

2011 SENATE NATURAL RESOURCES

SCR 4022

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

SCR 4022
February 17, 2011
Job #14699

Conference Committee

Committee Clerk Signature	<i>Veronica Spaulding</i>
---------------------------	---------------------------

Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of the sale of federal land to long-term lessees of the land in this state.

Minutes:

Testimony Attached

Chairman Lyson opened the hearing on SCR 4022.

Chairman Lyson: The main sponsor of the resolution asked that the study be taken out. I have asked the intern to write an amendment to that end.

Curly Haugland, representing LAND, said this is an issue we are interested in. It is well for Congress to be disposing of as much land as possible especially in these economic times. We also believe that the expansion of private property is the way we should go in America. This would be a step in the right direction.

Senator Triplett: I would like some background on the history of the BLM land and the people who have built on the land they did not own near the BLM land.

Curly Haugland: Many times the land taken was larger than the high water mark, so these lakeside properties became attractive to people who wanted to live on or near a lake. Over the years, that was accommodated by the federal government leasing these tracts. They couldn't sell it, but even they would get pressure to sell it. They would just lease it, and people leasing it began to feel threatened that they may lose their leases.

Senator Triplett: Do you know the terms of the leases?

Curly Haugland: I think they were fairly long term, but even the 50 year ones could be getting near expiration.

Senator Triplett: I was curious specifically about the people who built on land they didn't own.

Curly Haugland: This has implications on land around Sacagawea referred to in this resolution as "and other areas". For example the recreation areas around Pick City, the

marinas and campgrounds that are operated now by the ND Parks and Rec are typically on land owned by the Corps of Engineers. It creates an overlying rule and bureaucracy that's very difficult. Corps leases are typically for 25 years on that property and they have to be renewed, but a lot of private capital has been invested in those areas. The State Parks would like to have fee simple ownership so they could manage those properties without having to have the oversight of the Corps of Engineers. This is a good resolution to move in the direction of having less oversight by the federal government.

Joe Schettler, a rancher from northwest of Killdeer, spoke in favor of SCR 4022. We lease some land from the BLM and it is a 5 year lease. My grandfather had an opportunity to buy that property in the 40s or 50s. From his standpoint it didn't make any sense to do it. Most of the land is clay buttes and doesn't have high grazing value. Our lease says it is 46 acres to a cow and calf unit. Now the way things are with recreation land, it is intermingled. With the government land there is no security.

Senator Burckhart: What do you mean by "intermingled"?

Joe Schettler: It is small parcels and it is surrounded by our private land or bordered by state land. It is not fenced. Most of it doesn't have any water on it. Out of the 3000 acres of our lease, there is one dugout.

Mike Donahue with the ND Wildlife Federation spoke in opposition to SCR 4022. See Attachment #1. This resolution is looking at the Jamestown Reservoir and at Lake Patterson outside Dickinson. In Jamestown there are 3 parcels, called A, B, and C that have permittees. Two are on the west side of the lake and one is on the east side of the lake. On the permitted lots at Jamestown, the lower end of the lot near the water is part of the pool flood control. In other words, the last high water at Jamestown some of those homes were sandbagging because the water was up so high. The permits are for 5 years, paid annually, they can be terminated at any time, and the permit holder cannot transfer the permit to anyone else. It would have to go back to BLM. In Jamestown there are 45 year-round permits, 26 seasonal permits. They go by fair market value using the land index.

Chairman Lyson: What is your opposition to the bill?

Mike Donahue: We want the property to remain as public land.

Chairman Lyson: Is there a reason that you would want to do that?

Mike Donahue: We've got it and we want to keep it that way.

Senator Triplett: On line three of the bill it refers to the Bureau of Land Reclamation and I am wondering if we are really talking about the Bureau of Reclamation or are we talking about the Bureau of Land Management?

Mike Donahue: It is Bureau of Reclamation. They go by BOR. We think the current situation is just right and the fee for the lots on an annual basis is about right. We feel we are being fair.

Chairman Lyson questioned him why he would be opposing this resolution.

