

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2145

2005 SENATE APPROPRIATIONS

SB 2045

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

**Senate Appropriations Committee**

☐ Conference Committee

Hearing Date 01/05/05

Tape Number	Side A	Side B	Meter #
One	X	X	
Committee Clerk Signature <i>JR</i>			

Minutes: Chairman Holmberg opened the hearing on SB 2145.

**Lance Gaebe, policy advisor in the Office of the Governor** appeared to provide background, explanation and to support SB 2145. Written testimony was provided. (160) See attached document as appendix I. Mr.. Gaebe also recommended amendments to SB 2145, they are also attached along with appendix I. (450)

**Chairman Holmberg:** "How many of you are here in support of this bill? (members of the audience raise their hand) "How many are in opposition? (audience member raise their hand) "How many are here to offer advice?" (members of the audience chuckle and raise their hands)

**Doug Prchal, Director North Dakota Parks and Recreation Department** appeared in support of SB 2145. Written testimony as well as topographical maps were provided. (750) Mr.. Prchal asked the committee for a Do Pass on SB 2145 See attached document as appendix II.

**Sen. Mathern:** "According to the amendment, it says that you can sell the big piece, you could sell the main ranch. Was it that your intent to sell the big piece?"

**Mr.. Prchal:** "No. I believe what Mr.. Gaebe was suggesting was is the noncontiguous, the three out lying tracks are the ones we intend to sell.

**Sen. Mathern:** "Ya, I don't think the amendment would clarify that, it seems like noncontiguous basically says that what ever you chose as the first the other ones would be noncontiguous. Anyway, just a question. So your intent was to keep the big piece?"

**Mr. Prchal:** "Absolutely. I think we should have the record show that. Because there was some question that the language would allow us to dispose of the whole property. And our intent is only to digress of the three outlying tracks simply because of the management complications etc.

**Sen. Grindberg:** "Is there and appraisal on this property?"

**Mr.. Prchal:** "Yes there is. The price is less than the appraised value.

**Sen. Grindberg:** "What is the appraised value?"

**Mr. Prchal:** "The appraised value is just a bit over 4 million. The price is 3.524.

**Sen. Robinson:** (1365) "Doug you indicated that the initial app in this budget for \$400,000. What is the impact in the biennium?"

**Mr. Prchal:** (1413) "For 2007-09 its pretty close to the same number for salaries and pay raises. Revenues will be collected and those will be factored in that number."

**Chairman Holmberg:** (1513) "Is there a break down of the 3.5 million?"

**Mr. Prchal:** (1530) "Yes, Mr. Chairman. Mr.. Backman will be doing that for us.

**Chairman Holmberg:** "OK, I think that eliminated 2 questions."

**Sen. Andrist:** (1538) "Is the Parks and Recreation Department the main control and management of this?"

**Mr. Prchal:** "Yes, except hunting proclamations, etc."

**Sen. Thane:** "Are there any property taxes being paid on the property at this time?"

**Mr. Prchal:** "I do not know if I know that exact number, but I believe that the county commissioner would be able to answer that question."

**Sen. Krauter:** (1648) "Are there any federal dollars involved in this purchase?"

**Mr. Prchal:** "Yes, there are."

**Sen. Krauter:** "Of those federal dollars is there any restrictions as far as these, by using federal dollars?"

**Mr. Prchal:** "The grasslands reserve program is a grazing easement which does require cattle to remain on the property. It also does afford hunting and other recreation uses to also occur on the property and oil.

**Sen. Krauter:** "What I'm thinking is are certain acres eligible, or are all 5,000 eligible for those type of activities?"

**Mr. Prchal:** "That's a good follow up. The grasslands reserve program does afford those uses, but you are exactly right we have carved out 200 acres for development and are excluded for camping. These building cannot be built in the outlying acres."

**Sen. Krauter:** (1830) "Will ranchers be able to lease this land the same way they do on school lands? Are we setting up any different precedence for this?"

**Mr. Prchal:** "I don't believe so, that's why we will be visiting with Gary and his staff to make sure that we are consistent and we don't do something counter or different.

**Roger Rosow, Game and Fish Department** appeared before the committee in support of SB 2145 and asks the committee for a **DO PASS** on this bill. Mr. Rosow supplied the committee with written testimony. This is attached as appendix III.

**Rod Backman** spoke on behalf of **ND parks and Recreation Department**. He has been retained by ND parks to assist with the details of the acquisition of the Elkhorn Ranch (2164) Mr.. Backman also supplied the committee with written testimony, see appendix IV.

**Chairman Holmberg:** "Will someone be able to give us an appraisal of the 978 acres?"

**Mr. Backman:** (2560) "No. I can give you an estimate, \$420 easement will be on property's outlying areas." Mr.. Backman brings attention to the committee sec 1 line 11 item 3. (2639) regarding the restriction that it cannot be sold to the US government. Mr.. Backman suggested and amendment to allow the US Forest Service the opportunity to purchase this land.

Mr. Backman proceeded to address the committee regarding the Grasslands Reserve Program and its funding. see meter number 2759 for details. Mr.. Backman also asks the committee for a decision by January 15, 2005.

**Chairman Holmberg:** "Hearing will be done by January 15."

**Sen. Christman:** "Is this land that Teddy Roosevelt one owned or was is by land that he owned, also regarding the 209,000 non state entities, is there a list of those and how much they are putting in. Do we know what their rights and their responsibilities are?"

**Mr. Backman:** "I am not sure what the rights were, but the land was never deeded to Teddy Roosevelt. With regards to the second question, on that sheet (see attached appendix V) They like the idea of it being open to hunting and to preservation.

**Sen. Lindaas:** "With regards to responsibilities of the Parks and Recreation Department, is there leafy spurge on the property and if so is it the responsibility of Parks and Rec.?"

(750) "Not a lot the owners cleaned well and the Parks and Recreation Department as land managers will be responsible.

**Sen. Christman:** Can I have a list of the non-state entities.

**Mr. Backman:** "Yes."

**Sen. Bowman:** "Is there any debts against the property?"

**Mr. Backman:** "No, if so it would cleared of all debts before bought."

**Sen. Bowman:** "What about the taxes, does the state pay the county, or who actually owns this or who will pay it because it has so many different owners."

**Mr. Backman:** (3461) "It would actually be owned by state parks, when the Feds still owned it they identified a family friend of Teddy Roosevelt to put up an endowment to take care of the taxes I believe its in the range of \$1,800/ year. If the state proceed we would follow up to see about the possibility of that endowment to cover the taxes. Otherwise it would have to come out of parks."

**Sen. Thane:** "Where is I94 in respect to this land?"

**Mr. Backman:** "NW, mostly strait north form Medora, about and hour drive."

**Jim Arthaud, Vice-Chairman of the Billings County Commission** appeared in support of SB 2145. (3722) Mr.. Arthaud supplied the committee with written testimony, see attached as appendix VI.

