

2013 HOUSE ENERGY AND NATURAL RESOURCES

HB 1278

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 1278
Jan 24, 2013
17727

Conference Committee

Ernie

Relating to carrying a game and fish license.

Minutes:

19 testimony

Rep. Damschen: We will open HB 1278 and ask the clerk to read the title.

Rep. Porter: During the last election cycle there was a measure to create a Heritage Fund in the state of North Dakota and inside of that Heritage Fund there was an appropriation that as it went through the process legislative management came up a figure of around \$100,000,000 a year. Along with that there was a non-legislative board that was in charge of appropriating those funds. The other area that was inside of the language on that bill included things that have been met with and discussed and talked about including the purchase of easements, land and the purchase of mineral rights to impede the development of energy.

Rep. Hofstad: Under the powers and duties of the commission it says that you can make grants under the state agency or the tribal government or political subdivisions or nonprofit organizations. I am wondering if that is sectional of the law that we might take some of that money grant it to a nonprofit organization and then grant it to which would in turn use it for acquisition of land.

Rep. Porter: No I don't because I see the purpose of the advisory board in recommending that project to the industrial commission that they have the rules of engagement. So if the nonprofit comes in and says that we are going to do this with the funds we are going to restore the wet lands in the area with these funds that is a specific project that gets looked at and voted up or down as that project.

Rep. Mock: I don't see language in here that would cap the funds that could be used for administrative purposes. Was that left out intentionally?

Rep. Porter: We had that discussion it was felt that it would be very minimal.

Rep. Mock: Would the administration of the fund than be funded from the Industrial

Commission or from the Heritage Fund?

Rep. Porter: It would be the funds from the Heritage Fund.

Rep. Kelsh: In the measure that was going to be on the ballot last year had the funny mechanism coming out of both the oil extraction tax and the oil production tax; why is the funding source limited to the production tax?

Rep Porter: The Oil and Gas Research Council is in the same mechanism and their cap is at \$10,000.000 they were at \$4,000.000 and then this fund is going with that same tax and then the money up to that \$30,000.000 so it didn't to go into both and we kept is simple.

Rep. Froseth: The funding mechanism; we have a couple proposal yet to hear on oil tax revenue distributions one completely reworks the formula and another will do away with the 2 tiered system of production tax and the extraction tax. This funding formula uses the production tax and a percent of the first one of the five percent. Most of that 5% production is already earmarked to go into all sorts of other funds. How are we going to use this bill if it passes?

Rep.Porter: We have to keep in mind the other things that affect it. As those bills would come of the Finance and Tax Committee we have that day of reckoning when we get to the Senate as see how things come together.

Rep. Froseth: Wouldn't it be a simpler way to dedicate it from one of the other funds?

Rep. Porter: It is something that is on the table. The Governor does have \$10,000.000 in his budget of the 15,000.000 in his budget.

Rep. Nathe: In regards to the \$15,000.000 a year say they use that in half a year would it be limited out?

Rep. Porter: For that it would be.

Rep. Nathe: In regards to the grants that are recommended by the Advisory Board; is there no limit on those grants either?

Rep. Porter: No that advisory board would have the ability to prioritize they would have the ability to recommend and then the Industrial Commission would have the ultimate say on how they feel.

Rep Nathe: If the Industrial Commission doesn't like it and says we are not getting the bank for the buck do they send it back to the advisory board and start over?

Rep. Porter: That is correct.

Rep. Carlson: I introduced a program for the plots program and has been a successful program. We understand the importance of trying to preserve the outdoors that is important in North Dakota. If you look at the bill before you; you will find a lot of issues that

were addressed in the Initiated measure that we were trying to put forward. This bill has \$10,000.00 more in it than what was recommended in the executive budget because some of us involved in this process thought we needed some additional funding in there to do what people were looking for; it is important to look at who the players are; and whether we are getting this money to the place to make sure that we are getting this money to the right place and that we are addressing the issues that allow the people that put that measure forward. This one is going to get another run in this process and then it will go to the Senate hopefully it will get passed out I think it is imperative for us to find that funding source to push this idea forward.

Drew Wrigley: Lieutenant Governor of the State of North Dakota (See testimony 1) The Governor and I strongly encourage you to support passage of HB 1278.

Kevin Hullet: President of the Bismarck-Mandan Chamber; my role is to provide some background on how this came together and walk you through the mechanics of this bill. (See Testimony2- 3)

Rep. Porter: As we created empower it turned at a point to me too. There is going to be a me too factor that we will hear from today. What was the discussion and the position of the committee?

Kevin Hullet: It is going to be your decision on what that advisory group is. We are bringing our recommendation based upon those folks that very engaged in the conservation that came to the table we also tried to identify whether it is everything from the parks to the hunting and fishing to the agriculture interest of the conservation groups we think it is the best recommendation to you; it is the structure that we agreed upon.

Rep. Damschen: you have a clause on page2 that includes supporting farming and ranching and that is great but do you think an amendment would be accepted on line 13 and add production agriculture and the rights of the private property owners?

Kevin Hullet: I will let the agriculture address that.

Rep. Mock: I am looking at page 3 of your testimony of the flow chart; and I am trying to find how the flow matches the bill and I see where everything is defined what I am not finding is the Technical Revenue Committee and more importantly I am not finding the language that says that they recommendations are confidential.

Kevin Hullet: I do know it is in here. We did address the confidentiality issue let me have them address that for you.

Rep. Mock: Do they address the reason why that is confidential?

Kevin Hullet; I will have them address that.

Steve Adair: I am the Director from Ducks Unlimited, Director for the Great Plains Region, and a member of the North Dakota Clean Water, Lands & Outdoor Heritage Coalition. HB1278 is a step in the right direction and recognizes that we must act not to protect our

clean water, our iconic natural areas like the badlands and our outdoor heritage. (See testimony 4)

Rep. Anderson: I am concerned about the 20 easement as a farmer if I lock myself in for 20 years and the way the inflation and the price of the commodities goes up I would be hesitant to lock 20 years in.

Steve Adair: That is one of the challenges today; it pays rates that are not market based so hopefully we could build a system that could be indexed to the market.

Rep. Nathe: Do you see this money to be used in conjunction to your projects?

Steve Adair: Conservation in the state has been in partnership with all the organizations working in the state Duck Unlimited would expect to apply for grants along with other conservation partners. That money passes through us as a conduit that goes to the farmers and ranchers to implement practices on their land.

Rep. Nathe: Do you do private/public partnerships with the state?

Steve Adair: Yes

Rep. Brandbandt: Is the US Fish and Wildlife involved in the area of this bill?

Steve Adair: They are not an entity for the grants.

Rep. Damschen: With the meetings with state holders that are involved in this was their a discussion about the amount?

Steve Adair: That was another area similar to the land acquisition; that was a lively discussion. The \$15,000.000 was the majority opinion of the group some think it should be more and some think it should be less.

Rep. Nathe: Is that \$100,000.000 per year or per biennium?

Steve Adair: Per Year.

Rep. Nathe: When you started the measure last summer that was being sold at \$50,000.000 a year why doubled it now?

Steve Adair: That was a 5% allocation which was would have varied as the production went up.

Rep. Nathe: What is the justification for the doubled?

Steve Adair: That takes a sufficient investment to look at that.

Rep. Nathe: What is the justification for doubling it?

Steve Adair: When the petition was first conceived it was \$50,000.000 a year but as the ---

Rep. Nathe: You were operating on the basis of \$50,000.000 at that time?

Steve Adair: We know that that would increase over time. \$100,000.000 a year has been the number that we think it will take to meet the needs in the state.

Rep. Damschen: We have great hunting I do have to give credit to the people that have used the land for the last 100 years and have contributed to the conservation and to the wildlife.

Michael McEnroe: Chapter of the Wildlife Society. I am here in support of HB 1278 We believe Rep. Kelsh's proposed amendments make HB 1278 much more effective in reaching that level of benefits to the State's hunters and fishers. (See testimony 5).

Kristi Schlosser Carlson: I am testifying in behalf of the membership in North Dakota Farmers Union. Based on our policy, the NDFU board opposed the would-be initiated measure establishing the Outdoor Heritage Fund for three reasons. (See testimony6) The coalition than came together after the election and developed the concepts in this bill; NDFU supports the proposed legislation because it addresses all three concerns. NDFU now stands in support of HB 1278.

Doyle Johannes: President of the North Dakota Farm Bureau; we support HB 1278 we would respectfully request you consider amending Section 54-17.8-03 subsection 1d. on page2 to include "restoration and enhancement of existing parks" (See testimony 7)

Ron Ness: President of the North Dakota Petroleum and we stand in support of the HB 1278 our member are hunters and fisherman. I think the ability to bring this process into a process like and also leverage it to matching grants.

Julie Ellingson: I represent North Dakota Cattlemen's Association; the association had long been an advocate of conservation our producers make a living for the next generation for of agriculturists and other interests. (See testimony 8)

Dan Wogsland: Executive Director of the North Dakota Grain Association; we come in support of HB 1278. (See testimony9) We will not support a funding level is larger than what is contained in the bill in front of you.

Rep. Nathe: Can you explain the comment that you will not support a funding level greater than what is in the bill?

Dan Wogsland: What you have before you is a \$30,000.000 project. We support that anything about that level we will not.

Rep. Nathe: What is the reason? As you know there is pressure to go higher.

Dan Wogsland: There are pressures on everything. There has got to be a limit; this is a new program and is prove of having been part to putting this program together. We think this is a good place to start but think that is a level to that we are comfortable with.

Rep. Anderson: If you boast this beyond the limit you are competing against young farmers on the change to get land.

Sandy Tabor: Vice President of Government Affairs for the Lignite Energy Council. The Council was also opposed to the initiated measure because of our concerns about how loosely it was written and the potential for impacts on energy development. We got together with the chambers and said even though the initiated didn't occur we think the basis for it had some merit and we agreed that we would work with this coalition to try and find an answer to how we do provide some access to funding for conservation projects and for sports projects and hunting and fishing access. Let me tell you the reason Ron Ness and I recommended this is through our experiences with the Research Council it really isn't cumbersome at all. It provides the policy makers on the board an opportunity to hear from technical per reviewers about the merits of the grant and whether they fulfill the technical that are outlined in the proposal and that is important. You might be thinking why do we need all of this it is a process that is proven to serve the state well in ensuring that the state monies are given out as grants that they are going to the purposes that you all directed them to go to. There was a question about the technical revenue and the confidentially throughout this process we had some problems with bill drafts and they are supposed to be the language that we have in both the Oil and Gas and Lignite Council on the confidentially of the peer review and it is not in there and didn't even know it thank God you asked.

Rep. Mock: If that is the process why is that confidential?

Sandy Tabor: Our experience through both councils is that people are pretty willing to service peer reviews and give honest answers if they know that nobody will zing them for it. That is the only part of it that is confidential and that is who the peer reviewers are. Not what they said and not what they ranked and it allows them a safety net.

Rep. Mock: I would assume that we would have an amendment that would be coming in time. Is it your intention to place in the statue that the names of their identities to make it an exempt record or a confidential record?

Sandy Tabor: In our councils they are confidential.

Mark Zimmerman: North Dakota Parks and Rec; I appear before your committee this afternoon in support of HB 1278. (See testimony 10)

Dana Schaar: Executive Director of North Dakota Recreation & Park Association. In interest of time I will say we stand in support of Outdoor Heritage Fund and ask a do pass on HB 1278.(See testimony 11)

Jon GodFread: Greater North Dakota Chamber; 1. we are the principal organization that put people first in North Dakota that was the measure committee that would oppose the then constitutional measure that did not make it to the ballot. 2. This body is going to face

a lot of needs and wants in addressing infrastructure need, tax relief and other things we feel HB 1278 has summited and fits the balance. 3 We want to thank everybody on the committee and the meeting that were held.

Harlen Fuglesten: North Dakota Association of Rural Electric Cooperative; submitted testimony 13

Terry Steinwand: North Dakota Game and Fish; we do support HB 1278 (See testimony 14)

Ryan Crapp: I support HB 1278 the one concern that as a sportsman and represent a group in North Dakota as well the level of conservation is still at odds.

Bill Mitzel: I publish the Dakota Country magazine (See testimony 15) I support HB 1278

Rep. Kelsh: I want to offer my support for this bill. (See testimony 16) I have gotten lots of emails regarding the concern about the level of funding. I think that \$30,000.000 in a biennium can be eaten up by one or two needs and have many needs left on the table.

Rep. Mock: It was mentioned that it was \$100,000.000 a year and your amendment is \$50,000.000 a year is that ---

Rep. Kelsh: It divides the funding source between oil extraction tax and the production tax and takes \$50,000.000 a year out of each of those and puts them into the Heritage Fund.

Dwight Keller: Independent Beef Association; I testify mutual on this bill because our organization hasn't voted on it.

Rep. Nathe: Do you represent the Independent Cattle Assoc? Can you explain better your opposition to raising the amount?

Dwight Heller: The fact that it is a new program and I think you get into this program I think the Governor had a good point in setting it at \$10,000.000.

Rep. Damschen: Do you ranch? Do you have any land that is not habitat?

Dwight Heller: Yes it is cattle No we have a lot of wildlife on our operation.

Dwight Gross: I am a farmer and rancher and I believe any money on conservation has merit however there are 2 provisions in this bill that need to be addressed.(See Testimony 17 Section 54 the commission shall use the fund to provide grants to state agencies and tribal governments political subdivisions and nonprofits. Why nonprofits? We have some political organizations who can apply for grant money.

Dwight Wrangham: President of the Landowners Association of North Dakota Land. (See testimony 18)

Rep.Porter: You mentioned that North Dakota Land does not support this bill and then you go on and talk about the other state agencies. Every time we have had a discussion about the plots program and others North Dakota Land has been opposed to them right along so has North Dakota Land changed their position on all of those other issues?

Dwight Wrangham: This is my first term as president. I cannot speak for what the past has been in the past.

Dick Monson: I am a farmer from Barnes County; I came up to oppose this bill but will go back home and think about this some more. I think the funding is too low. This bill is not about agriculture.

Paul Henderson: I own a farm in the northeastern part of the state I am here to oppose the bill. I don't have any objections preserving the land. If we turn more land out of production agriculture and in conservation practices those things aren't coming back out in the production agriculture. I ask a do not pass

Dennis Miller: Past president of three different statewide organizations; submitted testimony19)

Rep. Damschen: We will close the hearing on HB 1278.

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 1278
February 1, 2013
18161

Conference Committee

Emineth

Relating to the oil and gas gross production tax.

Minutes:

Rep. Porter: We will open HB 1278. Mr. Hullet has been working on the proposed amendments that were brought up during the original hearing that had to do with the missing section three for the technical reviews and then the amendments to the committee memberships.

Kevin Hullet: President of the Bismarck and Mandan Chamber; When we had the hearing we discussed a number of these. On page 2 line 13 and on page 3 line 14-15 we have one member from Ducks unlimited of N.D. the N.D. Natural Resources Trust Fund, the N. D. Chapter of Pheasants Forever, and a change is one at large member of the conservation community. After the hearing we had a number of phone calls to open up who can be appointed on the conservation side to be sure include and have the opportunity some local and N.D. based conservation groups.

During the hearing adding in the soil conservation districts as an ex officio member changing the terms limits from 5 years to 2 four year term limits and section 3 which does allow us to maintain a confidential identity of those that we ask to do technical reviews on the applications. (See Testimony 1)

Rep. Porter: Since this has been one of consensus the consensus of the working group that this is.

Kevin Hullet: Yes we have taken all of the amendments back through the working group to be sure everyone was satisfied with this.

Rep. Mock: I noticed that there are some more technical things that we need to discuss. On page 3 line 18-19 we need to strike the second association.

Rep. Porter: On the amendment overstrike the word association.

Rep. Mock: I find the one about confidentially very concerning; that the amounts of records that close off are so few and between and there is nothing that I can find of this nature. Can you explain to the committee why that is necessary?

Kevin Hullet: We modeled this language after the Lignite Research and the Petroleum Research Fund. It is way to make sure we have a very straight forward honest assessment of applications.

Rep. Mock: I have concerns that those that like the open records didn't get a chance to weigh in on this.

Rep. Schmidt: Why should you want to hide your response?

Rep. Porter: In section 3 as this group put it together the model was a process that is already working in two other processes the Lignite Research and the Petroleum.

Rep. Keiser: Are 2 state agencies state appointed?

Rep. Porter: Yes.

Rep. Nathe: Did they have this because they are talking about the possible trade secrets? It seems different to me.

Rep. Silbernagel: The funds are to be related to funds related to advancing conservation.

Rep. Schmidt: Based the purposes of this program I nothing in those purposes that requires or demands an anonymous response.

Rep. Mock: I move that we adopt the amendments with the exception of inserting section three and have that amendment separately. My motion is to adopt the proposed amendments with the exception inserting section 3.

Rep. Porter: We have a motion and a second from Rep. Schmidt. Voice motion carried.

Rep. Kelsh: I offer and discussion the amendments ending in 03001 and I offer testimony from the day the bill was heard. I am not certain that a \$100.000.000 per year is the correct figure but it does establish a cap on the fund.

Rep. Porter: We have and motion and a second from Rep. Mock to adopt the proposed amendment from Rep. Kelsh.

Rep. Keiser: I will oppose the amendment. The committee must develop bill that taken to the floor and passed.

Rep. Kelsh: I appreciate those comments. Do you have a figure in that mind that would have a chance to passage?

Rep. Keiser: We have to be realistic and support what we believe we can pass.

Rep. Porter: I agree with Rep. Keiser.

Rep. Kelsh: The ordinal message that didn't make it to the ballot it had unlimited funds that could go into that Heritage Fund.

Rep. Anderson: I think we should leave the bill as it is

Rep. Porter: All those in favor motion failed.

Rep. Mock: On section 2 do we have the estimate of what 4 percent of the first 1 percent will amount to in this biennium under the projections?

Rep. Porter: No

Rep. Kesier: I move a do pass as amended on HB 1278 with the referral to house appropriations

Rep. Porter: We have a do pass as amended on HB 1278 with the referral to house appropriations seconded by Rep. Mock.

Rep. Damschen: I have to oppose it.

Rep. Keiser: Would the CRP land that is coming off and the minimal beginning which this establishes we as a state providing our budget stays in the pattern it is in are going to have a lot of requests and support for expansion in the future.

Rep. Porter: Voted; Motioned carried.

Yes 10 NO 3 Absent 0 Carrier Rep. Porter:

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1278 creates a North Dakota outdoor heritage fund.

- 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.*

Section 2 of HB 1278 allocates a portion of the oil and gas gross production tax to the North Dakota outdoor heritage fund. The amount allocated to this fund is 4% of the first one-percent of oil and gas gross production tax, limited to \$15 million in a fiscal year and \$30 million in a biennium.

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.*

If enacted, HB 1278 is expected to reduce revenues in the strategic investment and improvements fund by an estimated \$17.62 million in the 2013-15 biennium. These revenues will be allocated to the North Dakota outdoor heritage fund. (Both of these are "other funds" in 1A above.)

- 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.*

- 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.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/22/2013

February 1, 2013

2/1/13
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1278

Page 2, line 13, after "energy" insert "facility or infrastructure"

Page 3, line 13, remove the second "the"

Page 3, replace lines 14 and 15 with "one member from ducks unlimited of North Dakota, the North Dakota natural resources trust fund, the North Dakota chapter of pheasants forever, and the conservation community at large."

Page 3, line 18, remove "with technical background"

Page 3, line 18, remove "parks and"

Page 3, line 19, replace "recreation" with "recreation and park"

Page 3, line 22, remove the third "and"

Page 3, line 23, after "forester" insert ", and the North Dakota association of soil conservation districts"

Page 3, line 24, replace "five" with "four"

Page 3, line 24, after "years" insert "and members may not serve more than two consecutive terms"

Renumber accordingly

Date: 2-1-2013
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Rep Mock Seconded By Rep Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunsakor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: VOICE Vote carried
to adopt the ~~at~~ proposed amendments with
the exception of inserting section 3.

Date: 2-1-2013
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Rep Kelsh Seconded By Rep Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunsakor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

~~to adopt from Rep Kelsh~~ *Motion fails Voice*
to adopt the proposed amendment from Rep. Kelsh
03001

Date: 2-1-2013
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number Rep. Porter

Action Taken _____

Motion Made By Rep Keiser Seconded By Rep Nate

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter	✓		Rep. Bob Hunsakor	✓	
Vice Chairman Chuck Damschen		✓	Rep. Scot Kelsh	✓	
Rep. Jim Schmidt	✓		Rep. Corey Mock	✓	
Rep. Glen Froseth		✓			
Rep. Curt Hofstad	✓				
Rep. Dick Anderson	✓				
Rep. Peter Silbernagel	✓				
Rep. Mike Nathe	✓				
Rep. Roger Brabandt		✓			
Rep. George Keiser	✓				

Total (Yes) 10 No 3

Absent 0

Floor Assignment _____

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

*Do pass as amended ~~to apprc.~~
with a referral to house Appropriations*

REPORT OF STANDING COMMITTEE

HB 1278: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1278 was placed on the Sixth order on the calendar.

Page 2, line 13, after "energy" insert "facility or infrastructure"

Page 3, line 13, remove the second "the"

Page 3, replace lines 14 and 15 with "one member from ducks unlimited of North Dakota, the North Dakota natural resources trust fund, the North Dakota chapter of pheasants forever, and the conservation community at large."

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Renumber accordingly

2013 HOUSE APPROPRIATIONS

HB 1278

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1278
2/12/13
Jobs 18770

Conference Committee

Committee Clerk Signature

Meredith Tracholt

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact chapter 54-17.8 of the North Dakota Century Code, relating to the North Dakota outdoor heritage fund; to amend and reenact subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

Minutes:

You may make reference to "attached testimony."

Recording job 18770

Rep. Todd Porter, District 34: Introduced the bill. Attachment 1 distributed.

5:20

Chairman Delzer: If they are working with any farmers, they would have to allow the incursion on their land for 20 years by whoever wants, or not?

Rep. Porter: I would see this money being available to agencies like Game & Fish to use with other project dollars. It would be up to the individual landowner on what they are asking for, it would be up to the biologists we already hire to figure out what program fits best on their land and whether or not they want to do that. I think it's flexible enough that it could be used for something that has nothing, or everything, to do with hunting. It is up to the private landowner on what they want on their property.

Chairman Delzer: You don't have any kind of budget about how you expect the \$15M to be used; how did you come up with that amount?

Rep. Porter: No we don't. It was a collaborative effort. The groups had agreed going into the process that \$10M was the number, the governor had \$10M in the budget for this. Some people think it should be a lot more; we rejected one amendment for \$100M. When the bill was drafted, \$15M was put in as the starting point. In two years, we hope to have discussions about if it's working, or it's not enough or too much money.

