2011 HOUSE ENERGY AND NATURAL RESOURCES

HB 1193

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee
Pioneer Room, State Capitol

HB 1193
02/03/2011
13918

☐ Conference Committee

Committee Clerk Signature

Minutes:

Rep. Porter: We will open HB 1193.

Rep. Brandenburg: I am form district 28. HB 1193 deals with the state land in the hands of the state, in being able to sell off parcels of the land in small tracts.
There is a program in place to deal with small parcels that are broken off. I don't think this bill is needed.

Rep. Porter: Are there any questions for Mr. Brandenburg? Is there further testimony in support of HB 1193? Is there any opposition to HB 1193?

Mike McEnroe: We oppose the bill. We support Rep. Brandenburg's conclusion at the end of his testimony that the bill is not needed at this time. (see attachment 1)

Rep. Porter: Are there any questions for Mr. McEnroe? Is there further testimony is opposition of HB 1193?

Mike Donahue: I am with the North Dakota Wildlife Federation. We oppose the bill. We have had discussion with Rep. Brandenburg about it and we agree with him to kill the bill.

Rep. Porter: Are there any questions for Mr. Donahue? Is there any further testimony in opposition?

Mike Brand: I am Director of the Surface Land Division for the State Land Department. I think you will like the fiscal note on this one better than HB 1466 with no fiscal impact.
As Rep. Brandenburg said since 1981 the Land Board has had a policy to sell these small tracts.

Rep. Porter: Are there any questions for Mr. Brand on the policy?

Rep. Brabandt: How many of these tracts are still available?

Mike Brand: There are 45 tracts if you look on page 2 item number1 on the list there is 1,136 acres in 45 small tracts. The board does entertain sales small tracts up to 80 acres in size. (see attachment 2)

Rep. Porter: Is there any other testimony in opposition of HB 1193? As this we will close the hearing on HB 1193.

Rep. DeKrey: I move a Do Not Pass

Rep Hofstad: Second.

Rep. Porter: Motion carries.

Yes 14 NO 0 Absent 1 Carrier Nahte

FISCAL NOTE

Requested by Legislative Council
01/21/2011

Bill/Resolution No.: HB 1193

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$0		$0
Expenditures				$0		$0
Appropriations				$0		$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Land Board to sell tracts of less than 40 acres, which have been severed by a road, river or similar feature. Existing Land Board policy encourages selling these small and severed parcels so there would be no fiscal impact of the bill.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There would be no fiscal impact because the action proposed in this bill is current Land Board policy.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No additional revenues would be realized because sale proceeds would be added to the financial assets of the trust.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No additional expenditures would be required.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The administrative cost of selling small, severed tracts is a part of the existing budget and are recovered in the sale proceeds according to the State Land Department's standard operating procedures.

Name:	Lance Gaebe	**Agency:**	State Land Department
Phone Number:	701 328-2800	**Date Prepared:**	01/26/2011

2-3-11

Date: 1193

Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep DeKrey Seconded By Rep Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Hanson	✓	
Vice Chairman Damschen	✓		Rep. Hunskor	✓	
Rep. Brabandt	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Nelson	✓	
Rep. DeKrey	✓				
Rep. Hofstad	✓				
Rep. Kasper	✓				
Rep. Keiser					
Rep. Kreun	✓				
Rep. Nathe	✓				
Rep. Anderson	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Nathe

If the vote is on an amendment, briefly indicate intent:

22009

REPORT OF STANDING COMMITTEE

HB 1193: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1193 was placed on the Eleventh order on the calendar.

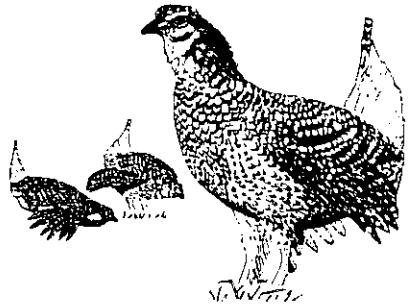
2011 TESTIMONY

HB 1193

North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



TESTIMONY OF MIKE McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
ON HB 1193
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
FEBRUARY 3, 2011

Chairman Porter and members of the Energy and Natural Resources Committee:

My name is Mike McEnroe and I represent the North Dakota Chapter of The Wildlife Society. The Chapter is a professional organization made up of over 320 biologists, land managers, university educators, and law enforcement officers in the wildlife and natural resource field.

The Chapter opposes HB 1193 requiring the sale of small parcels of original grant ~~ad~~ and non-grant lands.

State school lands are a valuable public land resource in North Dakota. We oppose any broad-brush or wholesale approach to the sale of these lands. Further, according to the fiscal note for HB 1193, the Land Board already has policy encouraging the sale of small, severed parcels of school land.

