Energy and Natural Resources Committee  
March 2, 2023

Chairman Patten and members of the Committee, I am Joseph Heringer, North Dakota Commissioner of University and School Lands and am here to testify in opposition to HB 1175. As outlined by our Department Surface Director, the current rules and process regarding public access to trust lands are working well, so there is no need to expend the time and state resources on a legislative study of this issue.

The original and primary purpose of state trust lands, as outlined in Article IX of the North Dakota Constitution, is to generate revenue to support public K-12 education. Over the years, through much thought, time and planning, there has been developed a comprehensive structure of statutes, administrative rules, and Land Board policies to lay the broad framework and guidelines for the management of trust lands to achieve that purpose. And that structure is not just for grazing leases, it is for management of mineral rights, royalties, surface easements, financial investments, unclaimed property, and other areas under the Land Board's purview.

I would submit to you that framework is working quite well. The proof of that is in the numbers as outlined in my provided information sheet on the Common Schools Trust Fund. The fund balance has grown exponentially since 2008 from around \$500 million, to \$5.66 billion as of June 30, 2022. Next biennium the fund will distribute \$500 million to support North Dakota K-12 public education, which is a 19% increase from the current biennium distribution of \$421 million. That is a good return on investment, and that distribution helps offset the state's other budget pressures.

Hunting and recreation on trust lands can be a great secondary benefit for citizens and we want to provide those opportunities as much as possible. The Department does a good job under the current structure and statute (NDCC § 15-08-19.2) of trying balance the primary trust lands objective of revenue generation, with the secondary benefit of providing recreational opportunities. I do not believe the Department has abused its discretion or acted unreasonably in its decisions under the statute. We do not claim to be perfect, and there may be some bad apples stretching or not following the rules, but we are committed to addressing those when brought to our attention. However, I do believe the vast majority of lessees are acting in good faith with their closure requests.

As has been mentioned, 97% of trust lands are open to public access at all times and under 3% are closed, and then only during specific time periods which usually coincide with cattle grazing issues brought forward by lessees. The Department needs to be able to work with our farmer/rancher lessees in a collaborative manner to address their concerns, while also balancing other interests, without our hands being tied. These farmer/rancher lessees are our business partners helping to generate revenue for the trusts, and they need to be treated as such.

In closing, I believe the current structure is working well. It provides the Land Board and Department discretion to manage trust lands in the best interest of the trusts for their primary intended purpose, while also balancing other interests. As such, the time and expense of a study as proposed by HB 1175 is unnecessary, so I ask the Committee for a DO NOT PASS recommendation.

Thank you for your time and consideration. I would be happy to answer any questions you may have.