Chairman Delzer: Where is the \$10M residing, in the industrial commission? It is in the Senate.

Rep. Skarphol: You expressed concern about how the funds would have been utilized had the initiated measure passed. Does this bill preclude an entity from doing those things?

Rep. Porter: Those groups' funds are private non-profit funds, and what they do with their money is their business. There is nothing in here that would stop a group from raising money and going to a public bid for publically held minerals.

Rep. Hawken: I think this is a grand idea and we want to preserve our state. But I find it interesting that we don't have a problem with \$15M for ducks, but we do for kids.

Rep. Monson: You have an impressive list of people in favor, was there any opposition?

Rep. Porter: The bill comes to you as a 10-3 do pass. Rep. Damschen was against it, he's not opposed to the concept but has issues with private land and public money; as were Representatives Kelsh and Mock because they didn't feel it was enough money. A few people testified against it.

Rep. Monson: I have been getting a lot of communication in opposition to this.

Rep. Grande: Can land be purchased with this money? I've received an e-mail from Fargo Park & Rec requesting I support the bill so it can increase the purchases and upgrades for conservance parks throughout ND.

Rep. Porter: No. I would tell them to read page 2 line 14 where it is very clear that the acquisition or encumbrance of land for more than 20 years is prohibited. What would be allowed is to do a capital improvement project and present their proposal to the industrial commission for approval; but if they needed to purchase land to do that project, they would have to have another funding source. They would not be acquiring land with this money. If they have money in their budget or want to raise their local mill or land is donated, that is fine.

Chairman Delzer: Is there anything that would keep them from supplanting their operating costs to free up money to buy land?

Rep. Porter: No, there isn't.

Chairman Delzer: This is an advisory group to the industrial commission, they can change whatever they wanted to change, as well?

Rep. Porter: Yes.

Rep. Nelson: I'm interested in the distribution mechanism being the industrial commission. Was there any discussion of different model that would include the legislative process?

Rep. Porter: It was not in the testimony of the committee. As the bill was put together, because it was directly related to an oil and gas funding mechanism, they felt very comfortable with the current process for both the lignite energy research council and the petroleum research council and how that system worked, with individuals working as an

advisory group and then going back to the industrial commission with the actual funding request. They felt comfortable that the ag commissioner was a part of that. We stuck with what they came to us as a recommendation of how this money would flow out.

Rep. Nelson: There is no legislative involvement on the committee, is there?

Rep. Porter: No, there is not.

Chairman Delzer: Were there any amendments offered to change the committee?

Rep. Porter: No. The process that was presented to us is a proven process that works with two other streams of money that everybody felt comfortable with. We liked it way better than what the proposed initiated measure put out there, because you still had three elected officials to do the work, so we felt comfortable with that process as well.

Rep. Skarphol: Was there a consensus that the participating parties would oppose any future initiated measure to dramatically increase the funding for this idea?

Rep. Porter: We didn't nail anybody down to say that if we do this, they won't do an initiated measure. We felt as a committee that this was a valid piece of legislation and the industries represented on the committee felt very strongly it made the position of the state very defensible from future initiated measures.

Chairman Delzer: We'll have to take this up next week; if you have any amendments you want to discuss, you'll want to get those put together.

Rep. Porter: There is a reporting mechanism to the budget section on page 4 line 7. That's the only legislative involvement in that.

Chairman Delzer: Why not into the next legislative assembly?

Rep. Porter: We felt it was important that they report back to the budget section. They certainly could report to the legislature.

Chairman Delzer: Is one report enough?

Rep. Porter: I think for the starting point of this, it's going to take the first biennium just to get the wheels turning. It could be looked at next session.

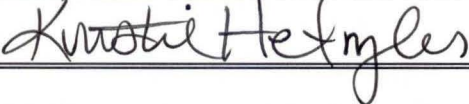
Chairman Delzer: There is no sunset on this. Further questions? Thank you.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

HB 1278
2/21/13
Job 19358

Conference Committee



Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

Minutes:



Chairman Delzer: Called the committee back to order and made general announcements. We'll start with HB 1278.

Rep. Kempenich: Moved Do Pass

Rep. Martinson: Second

10-9-3

Carried by: Rep Kempenich

Rep. Guggisberg: 3:23 Distributed and explained amendment .03004. Moves to substitute motion with amendment.03004

Rep Holman: Second.

Voice vote failed.

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Amendment to: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1278 creates a North Dakota outdoor heritage fund.

- 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.*

Section 2 of HB 1278 allocates a portion of the oil and gas gross production tax to the North Dakota outdoor heritage fund. The amount allocated to this fund is 4% of the first one-percent of oil and gas gross production tax, limited to \$15 million in a fiscal year and \$30 million in a biennium.

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.*

If enacted, HB 1278 is expected to reduce revenues in the strategic investment and improvements fund by an estimated \$17.62 million in the 2013-15 biennium. These revenues will be allocated to the North Dakota outdoor heritage fund. (Both of these are "other funds" in 1A above.)

- 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.*

- 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.*

Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 01/22/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1278 creates a North Dakota outdoor heritage fund.

- 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.*

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- 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.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/22/2013

Date: 2/21/13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1278**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Kempenich Seconded By Rep. Martinson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle		X
Vice Chairman Kempenich	X		Rep. Thoreson		X
Rep. Bellew		X	Rep. Wieland		X
Rep. Brandenburg		X			
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe		X
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt			Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson		X	Rep. Williams	X	
Rep. Nelson					
Rep. Pollert		X			
Rep. Sanford					
Rep. Skarphol		X			

Total Yes 10 No 9

Absent 3

Floor Assignment Rep. Kempenich

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

Substitute motion

Date: 2/21/13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .03004

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

Motion Made By Rep. Guggisberg Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

*voice vote fails
return to vote 1*

REPORT OF STANDING COMMITTEE

HB 1278, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO PASS** (10 YEAS, 9 NAYS, 3 ABSENT AND NOT VOTING).
Engrossed HB 1278 was placed on the Eleventh order on the calendar.

2013 SENATE NATURAL RESOURCES

HB 1278

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1278
March 7, 2013
19569 & 19599

Conference Committee

Veronica Sparling

Explanation or reason for introduction of bill/resolution:

Relating to the North Dakota outdoor heritage fund; relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

Minutes:

Written testimony

Chairman Lyson opened the hearing on Engrossed HB 1278.

Representative Todd Porter, District 34 and prime sponsor of HB 1278, introduced the bill and explained it. There was a working group that came together and based on consensus, this is the bill before us. He explained the purposes of the bill and highlighted areas. He then explained the part of the bill that highlights what the fund cannot be used for. He explained the ND outdoor heritage advisory board. He explained the funding mechanism found on page 4, section 2, and the cap so funding does not exceed thirty million dollars per biennium. He stated that as the bill moved along, the consensus group became divided and the "conservation groups" tried to kill this bill in the House. He presented his amendments that would move the conservation groups out of HB 1278. He added that if they don't want to be part of the solution, they shouldn't be part of the bill. The amendment also changes on page 4 line 24, credits from 4 to 8.

Amendment # 13.0432.04001 (Written testimony #1)

Senator Burckhard asked if the commission could use money for promotion, advertising, or educational type of things.

Representative Porter replied that it is not specifically stated that they could not. As an advisory group they could make that presentation back to the Industrial Commission and the Commission would have the ability to say yes or no. The things specifically listed cannot be changed from what the legislation would say.

Senator Burckhard asked who makes up the Industrial Commission.

Representative Porter answered that the Industrial Commission is made up of the Agriculture Commissioner, the Attorney General, and the Governor.

Representative Al Carlson, District 41, testified in support of Engrossed HB 1278. (10:25) He said this bill is about hunting's future. The bill has \$10 million dollars more than the governor's budget. He said that the House debate centered on two things: too much money or not enough; second, will they be allowed to buy land and take it away from private individuals. He stated that they made sure in the bill that could not happen.

Senator Murphy asked his opinion on the Porter amendment that takes out the conservation people.

Representative Carlson replied that he shares Representative Porter's disappointment.

Drew Wrigley, Lieutenant Governor of the State of North Dakota, conveyed his and Governor Dalrymple's support of HB 1278. **Written testimony #2**

Kelvin Hullet, President of Bismarck-Mandan Chamber, spoke in support of HB 1278 and urged the committee to give it a Do-Pass recommendation. He provided background on how this proposal came together and walked them through the mechanics of the bill. **Written testimony #3**

Steve Adair, Director of operations for Ducks Unlimited's Great Plains Region, testified that HB 1278 is a step in the right direction and recognizes that we must act now to protect our clean water, our iconic natural areas like the Badlands and our outdoor heritage. He stated that the funding in this legislation will only scratch the surface of the conservation needs in the state. **Written testimony #4 and #5**

Senator Murphy asked if their position was still in support of this bill.

Steve Adair said they have not changed their position.

Senator Murphy asked how they felt about being amended out.

Steve Adair replied that he thought that was an overreaction to their position and a misunderstanding of their position.

Eric Aasmundstad, North Dakota Farm Bureau, testified in support of HB 1278 and the amendment. They were very disappointed to see members of the conservation community break from the ranks.

Richard Schlosser, North Dakota Farmers Union, testified in support of HB 1278. He also handed out written testimony from **Harlan Fuglesten**, North Dakota Association of Rural Electric Cooperatives. **Written testimony #6**
He referenced **Jim Teigen's** written testimony. He was not able to testify due to weather conditions. **Written testimony #7**

Dan Wogsland, Executive Director of the North Dakota Grain Growers Association, testified in support of HB 1278 and the amendments proposed by Representative Porter. He stated that they would not support any funding level above \$30 million dollars in this bill. **Written testimony #8**

Senator Triplett asked why they wouldn't support over the \$30 million.

Dan Wogsland said that the State of North Dakota has a lot of needs and he believes that \$30 million is a pretty big commitment to make by the ND Legislature and by the groups that put HB 1278 together.

Senator Triplett said that funding has fallen off from Federal Government and \$30 million doesn't seem much when we have lost so much federal funding. She asked if he didn't think some additional dollars to try to recover some of the projects and programs that the federal government is likely not going to fund over the next 10 or 20 years would be helpful.

Dan Wogsland said that he maintains that \$30 million dollars is a lot of money. He believes that for a pilot project, when you look at all the other needs in K-12 education, higher education, human services, \$30 million is a great commitment by the state of North Dakota.

Senator Triplett said that when he refers to this as a pilot project, he is kind of implying that he might expect the Legislature to spend more in the future.

Dan Wogsland replied that we have made a pretty stanch commitment but it can be assessed in the future. He said that the Legislature can pat itself on the back for what it has done with their huge commitment.

Ron Ness, President of the North Dakota Petroleum Council, (33:10) testified in support of the bill. He added that the funding is the same mechanism used for the oil and gas research council. He thinks \$30 million dollars can be used with matching funds.

Sandi Tabor, Lignite Council, stood in support of this bill. They believe that the process worked.

Dana Schaar, Executive Director of the North Dakota Recreation & Park Association, testified in support of HB 1278.

Written testimony #9

Jon Godfread, Greater North Dakota Chamber of Commerce, said that they were also a part of the coalition that worked on HB 1278. They testified in support of HB 1278.

Written testimony #10

Sheyna Strommen, North Dakota Stockmen's Association testified in support of HB 1278. Their support for HB 1278 is contingent that these dollars are not used for the acquisition of land or for encumbrances that are longer than a 20-year term. **Written testimony #11**

Scott Rising, North Dakota Soybean Growers Association, testified in support of HB 1278.

Mike McEnroe, North Dakota Chapter of the Wildlife Society, testified in support of the concept of a landscape level conservation fund that addresses the needs of North Dakota's sportsmen and women and outdoor enthusiasts. **Written testimony #12**

Bill Helphrey, North Dakota Bow Hunters Association, testified in support of HB 1278.

Mike Donahue, North Dakota Wildlife Federation, testified in support of HB 1278 but they do think it needs more money. They support Porter's amendment as it deals with the money but not the first half dealing with eliminating some groups.

Greg Daws testified in opposition to HB 1278. **Written testimony # 13**

Senator Murphy asked if it was Lake Laretta that was causing the problems.

Greg Daws replied, yes. He said when he was young it was about 160 acres; it is now over 39,000 acres.

Larry Kinev, Dawson, stands against HB 1278.

Chairman Lyson asked that the hearing for HB 1278 be left open until later today.

Chairman Lyson reopened the hearing for HB 1278.

Mark Zimmerman, Director of North Dakota Parks and Recreation, testified in support of HB 1278. **Written testimony #14**

Chairman Lyson closed the hearing on HB 1278.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

HB 1278
March 21, 2013
Job Number 20324

Conference Committee

Monica Spurling

Explanation or reason for introduction of bill/resolution:

Relating to the North Dakota outdoor heritage fund; relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation

Minutes:

attachments

Chairman Lyson opened the discussion of HB 1278.

There were two attachments submitted after the close of the March 7th hearing. Terry Steinwand, Director of the ND Game and Fish Dept., submitted testimony in favor of HB 1278 after the hearing was closed. **See attachment "A"**.

Soil Conservation Districts of ND also submitted testimony on March 15th in favor of HB 1278. **See attachment "B"**.

Senator Triplett proposed adoption of amendment 13.0432.04005. See attachment #1.

Senator Burckhard: Second

Senator Triplett explained that the word "commission" is replaced by the word "board" in several places. It takes the Industrial Commission out of the picture and puts in its place University Lands Board, sometimes called the State Land Dept. The Industrial Commission is made up of the governor, the Attorney General, and the Ag Commissioner. They deal with mostly industrial development issues regarding oil and gas, the Bank of ND, etc. The State Land Board is also made up of elected officials. It is a five member board made up of the governor, the Attorney General, the head of DPI, the Secretary of State, and the Treasurer. She feels that the land board is a better choice because they typically deal with land management. They have a staff on hand who is very knowledgeable about the land issues such as: grazing, wildlife habitat, ecologically sensitive areas, etc. She feels the Industrial Commission would have to develop staff to take over these duties. She feels the Land Board is a much better fit. She questioned House members why they didn't leave it to the Land Board and they said they just didn't think of it.

Senator Unruh agrees we need professionals regarding conservation and range science involved in this decision-making process. She disagrees with the amendments. She

understands how the School Trust Lands Board would make sense to be the final decision maker on this. The conservation concerns expressed by Senator Triplett are addressed under the advisory board as listed in the bill. There are people from the agricultural community, the energy industry, conservation community, business community, and parks and recreation. Through all those appointments on this advisory board we can have people that are well versed and can provide the technical expertise. Also under that same portion of the bill, under the advisory board, there are four non-voting technical members.

Senator Triplett missed one more part of her explanation of her amendments. She mentioned the changes to page 3, line 16.

There was discussion about the merits of the bill, the amendments, and the bill as it now stands.

Motion to adopt amendment 13.0432.04005 failed by voice vote.

There was a discussion concerning the amendment proposed by Rep. Porter the 4% maybe should be 8% on page 4, line 24. "credit 4% under the amount available..." Senator Laffen stated that the fiscal note also says 4% so it must be 4%. (Ends at 19:09)

Senator Triplett made a motion to adopt amendment 13.0432.04006. See attachment #2.

Senator Murphy: Second

Senator Triplett explained the amendment.

Motion to adopt amendment 13.0432.04006 failed by voice vote.

Senator Triplett made a motion to adopt amendment 13.0432.04007. See attachment #3.

Senator Murphy: Second

Senator Triplett explained the amendment.

Motion to adopt amendment 13.0432.04007 failed by voice vote.

Senator Unruh made a Do Pass and re refer to Appropriation motion on Engrossed HB 1278.

Roll Call Vote: 6, 1, 0

Carrier: Senator Hogue

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Amendment to: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

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Counties			
Cities			
School Districts			
Townships			

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Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 01/22/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

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Counties			
Cities			
School Districts			
Townships			

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/22/2013

Date: 3-21-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider 0.04005

Motion Made By Triplett Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

failed by voice vote

Date: 3-21-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider .04006

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*failed
voice vote*

page 4 line 25, 26
~~*page 4 line*~~

Date: 3-21-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider .04007

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*failed
voice vote*

Date: 3-21-13
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1278 engr.

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Unruh Seconded By Laffen

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett		✓
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Hogue

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

REPORT OF STANDING COMMITTEE

HB 1278, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1278 was rereferred to the Appropriations Committee.

2013 SENATE APPROPRIATIONS

HB 1278

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1278
03-29-2013
Job # 20671

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to the ND outdoor heritage fund; relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

Minutes:

See attached testimony.

Chairman Holmberg called the committee to order on Friday, March 29, 2013 at 8:00 am in regards to HB 1278. Roll call was taken. All committee members were present.

Becky J. Keller - Legislative Council
Lori Laschkewitsch- OMB

Representative Porter, District 34, testified in favor of HB 1278, as one of the prime sponsors of this bill. After the failed initiated measure a group got together and put together the policy and the language for what they felt would be a heritage fund for the state of North Dakota. There were concerns with the initiated measure, particularly; the purchasing of land, the purchasing of mineral rights, using the money for litigation, using the money for initiated measures. As this group met, they brought all the players in, including the conservation groups. They sat down and worked for about three months to come up with the policy that you see before you in HB 1278. I was just a mere servant of that group, bringing HB 1278 forward to the legislative assembly. He explained what this fund doesn't do page 2, lines 8-17. On page 3 he explained the makeup of the advisory board, and explained why he asked the policy committee to remove some by name from this bill and ask them to do the same (5:00). He urged them to just say four members from the conservation community. There are plenty of conservation groups that feel this bill is a good idea. He does not think it is right to award the ones that are trying to unrail this initiative.

He explained how the advisory board reports the recommendations back to the industrial commission.

He explained the funding mechanism for the bill found in section 2, on page 4, of HB 1278.

Chairman Holmberg stated that the committee will not take any action on this bill today but asked if there were any questions.

Senator Erbele: I do agree with your irritation with the conservation groups, but my question goes to the ex officio people, what is the reason for them to be non-voting ex officio?

Representative Porter: We wanted to keep a separation between the users of the fund and the actual allocation of the fund.

Senator Erbele: You don't see the board making up any rules as far as how the project would be administered. You would look towards the groups that are requesting the funds and they would have to submit.

Representative Porter: Absolutely. They should come in with their dirt-ready projects. They should have the funding mechanism, grant request ready to go, and this group should determine if it is a high enough priority to be funded out of this funding.

Senator Erbele: Will this be cost share for the producers?

Representative Porter: They don't have to be. He explained (11:31).

Senator Mathern: If the intent is opportunity for citizens to appreciate the land and the resources, is the money really enough to accomplish those purposes. I am wondering if we should move the dollar value up.

Representative Porter: We looked at it to change from 4% to 8% so the flow would meet the cap; the governor has 10M in the budget. I think it is a good start. I think they can come back in two years, and prove the projects out cedes the demand. At that time the projects can also be looked at. We looked at presented projects from G & F while we were dealing with this, and they could move into the \$28M category, I don't think it's worthy of \$100M , nor \$50M. I think it is worthy of reaching the cap of 30M but they have some proving to do.

Senator Wanzek: Commented on the conservation programs that are already in place that we (farmers and ranchers) never seem to get credit for.

Representative Porter: You get credit from me. I understand your concerns and the black eye the farmers get from the conservationist, but this bill puts the cooperation between the conservation community and the land owner to help with those projects that are proven to be good land management practices and good conservation and good for wildlife.

Becky Jones Mahlum, Communications Manager for Ducks Unlimited Great Plains Region, representing the Clean Water, Lands & Outdoor Heritage Coalition, testified in support of HB 1278 and asked that they increase the funding to \$100 million dollars per year. **Written Testimony #1**

(21:09) **Vice Chairman Bowman** voiced his concern for taking money from an industry and then trying to shut down that same industry.

Becky Jones Mahlum: I don't see this bill as destroying energy in ND. She explained.

She gave the committee copies of Paul Myerchin **written testimony #2.**

Kelvin Hullet, President Bismarck-Mandan Chamber testified in favor of HB 1278.

Written testimony #3

Written testimony # 4 - an Overview of HB 1278, Creation of Outdoor Heritage Fund

Chairman Holmberg the record will show a number of people stood to show their support of HB 1278.

John Godfread, Greater ND Chamber, testified in support of HB 1278.

Written testimony # 5

Chairman Holmberg closed the hearing on HB 1278.

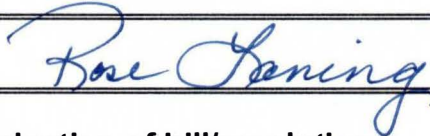
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1278
April 2, 2013
Job # 20747

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to the ND outdoor heritage fund; relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

Minutes:

Testimony attached # 1

Legislative Council - Brady Larson
OMB - Laney Herauf

Chairman Holmberg stated the committee will be using fiscal note dated 1/15/13.

Senator Mathern moved amendments 13.0432.04009. **Attachment #1**

Senator Robinson seconded.

Senator Mathern explained the amendments. It replaces the \$15M appropriation with \$50M/year or \$100M for the biennium. There are some limitations as to who manages it but the concept is correct and we should do more for our environment.

Chairman Holmberg: This amendment does not change the prohibition against the accusation of land.

Vice Chairman Bowman: My concern is that we are taking \$100M out of oil revenues and this will limit what we spend on roads. Every day we get more people killed on the highways. Until we get our road system fixed up, I think we're doing an injustice to people that live in the oil producing counties.

Senator Carlisle: The conservation folks had a proposal and then they had fraudulent signature. Before we started the session we were at \$0, but the governor and House added money, \$30M. I say let's get through the biennium and see where we go from here.

Senator Mathern: In the infrastructure, we got the impression, we're spending about as much as the system can handle. We are fixing roads and can do more. If we wait until all of that is done, we may have done some damage in 20-30 years. This bill and amendment

is just starting to get at the issue. I appreciate your views, and I was very support of that infrastructure money but we need to look at the big picture.

Senator Robinson: We need to be sensitive to this issue. It is an important issue, not only for this generation but generations to come. He gave the example of Iowa, great farmland but they have destroyed their habitat. There hunting is gone because of the pressure and they didn't respond quickly enough. Can we do both? I think we have to somehow, someway.

Senator Erbele: The issue I have with this is that we have several state agencies that have conservation programs as a part of their work and a part of their budget. Less than ½% of the people will be receiving this money. Is this a wise expenditure of our tax dollars?

Chairman Holmberg called for a voice vote on the amendment. **Amendment failed.**

Senator Robinson moved Do Pass on HB 1278.

Senator Carlisle seconded the motion.

A roll call vote was taken. **Yea: 10 Nay: 3 Absent: 0**

Chairman Holmberg: The bill will go back to Natural Resources and Senator Hogue will carry the bill. Meeting adjourned.