Senator Triplett questioned why someone would build on something with only a five year lease. Are they building permanent structures?

Mike Donahue: In Jamestown they are cabins; in Dickinson, they are larger homes. I agree. That seems like a bad choice.

Senator Triplett: You want it to stay as public land for animal habitat, but do you have a preference toward it being state rather than federal land?

Mike Donahue: ND Wildlife Federation doesn't have a preference as long as it is public land.

Senator Hogue: Do the leesees have to pay property taxes on the land?

Mike Donahue: In Jamestown the county takes care of the property, such as roads, etc.; BOR manages the water and the dam; the County Parks and Rec takes care of the rest. At Lake Patterson it is managed by the Dickinson Parks and Rec. so the money for the fees taken there goes to them. I'm not sure who assesses the taxes, but I do know the buildings at Lake Patterson comply with Dickinson building codes.

Senator Hogue: Who repaired the ramps that were washed out at the Jamestown Reservoir?

Mike Donahue: I don't know.

Chairman Lyson: Who takes care of the noxious weeds?

Mike Donahue: I don't know.

Chairman Lyson closed the hearing on SCR 4022.

Senator Hogue: Made a motion to amend the resolution by deleting lines 5 and 6 from SCR 4022.

Senator Schneider: Second

Senator Hogue withdrew the motion and made a new motion to amend the resolution by deleting lines 5 and 6 from SCR 4022 and the word "these" from line 7.

Senator Schneider: Second

Roll Call Vote: 7-0-0

Amendment to delete lines 5 and 6 and the word "these" from line 7 is adopted.

Senator Hogue: Motion to further amend the resolution by adopting the proposed amendment (see Attachment #2).

Senator Schneider: Second

Motion carried by voice vote.

Senator Triplett made a motion to Do Not Pass as Amended.

Senator Schneider: Second

Senator Triplett: If I may speak to the bill as amended: I like it a lot better now that it is amended, but I still don't like it. I would have no trouble supporting it if it were turning it over to have the state manage it rather than the federal government. I am dumbfounded that anyone would build more than a cabin on a property they had only a 5-year permit on, so I don't have much sympathy for the homeowners who have built on this property. There is enormous wildlife value to having public lands near waterways. We have limited public lands in North Dakota and it should remain as public lands. If the goal is to get it back into private lands, I would disagree; if the goal is to turn them over to ND Parks and Rec, that would be okay with me. So I am going to vote against this.

Senator Hogue: I have been to the Jamestown Reservoir so I can speak to that. It is one of the best kept secrets as far as recreational water bodies. I think it is important to get as much land back into the hands of private owners. They are the ones that manage the land best. There are public docks, places for the public to fish and campgrounds for the public. I support the efforts to bring it back into private hands. The lack of certainty has probably hampered further development. The other thing this resolution would do is try to bring certainty to the ownership status of the adjoining land. Once you have that certainty, you might find that you have further development.

Senator Triplett: Can I amend my Do Not Pass Motion? On Page 1, Line 15 add "or where appropriate to the State of ND for management as public park land."

Senator Schneider: Second

Senator Triplett: By adding that language, at least it would be a choice, assuming anyone in the federal government does listen to these things.

Voice vote did not decide it.

Roll Call Vote: 2-5-0 The Do Not Pass as Amended motion failed.

Senator Triplett: I just want you to know what you have done by not voting for my motion is that if there are lands out there that are vacant that nobody wants to do a permit on, the effect of the motion of not turning that land over to the state parks would be to leave that land in the hands of the federal government.

Senator Triplett: I still have a Do Not Pass motion out there.

Senator Schneider: Second

Roll Call Vote: 1-6-0

The Do Not Pass motion fails.

Senator Schneider: I would move a Do Pass.