**Sen. Andrist.:** "Are you aware if this amendment would be acceptable to the US Forest Service?"

**Mr. Arthaud:** "I am not aware, no the amendment would just be state lands. The Forest Service would not have anything to do with this."

**Sen. Mathern:** "Are there public roads on this land now, that this county maintains?"

**Mr. Arthaud:** "No, there is not." (4120)

**Sen. Krauter:** (4260) "Would this amendment limit potential buyers?"

**Mr. Arthaud:** "We would be opposed to selling to the US Forest service as they are a federal land agency." (4343) No more questions were asked of Mr.. Arthaud.

**Ron Ness, President of the North Dakota Petroleum Council** appeared in support of the SB 2145. Mr.. Ness provided the committee with written testimony, (see attached appendix VII).

**Mike McEnroe** appeared on behalf of the **North Dakota Chapter of the Wildlife Society**. He supplied the committee with written testimony, (see attached appendix VIII).

Please note that the North Dakota Chapter supports SB 2145.(4670)

No questions were asked of Mr. McEnroe.

**Mike Donahue** testified in support of SB 2145. He did not provide the committee with written testimony however. (4810)

No questions were asked of Mr.. Donahue.

**Harold Neameyer** spoke on behalf of the **Cass County Wildlife Club**. The **Cass County Wildlife Club** supports SB 2145. Mr.. Neameyer provided the committee with written testimony, (see attached appendix IX).

No questions were asked of Mr.. Neameyer.

**Wade Moser, ND Stockman's Association,** spoke against SB 2145. Mr.. Moser and the Stockman's Association would rather the land be privately owned. He did not provide the committee with written testimony. (5081)

No questions were asked of Mr.. Moser.



**Brian Kramer** spoke in opposition of SB 2145 on behalf of the **North Dakota Farm Bureau**.

Mr. Kramer provided the committee with written testimony, (see attached appendix X) (5964)

No questions were asked of Mr. Kramer.

**Don Berge, President of the Landowners association of ND (LAND)** spoke in opposition of SB 2145. (beginning of tape, side B) Mr.. Berge provided the committee with written testimony (see attached appendix XI).

No questions were asked of Mr.. Berge.

**Dennis Miller** spoke in opposition of SB 2145 and asks the committee for a **DO NOT PASS** recommendation. (320) Mr.. provided the committee with written testimony, (see attached appendix XII). No questions were asked of Mr.. Miller.

**Jan Swenson, Executive Director of the Badlands Conservation Alliance** spoke in opposition of SB 2145, Ms. Swenson states that the language is of great concern. (550) Ms. Swenson provided the committee with written testimony, se attached as XIII. No questions were asked of Ms. Swenson.

**Wade Schafer** spoke in opposition to SB 2145. (986) He provided the committee with notes on his statement. (see attached appendix XIV)

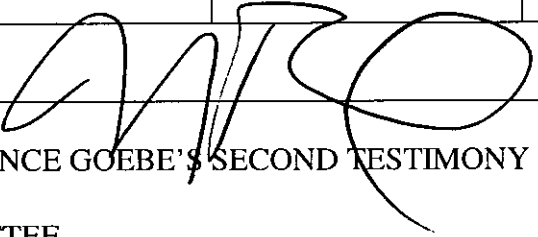
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 02/09/05

Tape Number	Side A	Side B	Meter #
Committee Clerk Signature 			

Minutes: DISCUSSION OF LANCE GOEBE'S SECOND TESTIMONY PRESENTING  
INFORMATION TO COMMITTEE

**Chairman Holmberg** called meeting to order.

**Lance Goebe, Senior Policy Advisors to Governor Hoeven** (4782) appeared before the committee to explain the Grassland Conservation Program Conservation Easement: NRCS -CPA -255. Grassland Reserve Program Conservation Easement is attached as appendix I. Mr. Goebe also provided the committee with Amendment to the USDA NRCS. These amendments are attached as appendix II . Mr. Goebe continued his testimony by going though the amendments and explaining there implications.

**Chairman Holmberg** stated that the language makes changes that are more in agreement with what many thought would be in the easement are already approved by USDA NCRS if they sign the agreement that language will be in it. Mr. Goebe concurred.

**Sen. Andrist (6008):** If the Feds were to acquire land, what would we loose, or what would we gain if the state acquired it?

**Mr. Goebe:** Feds of National Park service, restrictions would be the same as other National Park Service properties. The outcome would be more flexibility with the state.

**Sen. Andrist:** Do you know what specifically we would be denied under the Federal ownership vs. State?

**Mr. Goebe:** Like the Teddy Roosevelt State Park, no grazing, exploring or hunting.

**Sen. Krauter: (77)** 3 parcels that are not in the larger piece, if the state park wants to sell that there has got to be a down side with this easement correct?

**Mr. Goebe:** There would be a restriction, you could not put permanent structures on that property, they can be grazed, and hunted however. Declining of the appraised values, if the state wants to sell. Although I have been told by hunters that that would not be a concern. Water development, fencing would be permitted, as long as it was for the promotion of live stock.

**Sen. Bowman (420):** Could you talk about the appropriations for ownership, it was mentioned that it would be \$400,000/ biennium how do you justify it? How much appropriation are we gonna need 20yrs from now? There are many National Parks/ Grasslands in that area.

**Mr. Goebe:** Interestingly this property would make access easier to other areas more easily. This will create roads in the area. With respect of this appropriation I would ask for a appropriation for establishing signs for trails, parking lots, ect.

**Sen. Bowman:** No one in my District supports is other than the Family and the State.

**Mr. Goebe:** The state did not come into this willingly. We were drawn into it to come up with an alternative to federal owner ship

**Sen. Bowman:** How do we stop the Federal Government from buying it? Can we have a Resolution that states that they cannot buy up anymore land?

**Mr. Goebe:** We've done a resolution and set letters. There are many people throughout the That want the federal government to purchas the property, Teddy Roosevelt's buffs and others.

**Sen. Christmann (873) :** Does the potential park service accusation subject to the approval or disapproval of the governor?

**Mr. Goebe:** I am not sure, I will have an answer for the committee today however.

No further questions were asked of Mr. Goebe.

**Chairman Holmberg** closed meeting on SB 2145.

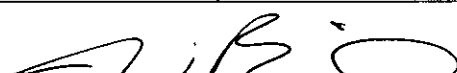
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 02/16/05

Tape Number	Side A	Side B	Meter #
1	x		0-2999
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened meeting on SB 2145.

**Chairman Holmberg** proposed amendments #.0205 and .0207.

**Motion to move the amendments was made by Senator Grindberg, followed by a second.**

**Chairman Holmberg** explained the amendments stating that, this provided that parks and rec will buy Eberts Ranch. Under section 1 of the amendments, they must have the land open to grazing, hunting, and the current provisions for the outposted land is used for. The land may not be sold to the U.S. Government under this amendment. The funds for the purchase would come from the state only, not from any other entities. The bill requires a legislative study to monitor the acquisition of the land, the study will also determine the public usefulness of the land. It is also declared to be an emergency measure.