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Amendment to: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1278 creates a North Dakota outdoor heritage fund.

- 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.*

Section 2 of HB 1278 allocates a portion of the oil and gas gross production tax to the North Dakota outdoor heritage fund. The amount allocated to this fund is 4% of the first one-percent of oil and gas gross production tax, limited to \$15 million in a fiscal year and \$30 million in a biennium.

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.*

If enacted, HB 1278 is expected to reduce revenues in the strategic investment and improvements fund by an estimated \$17.62 million in the 2013-15 biennium. These revenues will be allocated to the North Dakota outdoor heritage fund. (Both of these are "other funds" in 1A above.)

- 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.*

- 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.*

Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 01/22/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1278

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HB 1278 creates a North Dakota outdoor heritage fund.

- 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.*

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/22/2013

Date: 4.2.13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1278

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number #13.0432 04009

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By Mather Seconded By Robinson

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mather		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*voice vote
failed*

Date: 4-2-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1278

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ~~Adopt Amendment~~ ~~Do Pass as Amended~~ ~~Do Pass~~ Do Not Pass

Motion Made By Robinson Seconded By Robert Carlisle

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman		✓	Senator David O'Connell		✓
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓	✓			
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 10 No 3

Absent _____

Floor Assignment Hague Natural Resources

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

REPORT OF STANDING COMMITTEE

HB 1278, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1278 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1278

Testimony for House Bill No. 1278
Natural Resources Committee - Pioneer
Governor's Office

January 24, 2013

Good morning Mr. Chairman, members of the Committee, I am Drew Wrigley, Lieutenant Governor of the State of North Dakota. I am here to convey Governor Dalrymple's support of House Bill No. 1278 which would create a North Dakota outdoor heritage fund.

The variety of available outdoor experiences including the tradition of hunting in North Dakota are core elements in our quality of life. The challenges of prosperity created by a growing population and expanding commercial development include greater risks to our vast and cherished North Dakota outdoors.

The values associated with our outdoors resonate with all North Dakotans of all ages. After many meetings with a wide array of stakeholders and much discussion, the concept of an outdoor heritage fund emerged as a general consensus. House Bill No. 1278 would establish a permanent conservation fund to preserve and enhance opportunities for hunting and all outdoor recreation experiences in North Dakota's great outdoors.

House Bill No. 1278 commits a portion of oil production tax revenues to a newly created outdoor heritage fund. As part of the fund's management, the bill would create an advisory board governed by the Industrial Commission. The advisory board would consist of representatives from the agriculture community, the energy industry, the conservation community, the business community, and representatives from state agencies with technical backgrounds in wildlife, parks, recreation, and natural resources.

If the legislature enacts HB 1278, grants will be awarded to state agencies, tribal governments, political subdivisions and non-profit organizations to benefit statewide conservation practices, wildlife habitat, parks, and outdoor recreation.

Our quality of life must not be compromised because of our expanding economic prosperity and rapid growth. Now is the time to fortify our rich outdoor heritage. This fund would represent a substantial, recurring, and unprecedented commitment to enhancing our natural resources and our outdoor recreational opportunities. The Governor and I strongly encourage you to support passage of House Bill No. 1278. This important initiative is the product of a process where all interests were heard and a positive compromise was reached.

Thank you, I am happy to answer any questions that you or other members of the committee may have regarding our Administration's perspective on the bill.



Testimony
Kelvin Hullet, President
Bismarck-Mandan Chamber
HB 1278

Mr. Chairman and members of the Committee:

I am Kelvin Hullet, President of the Bismarck-Mandan Chamber. I am here today in support of HB 1278 and urge your committee to give it a Do-Pass recommendation. My role is to provide some background on how this proposal came together and to walk you through the mechanics of the bill.

As we look across the landscape of North Dakota today, we all know it is changing. Ten years ago, most Americans had not thought about, much less heard about our state. If our state made the media, it many times was about the weather. Today, a different story...so to speak...as North Dakota represents one of the few economic engines in America that is running at full speed with an economy turbo-charged by oil.

As a business organization, we welcome the prosperity it brings to our state: jobs, infrastructure, new residents and wealth creation are essential to a thriving economy. However, the dramatic changes occurring in the state require our relationship to conservation issues to evolve and ensure a fundamental value of our state is not only preserved but enhanced. We, North Dakotan's have special relationship with the outdoors and nature in so many forms. From our recreational activities and enjoyment of wildlife to the food it puts on the table across America, the land is a special part of our heritage and our future.

Today, with a population reaching a historical high and continuing to grow, many feel the needs of outdoor recreation and conservation need attention. In meeting with all these groups over the last few months, it is apparent there is a shared concern about the issues of conservation, access to land and water for sportsmen, stewardship of our farms and ranches and preserving some of our natural areas. The question is how to balance the economic activities with recreational and conservation needs.

After the initiated measure to bring a Conservation Fund to the voters was invalidated for the ballot, our Chamber asked the parties supporting and opposing the measure to come together to determine if a legislative solution was possible. Over the course of many meetings and extensive negotiation, groups that normally take opposing sides on an issue were able to come together with the proposal before you today. This group included representatives from: Ducks Unlimited and the North Dakota Natural Resources Trust Fund (Representing the Conservation Coalition); The Bismarck-Mandan and Greater North Dakota Chambers; North Dakota Farm Bureau; North Dakota Farmers Union; The North Dakota Petroleum Council; The Lignite Energy Council; The North Dakota Stockman's Association; The North Dakota Grain Growers Association; The North Dakota Association of Soil Conservation

Districts; The North Dakota Recreation and Park Association; The North Dakota Association of Rural Electric Cooperatives. Through a series of meetings over the course of the fall, this group was able to draft consensus language for HB 1278 to bring forward to the 2013 Legislative session.

HB 1278 proposes to create an Outdoor Heritage Fund. Revenues to this fund will be provided by the oil production tax with a proposed funding level of \$30 million per biennium. The purposes of this fund are:

1. Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen.
2. Improve, maintain and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching.
3. Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands.
4. Conserve natural areas for recreation through the establishment and development of parks and recreation areas.

An area of extensive discussion for the groups was to also identify what Outdoor Heritage Funds could not be used for: The agreed up on prohibitions include:

- Lobbying or Litigation
- Activities that would interfere with coal mining, sand, gravel or scoria extraction, oil and gas operations or other energy development; energy facilities or infrastructure development.
- Acquisition of land or to encumber any land for a term longer than 20-years
- Projects outside the state of North Dakota or beyond the scope of defined activities.

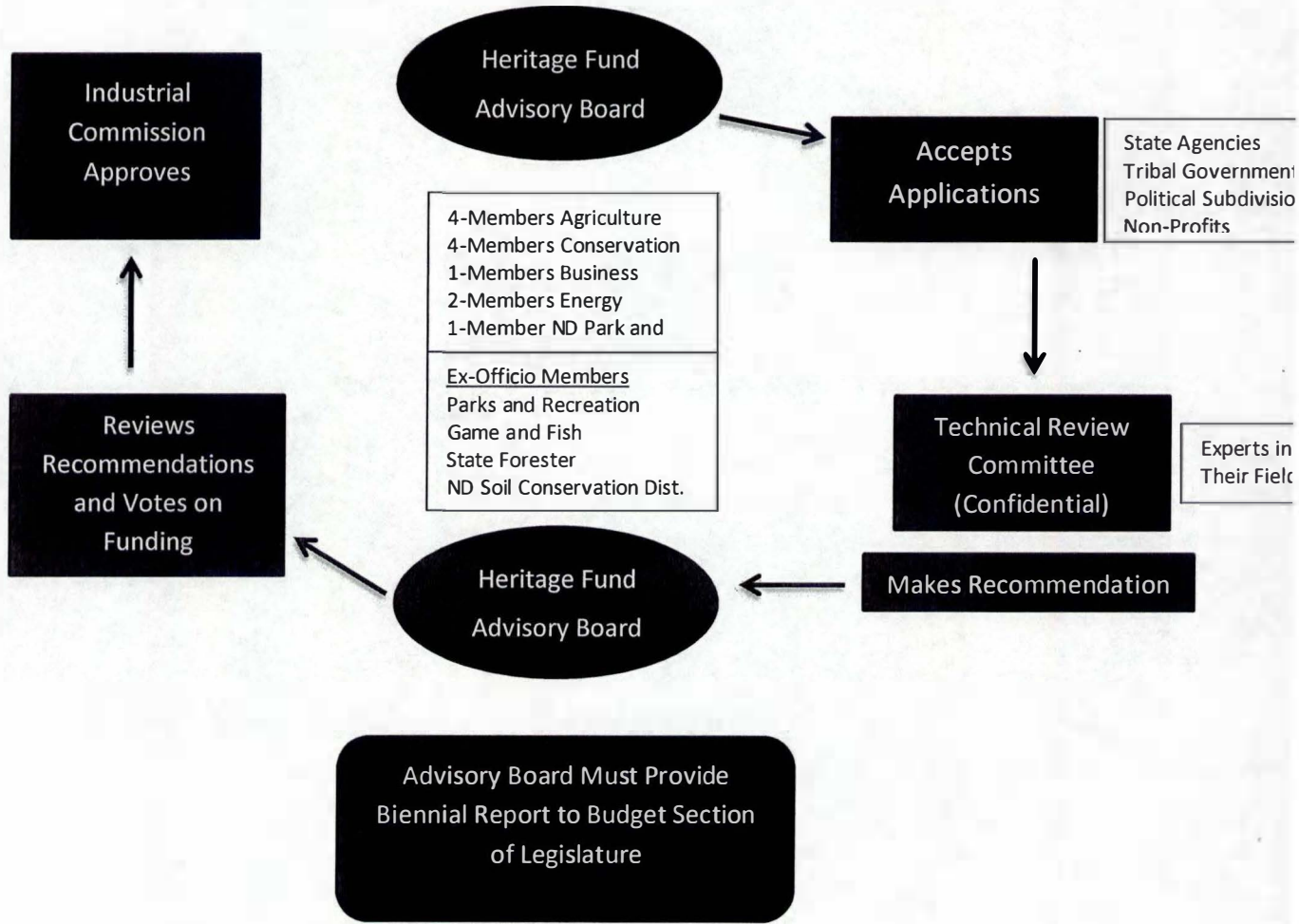
One of the key areas of dialogue and negotiation throughout the fall was the composition of the advisory board. The goal was to create a board that represents the constituencies of conservation in a balanced way. The proposed measure creates an advisory board consisting of twelve members. The Governor shall appoint the members based upon recommendations from the various coalition groups and to create a specific composition on the board. The board consists of:

- Four members of the Agriculture Community. One from ND Farm Bureau, ND Farmers Union North Dakota Stockmen's Association and the North Dakota grain growers association.
- Two Members of the Energy Industry. One from the Petroleum Council and One from the Lignite Energy Council.
- Four Members from the Conservation Community. A list of nominees to be provided by the ND Chapter of the Wildlife Society.
- One member representing the business community from the Greater North Dakota Chamber
- One Member from the North Dakota Recreation and Park Association.

To ensure the various state agencies that are engaged in conservation and outdoor issues are represented, The Director or Deputy Director of Parks and Recreation, Game and Fish, Office of the State Forester and the North Dakota Association of Soil Conservation Districts shall serve as ex-officio, non-voting members. I also want state that our intent in bringing this legislation forward is to provide new funding to conservation and outdoor issues. There is not an intention to replace funds that already exist in the budgets of these state agencies.

It should be pointed out that the model proposed in this legislation closely mirrors the Lignite Research Fund and the Oil and Gas Research Council. In addition to an advisory board, the intent is to utilize anonymous, independent experts in the various conservation fields to review, score and make recommendations on applications. This model provides an expert opinion on the various applications and will provide insight to the advisory board on the viability of project applications. As with these other councils, the Industrial Commission has ultimate approval with required reporting back to the legislature.

In closing, I want to walk you through the process and members of the proposed Outdoor Heritage Fund. Thank you for your consideration of HB 1278 and please pass it to the legislature with a do pass recommendation.



Amendments to HB 1278

Page 2, Line 13

- c. Any activity that would interfere, disrupt, or prevent activities associated with surface coal mining operations; sand, gravel, or scoria extraction activities, oil and gas operations; or other energy development, energy facilities or infrastructure development; or

Page 3, Line 18

- e. One member ~~with technical background~~ from the North Dakota ~~Parks Recreation and Recreation~~ Park Association.

Page 3, Line 24

- 2. The governor shall also appoint to the advisory board one representative from each of the following agencies to serve as ex officio, nonvoting technical members; the department of parks and recreation, the game and fish department, ~~and~~ the office of the state forester, and the North Dakota Association of Soil Conservation Districts.

Testimony of Steve Adair
On
HB 1278
House Energy & Natural Resources Committee
January 24, 2012

Chairman Porter, members of the committee, I am Steve Adair, Ducks Unlimited's director for the Great Plains Region. I am also a member of the North Dakota Clean Water, Lands & Outdoor Heritage Coalition. We are very pleased that Governor Dalrymple and legislative leaders have endorsed the concept of making an investment to protect our natural resources for future generations. We are heartened by the positive comments we are hearing today. **House Bill 1278 is a step in the right direction and recognizes that we must act now to protect our clean water, our iconic natural areas like the Badlands and our outdoor heritage.**

North Dakota stands at a unique point in time. We're experiencing extraordinary change, growth and economic opportunity. Along with the excitement and hope for our bright economic future, we know that our communities, our landscapes and our way of life are facing sweeping and in some cases permanent changes.

We have the opportunity to pay it forward – to leverage a small portion of the economic resources gained from North Dakota's bountiful energy stores to enhance and improve the natural amenities that make North Dakota such a great place. Our oil can be a legacy for all of us. We must chart a course now for future generations that aligns economic prosperity and natural resource conservation.

As you know, members of our conservation community have been at the table with other stakeholders to discuss in detail how to invest a small portion of our existing oil revenues to protect North Dakota's natural resources. Our many meetings have generated new ideas, robust discussion and a better understanding of issues and positions.

While some of these new ideas are captured in HB 1278, including fund purposes, an agreed upon governance model and stipulations against using funds for lobbying and litigation, **the funding included in this legislation will only scratch the surface of the conservation need in this state.**

Representative Kelsh has an amendment to the Outdoor Heritage Fund for the committee's consideration that will come closer to addressing the current conservation need in North Dakota – it dedicates a small percentage of the existing tax revenue, capped at \$100 million

annually. The big changes happening right now to North Dakota's natural infrastructure require a plan that meets the challenge.

North Dakotans clearly support a significant investment in protecting our natural resources. By more than a 3 to 1 margin, as this chart from June 2012 shows, North Dakotans support dedicating a small portion of oil and gas tax revenue to conservation. One-third of North Dakotans hunt and fish, which is the fourth highest participation rate in the nation. In addition, more than \$300 million is spent annually on hunting, fishing and other wildlife-related activities in our state. Tourism is our third largest economic sector and revolves largely around our quality outdoors experience.

In a recent public survey conducted by the North Dakota Parks and Recreation Department, more than 90 percent of the households surveyed indicated that outdoor recreation is important to them. Respondents cited the need for expanded trails, camping areas, fishing access, hunting access, playgrounds and natural areas. North Dakota's State Comprehensive Outdoor Recreation Plan points out that outdoor recreation is a "key component" of our quality of life and that our state is experience a time of rapid change, which in turn, is impacting recreation.

Our coalition has been consistently clear that we believe a much more significant investment is needed to protect what we all love about North Dakota. Fifteen million dollars per year does not fully address the need. **We are not facing a fiscal cliff in North Dakota; we are staring down a habitat cliff.**

North Dakota is losing tens of millions of conservation dollars each year with the decline of CRP (Conservation Reserve Program) acreage. As you can see on this next chart, since 2007, North Dakota has lost 1.5 million acres of CRP, which is having a negative impact on wildlife populations, water quality, soil erosion and access to quality hunting land. CRP acreage is projected to continue to decline as are our recreational lands as demonstrated by this chart of PLOTS acres.

Our estimates show that the costs for potential projects, including new parks and recreation areas, a state conservation cover program, conservation cropping systems and buffering our lakes and streams, are estimated at more than \$100 million per year.

To begin addressing the need of putting new habitat on the ground, let's build on the example of a state-level conservation cover program. Based on a conservative average rental payment of \$55 per acre per year (including establishment costs), the state would need to commit \$550 per acre up front. Based on the proposed \$15 million per year for the outdoor heritage fund, a maximum of approximately 27,000 acres could be enrolled annually. If our goal is to conserve

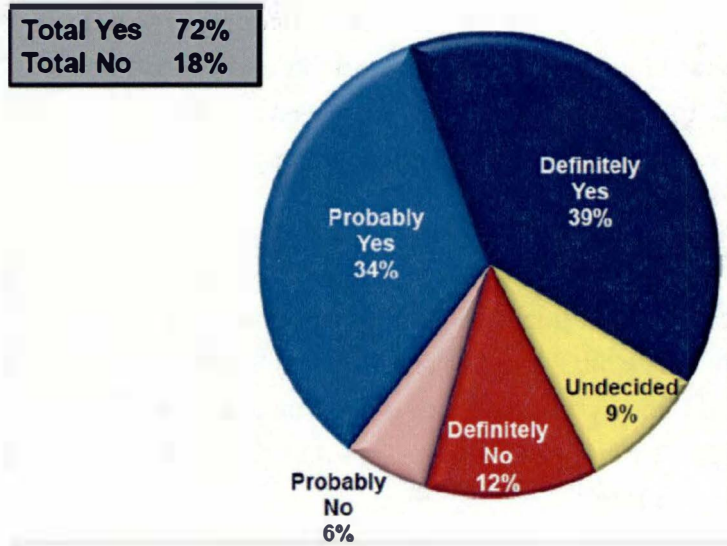
one-half (1.7 million acres) of what the federal CRP acreage was at its peak (3.4 million acres) - it would take more than 50 years to come close to reaching our goal.

We also know that state funding has been limited and federal funding is declining for conservation and natural resources. Currently, as demonstrated by the next chart, less than 2 percent of our state budget is dedicated to natural resources and conservation. Our state can truly seize this opportunity to make an investment in our natural areas and outdoor heritage without raising taxes and we should take advantage of that opportunity before it's too late.

There's the adage, "You don't know what you have until it's gone." Mr. Chairman and committee members, we're experiencing extensive landscape impacts now. So many of us live and work in this state because of the quality of life here – because of our outdoor opportunities. Can we truly look ourselves in the mirror and say that our children and grandchildren will have the same opportunities to enjoy, the unique natural areas and outdoor experiences that we have? We can make the investment in our natural resources now and reap the rewards for generations to come.

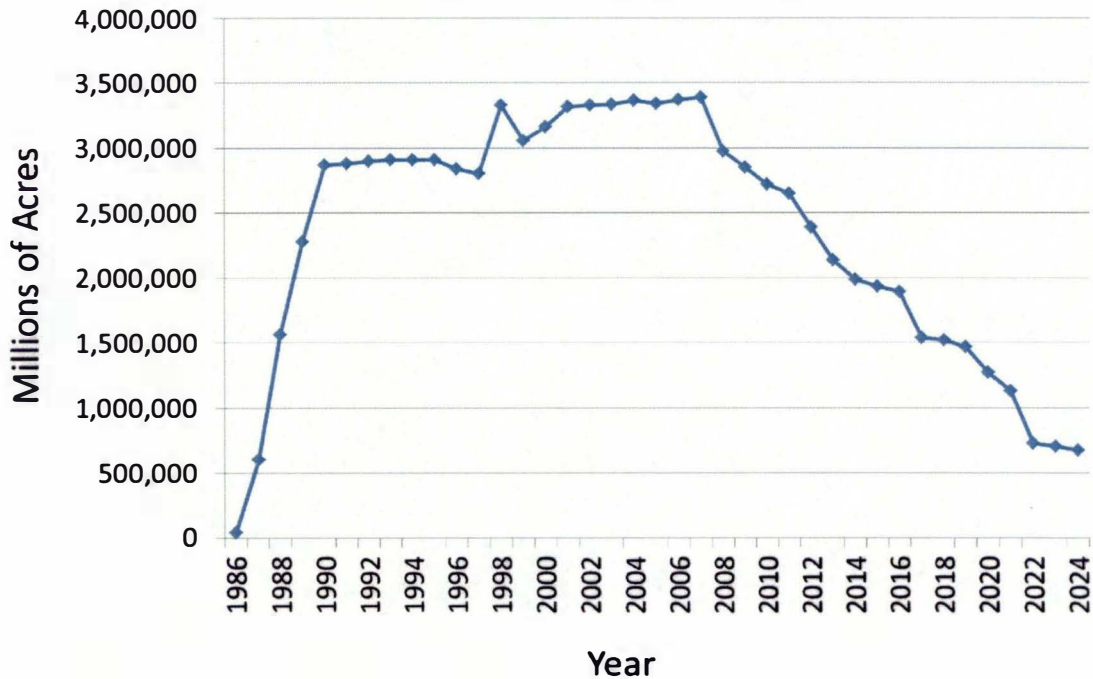
Again, Mr. Chairman and committee members, thank you for the opportunity to offer testimony on this legislation. I'd be happy to answer any questions that you may have.