Senator Uglem: Second

Roll Call Vote: 6-1-0

Carrier: Senator Schneider

Meter: 20:00

Date: 2-17-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4022

Senate Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Sen. Hogue Seconded By Sen. Schneider

Senators	Yes	No	Senators	Yes	No
Chairman Lyson			Senator Schneider		
Vice-Chair Hogue			Senator Triplett		
Senator Burckhard					
Senator Freborg					
Senator Uglen					

Withdrawn

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Move as amendment to "Delete Lines 5-6 from SCR 4022"

Meter: 21:58
" On amendment "

Date: 2-17-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4022

Senate Natural Resources

Committee

notes below

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Hogue Seconded By Sen. Schneider

Senators	Yes	No	Senators	Yes	No
Chairman Lyson	✓		Senator Schneider	✓	
Vice-Chair Hogue	✓		Senator Triplett	✓	
Senator Burckhard	✓				
Senator Freborg	✓				
Senator Uglem	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Remove Lines 5+6 and the word "These" from Line 7.

#2

Proposed Amendment to SCR 4022

Page 1, line 1, remove "directing the Legislative Management to study the feasibility and desirability of the sale of federal land to long-term lessees of the land in this state"

Page 1, line 1, after "resolution" insert "urging Congress to sell federal land to long-term lessees of the land in this state"

Page 1, line 3, remove "Land"

Page 1, remove line 5

Page 1, remove line 6

Page 1, line 15, remove "Legislative Management study the feasibility and desirability of the sale of federal land to long-term lessees of the land in this state"

Page 1, line 15, after "That the" insert "Sixty-second Legislative Assembly urges the Congress of the United States to sell federal land to long-term lessees of the land in this State"

Page 1, line 17, remove "Legislative Management reports its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-third Legislative Assembly"

Page 1, line 17, after "that the" insert "Secretary of State forward copies of this resolution to the Bureau of Reclamation and each member of the North Dakota Congressional Delegation"

Date: 2-17-11
Roll Call Vote # 3

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

Senate Natural Resources Committee

Legislative Council Amendment Number proposed amendment

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

(attachment #2)

Motion Made By Hogue Seconded By Schneider

carried by voice vote

Senators	Yes	No	Senators	Yes	No
Chairman Lyson			Senator Schneider		
Vice-Chair Hogue			Senator Triplett		
Senator Burckhard					
Senator Freborg					
Senator Uglem					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Meter: 25:04

Date: 2-17-11
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4022

"Motion on Resolution"
Committee

Senate Natural Resources

Legislative Council Amendment Number

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Triplett Seconded By Sen. Schneider
"Voice Vote" taken & then "Confirmation Vote"

Senators	Yes	No	Senators	Yes	No
Chairman Lyson		✓	Senator Schneider	✓	
Vice-Chair Hogue		✓	Senator Triplett	✓	
Senator Burckhard		✓			
Senator Freborg		✓			
Senator Uglen		✓			

Total (Yes) 2 No 5

Absent 0

Floor Assignment Motion failed

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

Triplett: Can I "amend" a do not
pass motion?

Amend resolution we have in front of us. Pg. 1 - Line 15 - Add or where appropriate to state of ND for

management as public park land.

Date: 2-17-11
Roll Call Vote # 5

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

Senate Natural Resources Committee

Legislative Council Amendment Number _____ On Resolution

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Triplett Seconded By Sen. Schneider

Senators	Yes	No	Senators	Yes	No
Chairman Lyson		✓	Senator Schneider		✓
Vice-Chair Hogue		✓	Senator Triplett	✓	
Senator Burckhard		✓			
Senator Freborg		✓			
Senator Uglem		✓			

Total (Yes) 1 No 6

Absent 0

Floor Assignment _____

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

Lyson: It did not pass.