**Senator Krauter-** On Section 2, can you explain where the \$524,720 is coming from?

**Chairman Holmberg-** That is from Park and Recreation's federal money.

**Senator Krauter-** So, when we add up the dollar amounts it comes to \$3,524,000? Has that changed?

**Chairman Holmberg-** No.

**Senator Mathern-** There is a lot of positive things in the amendments. One of the concerns in Section 2 of your amendments in terms of paying for the land. There might not be enough support, so perhaps we should use federal funds from the Grasslands easement, which was outlined in the governor's plan. This bill is an expression of stewardship, and I believe its a good thing.

**Chairman Holmberg-** According to the state constitution, in all sales of land subject to this provision, Article 9, subsection 5, all mineral rights are retained by the state, when the land is sold. If it is non-grant land, then there is an exception. Senator Nething's amendment was allowing the state to retain all mineral interests that go with the land, under the title of the state.

**Senator Andrist-** I believe there are sections of land all over western North Dakota that is unproductive and should be sold. I hope if we pass this amendment, that we will continue to look at moving unproductive land back into private hands. I wish the sale of this land could help pay back the appropriation taken from the Bank of North Dakota, it sounds like that can't be done right now.

**Chairman Holmberg-** Some of the ranchers in the west, might not like it if a private individual bought land out there just for hunting purposes. For example, a wealthy individual from out of state could bid up the price of land and the ranchers and farmers would not have a chance at purchasing it. We have to handle this issue carefully, so we don't mess up the land market in western North Dakota.

**Senator Thane-** What is land out there worth? I don't think the land is worth the type of money that the state intends to purchase it for. We should find out how much in taxes the Eberts ranch has to pay.

**Chairman Holmberg-** The taxes on the property were set at \$1800. The land is worth at least \$2.1 million dollars for the NRCS Grasslands fund to put into it for that easement. I'm not sure how many people out there want that to happen to the land.

**Senator Lindaas-** Are the mineral rights going with this deed?

**Chairman Holmberg-** The Eberts do not own all the mineral rights, they are severed in areas. The amendment says the all the mineral rights that are owned by the present owners will transfer to the state.

**Senator Bowman-** It has been a long struggle to come up with a way to appease everybody. Everyone in this Senate knows how long it will take to change part of this bill. The bill might look good at first, but the net result is this could cause a lot of problems. We need to pass the amendments and kill the bill.

**The amendments passed unanimously.**

**Senator Bowman made a Do Not Pass as Amended recommendation for the bill. Seconded by Krauter.**

Discussion:

**Senator Krauter-** We need to keep this land in the hands of private individuals that will use it for the benefits that are there. They are good stewards of the land, they want to leave it better than they got it. The price tag of \$674.42 an acre is way too high. The mineral rights is also a

concern, are we going to purchase this land and then sell off parts of it, and not let the minerals go to the surface owner is wrong in my opinion.

**Senator Andrist-** I think we need to think about the alternative, with this kind of appraisal, it will not remain in private hands. The federal government would come in and take it over. The people in the area will not appreciate that, with federal restrictions on the use of the property.

**Senator Mathern-** I hope we vote against this motion. Farmers and ranchers are good stewards of the land. There is a broader issue of stewardship, the legislature is looking at the entire state. We have parcels of land being purchased for hunting lodges and ranchettes that are changing the landscape dramatically. Can we find a piece of this land to preserve for future generations? This is the piece, since it is between the northern unit and the southern unit of Roosevelt National Park.

**Senator Bowman-** When we set a precedence to raise the bar on evaluation, and the precedence is being done by the government. Who would want to sell land to anybody else except the government, if this is what we're going to do? There is already plenty of government owned land in western ND, we don't need any more government land. The National Grasslands already allows people to use the surrounding land for recreation use. Before too long, ranchers everywhere will be trying to get the federal government to buy their land for a high price.

**Senator Andrist-** I understand Senator Bowman's concerns, since he represents that area. What would happen to the land if we defeat this bill?

**Senator Bowman-** I think we need to send a resolution to Congress on this issue. The Eberts will probably try to get the federal government to buy the property. I don't know why anyone



would want to pay such a high price for these easements. The long term precedence of this will be a bad deal of state government taking over private property.

**Senator Fischer-** What is the easement worth?

**Senator Bowman-** I'm not quite sure, its not a common practice.

**Senator Krauter-** The US Congress is in a situation of deficits right now, and I don't see them authorizing a purchase of this property in the near future.

**Senator Thane-** We need to defeat the Do Not Pass motion, the state being in a position to purchase the land, will be a lot better than the federal government.

**Senator Andrist-** Does the state have any bargaining power on this amendment, or is it a locked in price?

**Senator Holmberg-** The price is locked in.

**The Do Not Pass as Amended recommendation on the bill failed, with a vote of 6-8-1.**

**Senator Mathern moved a Do Pass as Amended recommendation on the bill. Seconded by Senator Thane. The bill as amended passed with a vote of 8-6-1. Holmberg will the carrier of the bill.**

**Chairman Holmberg closed the hearing on SB 2145.**

# FISCAL NOTE

Requested by Legislative Council  
02/18/2005

Amendment to:           Engrossed  
                                  SB 2145

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$25,000
<b>Expenditures</b>	\$0	\$0	\$82,546	\$3,524,000	\$309,296	\$110,000
<b>Appropriations</b>	\$0	\$0	\$82,546	\$3,524,000	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

**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.*

Revenues will not be collected during the 2005-2007 biennium due to interim study to determine use and development plan. Revenues anticipated during the 2007-2009 biennium are associated with grazing, camping, trail rides, horse fees which would be deposited into Fund 398, park operating fund to support park operations.

**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.*

Expenditures included in 2005-2007 proposed appropriation are twofold, one for the Elkhorn Ranch purchase, proposed at \$3,524,000 as indicated in Section 2 of Reengrossed Senate Bill 2145. The general fund amount of \$82,546 is for one park manager FTE to coordinate and provide data for the interim study committee

Expenditures indicated for 2007-2009 are figures initially included in the current governors recommended budget version. If the property is approved to be acquired, operating and salary funding will be needed if the department is expected to develop and manage the area.

Following explains 2007-2009 expenditures:

Salary expenditures of \$137,296 include one park manager throughout the biennium, one park ranger for the 2nd fiscal year, and one seasonal for twelve months.

Operating expenditures total \$62,000 for basic operational costs.