June 2012 Polling: Voter support is strong for specifically dedicating 5% of oil & gas tax revenue to conservation¹

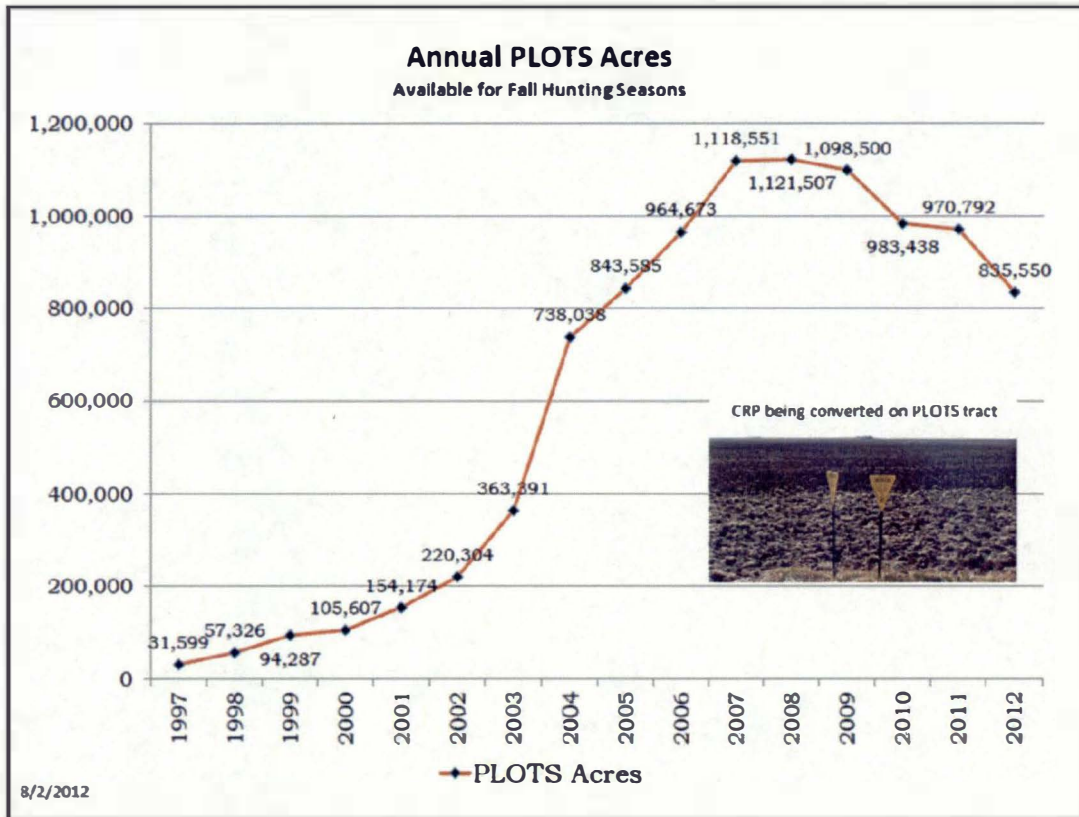


¹ Public Opinion Strategies & FM3 2012

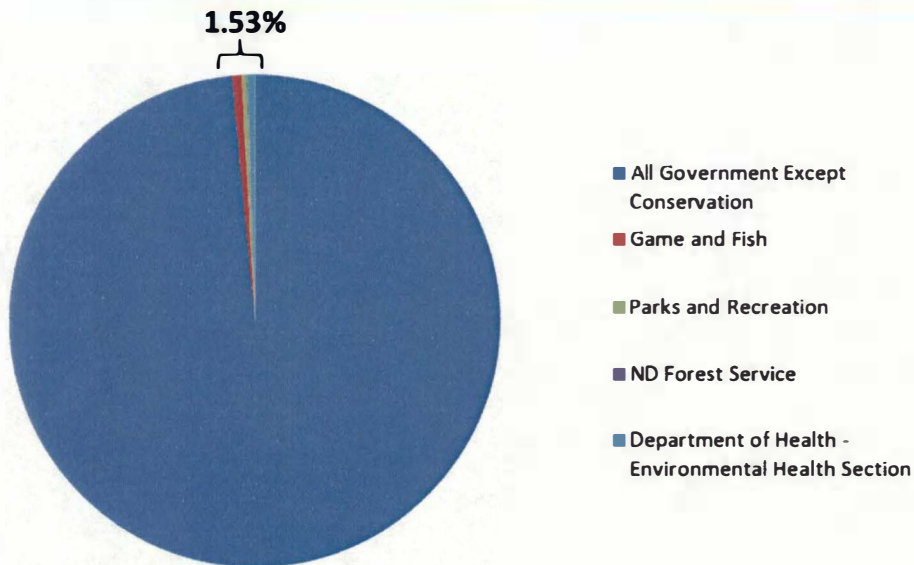
CRP Acres in North Dakota¹



¹ Average annual cost of CRP in ND from 1987 – 2011 was \$97,762,881, Source USDA FSA https://www.fsa.usda.gov/Internet/FSA_File/historystate121911.xls



State Funding is Limited and Federal Funding is Declining



¹ \$9.9 Billion <http://www.nd.gov/fiscal/docs/budget/appropbook2011-13.pdf>

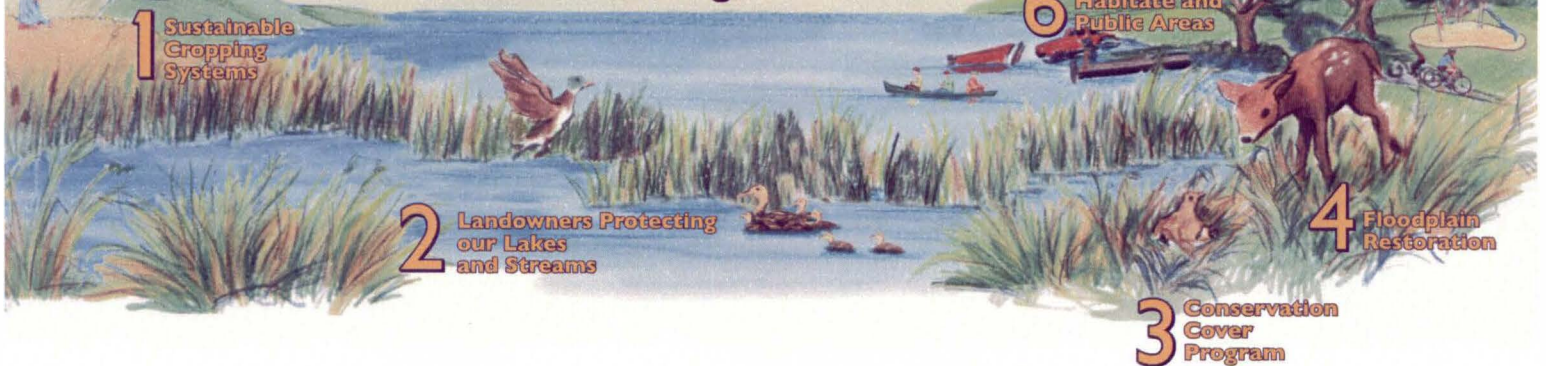
² Game and Fish budget entirely funded from user (anglers/hunters) licenses and fees



Clean Water, Lands & Outdoor
Heritage Coalition

6 Ideas

For Protecting North Dakota's
Outdoor Heritage



A Conservation Vision for North Dakota

North Dakota is changing rapidly in ways that could permanently affect our clean water, our unique natural areas and our outdoor heritage. The North Dakota Outdoor Heritage Fund would mean more conservation of our natural resources so we can keep the quality of life we enjoy today and hope to pass on to future generations.

The Outdoor Heritage Fund measure authorizes no specific programs, but here are some critical needs for protecting North Dakota's precious lands, waters and way of life. Many more ideas will emerge through the creativity of North Dakotans, their local and state government agencies and their non-profit organizations.

Here are just six ideas that could help maintain North Dakota's quality of life.

I Sustainable Cropping Systems

Sustainable Cropping systems enhance a farmer's operation while providing habitat for wildlife. This program would provide incentive payments to producers who incorporate winter wheat or other cover crops into their rotations to improve soil health, reduce nutrient runoff into streams and lakes and provide wildlife habitat.

- Estimated cost: \$20 million/year to complete 2 million acres

2 Land buffers for clean water in lakes and streams

Grass buffers around cropland filter out impurities and nutrients in run-off water before it reaches streams, lakes and our drinking water. Protecting and improving water quality requires technical assistance and cost-sharing for landowners willing to put buffers in place.

- Estimated cost: An aggressive program to target 10 percent of North Dakota's land area for improved water quality practices would entail about \$22 million per year.

3 Conservation Cover Program

A conservation cover program could be tailored to benefit North Dakota landowners while conserving soil and water and providing wildlife habitat. This program would pay current rental rates, require plantings well suited for our state and provide more flexibility for haying and grazing.

- Estimated cost: \$75 million a year for 10 year contracts on 1.5 million acres

4 Restoring floodplains to store flood water and provide recreation

The extensive flooding across the state in 2011 was catastrophic for cities and homeowners. This program could establish parks and natural areas along rivers, which would provide recreation for communities and allow rivers to swell without devastating people's homes and businesses.

- Estimated cost: \$20 million per community

5 Parks

North Dakota needs more urban and rural recreation areas to meet the historic growth in our state's population. North Dakota has less acreage in state parks than forty-eight of the other states. Further, the Energy Development Impact Office has not funded a request for park facilities over the last ten years in oil producing country.

- Estimated cost: \$3.5 million to add one new state park or \$12.5 million per year to build 50 city or county park projects each year if the fund provides each with a cost-share of up to \$250,000

6 Wildlife and Fish Habitat and Public Access

This fund could be used for projects and programs that provide access to public and private lands for sportsmen and women, including an enhanced Private Land Open to Sportsmen (PLOTS) program, and programs that create fish and wildlife habitat.

- Estimated cost: \$5 million/year for an expansion of the PLOTS program to add up to another 400,000 acres of quality habitat in the state



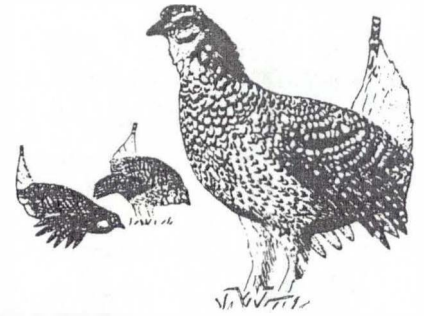
Clean Water, Lands & Outdoor
Heritage Coalition
P.O. Box 1603
Bismarck, ND 58502-1603



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL R. McENROE
NORTH DAKOTA CHAPTER, THE WILDLIFE SOCIETY
HOUSE BILL 1278
HOUSE ENERGY AND NATURAL RESOURCES
COMMITTEE
JANUARY 24, 2013**

Chairman Porter and members of Committee:

My name is Mike McEnroe, representing the North Dakota Chapter of The Wildlife Society. I am here today to speak on House Bill 1278.

The Chapter would like to thank Governor Dalrymple for including the idea of a conservation fund in his budget message. We thank Chairman Porter and other bill sponsors for their work in drafting the bill.

The Chapter supports the concept of a landscape level conservation fund that addresses the needs of North Dakotas' sportsmen and women and outdoor enthusiasts. We believe Rep. Kelsh's proposed amendments make HB 1278 much more effective in reaching that level of benefits to the State's hunters and fishers.

As introduced HB 1278 has shortcomings in funding, restrictions on conservation programs, and a large, unwieldy advisory committee, that is largely made up of non-sportsmen's interests.

A \$ 100 million per year conservation fund as proposed would provide a landscape level habitat and recreation program. A \$ 100 million is a big number. But the State is proposing a \$ 12 billion budget. Can't the State invest something on the order of 1.6 percent of its budget to programs that support the hunting and fishing legacy of our State, support the growing tourism industry, the vital third leg of our State's

economy, especially when most of the conservation programs are private land programs that put the funds back into the hands of our farmers and ranchers.

Dr. Adair discussed the option of a State Conservation Cover Program, that was flexible, met the needs of North Dakota farmers and ranchers, and large enough to make a difference. Such a program could be negotiated across the kitchen table, agreed on, and when the Game and Fish technician or Department of Agriculture technician left the farmer's kitchen, everyone would know there was an agreement to have a 5 or 10-year contract on 80 or 100 acres that met the landowner and the State's need. At the modest payment of \$50/acre and a cost-share on seeding costs, this program would cost \$ 55,000,000 per year for a million-acre enrollment.

Similarly, a State Conservation Fund could acquire the mineral rights on certain tracts of State School lands located in proposed wilderness areas in the Badlands. The mineral rights could be purchased, set aside and not developed, and a few small, precious pieces of the Badlands would be maintained for future generations of sportsmen and women to enjoy. The State's School Land trust accounts would be made whole. But this is not allowed under the current language of HB 1278.

Thank you and I will answer any questions.



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6

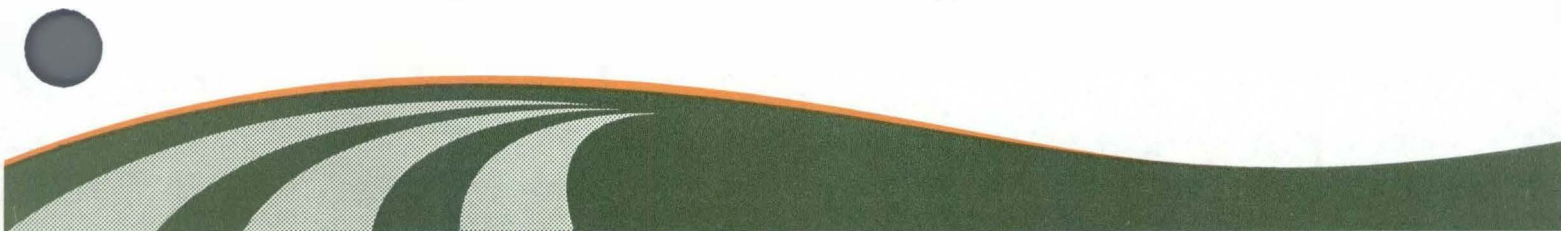
HB 1278 – Outdoor Heritage Fund
House Energy and Natural Resources Committee
January 24, 2013

Good afternoon Mr. Chairman, members of the committee. My name is Kristi Schlosser Carlson and I am testifying on behalf of the membership of North Dakota Farmers Union. I represent the Policy and Action developed democratically by our grassroots membership. In that policy, we establish our foundational belief that family farmers and ranchers are stewards of the land – that is, we are aware of our impact *now* and on *future generations*. We strive for a balance of natural resources and production of food and fuel. That balance is a difficult one to strike, and that's why our members are skeptical about how the word "conservation" gets defined and who defines it.

Based on our policy, the NDFU board opposed the would-be initiated measure establishing the Outdoor Heritage Fund for three reasons: 1) It enshrined the fund in the Constitution, which NDFU has long been hesitant to amend because it limits the opportunity to discuss that balance in public debate; 2) It did not cap the fund, which meant that it limited future evaluation of our state's priorities; and 3) most importantly, it did not include agriculture's voice. The coalition that came together after the election developed the concepts in this bill; NDFU supports the proposed legislation because it addresses all three concerns.

First, the fund is statutory. It allows a public debate on these important issues. Second, the legislation caps the fund at \$30 million per biennium, and, because it is legislative, we can continue to discuss that amount in the future, particularly as federal funds for ag conservation programs look to be in jeopardy. NDFU does not take a position on the *amount* of the cap; our concerns have been about the use of the fund. NDFU advocates that funding opportunities be made available for programs meeting all definitions of conservation, including stewardship practices on working lands, such as tools that enhance soil health, water quality, plant diversity, and animal systems. We also advocate that the fund be forward looking, not only from a conservation perspective but also from a land use perspective. That's why NDFU insisted this fund must not be used to acquire land or tie up land for more than 20 years at a time. You'll see that restriction in Sect. 54-17.8-03(2). Finally, agriculture will have a voice in the granting process, as four representatives from ag will sit on the advisory committee.

From a family farmer or rancher's perspective, the land is our livelihood and our legacy. We think this legislation strikes a balance to protect both. NDFU stands in support of HB 1278. I'm pleased to answer any questions.





Bringing ag home

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House Energy and Natural Resources Committee

January 24, 2013

Testimony of North Dakota Farm Bureau on HB 1278

Presented by Doyle Johannes, president

Good morning Mr. Chairman and committee members. For the record my name is Doyle Johannes, I am the president of the North Dakota Farm Bureau.

North Dakota Farm Bureau is here today in support of House Bill 1278. North Dakota Farm Bureau has been involved in the development of the structure of this process and the advisory board and we support that structure.

Mr. Chairman we would respectfully request you consider amending Section 54-17.8-03 subsection 1 d. on page 2 to include "restoration and enhancement of existing parks".

Furthermore, Mr. Chairman I would like to take this opportunity to say we are very appreciative of the working groups support of not encumbering any property for more than twenty years and also prohibiting this fund from acquiring property. The conservation community has said many times CRP has been the best thing to happen for conservation. I would remind the committee CRP acres are owned by this states farmers and ranchers, and without farmers and ranchers being the frontline conservationists wildlife in North Dakota would not fare as well as it has.

Thank you for your attention. I will answer any questions you may have.

HB 1278

Good afternoon, 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.

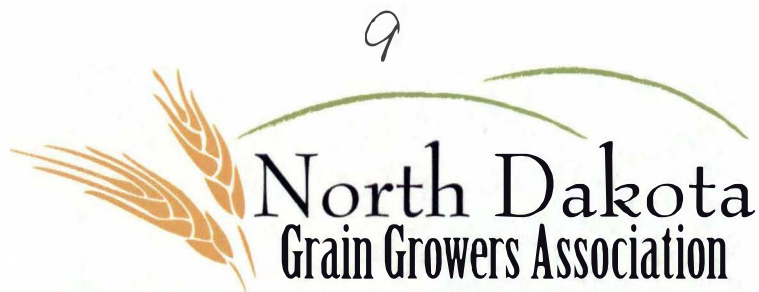
The Stockmen's Association has long been an advocate of conservation. Our producers make a living and ensure opportunities for the next generation of agriculturists by being good stewards of the land. We have policy supporting voluntary conservation practices that enhance our environment and our profitability, and it is in this spirit that we support the concept outlined in HB 1278.

The Stockmen's Association was opposed to a proposed initiated measure that was on a similar vein, but HB 1278 is far superior to that former proposal, in that it 1) includes working lands provisions to enhance farming and ranching operations; 2) assures agricultural representation on the advisory committee; 3) establishes a cap on the funding; and 4) enumerates specific prohibitions for uses of the fund.

Our support for HB 1278 is contingent that these dollars are not used for the acquisition of land or for encumbrances that are longer than a 20-year term.

In terms of the fiscal note, we'll leave the determination of the appropriate amount to you and your legislative colleagues as you sort through the state's infrastructure and other needs and weigh this project against all the important considerations in the mix.

With that, Mr. Chairman, I would stand for any questions.



Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on HB 1278
House Natural Resources Committee
January 24, 2013

Chairman Porter, members of the House Energy and Natural Resources Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. NDGGA is in support of HB 1278.

HB 1278 embodies the concept of expanding recreational and conservation opportunities in the state of North Dakota. NDGGA worked alongside stakeholder groups from across the board to present to you the legislation that you have before you today. While NDGGA believes that the legislative process will best determine the necessary funding for the Outdoor Heritage Fund, we will not support a funding level greater than what is contained in the measure that you have before you at present. That said, NDGGA believes that the legislation before you is a good policy structure for the implementation and subsequent operation of the Outdoor Heritage Fund.

Conservation and “going green” is the latest “craze” in America. While conservation is the “in thing” for some, North Dakota farmers and ranchers have practiced conservation since statehood and beyond. While some call for conservation, while some preach conservation, ND farmers and ranchers practice conservation every day of their lives. The environment; the air we breathe, the water we drink, the land we use are staples of our agrarian society. The environment is our factory, and protecting that environment for present and future generations is the highest priority of North Dakota agriculture.

North Dakota farmers and ranchers are proud of their record of environmental stewardship. That said, we also support the concept of providing a program to further the state’s commitment for conservation and recreation opportunities.

Therefore, Chairman Porter, members of the House Energy and Natural Resources Committee, NDGGA is in support of HB 1278 and urges the Committee and the House to concur.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

House Energy and Natural Resources Committee Testimony

House Bill 1278

Mark A. Zimmerman, Director

North Dakota Parks and Recreation Department

January 24, 2013

Chairman Porter and members of the House Energy and Natural Resources Committee. I am Mark Zimmerman, Director of North Dakota Parks and Recreation. I appear before your committee this afternoon in support of House Bill 1278.

Since the establishment of Fort Abraham Lincoln State Park as the first state park in 1907 through the building of parks during the Great Depression as well as the years of development of parks on Lake Sakakawea and Devils Lake in the 1970's and 80's, the citizens of North Dakota have always supported the establishment, development and enhancement of these opportunities and facilities for the enjoyment of the great outdoors. Partnering with other state agencies such as the North Dakota Game and Fish Department, North Dakota State Forest Service, State Historical Society of North Dakota, local city and county park districts as well as several federal agencies has strengthened the Parks' Department mission in providing parks and recreation areas in every corner of this great state.

House Bill 1278 provides an opportunity to build on that outdoor heritage and legacy long supported and enjoyed by citizens and visitors alike. This legislation provides the means for many interested organizations and agencies across the broad spectrum of North Dakota to join forces in proposing, developing and implementing projects that will benefit not only our generation of outdoor enthusiasts but the generations that will come after us.

Thank you for this opportunity to provide these comments. I respectfully ask for the committee's favorable action on House Bill 1278.



**Testimony of Dana Schaar, Executive Director
North Dakota Recreation & Park Association
To House Energy & Natural Resources Committee
In Support of HB 1278
Thursday, January 24, 2013**

Chairman Porter and Members of the Committee, my name is Dana Schaar, and I am executive director of the North Dakota Recreation & Park Association (NDRPA). NDRPA represents more than 500 members across the state, including park board members and park district staff, and works to advance parks and recreation for an enhanced quality of life in North Dakota. We support the concept of the Outdoor Heritage Fund outlined in House Bill 1278.

North Dakota's system of public parks and recreation programs is an essential community service, encouraging healthy, active lifestyles for our citizens; playing a significant role in advancing tourism; and supporting economic growth through increased property values and lower health costs.

According to the *2013-2017 North Dakota State Comprehensive Outdoor Recreation Plan*, 93 percent of North Dakota households feel non-consumptive outdoor recreation (excluding hunting and fishing) is important. In addition, 57 percent of outdoor recreation providers report demand for facilities and activities exceeds supply. Further, the estimated unmet capital need by North Dakota's outdoor recreation providers over the next five years is more than \$102 million.

One of the purposes of the Outdoor Heritage Fund is to "conserve natural areas for recreation through the establishment and development of parks and recreation areas." With the state's strong economy and growing population, resources are necessary to protect and enhance our public parks. Providing safe, affordable, and accessible outdoor recreation opportunities for our citizens and visitors is essential to maintaining North Dakota's commitment to a high quality of life.

We support the Outdoor Heritage Fund and encourage a do pass recommendation on HB 1278. Thank you.

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
HB 1278
January 24, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of HB 1278.

The Greater North Dakota Chamber was the primary organization that formed People First of ND; this measure committee was formed to oppose the outdoor heritage constitutional amendment that was slated for last November's ballot. People First of ND was formed due to our concerns surrounding the governance structure and dollar amount of the original measure. Both of those concerns have been satisfied in HB 1278.

During this session this legislature will address the needs that come from our states great economic prosperity. This bill addresses one of those needs in managing for our future and investing in our state to enhance the opportunities for generations to come. This body will be also asked to address the great needs in infrastructure all across our state and to develop a tax relief plan that will address some of the concerns raised in another measure this interim, Measure 2. We believe HB 1278 provides an appropriate balance that addresses the concerns of our changing and growing landscape but also leaves room for this legislature to address the needs of infrastructure and tax relief.

I would also like to point out the variety of groups that worked hard on developing a program that everyone can line up and support. When business, agriculture, energy, and conservation can sit down together and come to a consensus, it means something. No one got everything they wanted, but everyone got something in these discussions, in my humble opinion that is how good public policy is made.