Timer: 34:50

Date: 2-17-11
Roll Call Vote # 6

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4022

Senate Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Schneider Seconded By Sen. Uglem

Senators	Yes	No	Senators	Yes	No
Chairman Lyson	✓		Senator Schneider	✓	
Vice-Chair Hogue	✓		Senator Triplett		✓
Senator Burckhard	✓				
Senator Freborg	✓				
Senator Uglem	✓				

Total (Yes) 6 No 1

Absent _____

Floor Assignment Sen. Schneider

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

REPORT OF STANDING COMMITTEE

SCR 4022: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SCR 4022 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "directing the Legislative Management to study the feasibility and"

Page 1, line 2, replace "desirability of the sale of federal land to long-term lessees of the land in this state" with "urging Congress to sell federal land to long-term lessees of the land in this state"

Page 1, line 3, remove "Land"

Page 1, remove lines 5 and 6

Page 1, line 7, remove "these"

Page 1, line 15, remove "Legislative Management study the feasibility and desirability of the sale of federal"

Page 1, replace line 16 with Sixty-second Legislative Assembly urges the Congress of the United States to sell federal land to long-term lessees of the land in this state

Page 1, line 17, remove "Legislative Management reports its findings and"

Page 1, replace lines 18 and 19 with "Secretary of State forward copies of this resolution to the Bureau of Reclamation and each member of the North Dakota Congressional Delegation."

Renumber accordingly

2011 HOUSE ENERGY AND NATURAL RESOURCES

SCR 4022

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee
Pioneer Room, State Capitol

SCR 4022
3/17/2011
15561

Conference Committee

Committee Clerk Signature

Emineth

Minutes:

1 "attached testimony."

Rep. Porter: We will open the hearing on SCR 4022.

Senator Nodland: I represent district 36. This is an issue that has gone on for quite some time with people that lease land along Patterson Lake and also the Jamestown Reservoir. About 6-8 sessions ago the senate wrote a letter to the Bureau of Reclamation and requested that they sell the property to the people. Nothing was done. Some constituents from Dickinson and some constituents from Jamestown who Rep. Headland represents brought this up again. We came up with this resolution; I would like to go through some parts of it. We are asking that the people who are leasing land around Lake Patterson and land around the Jamestown Reservoir to have the option to purchase that land. The main thing is that they have a hard time attaining long term financing. No bank or mortgage company will look at a long term loan for leased land. They can't get a 25 of 30 year amortization but they will get a 5 year balloon loan so they have to continually balloon their loan. The biggest issue with the people is if you look on line 7 and 8 where it says "they feel they are being "discriminated against because other similar property in other states has been sold to the permit holders for example in Montana". What we are asking is that the Secretary of State forwards the copies of this resolution if it is signed by both the House and the Senate to the Bureau of Reclamation and the Congressmen and ask them to encourage them to sell it. (See attachment 1.)

Rep. Hanson: Does that include the areas around Garrison and Lake Sakakawea?

Senator Nodland: No it is only these two reservoirs.

Rep. Hanson: When I was living in Garrison I had a lease on a lot and it was \$10.00 a year. It would be cheaper to pay the \$10.00 than to own it.

Senator Nodland: The other issue is they are paying some pretty good county taxes besides their permit to the Bureau of reclamation.

Rep. Porter: Is there any opposition? We will close the hearing on SB 4022.

Rep. Porter: We have before us SCR 4022.

Rep. Hanson: I make a motion to a Do Pass and to place it on the consent calendar.

Rep. Nathe: Second.

Rep. Porter: Voice vote taken motion carried. Carrier: Rep. Hanson.

Date: 3-17-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4022

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 Hanson Seconded By Rep Nathe

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) 15 No 0

Absent 0

Floor Assignment Rep. Hanson

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

*voice vote taken to place on consent calendar
motion carried.*

REPORT OF STANDING COMMITTEE

SCR 4022, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4022 was placed on the Tenth order on the calendar.

2011 TESTIMONY

SCR 4022

Information for Resolution 4022

02/17/11

Gathered from the Bureau of Reclamation BOR (Bismarck office) by Mike Donahue, lobbyist # 66, representing the North Dakota Wildlife Federation (NDWF).

Note: NDWF opposes 4022. NDWF desires to keep the land as public property.

Reference Jamestown reservoir (Jamestown, ND) and Patterson lake (Dickinson, ND).

Permitted Lots.