Capital expenditures include \$110,000 of federal funds and \$110,000 of general funds for primitive campground

development and upgrade of existing facilities.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Appropriations as indicated are included Section 2 of Reengrossed Senate Bill 2145 from the following funding sources:

\$522,520 from the Game & Fish Department

\$524,700 from NDPRD federal and other special funds

\$2,476,760 from the accumulated undivided profits of the Bank of North Dakota. This appropriation will be used for the acquisition purchase.

No other appropriations have been authorized. An appropriation for \$82,546 salaries would need to be added to 2005-2007 appropriation levels.

<b>Name:</b>	Dorothy Streyle	<b>Agency:</b>	ND parks & Recreation Department
<b>Phone Number:</b>	328-5360	<b>Date Prepared:</b>	02/24/2005

# FISCAL NOTE

Requested by Legislative Council  
01/03/2005

Bill/Resolution No.: SB 2145

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$10,000	\$0	\$50,000
<b>Expenditures</b>	\$0	\$1,249,000	\$309,296	\$110,000	\$459,620	\$50,000
<b>Appropriations</b>		\$724,720				

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Minimal impact. Increase in county personal property tax for residences. Increase in tourism related revenues for Billings, Golden Valley, and Stark counties.

**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.*

A majority of revenues collected through June 30, 2005 will come from grazing fees. Camping, trail rides, horse fees will most likely be collected during the 2005-2007 and continuing bienniums. Fees will be deposited into Fund 398, park operating fund to support operating budget.

**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.*

Expenditures will be noted in salaries for one park manager throughout the 05-07 biennium, one park ranger for the second fiscal year and one seasonal for twelve months. Salary expenditures for the 2007-2009 biennium include the addition of a second fiscal year for the park ranger and another seasonal for twelve months.

Operating expenditures are realized for all bienniums, the purchase during 03-05, minimal planning & development during 05-07 and basic operations by 07-09.

Capital expenditures during the 07-09 biennium would include primitive campground needs and upgrade of existing facilities. Specific budgetary figures will be determined during the development and management planning phase.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Appropriations for the 2003-2005 biennium are as follows:

\$524,280 is included in current federal/special appropriation levels.

\$724,720 is requested through this bill proposal, \$424,700 from Game & Fish and \$300,000 from a Bank of North Dakota Loan as reported in Section 3&4 of this bill (HB2145).

Appropriations for the 2005-2007 biennium are included in the executive recommendation.

No other appropriations have been authorized.

<b>Name:</b>	Dorothy Streyle	<b>Agency:</b>	ND Parks & Recreation
<b>Phone Number:</b>	328-5360	<b>Date Prepared:</b>	01/04/2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2145

Page 1, line 13, after "4." insert "Land acquired pursuant to this Act is subject to existing or future right-of-way easements acquired pursuant to chapter 24 or 32 for public transportation requirements identified by political subdivisions or the department of transportation.

5."

Renumber accordingly

Date 2-18-05  
Roll Call Vote #: 7

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2145

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass As Amended 0207

Motion Made By Bowman Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG		/	SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG		/	SENATOR MATHERN		/
SENATOR ANDRIST		/	SENATOR ROBINSON	/	
SENATOR CHRISTMANN			SEN. TALLACKSON		/
SENATOR FISCHER	/				
SENATOR KILZER		/			
SENATOR KRINGSTAD		/			
SENATOR SCHOBINGER	/				
SENATOR THANE		/			

Total (Yes) 6 No 6

Absent 1

Floor Assignment \_\_\_\_\_

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

Date

2-15-05

Roll Call Vote #:

2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2145**

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

DP as Amended, 0208 + ~~Amended~~ ~~to be~~ ~~re~~

Motion Made By

M

Seconded By

T

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER		/
VICE CHAIRMAN BOWMAN		/	SENATOR LINDAAS		/
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	/
SENATOR CHRISTMANN			SEN. TALLACKSON	/	
SENATOR FISCHER		/			
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER		/			
SENATOR THANE	/				

Total (Yes) 8 No 6Absent 1Floor Assignment Holmberg

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

~~Vote on 2nd Amendment~~  
~~from 16~~



**REPORT OF STANDING COMMITTEE**

**SB 2145: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2145 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for acquisition of certain land by the parks and recreation department; to provide an appropriation; to provide for a legislative council study; to provide for reports to the legislative council; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. ACQUISITION OF LAND AUTHORIZED.** The parks and recreation department may acquire 5,225.2 acres of land, more or less, in western North Dakota. The land acquired under this authorization is subject to the following conditions and restrictions:

1. Land acquired pursuant to this Act must remain open to grazing, hunting, the current purposes for which the land is used, and other normal recreational activities and use as otherwise provided in the general area.
2. Energy exploration, development, and extraction activities may not be limited or restricted on any land acquired under this Act.
3. Land acquired pursuant to this Act must be leased so as to maintain current grazing activities and relationships in the general area.
4. Land acquired pursuant to this Act may not be encumbered by a conservation easement, preservation easement, or similar land use restriction.
5. Land acquired pursuant to this Act may not be sold, conveyed, or transferred to the United States or any instrumentality of the United States.
6. Land acquired pursuant to this Act is subject to existing or future right-of-way easements acquired pursuant to title 24 or 32 for public transportation requirements identified by political subdivisions or the state.
7. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this Act as to form and legality.

**SECTION 2. APPROPRIATION.** There is appropriated \$522,520 from the game and fish fund, \$2,476,760 from the accumulated undivided profits of the Bank of North Dakota, and \$524,720 from federal or other special funds, or so much of the amounts as may be necessary to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in section 1 of this Act, for the period beginning with the effective date of this Act and ending June 30, 2007.

**SECTION 3. USE OF PROCEEDS OF SALE.** The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this Act, subject to the restrictions in subsection 5 of section 1 of this Act and the restriction that the department reserve any minerals the department acquires pursuant to this Act. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this Act.

**SECTION 4. NO NET GAIN OF STATE LAND - SALE OF LAND BY BOARD OF UNIVERSITY AND SCHOOL LANDS AUTHORIZED.** The acquisition authorized by this Act may not result in a net gain of state-owned land. To ensure that the acquisition authorized by this Act does not result in a net gain of state-owned land, the board of university and school lands shall sell 5,225.2 acres of land in Slope, Golden Valley, Billings, and McKenzie Counties less any parcel or parcels of land sold by the parks and recreation department under section 3 of this Act within the period beginning with the effective date of this Act and ending July 31, 2011. The board shall reserve all minerals it currently owns on any land sold pursuant to this section.