Thank you for the opportunity to appear before you today in support of HB 1278, and urge a Do Pass recommendation from this committee. I would be happy to answer any questions.

Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
Before the House Energy and Natural Resources Committee
HB 1278
January 24, 2013

Mr. Chairman and members of the Committee, my name is Harlan Fuglesten, Communications and Government Relations Director for the North Dakota Association of Rural Electric Cooperatives. I submit this testimony today in support of HB 1278 on behalf of our Association and its 16 distribution cooperatives and five generation and transmission cooperatives operating in the state.

Our rural electric cooperative members serve more geography than people, although we serve at least 250,000 North Dakotans throughout the state. We know our members enjoy the hunting, fishing and outdoor recreation opportunities available in the state as do a majority of people living in North Dakota. The state's rural electric cooperatives have been valuable partners to the state's tourism, hunting, fishing and outdoor recreation industries by providing electric power to most of the state's attractions and destinations, including state parks and marinas. Our Association has also partnered with the State of North Dakota Tourism Division to produce and distribute the state's Official Vacation Guide. We also partner with the State Game and Fish Department to produce, publish and distribute the Hunting and Fishing Guide.

With rapid energy development there are concerns about maintaining the quality of life and the outdoor experiences our citizens have come to appreciate and expect. HB 1278 adopts a sensible and balanced approach to providing additional funding to conserve natural areas for recreation, to provide access for sportsmen, to promote good stewardship practices, and to maintain plant diversity and animal habitat. We respectfully request your support for HB 1278.



House Energy and Natural Resources Committee

Testimony on HB 1278

Terry Steinwand, Director

North Dakota Game and Fish Department

January 24, 2013

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Terry Steinwand, Director of the North Dakota Game and Fish Department, and I am testifying today in support of HB 1278.

This bill, as written, would address the primary issues that have been identified by hunting and fishing groups, conservation agencies, and many others across the state and that is habitat and access. Habitat is a vehicle to create the creatures most of us enjoy pursuing and access is the means to be able to enjoy them. This bill would help accomplish both of those goals.

The North Dakota Game and Fish Department has a history of partnering with many organizations across the state to accomplish the goals of habitat and access. It's been a successful partnership and this bill would enhance the ability to partner in the future with organizations such as Ducks Unlimited, Pheasants Forever, Pheasants for the Future, North Dakota Natural Resources Trust, National Wild Turkey Federation, Mule Deer Foundation, Rocky Mountain Elk Foundation, local fish and wildlife clubs and others I've likely inadvertently omitted. We've also partnered with other state agencies such as North Dakota Parks and Recreation Department, North Dakota Forest Service and Department of Health to cooperatively provide projects that meet multiple purposes for our departments.

I envision the bill providing habitat and access in collaboration with the groups mentioned and many others that will allow those that enjoy the outdoors the opportunity to do so in the future. Our great state has a history and culture based on the outdoors and this bill would be a step to preserve that culture. I respectfully ask for a DO PASS on HB 1278.

Good morning.

My name is Bill Mitzel. I publish Dakota Country magazine out of Bismarck, a monthly hunting, fishing and conservation publication. We've been in business since 1979 with a monthly readership of about 40,000 people.

Thanks to my dad, I fell in love with North Dakota's outdoor heritage almost from birth. When I was five years old, there wasn't much in the way of outdoor opportunity here, but we enjoyed it nonetheless. We found our own fun and readily accepted the limited outdoor resources that were available to us. When I compare those days to the abundance we have here today, it amazes me.

I've traveled all 50 states, fished and hunted in many of them, and I say without hesitation, our outdoor resources are the best. Not "among" the best... but the best.

I've seen many ups and downs in conservation and wildlife over the years and somehow, things always get fixed when they're broken. But today, I'm worried. Once again, we're at a major crossroads in North Dakota, relative to our natural resources. The oil industry, along with other factors including the economy, are diminishing our resources, despite our best efforts to protect it. The plus side of all this is that we have the means to not only sustain our resources, but enhance them.

It would be correct to say the oil industry came at us from our blind side. We weren't prepared for the cultural shock we're presently experiencing. But it's not as if we can't regroup and fix things once again. Our outdoor heritage should be part of the protection plan.

I can't say for certain I wouldn't live here, were it not for the outdoor opportunities, the solitude, the freedom, the space to enjoy our God-given resources. I've wondered about that often. But fortunately, I don't have to make that decision. I'm North Dakotan, through and through.

For many people in more densely-populated states, a chance to get outdoors is a rare and valuable treat. For some folks living in crowded cities, a chance to feed song birds in their backyard is all the association they ever have with wildlife. Our opportunities to participate in a myriad of outdoor activities is not only a blessing, it's a huge part of our culture. It's who we are. When people gather for coffee conversation, after they've gotten updated on the weather, the next subject to be discussed involves hunting and fishing. It's vitally important to us.

I've been blessed with not only the opportunity to live here all my life, but to actually make a good living working with the outdoor resources. I'm grateful for that. Naturally, I, and thousands of others, want to protect what we have.

It's not only fishing and hunting we enjoy. It's hiking, sight-seeing, camping, photography... the opportunity just to get out on the prairie and embrace the sights and sounds and the freedom of it all.

With the financial resources we have available to us today, I strongly urge our leaders to consider the importance of what our outdoors means to nearly 40 percent of our population. It is so very important that we protect our air, our land, our wildlife, our space. We have the power and resources to do that and we must. It's our culture, it's us.

I hope you will not ignore the needs of our natural resources in North Dakota. In many cases, they're delicate and cannot take care of themselves. I believe it's not asking too much for the oil industry, in particular, to work with the agricultural and outdoor community to maintain our wildlife and conservation integrity.

I ask you to please recognize the value of our outdoor heritage and take steps to protect it.
Thank you.

Bill Mitzel
Bismarck, North Dakota
(701) 255-3031

13.0432.03001
Title.

Prepared by the Legislative Council staff for
Representative S. Kelsh
January 23, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1278

Page 1, line 3, after "57-51-15" insert "and subsection 4 of section 57-51.1-07"

Page 1, line 4, after "tax" insert "and the oil extraction tax"

Page 4, line 25, replace "fifteen" with "fifty"

Page 4, line 26, replace "a" with "each"

Page 4, line 26, remove "and not in an amount exceeding thirty million dollars"

Page 4, line 27, remove "per biennium"

Page 4, after line 28, insert:

"SECTION 3. AMENDMENT. Subsection 4 of section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

4. Thirty percent must be allocated and credited to the state's general fund, except the first fifty million dollars of the amount available under this subsection in each state fiscal year must be deposited in the North Dakota outdoor heritage fund."

Renumber accordingly

Dwight Goss

untitled

I am a farmer/rancher and believe spending money on conservation has merit. However there are two provisions in this bill that need to be addressed.

Section 54 - 17.8 - 03. North Dakota outdoor heritage fund purposes .
1. The commission shall use the fund to provide grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations:

Why non-profits? "Very political" non-governmental (NGO'S) non-profits can apply for grant money. There is just too much room for too much mischief. While it is specific that NGO's cannot spend taxpayer money directly to lobby or litigate, they can spend large amounts of money thus indirectly influencing policies.

Everyone is aware of budget short falls at the federal level. This bill can provide the mechanism to provide funding to our soil conservation services. The infrastructure is already there. Buildings offices and technical staff. We already have a solid working relationship with our soil conservation services. Can non-profits match, perform or provide the same. I don't believe so.

Another provision that needs to be addressed,

54 - 17.8 - 03. North Dakota outdoor heritage fund purposes

.d. Conserve natural areas for recreation through the establishment and development of parks and other recreation areas.

The establishment and development of "parks." This needs to be clarified. Is the word "Parks" being substituted as a feel good word for land acquisitions?

54 - 17.8 - 03. North Dakota outdoor heritage fund purposes

2. The commission may not use the fund, in any manner, to finance:

d. The acquisition of land or to encumber any land for a term longer than twenty years, or

while it clearly says the commission cannot use general fund money for the acquisition of land, there is still a question mark concerning the wording "establishment and development" of parks and other recreational areas. It's a mixed signal. Two opposing meanings. It's the people's money. I think we need to exercise a little caution.

If this bill can be amended to overstrike or delete non-profits from receiving grant money and clarify the two meanings between parks and land acquisitions then I recommend a do pass. If not then I recommend a do not pass.

Testimony in opposition to HB 1278

Chairman Porter - Vice Chairman Damschen – Committee Members

My name is Dwight Wrangham. I am president of the Landowners Association of North Dakota, LAND.

Our organization is made up of Farmers and Ranchers from across ND. ND Farmers and Rancher are the original conservationists. They wholeheartedly support fish and wildlife habitat, water quality, soil conditions, plant diversity and wildlife control through hunting. They do this because their livelihood depends on it. Without good water quality, good soil conditions, plant diversity, etc. They could not supply North Dakotans and in fact people of the world with the clean safe food and fibers they demand. North Dakota Farmers and Ranchers lead the nation in the production of 14 food commodities. Theirs is a big job and one they do not take lightly.

Yes, they are conservationists, but LAND does not support this bill.

We have the state game and fish department, state water department, state parks department, soil conservation districts and many other agencies who have been supporting these issues and projects for a long time. And doing a very good job of it. We do not need this new bureaucracy. If we need to put more money in these areas, give these current entities more money. Don't earmark these funds to create a new bureaucracy.

This bill creates a continuing appropriation. That takes the legislature out of one of their most important duties, appropriating state funds. Keep control - vote no on HB 1278.

January 24, 2013

2019

Porter, Todd K.

From: Dennis Miller <djmiller@polarcomm.com>
Sent: Thursday, January 24, 2013 10:50 AM
To: Porter, Todd K.; Damschen, Charles D.
Subject: HB 1278

Chairman Porter
Vice Chairman Damschen
Members of House Natural Resource Committee:

My name is Dennis Miller. I am past president of three different Statewide organizations but write on my own behalf.

I would like to be present at the hearing for HB 1278, the outdoor Heritage Bill, but have previous family commitments. Please accept these comments in opposition to HB 1278.

I don't think the state has a vested interest in spending \$30 million in grants that will be used, according to my understanding, to compete against private industry (agriculture) in the use of our natural resource (productive farm land).

I understand this program as implemented may look like the Federal CRP program. My experience farming next to numerous CRP contracts has been frustrating and a constant financial burden to myself and other surrounding owners. Even with the best management practices of CRP owner's/operator's, surrounding owners have been continually burdened with wildlife, insect and weed issues. My experience is that every dollar spent on these conservation issues takes a dollar out of surrounding owners pocket to mitigate pestilence from land that is not used to it's full productive potential.

If I may paraphrase a saying: "No state is an island". North Dakota may seem to have money to throw away on these conservation initiatives but may I remind the members of the North Dakota House of Representatives that property taxes are going up and the US government has a trillion and a half dollar federal deficit. The state also has numerous obligations that will need to be funded.....

My father told me before his death in 1976 that "these good times will not last" I hope that the North Dakota House of Representatives will heed the wise words of my deceased father and vote down this unnecessary expenditure.

Dennis Miller

PROPOSED AMENDMENTS TO HB 1278

Page 2, line 13, after "energy" insert "facilities or infrastructure"

Page 3, line 13, remove the third "the"

Page 3, replace lines 14 and 15 with: "one member from ducks unlimited of North Dakota, the North Dakota natural resources trust ^{fund} find, the North Dakota chapter of pheasants forever, and one at large member of the conservation community."

Page 3, line 18, remove "with technical background"

Page 3, line 18 remove "parks and"

Page 3, line 19 replace "recreation" with "recreation and park association"

Page 3, line 22 remove the third "and"

Page 3, line 23, after "forester" insert ", and the North Dakota association of soil conservation districts"

Page 3, line 24, replace "five years" with "four years and members may only serve two consecutive terms"

Page 4, after line 28 insert:

"SECTION 3. A new section to chapter 54-17.8 of the North Dakota Century Code is created and enacted as follows:

The names or identities of independent technical reviewers on any application or proposal may not be disclosed by the advisory board or commission and are not public records subject to section 44-04-18 or section 6 of article X of the Constitution of North Dakota."

Renumber Accordingly

Overview of HB 1278 Creation of Outdoor Heritage Fund

Background

After an initiated measure to bring a Conservation Fund to the voters was invalidated for the ballot, the parties supporting and opposing the measure came together to determine if a legislative solution was possible. This group included representatives from: Ducks Unlimited and the North Dakota Natural Resources Trust Fund (Representing the Conservation Coalition); The Bismarck-Mandan and Greater North Dakota Chambers; North Dakota Farm Bureau; North Dakota Farmers Union; The North Dakota Petroleum Council; The Lignite Energy Council; The North Dakota Stockman's Association; The North Dakota Grain Growers Association; The North Dakota Association of Soil Conservation Districts; The North Dakota Recreation and Park Association; The North Dakota Association of Rural Electric Cooperatives. Through a series of meetings over the course of the fall, this group was able to draft consensus language for HB 1278 to bring forward to the 2013 Legislative session.

Funding

This bill creates an Outdoor Heritage Fund with proposed funding at \$30m per biennium. Funding will be provided by the oil production tax.

Purposes of the Fund

1. Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen.
2. Improve, maintain and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching.
3. Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands.
4. Conserve natural areas for recreation through the establishment and development of parks and recreation areas.

Funds May Not Be Used For

- Lobbying or Litigation
- Activities that would interfere with coal mining, sand, gravel or scoria extraction, oil and gas operations or other energy development.
- Acquisition of land or to encumber any land for a term longer than 20-years
- Projects outside the state of North Dakota or beyond the scope of defined activities.

Advisory Board

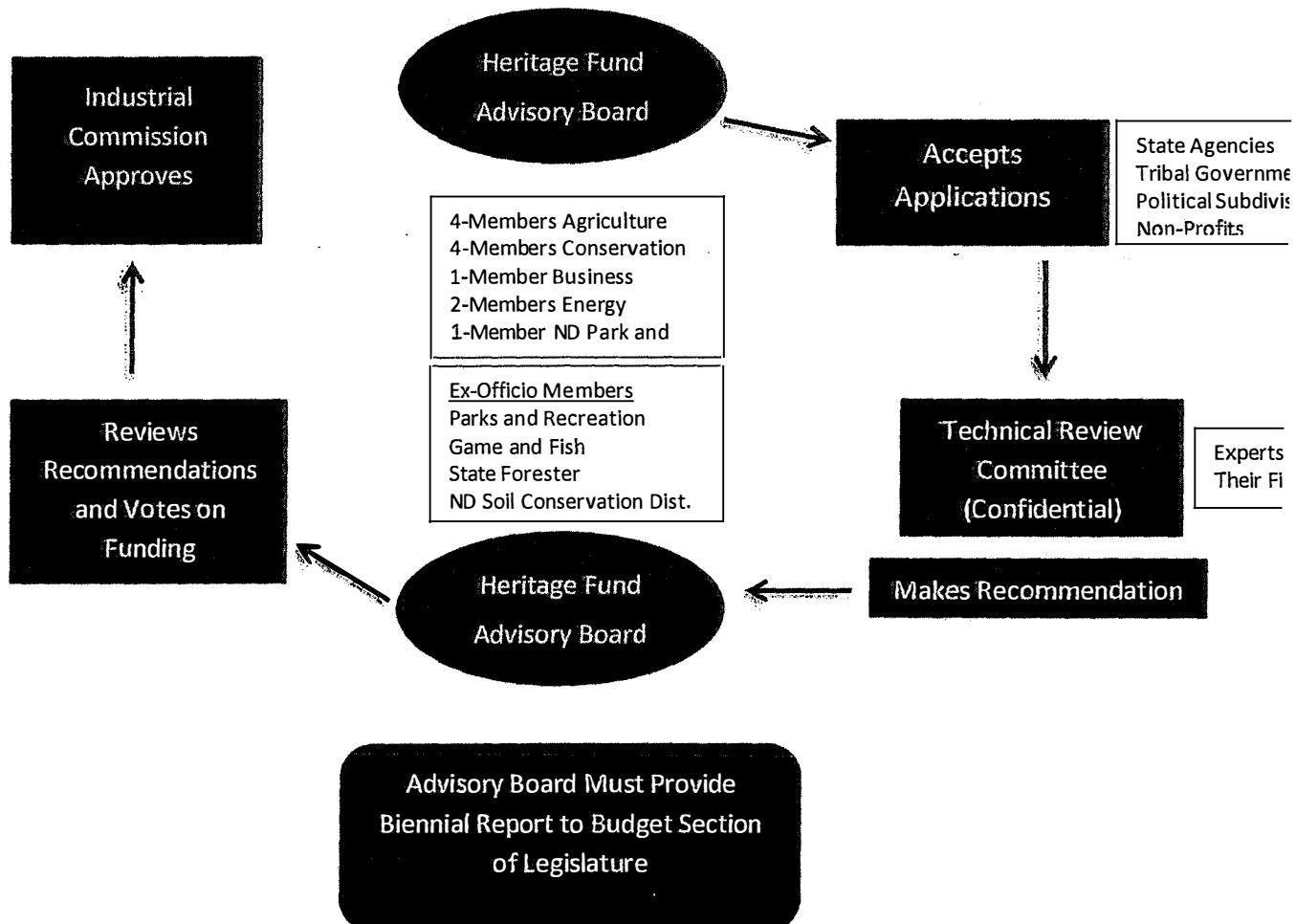
The bill creates an advisory board consisting of twelve members. The Governor shall appoint the members based upon recommendations from the various coalition groups and to create a specific composition on the board. The board consists of:

- Four members of the Agriculture Community. One from ND Farm Bureau, ND Farmers Union North Dakota Stockmen’s Association and the North Dakota grain growers association.
- Two Members of the Energy Industry. One from the Petroleum Council and One from the Lignite Energy Council.
- Four Members from the Conservation Community. A list of nominees to be provided by the ND Chapter of the Wildlife Society.
- One member of the Business Community from the Greater North Dakota Chamber of Commerce.
- One Member from the North Dakota Park and Recreation Association.

The Director or Deputy Director of Parks and Recreation, Game and Fish and Office of the State Forester shall serve as ex-officio, non-voting members.

Process for Applicant Funding

The Outdoor Heritage Fund can grant money to state agencies, tribal governments, political subdivisions and non-profit organizations.



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1278

Page 1, line 3, after "57-51-15" insert "and subsection 4 of section 57-51.1-07"

Page 1, line 4, after "tax" insert "and the oil extraction tax"

Page 4, line 25, replace "fifteen" with "fifty"

Page 4, line 26, replace "a" with "each"

Page 4, line 26, remove "and not in an amount exceeding thirty million dollars"

Page 4, line 27, remove "per biennium"

Page 4, after line 28, insert:

"SECTION 3. AMENDMENT. Subsection 4 of section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

4. Thirty percent must be allocated and credited to the state's general fund, except the first fifty million dollars of the amount available under this subsection in each state fiscal year must be deposited in the North Dakota outdoor heritage fund.

Renumber accordingly

13.0432.04001
Title.

Prepared by the Legislative Council staff for
Representative Porter
February 27, 2013

/

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

Page 2, line 15, replace the underscored comma with an underscored semicolon

Page 3, line 13, remove ". The governor shall appoint one"

Page 3, remove lines 14 and 15

Page 3, line 16, remove "conservation community"

Page 3, line 22, remove "department of"

Page 3, line 22, after "recreation" insert "department"

Page 4, line 24, replace "four" with "eight"

Renumber accordingly

#2

Testimony for House Bill No. 1278
Senate Natural Resources - Fort Lincoln room
Governor's Office

March 7, 2013

Good morning Mr. Chairman, members of the Committee, I am Drew Wrigley, Lieutenant Governor of the State of North Dakota. I am here to convey Governor Dalrymple's support of House Bill No. 1278 which would create a North Dakota outdoor heritage fund.

The variety of available outdoor experiences including the tradition of hunting in North Dakota are core elements in our quality of life. The challenges of prosperity created by a growing population and expanding commercial development include greater risks to our vast and cherished North Dakota outdoors.

The values associated with our outdoors are important to all North Dakotans of all ages. After many meetings with a wide array of stakeholders and much discussion, the concept of an outdoor heritage fund emerged as a general consensus. House Bill No. 1278 would establish a permanent conservation fund to preserve and enhance opportunities for hunting and all outdoor recreation experiences in North Dakota's great outdoors.

House Bill No. 1278 commits a portion of oil production tax revenues to a newly created outdoor heritage fund. As part of the fund's management, the bill would create an advisory board governed by the Industrial Commission. The advisory board would consist of representatives from the agriculture community, the energy industry, the conservation community, the business community, and representatives from state agencies with technical backgrounds in wildlife, parks, recreation, and natural resources.

If the legislature enacts HB 1278, grants will be awarded to state agencies, tribal governments, political subdivisions and non-profit organizations. These grants will be used to benefit statewide conservation practices, wildlife habitat, parks, and outdoor recreation.

Our quality of life must not be compromised because of our expanding economic prosperity and rapid growth. Now is the time to fortify our rich outdoor heritage and that is the purpose behind HB1278. This fund would represent a substantial, recurring, and unprecedented commitment to enhancing our natural resources and our outdoor recreational opportunities. The Governor and I strongly encourage you to support passage of House Bill No. 1278. This important initiative is the product of a process where all interests were heard and a forward-looking compromise was reached.

Thank you, I am happy to answer any questions that you or other members of the committee may have regarding our Administration's perspective on the bill.

#3



Testimony
Kelvin Hullet, President
Bismarck-Mandan Chamber
HB 1278

Mr. Chairman and members of the Committee:

I am Kelvin Hullet, President of the Bismarck-Mandan Chamber. I am here today in support of HB 1278 and urge your committee to give it a Do-Pass recommendation. My role is to provide some background on how this proposal came together and to walk you through the mechanics of the bill.

As we look across the landscape of North Dakota today, we all know it is changing. Ten years ago, most Americans had not thought about, much less heard about our state. If our state made the media, it many times was about the weather. Today, a different story...so to speak...as North Dakota represents one of the few economic engines in America that is running at full speed with an economy turbo-charged by oil.

As a business organization, we welcome the prosperity it brings to our state: jobs, infrastructure, new residents and wealth creation are essential to a thriving economy. However, the dramatic changes occurring in the state require our relationship to conservation issues to evolve and ensure a fundamental value of our state is not only preserved but enhanced. We, North Dakotans have special relationship with the outdoors and nature in so many forms. From our recreational activities and enjoyment of wildlife to the food it puts on the table across America, the land is a special part of our heritage and our future.

Today, with a population reaching a historical high and continuing to grow, many feel the needs of outdoor recreation and conservation need attention. In meeting with all these groups over the last few months, it is apparent there is a shared concern about the issues of conservation, access to land and water for sportsmen, stewardship of our farms and ranches and preserving some of our natural areas. The question is how to balance the economic activities with recreational and conservation needs.