We would be interested in a list of 40-acre or smaller tracts to see what the whole impact of this legislation.

There also seems to be an error in English-metric conversion figures in the bill. Forty acres is 16.67 hectares. 97.12 hectares amounts to 233.04 acres. It is unclear which size tract is to be included in the bill.

We support retaining the state school lands in public ownership. The bill is not needed. and the math error makes it unclear as to what is intended.

We urge a "Do not Pass" on HB 1193. Thank you for the opportunity to comment. I will answer any questions the committee may have.

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www.nd.gov

attachment 2

ND STATE LAND DEPARTMENT
Helping to Fund Education

Lance D. Gaebe, Commissioner

TESTIMONY BY

Michael Brand, Director
Surface Management Division

North Dakota State Land Department

HOUSE BILL NO. 1193

House Energy and Natural Resources Committee
February 3, 2011

School and institutional lands were granted to the State of North Dakota at statehood solely for the support of the schools and various state institutions. The constitutional responsibility for managing these trust lands rests with the Board of University and School Lands composed of the Governor, the Secretary of State, the Attorney General, the State Treasurer and the Superintendent of Public instruction. As trustees, the land board is always open to improving and maintaining the income to the trusts.

Selling small, isolated tracts is a good idea. In fact, in 1981 the land board promulgated a policy encouraging the sale of small tracts "...which are **severed** by a highway, road, railroad, canal, river or lake..." if they are less than 80 acres in size for grassland and 40 acres in size for cropland and hay land. In addition, the land board has instructed the commissioner to entertain sales of any **isolated** tracts as shown by the Lund sale which is currently in progress. The land board and the state land department have followed these promulgated guidelines for nearly 30 years. Listed below are several recent sales and three pending sales under the current policy.

Date	Description	Acres	Applicant	Comment
12/3/2008	SW4 West of Road Sec. 25, T145N, R78W, Sheridan County.	18.37	Steven Roberts	Original Grant Land. Tract severed by township road.
12/8/2008	Outlot 6 in Section 14, T162N, R80W, Bottineau County.	6.00	Chad E. Tofteland	Acquired property. Sold to restore original size of farmstead.
Pending	Lot 2 Section 19, t162N, R66W, Pierce County	6.00	Carl Martin	Severed by lake. Sale approved by Land Board on 7-29-10.
Pending	SW4SW4 Section 36, T137N, R80W, Morton County	40.00	Allan Lund	Isolated 40 acres. Sale approved by Land Board on 11-30-11.
Pending	13.16 acres south of paved county road 8 in the SE4 Section 16, T150N, R63W, Eddy County	13.16	Public	Offered to Game and Fish as an add-on piece. On 1-11-11 Game and Fish declined so it is now available to the public.
Pending	Part of SW4 Section 16, T130N, R75W, Emmons County	12.00	Kenny Nieuwsma	A small parcel severed by Highway 83.

The question is not whether or not the land board would sell small, severed tracts – they will. Rather, the question is whether or not there are buyers for these tracts at their fair market value.

The sale process is driven by inquiries, generally from an adjacent landowner or the current lessee. Upon application, the tract is appraised and the applicant is notified of the minimum opening bid. All tracts are sold at public auction in the county courthouse.

The most common reason that a land sale does not proceed is that the applicant is not willing to pay the fair market value when presented with the appraised valuation. In that case, the sale does not go forward. If the applicant is willing to offer the fair market value as the opening bid and pay the sale costs, the sale can proceed.

The following observations are offered:

1. A search of our electronic database found 1,136 acres in 45 tracts ranging in size from 1.44 acres to 40 acres that would meet the criteria proposed by house bill 1193. A few more tracts would likely be found with a physical search of maps.
2. Roads and rivers do not necessarily sever a tract. Many roads especially in the west are not fenced and most rivers in North Dakota do not sever the land. Cattle cross rivers and it is less costly to fence across a river than to fence parallel to a river.
3. 97.2 hectares is equal to 239.89 acres and not 40 acres.
4. The word "shall" in the bill will not necessarily increase sales. The severed tracts anticipated by house bill 1193 are currently eligible for sale upon application.
5. The land board has a documented and positive history of selling small, severed parcels. Small tracts usually appraise higher than larger tracts so there is a financial incentive for the land board to continue to make these small, severed tracts available for sale.
6. The land board will continue to sell small, severed tracts whether or not house bill 1193 passes.
7. The issue is whether or not there is interest in purchasing a severed parcel and whether the applicant is willing to pay the fair market value as required under the constitution.

House bill 1193 will not affect the current land sale policy of the land board and will probably have minimal effect on generating sales of small, severed tracts.

The state land department believes that hb1193 is unnecessary and does not accomplish anything that is not already being done by the land board. Therefore, we are neutral.