**SECTION 5. LEGISLATIVE COUNCIL STUDY - REPORTS - PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.** The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this Act. The legislative council shall monitor the acquisition and efforts of the parks and recreation department and board of university and school lands to comply with the no net gain of state land requirements of this Act. The study must include a determination of the future public usefulness and benefit of the land acquired by this Act, how much of the main parcel the state should retain, and how much and which lands the state should divest to ensure compliance with the no net gain of state land requirements of this Act. The legislative council shall recommend which parcel or parcels of land the board of university and school lands shall divest to comply with the no net gain of state land requirements of this Act. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this Act and the progress toward complying with the no net gain of state land requirements of this Act. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2145

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2145

Ebert's Ranch

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 8, 2005

Tape Number	Side A	Side B	Meter #
1	X		#30.1 - # end
1		X	#0 - # end
2	X		#0 - # end
2		X	#0 - #9.0
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the hearing on SB2145.

**SUPPORT OF BILL**

**Mr. Lance Gaebe** from the Office of the Governor, distributed and reviewed written testimony (handout #42-2, attached). This bill is seeking authorization to purchase the land known as the Ebert's Ranch. This has been a two year effort with the Governor's Office, the Parks and Recreation Department and the Game and Fish Department to put together a package to purchase this land. This was brought before the Emergency Commission in December of last year. The Emergency Commission determined that this bill needed to be drafted and brought before this legislative session. Mr. Gaebe continued to describe the ranch and its history as well as the specifics of this bill, including planned funding, through his written testimony (handout #42-2, attached). Mr. Gaebe explained the changes made by the Senate in Sections 4 and 5 by

explaining the No Net Gain policy, where state school lands and portions of this ranch, will be sold throughout the state to make up for the land purchased through this bill so the state will, in the end, have no net gain of state owned land through this purchase.

**Rep. Ken Svedjan, Chairman** asked about the no net gain policy and asked if only school lands in those 4 counties listed would be sold. A further question asked if the Senate amended the bill this way and what the logic was behind this decision.

**Mr. Gaebe** answered that the way the bill was drafted, school lands in Slope, Golden Valley, Billings, and McKenzie Counties would be liquidated by 2011. The original version did not include this. The Senate amended this entire section into the bill and the logic for naming those 4 counties was that they were in the same area as the national grasslands. Our preference would be to not restrict this to these four counties but we could sell lands in any part of the state in order to accomplish the No Net Gain policy.

**Rep. Mike Timm, Vice Chairman** asked if the Senate was more interested in the no net gain or was this an attempt to recoup the costs of this purchase.

**Mr. Gaebe** answered that the reasoning included both. There are three sections of land in this purchase that are not contiguous with the rest of the ranch that could be sold to help recoup the cost of the overall purchase as well as school lands that could be sold. All of this would be done to satisfy the no net gain policy as well. The value of the land is \$600 per acre as a contiguous ranch.

**Rep. Mike Timm, Vice Chairman** asked if the federal government would purchase this land if the state did not

**Mr. Gaebe** answered that yes, the federal government was interested in purchasing this land and this is why the state has entered into this discussion.

**Rep. Keith Kempenich** asked if the outlined area in the picture was the full 5200 acres. (meter Tape #1, side A, #49.0)

**Mr. Gaebe** answered yes and described the areas on the map.

**Rep. Keith Kempenich** asked if, theoretically, they would then sell section 36 because it is school land

**Mr. Gaebe** answered that a separate study would be done to determine what land would be sold. The idea is that we would purchase the approximately 5200 acres, retain the approximately 4200 acres of the contiguous ranch, sell off the outlying approximately 1000 acres and maybe even some of the contiguous ranch lands that were not deemed to have a benefit for the overall park preserve. The concept would be that legislative council would review this in interim and make those decisions.

**Rep. Francis J. Wald** asked about sections 1 and 3 of the bill regarding the grazing permits

**Mr. Gaebe** answered that there is a grazing permit associated with this property of roughly 18,000 acres in the southwest of this property. The state will continue to lease. The intent of the legislation is that the grazing permits will stay with the land. The Forest Service may not agree that the state has the authority to sublease out this permit, and that is a decision yet to be made. Parks and Recreation would pay taxes of approximately \$1800 to Billings County if the state would purchase this land. Parks and Recreation is also required to pay property taxes on any structures or residencies within the preserve at the same rate that they are assessed for the near city.

**Rep. Francis J. Wald** asked about section three and the mineral rights.

**Mr. Gaebe** answered that the state is not acquiring minerals. The family selling the land owns roughly 20% of the minerals and they plan to retain those rights. The rest would be owned by various entities.

**Rep. David Monson** asked why this land is worth \$600 per acre

**Mr. Gaebe** answered that 2 different appraisers indicate that badlands property with access to the river appreciate so much per month.

**Rep. Ron Carlisle** asked if there would be any restrictions on the land if the state were to buy it. Could the land be sold again?

**Mr. Gaebe** answered that this is how the bill is drafted. We all have an agreement in principal thus far.

**Rep. Ron Carlisle** asked if the sellers might put any covenant on this purchase

**Mr. Gaebe** answered that it was conceivable

**Rep. Ron Carlisle** commented about his concern that the legislature may approve this now and find out later that the purchase had restrictions on it that the legislature was not aware of when they vote to approve the purchase.

**Mr. Gaebe** pointed out that section 1 of the bill states that the sellers could not add any covenants to the purchase of the land.

**Rep. Mike Timm, Vice Chairman** asked if the state would have any say in the exploration of oil on this land if they have none of the mineral rights. The oil companies would be purchasing their leases from the folks who own the rights and not the state. (meter Tape #1, side B, #3.5)

**Mr. Gaebe** answered that this was correct since the state would be the surface owner only.

**Rep. Mike Timm, Vice Chairman** asked how the mineral rights on the school lands would be handled if the state were to sell those, since now the state owns the mineral rights on the school lands.

**Mr. Gaebe** answered that the minerals must be retained by the state.

**Rep. Eliot Glassheim** asked if the federal government can preempt the state or if the state doesn't buy this could the federal government force the purchase of this land.

**Mr. Gaebe** answered that the federal government could not really force the issue since they needed approval and appropriation from Congress to purchase the land.

**Rep. Eliot Glassheim** asked if the sellers could still choose to sell to the federal government.

**Mr. Gaebe** answered yes, and in fact they have been in conversations with the federal government for the last four years and it was just this last summer that they agreed to accept a state offer on the land.

**Mr. Gaebe** continued to explain that the original bill would authorized the acquisition of the land without any general fund appropriations. It would have utilized a USDA and Natural Resource Conservation Service Grasslands Easement with a protection easement that would have been a non development or cultivation or structures easement. This would have generated over \$2.1 million dollars and there would have been partnerships with conservation organizations willing to invest \$200,000 to help with this. There were some concerns about the restrictions of those easements and thus our ability to sell parts of the property, so the Senate came up with the concept of forgoing the easement and including the general fund appropriation. I have copies of the Grasslands Easement agreement that I could go over with you if you are interested.