- Are titled Exclusive Use Permit.
- Permit is good for every five years and fee is paid annually.
- Permits reviewed every five years for "greater public need."
- BOR can terminate permits at any time for "Greater Project or Greater Public Need."
- Permit can be lost (voided) by disregarding rules and regulations.
- Permit cannot be sold by the permit holder nor transferred.
- An available or open Permit is decided by lottery.

JAMESTOWN has 45 year-round permits and 26 seasonal (end of April to 1 Nov).

Stutsman county Park Board manages the land and the recreation.

2011 seasonal permit fee is \$800 and year-round is \$1,200. Fees are collected by the BOR and given to the county park board.

Contour elevation 1454 is the "glory hole elevation" near the dam. All permitted lots have ground below that elevation (that is they can be flooded).

DICKINSON only has year-round lots (total of 42) all are out of the exclusive flood pool.

- The land around the impoundment is managed by the Dickinson Park Board.
- All permit fees collected by BOR are transferred to the Dickinson Park Board.
- The 2011 fee (paid in Dec 2010) was \$1,200.
- Lots are on average about one-third of an acre in square feet.

Fee comparison: INDIAN HILLS RESORT (west of Garrison) at Lake Sakakawea for the summer season of 2011 is charging \$1,250 (15 May – 15 Oct).

ESTABIISHING VALUE

- Appraisal is "Fair Market Value."
- Appraisal is to be done every ten years.
- 1999 was the last contracted appraisal (by a Bismarck, ND firm) at a cost of \$64,000.
- The 2009 appraisal was not conducted because the fee was to be \$100,000 and the BOR did not have the money in their budget to do it.
- Because of that, the Bismarck BOR elected to use the "Land Index " managed by Denver BOR to set permit fee.

Point of Contact for the above is Mike Donahue at 391-0772

copy to committee
2/18/11 - Senate
3/17/11 - House
02/17/11

Information for Resolution 4022

Gathered from the Bureau of Reclamation BOR (Bismarck office) by Mike Donahue, lobbyist # 66, representing the North Dakota Wildlife Federation (NDWF).

Note: NDWF opposes 4022. NDWF desires to keep the land as public property.

Reference Jamestown reservoir (Jamestown, ND) and Patterson lake (Dickinson, ND).

Permitted Lots.

- Are titled Exclusive Use Permit.
- Permit is good for every five years and fee is paid annually.
- Permits reviewed every five years for "greater public need."
- BOR can terminate permits at any time for "Greater Project or Greater Public Need."
- Permit can be lost (voided) by disregarding rules and regulations.
- Permit cannot be sold by the permit holder nor transferred.
- An available or open Permit is decided by lottery.

JAMESTOWN has 45 year-round permits and 26 seasonal (end of April to 1 Nov).

Stutsman county Park Board manages the land and the recreation.

2011 seasonal permit fee is \$800 and year-round is \$1,200. Fees are collected by the BOR and given to the county park board.

Contour elevation 1454 is the "glory hole elevation" near the dam. All permitted lots have ground below that elevation (that is they can be flooded).

DICKINSON only has year-round lots (total of 42) all are out of the exclusive flood pool.

- The land around the impoundment is managed by the Dickinson Park Board.
- All permit fees collected by BOR are transferred to the Dickinson Park Board.
- The 2011 fee (paid in Dec 2010) was \$1,200.
- Lots are on average about one-third of an acre in square feet.

Fee comparison: INDIAN HILLS RESORT (west of Garrison) at Lake Sakakawea for the summer season of 2011 is charging \$1,250 (15 May – 15 Oct).

ESTABLISHING VALUE

- Appraisal is "Fair Market Value."
- Appraisal is to be done every ten years.
- 1999 was the last contracted appraisal (by a Bismarck, ND firm) at a cost of \$64,000.
- The 2009 appraisal was not conducted because the fee was to be \$100,000 and the BOR did not have the money in their budget to do it.
- Because of that, the Bismarck BOR elected to use the "Land Index " managed by Denver BOR to set permit fee.

Point of Contact for the above is Mike Donahue at 391-0772