After the initiated measure to bring a Conservation Fund to the voters was invalidated for the ballot, our Chamber asked the parties supporting and opposing the measure to come together to determine if a legislative solution was possible. This group included representatives from: Ducks Unlimited and the North Dakota Natural Resources Trust Fund (Representing the Conservation Coalition); The Bismarck-Mandan and Greater North Dakota Chambers; North Dakota Farm Bureau; North Dakota Farmers Union; The North Dakota Petroleum Council; The Lignite Energy Council; The North Dakota Stockman's Association; The North Dakota Grain Growers Association; The North Dakota Association of Soil Conservation Districts; The North Dakota Recreation and Park Association; The North Dakota Association of Rural Electric Cooperatives.

HB 1278 proposes to create an Outdoor Heritage Fund. Revenues to this fund will be provided by the oil production tax with a proposed funding level of up to \$30 million per biennium. The purposes of this fund are:

1. Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen.
2. Improve, maintain and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching.
3. Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands.
4. Conserve natural areas for recreation through the establishment and development of parks and recreation areas.

An area of extensive discussion for the groups was to also identify what Outdoor Heritage Funds could not be used for: The agreed up on prohibitions include:

- Lobbying or Litigation
- Activities that would interfere with coal mining, sand, gravel or scoria extraction, oil and gas operations or other energy development; energy facilities or infrastructure development.
- Acquisition of land or to encumber any land for a term longer than 20-years
- Projects outside the state of North Dakota or beyond the scope of defined activities.

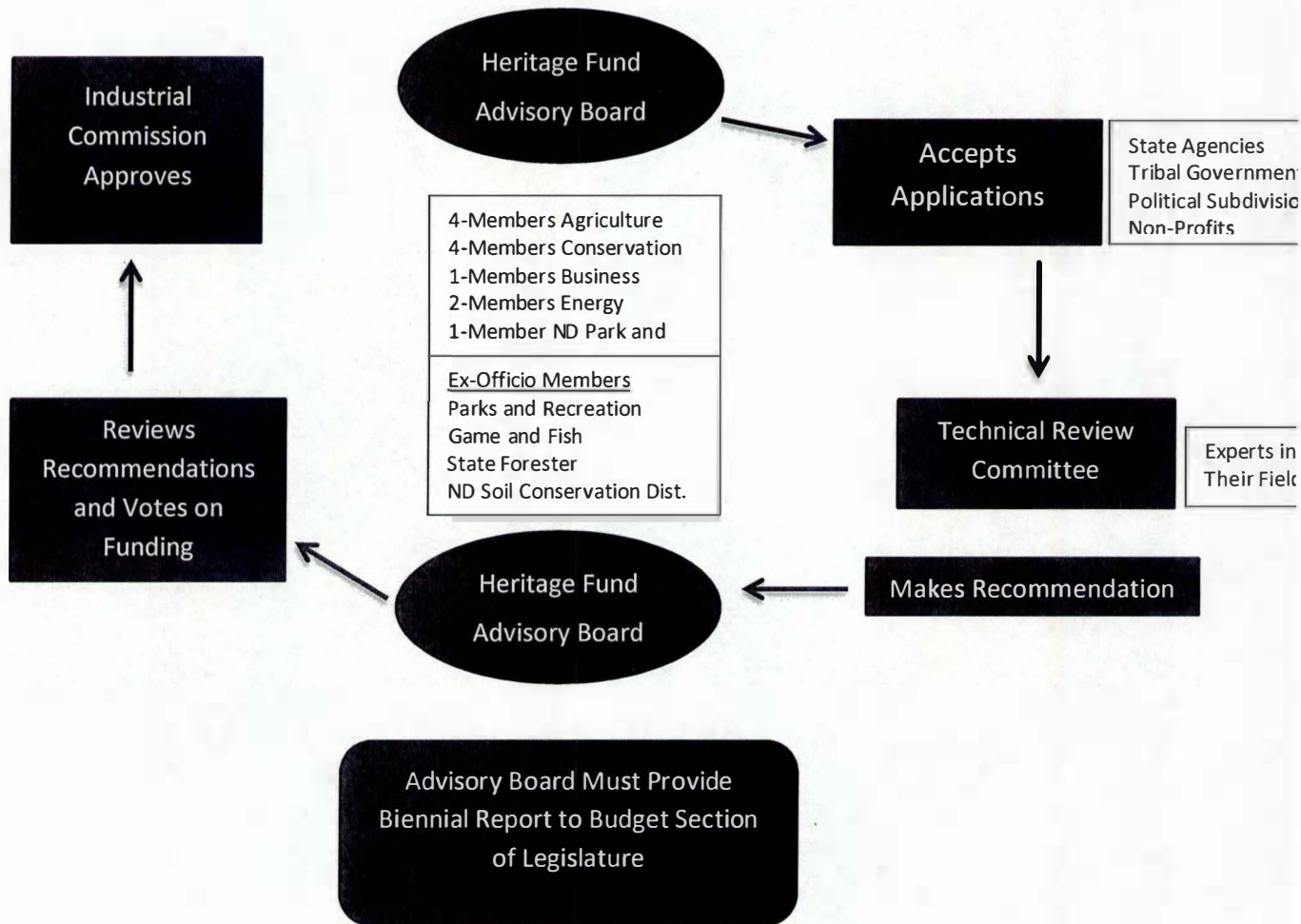
One of the key areas of dialogue and negotiation throughout the fall was the composition of the advisory board. The goal was to create a board that represents the constituencies of conservation in a balanced way. The proposed measure creates an advisory board consisting of twelve members. The Governor shall appoint the members based upon recommendations from the various coalition groups and to create a specific composition on the board. The board consists of:

- Four members of the Agriculture Community.
- Four Members from the Conservation Community.
- One member from the Petroleum Council and One from the Lignite Energy Council.
- One member representing the business community from the Greater North Dakota Chamber
- One Member from the North Dakota Recreation and Park Association.

To ensure the various state agencies that are engaged in conservation and outdoor issues are represented, The Director or Deputy Director of Parks and Recreation, Game and Fish, Office of the State Forester and the North Dakota Association of Soil Conservation Districts shall serve as ex-officio, non-voting members. I also want state that our intent in bringing this legislation forward is to provide new funding to conservation and outdoor issues. There is not an intention to replace funds that already exist in the budgets of these state agencies.

It should be pointed out that the model proposed in this legislation closely mirrors the Lignite Research Fund and the Oil and Gas Research Council. As with these other councils, the Industrial Commission has ultimate approval with required reporting back to the legislature.

In closing, I want to walk you through the process and members of the proposed Outdoor Heritage Fund. Thank you for your consideration of HB 1278 and please pass it to the legislature with a do pass recommendation.



#4

**Testimony of Steve Adair
On
HB 1278
Senate Natural Resources Committee
March 7, 2013**

Mr. Chairman, members of the committee, I am Steve Adair, director of operations for Ducks Unlimited's Great Plains Region. I am also a member of the North Dakota Clean Water, Lands & Outdoor Heritage Coalition. We are very pleased that Governor Dalrymple and legislative leaders have endorsed the concept of an Outdoor Heritage Fund to protect our natural resources for future generations. We appreciate the robust discussions that we have had with stakeholders around this concept, identifying where we agree and where we disagree. **HB 1278 is a step in the right direction and recognizes that we must act now to protect our clean water, our iconic natural areas like the Badlands and our outdoor heritage. But the funding in this legislation will only scratch the surface of the conservation need in the state.**

North Dakota stands at a unique point in time. We're experiencing extraordinary change, growth and economic opportunity. Along with the excitement and hope for our bright economic future, we know that our communities, our landscapes and our way of life are facing sweeping and in some cases permanent changes.

We have the opportunity to pay it forward – to leverage a small portion of the economic resources gained from North Dakota's bountiful energy stores to enhance and improve the natural amenities that make North Dakota such a great place. Our oil can be a legacy for all of us. We must chart a course now for future generations that aligns economic prosperity and land stewardship.

Senator Triplett has an amendment to the Outdoor Heritage Fund for the committee's consideration that will come closer to addressing the current conservation need in North Dakota – it dedicates a small percentage of the existing tax revenue, capped at \$100 million annually. The big changes happening right now to North Dakota's natural infrastructure require a response that meets the challenge.

North Dakotans clearly support a significant investment in protecting our natural resources. By more than a 3 to 1 margin, North Dakotans support dedicating a small portion of oil and gas tax revenue to conservation. One-third of North Dakotans hunt and fish, which is the fourth highest participation rate in the nation. A recent study NDSU indicates that hunting and fishing in North Dakota contributed \$1.4 billion annually to the state's economy.

In a recent public survey conducted by the North Dakota Parks and Recreation Department, more than 90 percent of the households surveyed indicated that outdoor recreation is important to them. Respondents cited the need for expanded trails, camping areas, fishing access, hunting access, playgrounds and natural areas.

Our coalition has been consistently clear that we believe a much more significant investment is needed to protect what we all love about North Dakota. Fifteen million dollars per year falls woefully short of addressing the need. **We are not facing a fiscal cliff in North Dakota; we are staring down a habitat cliff.**

North Dakota is losing tens of millions of conservation dollars each year with the decline of CRP (Conservation Reserve Program) acreage. Since 2007, North Dakota has lost 1.6 million acres of CRP, which is having a negative impact on wildlife populations, water quality, soil erosion and access to quality hunting land. CRP acreage is projected to continue to decline as are our recreational lands as demonstrated by the trend of PLOTS acres.

A study just released by SDSU shows an accelerated conversion rate of grassland to corn and soybeans. This conversion is occurring on marginal, risk prone land and is approaching rates not seen since the 1920s.

We have been collecting ideas for potential investments over the past year and estimates show that the costs for potential projects, including new parks and recreation areas, a state conservation cover program, conservation cropping systems and buffering our lakes and streams, are estimated at well more than \$100 million per year.

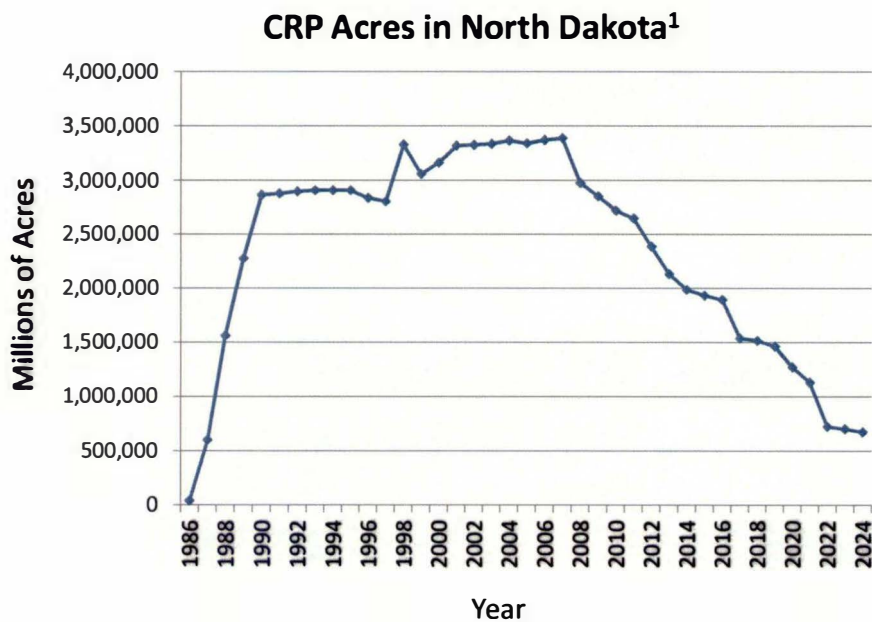
To begin addressing the need of putting new habitat on the ground, let's build on the example of a state-level conservation cover program. Based on a conservative average rental payment of \$55 per acre per year (including establishment costs), the state would need to commit \$550 per acre up front. Based on the proposed \$15 million per year for the outdoor heritage fund, a maximum of approximately 27,000 acres could be enrolled annually. If our goal is to conserve one-half (1.7 million acres) of what the federal CRP acreage was at its peak (3.4 million acres) - it would take more than 50 years to come close to reaching our goal.

We also know that state funding has been limited and federal funding is declining for conservation and natural resources. Currently, less than 2 percent of our state budget is dedicated to natural resource conservation. Our state can truly seize this opportunity to make an investment in our natural areas and outdoor heritage without raising taxes and we should take advantage of that opportunity before it's too late.

There's the adage, "You don't know what you have until it's gone." Mr. Chairman and committee members, we're experiencing extensive landscape impacts now. So many of us live

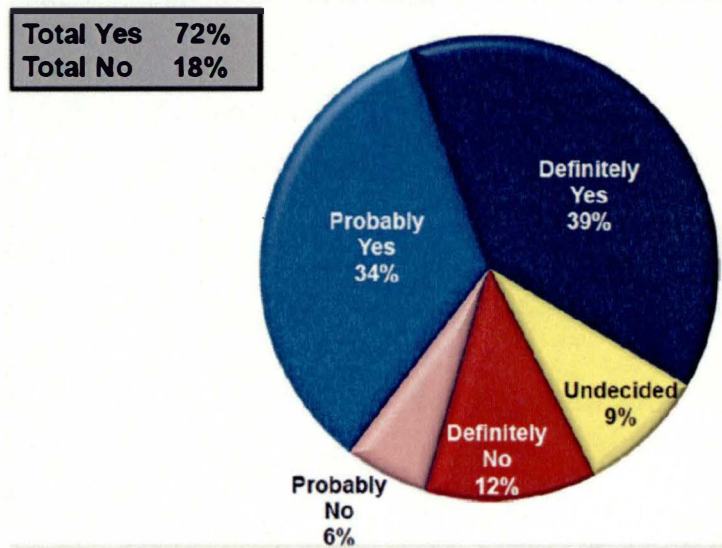
and work in this state because of the quality of life here – because of our outdoor opportunities. Can we truly look ourselves in the mirror and say that our children and grandchildren will have the same opportunities to enjoy, the unique natural areas and outdoor experiences that we have? We can make the investment in our natural resources now and reap the rewards for generations to come.

Again, Mr. Chairman and committee members, thank you for the opportunity to offer testimony on this legislation. I'd be happy to answer any questions that you may have.



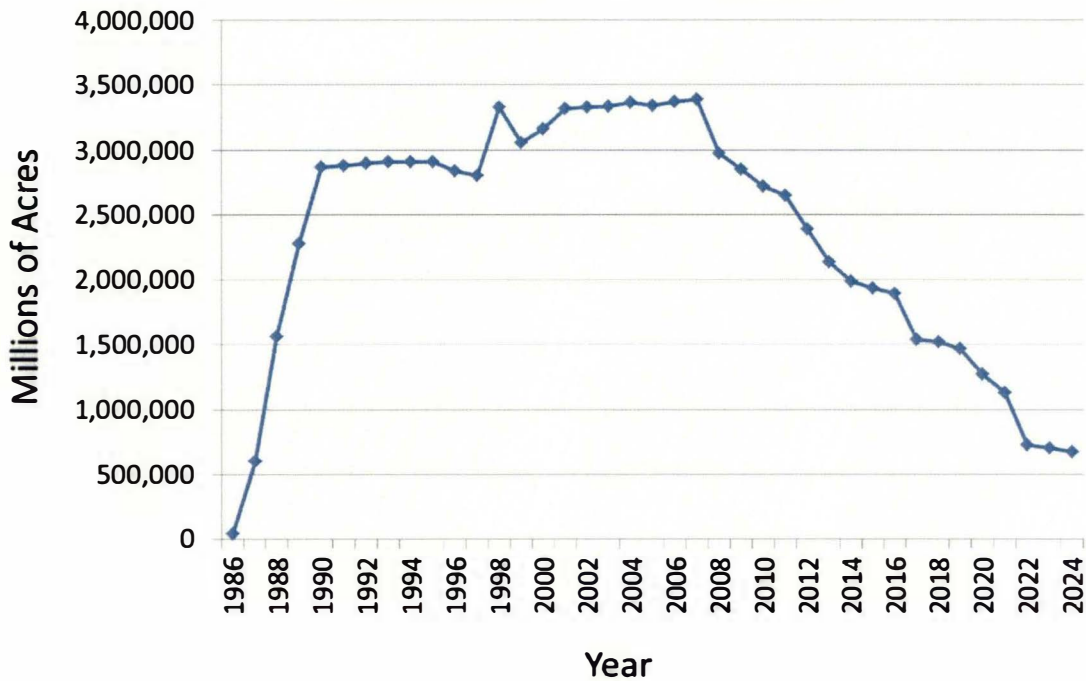
¹ Average annual cost of CRP in ND from 1987 – 2011 was \$97,762,881, Source USDA FSA https://www.fsa.usda.gov/Internet/FSA_File/historystate121911.xls

June 2012 Polling: Voter support is strong for specifically dedicating 5% of oil & gas tax revenue to conservation¹

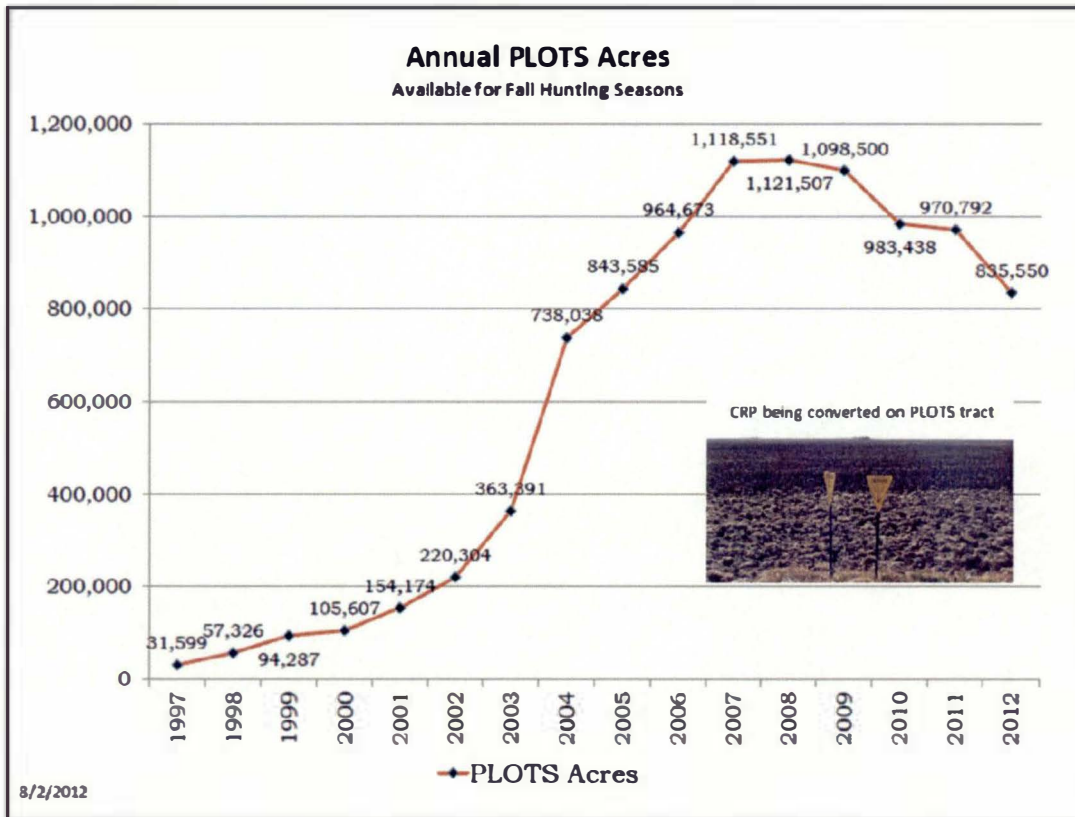


¹ Public Opinion Strategies & FM3 2012

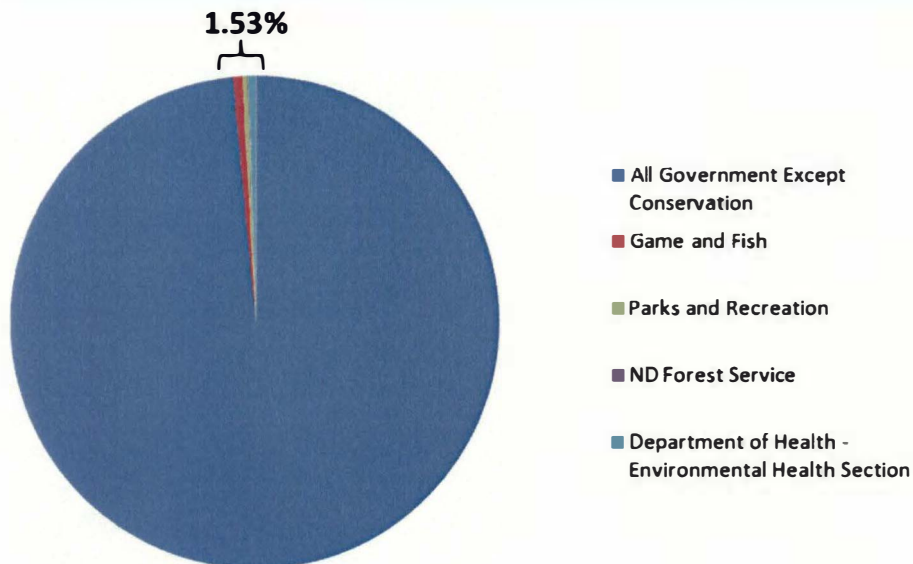
CRP Acres in North Dakota¹



¹ Average annual cost of CRP in ND from 1987 – 2011 was \$97,762,881, Source USDA FSA https://www.fsa.usda.gov/Internet/FSA_File/historystate121911.xls



State Funding is Limited and Federal Funding is Declining



¹ \$9.9 Billion <http://www.nd.gov/fiscal/docs/budget/appropbook2011-13.pdf>

² Game and Fish budget entirely funded from user (anglers/hunters) licenses and fees



Clean Water, Lands & Outdoor
Heritage Coalition

#5

6 Ideas

For Protecting North Dakota's
Outdoor Heritage

1 Sustainable
Cropping
Systems

2 Landowners Protecting
our Lakes
and Streams

6 Wildlife and Fish
Habitats and
Public Areas

5 Parks

4 Floodplain
Restoration

3 Conservation
Cover
Program

A Conservation Vision for North Dakota

North Dakota is changing rapidly in ways that could permanently affect our clean water, our unique natural areas and our outdoor heritage. The North Dakota Outdoor Heritage Fund would mean more conservation of our natural resources so we can keep the quality of life we enjoy today and hope to pass on to future generations.

The Outdoor Heritage Fund measure authorizes no specific programs, but here are some critical needs for protecting North Dakota's precious lands, waters and way of life. Many more ideas will emerge through the creativity of North Dakotans, their local and state government agencies and their non-profit organizations.