**Rep. Ken Svedjan, Chairman** asked about the \$2.1 million federal dollars that were available in the original bill.

**Mr. Gaebe** answered that these funds are still available and that they are working with the USDA on amendments to the easement document to ensure that oil and gas, minerals and the like would be accessible and that the eminent domain effort that the county put in to identify the road route would show in the easement documents. The concern in the Senate was that there would be too many restrictions on the uses of the parcels we may want to sell and thus make it harder to sell the land.

**Rep. Mike Timm, Vice Chairman** asked why the sellers have not already sold to the federal government if they have been in conversation with them for the last 4 years.

**Mr. Gaebe** answered that the federal government can only offer the appraised value of the land, and there has been a great deal of local concern out the sale of this land to the federal government. The state purchase price is currently less than the appraised value on this land.

**Rep. Jeff Delzer** commented that he saw nothing in this sale about the exemption from selling school lands and asked if that meant that they would have to come back before the legislature seeking these exemptions.

**Mr. Gaebe** answered that his understanding was that the interim council would make recommendations to the next legislative session as to which parcels should be sold and they would make the decisions then. Any restrictions concerning the sale of these lands would have to be addressed then.

**Rep. Jeff Delzer** asked how parks and recreation land could be sold without the money going into the common school trust fund. It is my understanding that this is the requirement of all sales of state owned lands.

**Mr. Gaebe** answered that the park and recreation land would be purchased with Game and Fish dollars and the Bank of North Dakota dollars and there would be no involvement in school lands. We would have to check into the regulations on this.

**Rep. Jeff Delzer** asked if there was a noxious weed study done on this land

**Mr. Gaebe** answered that there were no specific studies done, but representatives of Natural Resources and Parks and Recreation have spent a great deal of time on the land and have reported that the land is in really good shape. There is a small patch that does have leafy spurge, but this is controllable with very little expense.

**Rep. Ron Carlisle** asked if the easement that was taken out of the bill was a perpetual easement.

**Mr. Gaebe** answered that this is correct.

**Rep. James Kerzman** asked and what the appraised value of the land that may be sold is and how close is this land to the existing park

**Mr. Gaebe** answered that appraisers have said that we can expect to get our investment back because these would be smaller parcels of land that people would more easily be able to afford to buy, but it would depend on access to the property and the roads and the like. Some of the outlying lands do not have paved roads to them so that may have some impact on the sale price. There has been no official appraisals done yet.

**Rep. James Kerzman** asked what would happen if there were no buyers for the land priced at \$600 per acre.

**Mr. Gaebe** answered that the selling of land is dictated in statute as an auction on the court house steps. It is unclear whether there would be a minimal amount stated or not, but there would be an assessment done prior to the sale by legislative council, Parks and Recreation and the Governor's Office to determine the amount needed to recover the costs. The school lands have not been identified or appraised. The lands are approximately an hour's drive from Medora on a winding road. The north entrance to the south unit is approximately 30 minutes. The best access is from Highway 85.

**Rep. Clark Williams** asked if it were probable that the state would buy this land at \$600 per acre and then sell the other lands at \$100 per acre. (meter Tape #1, side B, #13.7)

**Mr. Gaebe** answered that it was unknown but there are stories of smaller parcels going for as high as \$1500 an acre because people want to have a piece of the badlands.

**Mr. Doug Prchal**, Director of Parks and Recreation, distributed and reviewed written testimony (handout #42-3, attached). Mr. Prchal mentioned that the intent was to maintain the current use of this land and to set this aside for public use. There are a number of amenities that lend themselves to unique opportunities for public use of this land and outdoor recreational uses. There is a much greater flexibility in the use of this land if it were owned by the state as opposed to the regulations of the National Parks Service. You cannot hunt or drill for oil in National Parks so the intent to maintain existing uses would be better suited by state ownership. Mr. Prchal described the land around the Elkhorn Ranch and described what types of uses could be developed in these places. This land has been critically considered by the Parks and Recreation and has been determined to be of great benefit to the people of North Dakota.

**Rep. Mike Timm, Vice Chairman** asked what the ranch operations center marked on the map was used for.

**Mr. Prchal** answered that this is where the ranch headquarters are located and where the present owners live. Mr. Prchal answered the question concerning noxious weeds by saying that there was no real concern with this since what little there is on the land could be dealt with easily.

**Rep. Francis J. Wald** asked how the backpackers and the primitive land users were going to get along with the oil developers.

**Mr. Prchal** answered that areas of land with oil wells would be taken out of the primitive land use and be used for other activities. Oil wells would be sited on the maps.

**Rep. Francis J. Wald** commented that oil wells have holding tanks that would require daily truck traffic and asked how this need would blend with the primitive land use requirements.

**Mr. Prchal** answered that there would be daily traffic but it would not be too disruptive on the land. Service roads that these trucks would use would be on the northern and eastern sections of the land so it would be easy to segregate this land.

**Rep. Francis J. Wald** commented that he wished to be reassured that preference would be given to the people who were already on this land.

**Mr. Prchal** answered that this is a challenge but the concept of multiple use can be obtained and we'll have to manage it this way.

**Rep. Bob Skarphol** asked what this land was that is marked on the map.

**Mr. Prchal** answered that it was the Federanco Ranch that was recently sold to a private rancher.

**Mr. Prchal** commented that there were many state agencies working collaboratively to come up with a plan for this land. We're hoping to create a model for multi-use activities going on simultaneously while maintaining compatibility.

**Rep. Bob Skarphol** asked when we obtained the State Historical land on the west side of the proposed purchase.

**Mr. Prchal** answered that it was purchased in the late 1970's as a buffer on either side of the National Park Service Elkhorn Ranch. The purchase price is unknown but we will bring this information to the subcommittee.

**Rep. Jeff Delzer** commented that half of the viewshed is outside of the marked boundaries and asked if this is land that will be purchased or if it is private ownership or what is it.

**Mr. Prchal** answered that this is under private ownership and it is a continuation in what was done with the National Park Service to preserve the viewshed.

**Mr. Rod Backman** distributed and reviewed written testimony (handout #42-4, attached). Mr. Backman focused on the dollar amounts are listed on page three of testimony. (meter Tape #1, side B, #30.5)

**Rep. Mike Timm, Vice Chairman** asked if the "L" land on the map was also a part of the ranch.

**Mr. Backman** answered that the "L" is part of the ranch and that there were three outlying pieces of land being purchased that are not contiguous with the main body of the ranch. These make up approximately 1000 acres and are under consideration to be sold.

**Mr. Prchal** explains that these portions of land were displayed in the pictures of his written testimony (handout #42-3, attached) and commented that it would be easiest to manage the contiguous ranch and sell off the outlying areas.

**Rep. Eliot Glassheim** asked if the NRCS easement precluded any oil or grazing permits

**Mr. Backman** answered that the easement was designed to protect the grazing operation for the ranches as it stops development of homes and other buildings built on these lands. This is set up to retain grazing, it allows for hunting and it allows for oil development. The Senate wanted more assurance that the oil development would be allowed so language was put in that states that mineral holders would have rights to access this property.

**Rep. Jeff Delzer** asked if the easement was just on the 42,000 acres or if it was on all of the outlying land as well.

**Mr. Backman** answered that originally the easement was on all the land but the sellers have indicated that they would consider dropping the easement on the outlying property. An issue of having the easement on the outlying acres is what is the value of the land if it restricted in its use, but the original plan was that the easement would be on all the land except where the cap sites would be.

**Rep. Jeff Delzer** asked if the easement being dropped on the outlying acres mean an effect on the federal dollars.

**Mr. Backman** answered that yes it would but it balances itself out because if you get the federal dollars through the easement, you could afford to sell the land at a lesser amount, while if you dropped the easement on these lands, you would lose the federal dollars but would then be able to sell the land for more money.

**Rep. Jeff Delzer** asked if this was a perpetual easement.

**Mr. Backman** answered yes, this was correct.

**Rep. Earl Rennerfeldt** asked if the grazing would be kept at the current level or if it would be cut back at all.

**Mr. Backman** answered that there would not be much of a reduction, if any.

**Rep. Bob Skarphol** asked if it is a logical assumption that since the bill states that there should be no net gain of state land, they are also not anticipating making enough money back on the sold property to cover the cost of the purchase.

**Mr. Backman** answered that the value of the land to be sold is unknown as it has yet to be determined what land they would be selling so we are unable to know if the selling price would cover the cost of the purchase.

**Rep. David Monson** asked who retains the mineral rights on the land.

**Rep. Ken Svedjan, Chairman** answered that 20% of the rights belong to the sellers and the other 80% is owned by a various group of companies around the country.

**Mr. Roger Rostvet** from ND Game and Fish Department distributed and read written testimony (handout #42-5, attached). There were no questions. (meter Tape #1, side B, #42.5)

**Mr. Jim Arthaud**, a Billings County Commissioner, stated that he was in support of this bill, but not in support of part of it. He is opposed to the expansion of federal acquisition lands and said that he would prefer that the state purchase the land. His first preference would be for this land to go back to private ranching, but that the state ownership was preferable to federal ownership. Mr. Arthaud also commented that he was very unhappy with section 4 of the bill regarding the sale of state school lands for the no net gain policy. There are several federal

grazing allotments within these school lands and at \$600 per acre, the normal rancher would not be able to purchase this land themselves so private ranching is at risk of losing an extra 1000 acres of land. We are also uncomfortable with the Grasslands Conservation Easement Agreement. Billings County lives on three things: Oil, Grazing and Tourism and this easement agreement would restrict both oil development and tourism, so we are opposed to any plan that uses the easement agreement. Mr. Arthaud also commented in regards to the grazing permits issue, that there is a state law that says that grazing permits cannot be owned by state or federal land agency. The permit reverts back to the Grazing Association and is parceled out according to their bylaws.

**Rep. Pam Gulleon** asked if the Grazing Association has taken a stand on this purchase

**Mr. Arthaud** answered that the Association wants to let the land owners do what they want. The don't want to see another ranch being disposed of out there but they don't want to be involved in the process.

**Rep. Pam Gulleon** asked if this land was offered to the private sector first.

**Mr. Arthaud** answered that if this was offered in the private sector, he was not aware of it, but that he was not sure if it ever was.

**Rep. Francis J. Wald** asked if section 4 of the bill would be acceptable if it were restructured.

**Mr. Arthaud** answered that it would be better if it were removed altogether.

**Rep. Francis J. Wald** commented that he would suggest that the committee try to find a workable solution to section 4 that would be acceptable to all parties. (meter Tape #2, side A, #0.9)

**Mr. Arthaud** answered that they would welcome this conversation.



**Rep. Mike Timm, Vice Chairman** asked if the federal government approached the Eberts or if the Eberts approached the federal government for the sale of this land

**Mr. Arthaud** answered that he was unsure but he thought it was a kind of a mutual thing but to get the real answer you would have to speak with the Eberts.

**Rep. Eliot Glassheim** asked about the apparent confusion over whether the federal easement would restrict oil development and grazing. Mr. Back says it would not effect these and others have said that it would restrict these uses of the land.

**Mr. Arthaud** answered that federal land agencies cannot be trusted to do what they intend and it is always a struggle when we have worked with a federal land agency. The Governor's Office has gone to great lengths to negotiate the terms of the easement to ease our concerns but in the end it is still easier to drive to Bismarck and talk to the state land agencies than it is to go to Washington and talk to the federal land agencies when we have a concern.

**Rep. Ron Carlisle** asked who supported section 4 in the bill that helped to get it passed.

**Mr. Arthaud** answered that he would assume that it was the Farm Bureau, the Farmer's Union, ND Associations that had the same concerns about losing more land to public ownership.

**Rep. Ron Carlisle** asked if the bill was acceptable if we took out section 4.

**Mr. Arthaud** answered that Billings County would be happiest if the land went to private ownership, but if it has to be public ownership, we would be most happy with it being state owned. And Billings County would be happy with this bill if section 4 were removed.

**Rep. James Kerzman** asked what the effect would be on the value of the surrounding properties if this land sells for \$600 an acre. What will it do to the tax bases of these lands? (meter Tape #2, side A, #3.8)

**Mr. Arthaud** answered that it shouldn't effect the tax base, but it is a concern that we might have absentee landlords happening down the lime and that would effect our county.

**Mr. Ron Ness** from the ND Petroleum Council distributed and reviewed written testimony (handout #42-6, attached). We are in support of the bill as is was amended as it clarifies how the easement would be managed. If the state of North Dakota wants to buy this land then they should buy it and not allow the federal government to hold the strings. Mr. Ness discussed the two major pipelines that run through this land and how they were originally built to go around the Federal lands. One of the pipelines is the major trunk line that feeds the Mandan refinery and the other is a gas pipeline that carries gas out through the Grasslands. Mr. Ness spoke in support of multiple use lands and said it does work. There were no questions.

**Mr. Eric Aasmundstad** representing the North Dakota Farm Bureau testified that water dealings with the Federal Government were difficult. He asked that the state not enter into any easement agreements with the federal government on this land. He also stated that they too wished for this land to stay in private ownership in agriculture. Agreed with the No Net Gain policy and would like to work with the ranchers who would like to see adjustments to section 4 in this bill.

**Rep. Pam Gulleeson** asked what the current levy is on the 5200

**Mr. Aasmundstad** said he could get that information to the committee

**Rep. Ken Svedjan, Chairman** stated that \$1800 is the actual in taxes on this land.

**Mr.. Curly Haugland** spoke on behalf of the Land Owners Association. He stated that this bill would not change the trend that is already taking place in this area. The language of preservation of grazing activity in this bill is important. Without the use of the corresponding 15,000 acres of federal lands in this area, this unit is not an economic unit for animal production or grazing

purposes. In order to have a federal grazing permit you have to have control of base property.