Here are just six ideas that could help maintain North Dakota's quality of life.

I Sustainable Cropping Systems

Sustainable Cropping systems enhance a farmer's operation while providing habitat for wildlife. This program would provide incentive payments to producers who incorporate winter wheat or other cover crops into their rotations to improve soil health, reduce nutrient runoff into streams and lakes and provide wildlife habitat.

- Estimated cost: \$20 million/year to complete 2 million acres

2 Land buffers for clean water in lakes and streams

Grass buffers around cropland filter out impurities and nutrients in run-off water before it reaches streams, lakes and our drinking water. Protecting and improving water quality requires technical assistance and cost-sharing for landowners willing to put buffers in place.

- Estimated cost: An aggressive program to target 10 percent of North Dakota's land area for improved water quality practices would entail about \$22 million per year.

3 Conservation Cover Program

A conservation cover program could be tailored to benefit North Dakota landowners while conserving soil and water and providing wildlife habitat. This program would pay current rental rates, require plantings well suited for our state and provide more flexibility for haying and grazing.

- Estimated cost: \$75 million a year for 10 year contracts on 1.5 million acres

4 Restoring floodplains to store flood water and provide recreation

The extensive flooding across the state in 2011 was catastrophic for cities and homeowners. This program could establish parks and natural areas along rivers, which would provide recreation for communities and allow rivers to swell without devastating people's homes and businesses.

- Estimated cost: \$20 million per community

5 Parks

North Dakota needs more urban and rural recreation areas to meet the historic growth in our state's population. North Dakota has less acreage in state parks than forty-eight of the other states. Further, the Energy Development Impact Office has not funded a request for park facilities over the last ten years in oil producing country.

- Estimated cost: \$3.5 million to add one new state park or \$12.5 million per year to build 50 city or county park projects each year if the fund provides each with a cost-share of up to \$250,000

6 Wildlife and Fish Habitat and Public Access

This fund could be used for projects and programs that provide access to public and private lands for sportsmen and women, including an enhanced Private Land Open to Sportsmen (PLOTS) program, and programs that create fish and wildlife habitat.

- Estimated cost: \$5 million/year for an expansion of the PLOTS program to add up to another 400,000 acres of quality habitat in the state



Clean Water, Lands & Outdoor
Heritage Coalition
P.O. Box 1603
Bismarck, ND 58502-1603

#6

Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
Before the Senate Natural Resources Committee
HB 1278
March 7, 2013

Mr. Chairman and members of the Committee, my name is Harlan Fuglesten, Communications and Government Relations Director for the North Dakota Association of Rural Electric Cooperatives. I submit this testimony today in support of HB 1278 on behalf of our Association and its 16 distribution cooperatives and five generation and transmission cooperatives operating in the state.

Our rural electric cooperative members serve more geography than people, although we serve at least 250,000 North Dakotans throughout the state. We know our members enjoy the hunting, fishing and outdoor recreation opportunities available in the state as do a majority of people living in North Dakota. The state's rural electric cooperatives have been valuable partners to the state's tourism, hunting, fishing and outdoor recreation industries by providing electric power to most of the state's attractions and destinations, including state parks and marinas. Our Association has also partnered with the State of North Dakota Tourism Division to produce and distribute the state's Official Vacation Guide. We also partner with the State Game and Fish Department to produce, publish and distribute the Hunting and Fishing Guide.

With rapid energy development there are concerns about maintaining the quality of life and the outdoor experiences our citizens have come to appreciate and expect. HB 1278 adopts a sensible and balanced approach to providing additional funding to conserve natural areas for recreation, to provide access for sportsmen, to promote good stewardship practices, and to maintain plant diversity and animal habitat. We respectfully request your support for HB 1278.



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HB 1278 - Outdoor Heritage Fund
Senate Natural Resources Committee
March 7, 2013

Chairman Lyson and Members of the Committee, my name is Jim Teigen. My wife, Rita, and I are farmers near Rugby, raising both market and seed wheat, and food-grade soybeans. We also added corn to our crop mix last year, replacing sunflowers and a number of other crops we have raised since 1975. Our practices vary from reduced or conservation tillage to one-pass seeding and fertilizing.

I currently serve on the North Dakota Farmers Union Board of Directors, and I am providing testimony consistent with NDFU policy adopted by our members at last November's annual convention. I have also been a Supervisor of the Pierce County Soil Conservation District since 1992, and am a past board member and past president of the North Dakota Association of Soil Conservation Districts.

I wish to comment on HB 1278, a concept I have been interested in since its original drafting as a constitutional measure. While the original proposal as a constitutional measure was unsatisfactory in my opinion, I can support the language of the bill passed by the House.

I will comment on several aspects of this issue:

1. I believe this should remain a legislative issue, making it a part of Century Code, rather than a constitutional measure. A new initiative such as this should be enacted by the Legislature to allow all interested parties the opportunity to provide input into the language. In the future, it will also be much easier to modify provisions of the bill if refinements can be made by legislative action, rather than if this becomes a constitutional amendment. Furthermore, HB 1278 was the product of several interested groups who met several times to discuss and compromise on issues to result in this bill.

2. I think a maximum of \$30 million per biennium should be established for this fund. While NDFU policy does not address this amount directly,



our members have identified too many other pressing needs in North Dakota that should be addressed to justify allocating more to the outdoor heritage fund at this time. After the State has the opportunity to gauge the needs and progress from this fund, the Legislature can consider revising the amount of money to devote to these uses.

3. The purposes of the fund should be retained as listed in HB 1278. Land acquisition must not be a permitted use of funds. The need for our farmers and ranchers to continue using our lands for production of food, fuel, fiber, and feed is expected to become even more compelling if forecasts of world population doubling by 2050 are accurate. NDFU policy speaks clearly of the need for proper stewardship of our natural resources and the value in not encumbering future generations of land users, so that production agriculture can meet the needs of tomorrow's citizens.

4. Since farmers and ranchers own and operate most of the land in this state, agricultural groups, such as those listed in HB 1278, should comprise a substantial portion of the committee providing input into this process, both now and in the future. The number of agricultural members of the committee should not be reduced, nor should the number be diluted by the addition of more groups.

As a farmer and active participant in Farmers Union and soil conservation, I am concerned about the obligation we have to serve our communities and improve our natural resources. Adequate funding to carry out those responsibilities is always a challenge, so this fund could help fill a large gap. However, interested parties, even by those who refer to themselves as conservation groups, may have distinctly different objectives. That is why I believe this concept must be drafted by as many stakeholders as possible, in a completely transparent procedure, so this fund will have a chance to help fulfill the needs of our state.

Thank you for your consideration of these recommendations.



Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association Testimony on HB 1278 Senate Natural Resources Committee March 7, 2013

Chairman Lyson, members of the Senate Natural Resources Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. NDGGA is in support of HB 1278 and we support the amendments proposed by Representative Porter.

HB 1278 embodies the concept of expanding recreational and conservation opportunities in the state of North Dakota. NDGGA worked alongside stakeholder groups from across the board to present to you the legislation that you have before you today. While NDGGA believes that the legislative process will best determine the necessary funding for the Outdoor Heritage Fund, we will not support a funding level greater than what is contained in the measure that you have before you at present. That said, NDGGA believes that the legislation including Representative Porter’s proposed amendments is a good policy structure for the implementation and subsequent operation of the Outdoor Heritage Fund.

Conservation and “going green” is the latest “craze” in America. While conservation is the “in thing” for some, North Dakota farmers and ranchers have practiced conservation since statehood and beyond. While some call for conservation, while some preach conservation, ND farmers and ranchers practice conservation every day of their lives. The environment; the air we breathe, the water we drink, the land we use are staples of our agrarian society. The environment is our factory, and protecting that environment for present and future generations is the highest priority of North Dakota agriculture.

North Dakota farmers and ranchers are proud of their record of environmental stewardship. That said, we also support the concept of providing a reasonable program to further the state’s commitment for conservation and recreation opportunities.

Therefore, Chairman Lyson, members of the Senate Natural Resources Committee, NDGGA is in support of HB 1278 including Representative Porter’s amendments and urges the Committee and the Senate to concur.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

NDRPA



North Dakota Recreation & Park Association • advancing parks and recreation for quality of life in North Dakota

**Testimony of Dana Schaar, Executive Director
North Dakota Recreation & Park Association
To Senate Natural Resources Committee
In Support of HB 1278
Thursday, March 7, 2013**

Chairman Lyson and Members of the Committee, my name is Dana Schaar, and I am executive director of the North Dakota Recreation & Park Association (NDRPA). NDRPA represents more than 500 members across the state, including park board members and park district staff, and works to advance parks and recreation for an enhanced quality of life in North Dakota. We support the concept of the Outdoor Heritage Fund outlined in House Bill 1278.

North Dakota's system of public parks and recreation programs is an essential community service, encouraging healthy, active lifestyles for our citizens; playing a significant role in advancing tourism; and supporting economic growth through increased property values and lower health costs.

According to the *2013-2017 North Dakota State Comprehensive Outdoor Recreation Plan*, 93 percent of North Dakota households feel non-consumptive outdoor recreation (excluding hunting and fishing) is important. In addition, 57 percent of outdoor recreation providers report demand for facilities and activities exceeds supply. Further, the estimated unmet capital need by North Dakota's outdoor recreation providers over the next five years is more than \$102 million.

One of the purposes of the Outdoor Heritage Fund is to "conserve natural areas for recreation through the establishment and development of parks and recreation areas." With the state's strong economy and growing population, resources are necessary to protect and enhance our public parks. Providing safe, affordable, and accessible outdoor recreation opportunities for our citizens and visitors is essential to maintaining North Dakota's commitment to a high quality of life.

We support the Outdoor Heritage Fund and encourage a do pass recommendation on HB 1278. Thank you.

#10



Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
HB 1278
March 6, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of HB 1278.

The Greater North Dakota Chamber was the primary organization that formed People First of ND; this measure committee was formed to oppose the outdoor heritage constitutional amendment that was slated for last November's ballot. People First of ND was formed due to our concerns surrounding the governance structure and dollar amount of the original measure. Both of those concerns have been satisfied in HB 1278.

During this session this legislature will address the needs that come from our states great economic prosperity. This bill addresses one of those needs in managing for our future and investing in our state to enhance the opportunities for generations to come. This body will be also asked to address the great needs in infrastructure all across our state and to develop a tax relief plan that will address some of the concerns raised in another measure this interim, Measure 2. We believe HB 1278 provides and appropriate balance that addresses the concerns of our changing and growing landscape but also leaves room for this legislature to address the needs of infrastructure and tax relief.

I would also like to point out the variety of groups that worked hard on developing a program that everyone can line up and support. When business, agriculture, energy, and conservation can sit down together, it means something. No one got everything they wanted, but everyone got something in these discussions, in my humble opinion that is how good public policy is made.

Thank you for the opportunity to appear before you today in support of HB 1278, and urge a Do Pass recommendation from this committee. I would be happy to answer any questions.



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#11

HB 1278

Good morning, Chairman Lyson and members of the Senate Natural Resources Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

The Stockmen's Association has long been an advocate of conservation. Our producers make a living and ensure opportunities for the next generation of agriculturists by being good stewards of the land. We have policy supporting voluntary conservation practices that enhance our environment and our profitability, and it is in this spirit that we support the concepts outlined in HB 1278.

We were opposed to a proposed initiated measure that was on a similar vein. HB 1278 is much better than that proposal, in that it 1) includes working lands provisions to enhance farming and ranching operations; 2) assures agricultural representation on the advisory committee; 3) establishes a cap on the funding; and 4) enumerates specific prohibitions for uses of the fund.

Our support for HB 1278 is contingent that these dollars are not used for the acquisition of land or for encumbrances that are longer than a 20-year term.

In terms of the fiscal note, we'll leave the determination of the appropriate amount to you and your legislative colleagues as you sort through the state's infrastructure and other needs and weigh this project against all the important considerations in the mix.

With that, Mr. Chairman, I would stand for any questions.

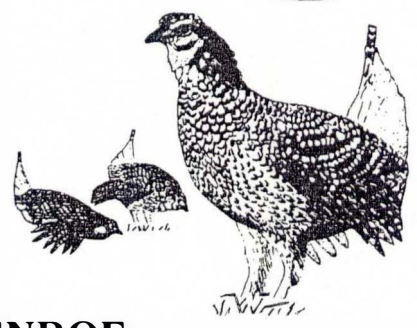
#12



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL R. McENROE
NORTH DAKOTA CHAPTER, THE WILDLIFE SOCIETY
HOUSE BILL 1278
SENATE NATURAL RESOURCES COMMITTEE
MARCH 7, 2013**

Chairman Lyson and members of Committee:

My name is Mike McEnroe, representing the North Dakota Chapter of The Wildlife Society. I am here today to speak on House Bill 1278.

The Chapter thanks Governor Dalrymple for including the idea of a conservation fund in his budget message. We also thank Chairman Lyson and Rep. Porter and other bill sponsors for their work in drafting the bill.

As introduced, amended, and passed by the House, HB 1278 has shortcomings in funding, restrictions on conservation programs, and a large, unwieldy advisory committee, comprised mostly of non-sportsmen's and non-conservation interests. The Chapter supports the concept of a landscape level conservation fund that addresses the needs of North Dakotas' sportsmen and women and outdoor enthusiasts. We believe that the proposed amendments will make HB 1278 more effective in providing benefits to the State's hunters and fishers and to landowners would participate in the private land conservation programs.

A news story from the North Dakota Game and Fish Department recently said that outdoor recreation and tourism was a \$ 1.4 billion a year industry in North Dakota. A \$ 100 million per year conservation fund would provide the habitat infrastructure for that tourism and nature-based recreation industry. The State and the Legislature are

considering a \$ 12 billion budget. \$ 100 million per year is about 1.6 percent of the budget. Such a program would support the hunting and fishing legacy of our state, support the growing tourism industry, and provide funding for conservation programs for our state's producers and landowners.

The Conservation Fund could pay for a Conservation Cover Program, flexible enough to meet the needs of North Dakota farmers and ranchers, and large enough to make a landscape level difference. Such a program could be negotiated across the kitchen table, agreed on, and when the Game and Fish Department technician or Department of Agriculture technician left the farmer's kitchen, everyone would know there was an agreement to have a 10-15-year contract on 80 or 150 acres that met the landowner and the State's needs.

Similarly, a State Conservation Fund could acquire mineral rights on certain tracts of State School lands located in "Suitable for Wilderness" areas in the Badlands. The mineral rights could be purchased, set aside and not developed, and a few, small, precious pieces of the Badlands would be maintained for future generations of sportsmen and women, and ranchers to use and enjoy. The State's School Trust Land accounts would be made whole. But this is not allowed under the current language of HB 1278.

Thank you and I will answer any questions.

#13

Mr. Chairman and Committee members:

I am here to testify in opposition to the Outdoor Heritage bill.

I got up at 2:30 am to check cows and drive down here. I got into a 2001 VW Jetta that gets 48 miles to the gallon and has 247,000 miles on it to get here. I did not get into a Suburban or Tahoe or Ford Expedition that gets 13 miles to the gallon and has a duck in the back window. I am macho without the sticker, in fact a ND Grain Grower sticker is in my window as well as a ND Soybean Grower, a Northharvest bean grower, and a ND Canola Grower card is in my wallet.

In all seriousness, when I read my hunting proclamation every year it talks about daily limits not hourly limits. That means you can hunt all day to get three pheasants, 5 ducks, 5-20 geese depending on species or if you are fishing you can fish all day to get your limit. If you are deer hunting you get three weeks to get a single deer. There is a group of hunters in this state that think you should be able to get you limit in an hour or two and if not, it has been a bad hunt. For the first time in many years I can drive to Bismarck relaxed because I did not have to be looking out both windows for a deer crossing the road except for McHenry and you have to watch out in town there.

Each of the last two years I have collected \$61,000 from participating in the farm program but in each of the last two years I have had geese eat in excess of \$32,000 of my crops so I have decided not to be in the farm program from now on so I can deal with this problem.

Now many ducks, geese, and deer, coyotes, mountain lions, and pike are enough. Ask a DU member how many ducks are enough and they don't have an answer.

When Fargo has too many deer they want to have a special hunt, when Bismarck has too many deer they want to have a special hunt, when Fargo has too many turkeys they want to have a special hunt.

Out in the country we are supposed to accept all the wildlife to an excess and be happy about it.

We now have Delta Waterfowl coming into our area and trapping all the predators in the name of duck nesting success. You know what happens when you trap all the skunks, raccoons, fox and coyotes out of an area. The mouse population goes through the roof and we are supposed to be happy about it so more ducks and geese can eat our crops.

We do not need to give more money to a Heritage fund so the hunters can have hourly limits instead of daily limits. I enjoy hunting as much as the next person but some of my most enjoyable hunts have been all day hunts with kids and grandkids. I do not think the hunters need to be in the bar by noon and if they do they are not true sportsman. I am asking you to defeat the proposed Outdoor Heritage bill because we have enough wildlife now to enough. I am sick of ducks and geese having more protection than a human.

#14

Senate Natural Resources Committee Testimony

House Bill 1278

Mark A. Zimmerman, Director

North Dakota Parks and Recreation Department

March 7, 2013

Chairman Lyson and members of the Senate Natural Resources Committee, I am Mark Zimmerman, Director of North Dakota Parks and Recreation. I appear before your committee this morning in support of House Bill 1278.

Since the establishment of Fort Abraham Lincoln State Park as the first state park in 1907 through the building of parks during the Great Depression as well as the years of development of parks on Lake Sakakawea and Devils Lake in the 1970's and 80's, the citizens of North Dakota have always supported the establishment, development and enhancement of these opportunities and facilities for the enjoyment of the great outdoors. Partnering with other state agencies such as the North Dakota Game and Fish Department, North Dakota State Forest Service, State Historical Society of North Dakota, local city and county park districts as well as several federal agencies has strengthened the Parks' Department mission in providing parks and recreation areas in every corner of this great state.

House Bill 1278 provides an opportunity to build on that outdoor heritage and legacy long supported and enjoyed by citizens and visitors alike. This legislation provides the means for many interested organizations and agencies across the broad spectrum of North Dakota to join forces in proposing, developing and implementing projects that will benefit not only our generation of outdoor enthusiasts but the generations that will come after us.

Thank you for this opportunity to provide these comments. I respectfully ask for the committee's favorable action on House Bill 1278.



(submitted late)

Senate Natural Resources Committee

Testimony on HB 1278

Terry Steinwand, Director

North Dakota Game and Fish Department

March 7, 2013

Chairman Lyson and members of the Senate Natural Resources Committee, my name is Terry Steinwand, Director of the North Dakota Game and Fish Department, and I am testifying today in support of HB 1278.

This bill, as written, would address the primary issues that have been identified by hunting and fishing groups, conservation agencies, and many others across the state and that is habitat and access. Habitat is a vehicle to create the creatures most of us enjoy pursuing and access is the means to be able to enjoy them. This bill would help accomplish both of those goals.

The North Dakota Game and Fish Department has a history of partnering with many organizations across the state to accomplish the goals of habitat and access. It's been a successful partnership and this bill would enhance the ability to partner in the future with organizations such as Ducks Unlimited, Pheasants Forever, Pheasants for the Future, North Dakota Natural Resources Trust, National Wild Turkey Federation, Mule Deer Foundation, Rocky Mountain Elk Foundation, local fish and wildlife clubs and others I've likely inadvertently omitted. We've also partnered with other state agencies such as North Dakota Parks and Recreation Department, North Dakota Forest Service, State Water Commission and Department of Health to cooperatively provide projects that meets multiple purposes for our departments.

I envision the bill providing habitat and access in collaboration with the groups mentioned and many others that will allow those that enjoy the outdoors the opportunity to do so in the future. Our great state has a history and culture based on the outdoors and this bill would be a step to preserve that culture. I respectfully ask for a DO PASS on HB 1278.

Program Development with the passing of HB 1278
North Dakota Outdoor Heritage Fund

Submitted
3-15-13
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With your support on HB 1278 the Soil Conservation Districts of North Dakota can help enhance and protect what is most vital to the people of North Dakota, our abundant natural resources. Conservation Districts see firsthand the importance of implementing a Locally Led Conservation mission on resource concerns that are specific to their county and state initiatives. The ability to work one on one with agricultural and wildlife producers out on the land allows the focus to be generated on what is important, maintaining a sustainable operational unit.

Listed below are some identifiable natural resources concerns that could be addressed with the passing of HB 1278 with the consideration of program delivery, cost share programs, or incentive based payments.

Soil Health

- ✦ Cost Share assistance for the implementation of utilizing Precision Ag. This program could be developed to help with the reduction of nutrient runoff and not over applying fertilizer. This component could be looked at a water quality initiative as well.
- ✦ Producer incentives to work with entities in planting cover crops to help improve the soil health and allowing the producer the ability to use this area for grazing.
- ✦ Develop a SCD Comprehensive Nutrient Management Program that work with producers to identify acreage within their operation to implement a very intense CNMP plan that covers all facets of Soil Quality as it relates to nutrient management. This could include soil tests, soil food web analysis, manure testing, cover crops, residue management, crop rotations, no-till seeding service, and cropland grazing systems for livestock. This would be an intense plan on a focused amount of acres that are treated as separate fields, not all inclusively. Develop an incentive base program to producers who would be willing to implement this plan with the exception that acreage could be limited to ensure funding to spread across a larger amount of producers. Incorporate a year limit to be applied to ensure the system has a chance to be implemented with success, yet allowing funds to go as far as possible.
- ✦ With the alarming rate of CRP coming out of enrollment provide a state based incentive program to compensate or piggy back payment rates along side of the CRP program to encourage those CRP acres to be left unbroken for the use of crop production.

Wildlife

- ✦ Program assistance through cost share dollars for producers who want to develop wildlife habitat by installing wildlife tree block plantings and food plots for providing year around wildlife cover and diversity. In order to provide dedicated perennial wildlife habitat, programs needs a long term management payments.

Water Quality

- ✚ Funding to be used for assessments of water quality within our local lakes, streams and dams that are being used for recreation. This will help maintain the aquatic life within those boundaries and help reduce any nutrient runoff.
- ✚ Provide a cost share opportunity for placement of trees along recreational areas to provide habitat and protect the water quality.

Rangeland Sustainability

- ✚ Rangeland Restoration Agreements – native plantings that could be used yearly under a grazing system or delayed haying. A yearly payment per acre could be developed with contract years stipulated.
- ✚ Incorporate an intensive noxious weed program to provide technical and financial assistance in the control of noxious weeds to help maintain a populated plant stand and vigor in rangeland.
- ✚ With unknown for seen drought and weather conditions producers are sometimes left with inadequate rangeland throughout the year to provide feed to their livestock. With incorporating a cost share program that would allow producers to receive cost share on cropland fencing, cover crop plantings, and tanks on cropland for aftermath grazing it would allow the producer more flexibility when working with their prescribe grazing plans and extending the length of time an animal would be confined to a certain area.

Forestry

- ✚ Improve farmstead windbreak establishments through a cost share program which could also be used to help pay for tree removal of dead, dying or invasive trees.
- ✚ Reinstate the Living Snow Fence Program through a cost share program that would allow Conservation Districts to work with producers, highway departments, and county maintenance workers on developing tree plans that would reduce snow coverage on public roads and improve public safety in these areas.
- ✚ Develop a tree promotional program that could be utilized to address more conservation cover in areas that are vulnerable to wind and soil erosion by installing field plantings.
- ✚ Provide a cost share incentive program that could address fire wise issues throughout our state. These funds could be used for effective tree plantings that can help protect critical areas either through farmstead or community plantings. Effective fire wise management also could include assistance in clearing up tree stands.

Past Programs Utilized and proven effective

- ✦ State Water bank program could be offered to producers to be reimbursed the foregone income which results from not being able to use inundated cropland acres that have been affected by flooded areas.
- ✦ Agricultural Conservation Programs (ACP) – providing cost share dollars to producers when they needed a practice or practices implemented on their land. Applications were processed on a first come first serve method. A cap of cost share dollars on the practice(s) were established allowing funding distribution to reach more USDA participates. Local SCD Boards could set priority based on county resource concerns.

These conceptual program developments could be obtained through your support of HB1278. Program dollar allocations would be looked at either by state or county rates that would be determined by the entities incorporating these practices and program years would be developed on practices that would fit the life span of the practice component or effective adaptation of the management system.

*To waste, to destroy our natural resources,
to skin and exhaust the land instead of using it so as to increase its usefulness,
will result in undermining in the days of our children the very prosperity
which we ought by right to hand down to them amplified and developed.*

~Theodore Roosevelt,

March 21, 2013

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

- Page 1, line 1, replace "chapter 54-17.8" with "a new chapter to title 15"
- Page 1, line 6, replace "Chapter 54-17.8" with "A new chapter to title 15"
- Page 1, line 8, remove "54-17.8-01."
- Page 1, line 10, replace "Commission" with "Board"
- Page 1, line 10, replace "industrial commission" with "board of university and school lands"
- Page 1, line 12, remove "54-17.8-02."
- Page 1, line 13, replace "commission" with "board"
- Page 1, line 14, replace "commission" with "board"
- Page 1, line 16, replace "commission" with "board"
- Page 1, line 18, remove "54-17.8-03."
- Page 1, line 19, replace "commission" with "board"
- Page 2, line 8, replace "commission" with "board"
- Page 2, line 18, replace "54-17.8-04. Commission" with "Board"
- Page 2, line 19, replace "commission" with "board"
- Page 2, line 21, remove "54-17.8-05."
- Page 2, line 21, replace "commission" with "board"
- Page 2, line 22, replace "commission" with "board"
- Page 3, line 1, remove "54-17.8-06."
- Page 3, line 16, replace "conservation community at large" with "nature conservancy"
- Page 3, line 24, after "the" insert "advisory"
- Page 3, line 27, after "the" insert "advisory"
- Page 4, line 3, replace "commission" with "board"
- Page 4, line 7, remove "54-17.8-07."
- Renumber accordingly

#2

13.0432.04006
Title.

Prepared by the Legislative Council staff for
Senator Triplett

March 21, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

Page 4, line 25, replace "fifteen" with "fifty"

Page 4, line 26, replace "thirty" with "one hundred"

Re-number accordingly

#3

13.0432.04007
Title.

Prepared by the Legislative Council staff for
Senator Triplett

March 21, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

Page 4, line 25, replace "fifteen" with "thirty-seven"

Page 4, line 25, after "million" insert "five hundred thousand"

Page 4, line 26, replace "thirty" with "seventy-five"

Renumber accordingly



**Clean Water, Lands & Outdoor
Heritage Coalition**

Testimony before the Senate Appropriations Committee on HB 1278
March 29, 2013

My name is Becky Jones Mahlum. I am the Communications Manager for Ducks Unlimited's Great Plains Region and am here today representing the Clean Water, Lands and Outdoor Heritage Coalition.

North Dakota is changing rapidly - huge changes are occurring right now to our landscape. Because of that, the conservation needs in the state are great and immediate. If we want to maintain our strong quality of life for the people living here today and tomorrow, North Dakota needs to act now to protect our clean water, lands and outdoor heritage. We're hearing in news stories, letters to the editor, editorials and personal contacts a lot of concern right now from North Dakotas about how these changes are threatening our natural areas like the Badlands, grasslands, fish and wildlife areas, parks and recreation areas. We need an Outdoor Heritage Fund that will match the scope of the changes happening. The Clean Water, Lands and Outdoor Heritage Coalition is asking you to please increase funding for HB 1278 to \$100 million a year.

A lot is at stake – this is about the future of North Dakota and the legacy we're going to leave for our children and future generations. Strong funding for HB 1278 could help keep protect the water quality in our lakes, rivers, streams and groundwater and improve water quality where it's lacking. A well-funded Outdoor Heritage Fund could provide real incentives for farmers and ranchers to keep grass and wetlands intact on private land that would filter out impurities as well as help prevent flooding that many North Dakotans are concerned about right now. It could provide incentives for communities to plant greenways and increase parks and recreation areas for their citizens. The fund could help develop a program to work with farmers on sustainable cropping systems.

Farmers and ranchers are looking for voluntary conservation programs that improve their operation and bottom-line. There are always more landowners wanting to sign up for these programs than money is available, in fact about half of the people in North Dakota who sign up for the Conservation Reserve Program are turned down for lack of funding. HB 1278 could provide those incentives, especially as national conservation funding is dropping.

Hunting and fishing in North Dakota is a money-maker for the state's citizens. It generates more than \$1.4 billion a year in economic activity. North Dakotans are outdoors people, as we have

one of the highest hunting and fishing participation rates in the nation. We cannot take this heritage for granted; we must invest to maintain it.

If we are going to have an Outdoor Heritage Fund, we need to do it right from the start. Habitat is disappearing so quickly, we are already late – some say too late - to stop that erosion. How much of our quality of life will we lose before we address the challenges before us?

HB 1278
3-29-13

2

Dear Chairman Holmberg and Senate Appropriations Committee Members:

I am Paul H. Myerchin of Bismarck, a sportsman that has enjoyed hunting and fishing in North Dakota for over the last 25 years. I am requesting this Committee unanimously voice its approval of funding HB 1278, the Outdoor Heritage Fund, at the \$100 million/year level.

Others today and throughout this process have explained the conservation benefits of the Outdoor Heritage Fund. These benefits

Top economic reasons to support HB 1278 at a \$100 million/year investment in our Great Outdoors:

1. Hunting & fishing is a **\$1.4 billion** economic engine in ND;
2. A \$100 million/year investment produces a **magnificent return on the investment** for healthy fish and game in ND;
3. A \$100 million/year investment insures ND's economy remains diversified;
4. Amending HB 1278 to a \$100 million/year investment is a **vote for ND's rural businesses.**

are truly important to all North Dakotans and those benefits provide for the quality of life we now enjoy and hopefully can pass on to future generations of North Dakotans. But today, I want to concentrate on the economic benefits of hunting and fishing in North Dakota. Hunting and fishing in North Dakota is a \$1.4 billion economic engine to North Dakota. (*Hunter and Angler Expenditures, Characteristics, and Economic Effects, North Dakota, 2011-12, NDSU Agribusiness and Applied Economics Report No. 706-S, January 2013*). Simply put, hunting and fishing in North Dakota is like the goose that laid the golden egg.

While the agriculture and energy sectors of North Dakota's economy are the top producers, tourism, of which hunting and angling is a part, is an important third sector of North Dakota's economy. Hunting and fishing serves a vital role in North Dakota's economy because agriculture and energy are susceptible to boom and bust cycles. In other words, a substantial investment in hunting and fishing insures North Dakota's economy remains diversified.

However, in order to keep North Dakota's hunting and fishing economic engine healthy a simple equation needs to be followed: more habitat (prairie grass and wetlands) means more wildlife and fish; more wildlife and fish mean more hunters and anglers; and more

hunters and anglers mean more money to North Dakota, especially its rural communities. However, we are losing too much habitat too fast (primarily CRP acres and native prairie), and the \$15 million per year

presently proposed in HB 1278 won't meet the habitat needs we currently have. That is why I am requesting you and your fellow legislators support increasing the funding amount for the Outdoor Heritage Fund to \$100 million per year to adequately address the conservation and economic needs of North Dakota.

The late Tony Dean, a fellow North Dakotan, would often comment in his articles in *Dakota Country* magazine or on his radio show in the early 2000s on why the Dakotas had so many out-of-state hunters and anglers flock to our states. Tony Dean wisely recognized that the reason was because the Dakotas still had enough habitat for health wildlife populations unlike other states. Additionally, Tony Dean recognized that the natural resources of the Dakotas provided those hunters and anglers something they did not have in their home states - *quality hunting or fishing experiences*. (Tony Dean article "*Ridding Ourselves of Non-Residents*").

Tony Dean's observations were confirmed in study by the NDSU Agribusiness and Applied Economics department when it studied the economic effects of CRP in North Dakota. (*Rural Economic Effects of the Conservation Reserve Program in North Dakota*, Agribusiness and Applied Economics Report No. 497, September 2002). First, the study confirmed that with more habitat on the landscape (CRP) both wildlife and hunter numbers increased. Second, the study confirms that for counties in the western and central part of the State (for Counties such as Adams, Hettinger, Logan, Kidder, Pierce and McHenry), CRP did a good job of creating new wealth from hunting activities in those counties and replacing some, but not all, of the income lost from retiring such land from agriculture. In other words, giving farmers and ranchers the opportunity to implement conservation on marginal agricultural land can create new economic wealth for rural communities that won't otherwise be captured.

This Committee has two options. It can vote to pass HB 1278 as is, a small investment in conversation and watch North Dakota's strong hunting and fishing economic engine stall in the same manner as what happened in Iowa that is described in the New York Times December 31, 2012 article entitled "*As Pheasants Disappear, Hunters in Iowa Follow*." Alternatively, it can amend HB 1278 to the \$100 million/year level and ensure the enormous return on its investment to keep hunting and fishing a strong economic engine in North Dakota healthy and vibrant for many years into the future for all North Dakotans, especially those in our rural communities.

In closing, I will leave this Committee with a quote from President Theodore Roosevelt in a speech he gave before the Colorado Livestock Association in Denver, Colorado, on August 19, 1910:

*"The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation **increased**, and not impaired, in value."*

Thank you for your consideration.

Paul H. Myerchin
8725 Spruce Creek Rd.
Bismarck ND 58503
223-8096 (h)
250-8968 (w)

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March 29, 2013
Testimony, Kelvin Hullet
President, Bismarck-Mandan Chamber

On behalf of the organizations signing this letter, we ask the Senate Appropriations Committee to place a Do Pass recommendation on engrossed House Bill 1278.

Everyone understands the landscape of North Dakota is changing. It is incumbent upon us to take action to protect and preserve our outdoor heritage. We welcome the prosperity the current thriving economy brings to our state: jobs, infrastructure, new residents and wealth creation are essential to a healthy economy.

However, the coalition supporting HB1278 shares the concerns of many in our state about the need to balance the issues of conservation, access to land and water for sportsmen and women, stewardship of our farms and ranches and preservation of our natural areas for future generations. Balancing the economic activities with recreation and conservation needs is essential to the quality of life in our state.

We believe HB1278 is a positive step forward in working together on conservation issues. This proposed law creates a balanced board. Key organizations and state agencies engaged in conservation provide oversight and input on funding appropriate projects. There are legitimate checks on the board through the North Dakota Industrial Commission and biennial reports to the legislature to ensure the funding is spent appropriately.

In addition, there are limits on how the money from this fund can be utilized. Grants cannot be utilized for lobbying or litigation; spent outside North Dakota or interfere with energy development. In addition, HB1278 guarantees the money cannot be utilized for the purchase of land and there is a 20-year limit on encumbering land. It should be up to each generation to make a decision about the best use of the lands available to them.

HB1278 provides funding of up to \$30 million each biennium. This is a sizable sum to begin a fund, especially in light of the substantial needs in education, infrastructure, flood control and property tax relief. From our coalition perspective, \$30 million is a substantial investment that can be increased over time if the program proves successful.

As we know, others asked the legislature to pass a constitutional amendment with a funding stream of \$100 million for conservation. This measure also sought to create a new administrative body and enshrine in the constitution the ability to purchase land. In our opinion, this is not a pragmatic approach that allows for legislative flexibility to this issue.

Thank you for your attention to this important issue. We ask you to place a Do Pass recommendation on engrossed HB1278. Acting on this important issue is in the best interest of the residents, conservationists, farmers, ranchers and outdoor enthusiasts in our state.



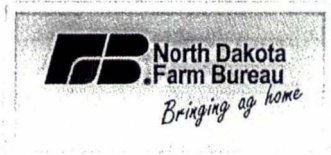
Greater North Dakota Chamber

Andy Peterson, President
Greater North Dakota Chamber



Your Future Is Our Focus

Kelvin Hullet, President
Bismarck-Mandan Chamber



Eric Aasmundstad
North Dakota Farm Bureau



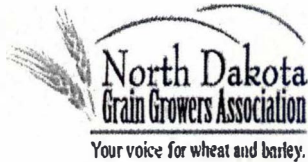
Kristi Schlosser Carlson, General Counsel
North Dakota Farmers Union



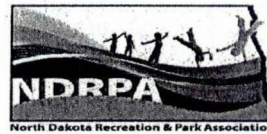
Sandi Tabor, VP Government Affairs
Lignite Energy Council



Brian Johnston, CEO
ND Association of Soil Conservation Districts



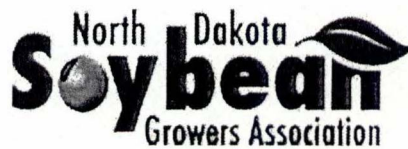
Dan Wogsland, Executive Director
North Dakota Grain Growers



Dana Schaar, Executive Director
ND Recreation & Park Association



Ron Ness, President
North Dakota Petroleum Council



Scott Rising, Legislative Director
North Dakota Soybean Growers



North Dakota Stockmen's Association
Julie Ellingson, Executive Vice President



North Dakota Association of
Rural Electric Cooperatives
Your Touchstone Energy® Cooperative

Dennis Hill, Executive Vice President
ND Association of Rural Electric Cooperatives

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Overview of HB 1278
Creation of Outdoor Heritage Fund

Background

After an initiated measure to bring a Conservation Fund to the voters was invalidated for the ballot, the parties supporting and opposing the measure came together to determine if a legislative solution was possible. This group included representatives from: Ducks Unlimited and the North Dakota Natural Resources Trust Fund (Representing the Conservation Coalition); The Bismarck-Mandan and Greater North Dakota Chambers; North Dakota Farm Bureau; North Dakota Farmers Union; The North Dakota Petroleum Council; The Lignite Energy Council; The North Dakota Stockman's Association; The North Dakota Grain Growers Association; The North Dakota Association of Soil Conservation Districts; The North Dakota Recreation and Park Association; The North Dakota Association of Rural Electric Cooperatives. Through a series of meetings over the course of the fall, this group drafted language for HB 1278 to bring forward to the 2013 Legislative session.

Funding

This bill creates an Outdoor Heritage Fund with proposed funding at \$30m per biennium. Funding will be provided by the oil production tax.

Purposes of the Fund

1. Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen.
2. Improve, maintain and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching.
3. Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands.
4. Conserve natural areas for recreation through the establishment and development of parks and recreation areas.

Funds May Not Be Used For

- Lobbying or Litigation
- Activities that would interfere with coal mining, sand, gravel or scoria extraction, oil and gas operations or other energy development.
- Acquisition of land or to encumber any land for a term longer than 20-years
- Projects outside the state of North Dakota or beyond the scope of defined activities.

Advisory Board

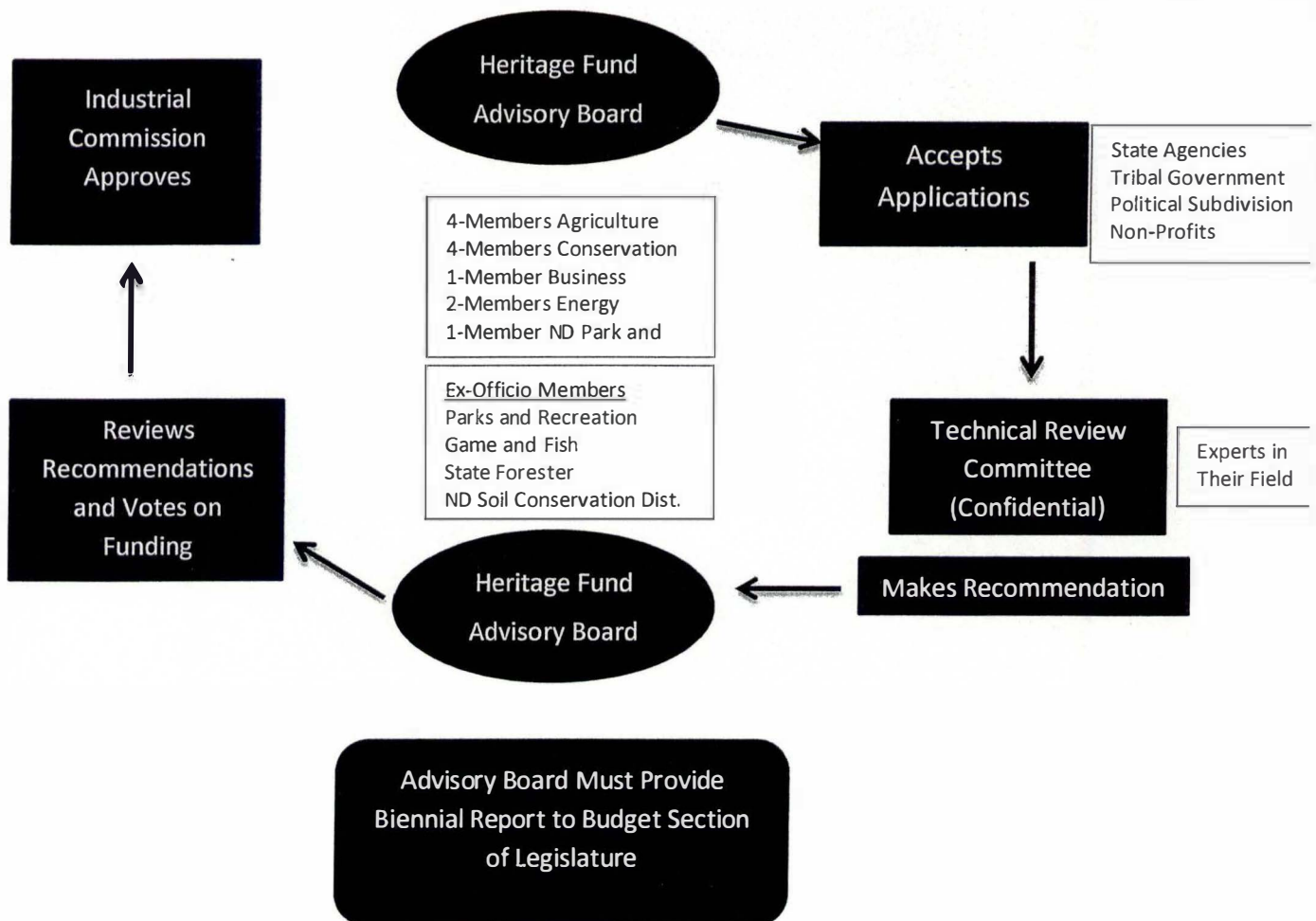
The bill creates an advisory board consisting of twelve members. The Governor shall appoint the members based upon recommendations from the various coalition groups and to create a specific composition on the board. The board consists of:

- Four members of the Agriculture Community. One from ND Farm Bureau, ND Farmers Union North Dakota Stockmen’s Association and the North Dakota grain growers association.
- Two Members of the Energy Industry. One from the Petroleum Council and One from the Lignite Energy Council.
- Four Members from the Conservation Community. One from Ducks Unlimited, the North Dakota Natural Resources Trust, Pheasants Forever and one additional representative chosen by the Governor
- One member of the Business Community from the Greater North Dakota Chamber of Commerce.
- One Member from the North Dakota Park and Recreation Association.

The Director or Deputy Director of Parks and Recreation, Game and Fish and Office of the State Forester shall serve as ex-officio, non-voting members.

Process for Applicant Funding

The Outdoor Heritage Fund can grant money to state agencies, tribal governments, political subdivisions and non-profit organizations.



Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
HB 1278
March 6, 2013

Mr. Chairman and members of the committee, My name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. Greater North Dakota Chamber also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of HB 1278.

The Greater North Dakota Chamber was the primary organization that formed People First of ND; this measure committee was formed to oppose the outdoor heritage constitutional amendment that was slated for last November's ballot. People First of ND was formed due to our concerns surrounding the governance structure and dollar amount of the original measure. Both of those concerns have been satisfied in HB 1278.

During this session this legislature will address the needs that come from our states great economic prosperity. This bill addresses one of those needs in managing for our future and investing in our state to enhance the opportunities for generations to come. This body will be also asked to address the great needs in infrastructure all across our state and to develop a tax relief plan that will address some of the concerns raised in another measure this interim, Measure 2. We believe HB 1278 provides an appropriate balance that addresses the concerns of our changing and growing landscape but also leaves room for this legislature to address the needs of infrastructure and tax relief.

I would also like to point out the variety of groups that worked hard on developing a program that everyone can line up and support. When business, agriculture, energy, and conservation can sit down together, it means something. No one got everything they wanted, but everyone got something in these discussions, in my humble opinion that is how good public policy is made.

Thank you for the opportunity to appear before you today in support of HB 1278, and urge a Do Pass recommendation from this committee. I would be happy to answer any questions.

March 26, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

Page 1, line 3, after "57-51-15" insert "and subsection 4 of section 57-51.1-07"

Page 1, line 4, after "tax" insert "and the oil extraction tax"

Page 4, line 25, replace "fifteen" with "fifty"

Page 4, line 26, replace "a" with "each"

Page 4, line 26, remove "and not in an amount exceeding thirty million dollars"

Page 4, line 27, remove "per biennium"

Page 4, after line 28, insert:

"SECTION 3. AMENDMENT. Subsection 4 of section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

4. Thirty percent must be allocated and credited to the state's general fund, except the first fifty million dollars of the amount available under this subsection in each state fiscal year must be deposited in the North Dakota outdoor heritage fund.

Renumber accordingly