There is some dispute whether state ownership would relinquish this control of the base property but Mr. Haugland stated that this would not happen. If the state leases this land to a bonafied rancher then the rancher would become the permittee in the grasslands and the rancher would be entitled to the permit to graze in the federal lands around it, even if the state owns the land. The state owned school lands around the property becomes part of the base property of the ranch that establishes the comensurability that is required to entitle a grazer to a portion of the federal grazing lands. Mr. Haugland says that he knows this to be true because he is a permittee in the McKenzie County Grazing Association. Mr. Haugland continued by stating that the No Net Gain policy is worth preserving. The state really needs only 500 acres of this land to protect and preserve the viewshed and the other public purposes of this area. The rest should be sold off into private ranching.

**Rep. Jeff Delzer** asked if there was any ranch where the state land they lease is their only base property.

**Mr. Haugland** answered that he was unsure.

**Rep. Ron Carlisle** asked if section 4 regarding the No Net Gain policy should stay in the bill

**Mr. Haugland** answered that without section 4 the Lands support of this bill evaporates. We are in adamant support of the No Net Gain concept of state lands.

**Rep. Bob Skarphol** asked if the lands was in support of this legislation in its current form.

**Mr. Haugland** answered yes.

**Mr. Gordon Bishoff** from Jamestown spoke for himself and stated that we need to be careful not to agree to any further easements. This is a disaster for the private property owners because this gives control to the federal government. (meter Tape #2, side A, #14.1)

**OPPOSITION TO BILL**

**Mr. Wade Moser** from the North Dakota Stockman's Association stated that they oppose all federal, state, or any nonprofit tax exempt organizations ownership of agricultural lands except those needed for absolutely essential purposes. This land does not qualify for either state or federal ownership for essential purposes. The No Net Gain policy is good in concept but in this case it is flawed because we would see a net loss of land for agriculture if the state began selling off its lands, because the ranchers will not be the ones to purchase these lands. Mr. Moser spoke to the "myths" about this particular land. President Roosevelt never owned this ranch. Do we need to buy this ranch to "preserve" it? No. Private individuals have not had the opportunity to bid on this ranch. The threat of federal ownership is not real here today. The appraisal is twice as much as what ranches are selling for in the area. We have not failed to recognize Teddy Roosevelt in this state. There is also a concern about the easement because there are no guarantees in the agreement. Mr. Moser has a copy of the easement agreement with the federal government if anyone would like to see it. 471 ranchers have applied for the Federal Grasslands Reserve Program Fund and all of the funds get on a ranking sheet. This ranch did not rank high enough to receive this funding.

**Rep. Mike Timm, Vice Chairman** asked if it wasn't fair that the ranchers had the right to get whatever they could for their land

**Mr. Moser** stated that he agreed but the federal and state governments should not offer such inflated prices and asked why the appraisals were so disproportional to the other appraisals done on lands around it.

**Rep. Tom Brusegaard** asked if section 4 would help or hurt their association

**Mr. Moser** answered that he did not like the bill either way.

**Ms Cindie Fugere** is a rancher/farmer from Stark County and spoke on behalf of the Little Missouri Grazing Association and her family in opposition to the bill. Ms Fugere distributed and reviewed written testimony (handout #42-11, attached) and offered an amendment to remove the 4 counties named in the bill regarding the No Net Gain policy.

**Rep. Mike Timm, Vice Chairman** asked if Ms Fugere would purchase the lands that she operates if given the opportunity.

**Ms Fugere** answered that she would be unable to afford to purchase the land she operates. Ms Fugere mentioned that there was no language regarding the preservation of this land in the bill. If she were sure this land would be preserved as it is she would not oppose it.

**Rep. Mike Timm, Vice Chairman** asked if such language should be put into the bill

**Ms Fugere** answered that this was her issue and that it would make her happier, but it is not the consensus of her neighbors.

**Rep. Ole Aarsvold** asked if section 4 were removed would the bill be more palatable.

**Ms Fugere** answered no, she could not support the bill because there is still work needing to be done on this issue.

**Mr. Robert Hanson** a leasee of school lands in Slope County distributed and read written testimony (handout #42-12, attached) opposing this bill because of the sale of state school lands.

**Rep. Bob Skarphol** asked if the assembly added a classification of land for tax purposes that was referred to as recreational and was taxed on the purchase price versus the current formula, would it make the bill acceptable. (meter Tape #2, side A, #35.3)

**Mr. Hanson** answered that he was unaware of the tax basis and all these things, but if these tracts of land were sold it would disrupt the lives of the whole community. Whatever happens with the Eberts ranch would effect those folks locally, but if you start selling lands in the southwest part of the state this would have a reverberation that wouldn't quit. It would have a huge effect on a lot of people.

**Rep. Jeff Delzer** asked if the state leases to non agriculture

**Mr. Hanson** answered that he did not know for sure but that he was personally unaware of any. There would be no reason for it.

**Mr. Mike Donahue** representing the North Dakota Wildlife Federation opposes section 4 of bill regarding the No Net Gain policy. Other bills earlier in the session regarding No Net Gain were defeated.

**Rep. Mike Timm, Vice Chairman** asked Mr. Donahue to respond to the point that there was no language in the bill regarding the preservation of the land.

**Mr. Mike Donahue** answered that she had a good point.

**Mr. Ray Klauss** from the Grazing Association in Golden Valley County opposes the sale of the school lands. Breaking up the badlands would be disastrous and the badlands would not exist for long. State should get this instead of the federal government but does the federal government really want this?

**Mr. Mike McEnroe** from the North Dakota chapter of the Wildlife Society distributed and read written testimony in opposition of the bill (handout #42-7, attached). (meter Tape #2, side A, #42.7).

**Ms Jan Swenson** from the Badlands Conservation Alliance distributed and read written testimony in opposition to the unrestricted energy development being allowed in this bill (handout #42.8, attached).

**Rep. Eliot Glassheim** asked if Ms Swenson could envision this bill if restrictions were put in the bill regarding the restricted energy development.

**Ms Swenson** answered that she would love this to be a national park as pure as could be, but it won't be.

**Mr. Harold Neameyer** representing the Cass County Wildlife Club distributed written testimony opposing section 4 of the bill. (handout #42-9, attached)

**Mr. Wade Schaeffer** distributed written testimony (handout #42-9, attached) and spoke in support of public ownership of the land but has a big problem with section 1 concerning energy development, with the conservation easement, and putting a road through the preserve. Also has a big problem with sections 3 and 4.

**Rep. Eliot Glassheim** asked if oil activity could happen alongside activities from Parks and Recreation.

**Mr. Schaeffer** answered that he thought they could but it would take planning and use language in the bill that would restrict the oil development. (meter Tape #2, side B, #7.6)

**Rep. Mike Timm, Vice Chairman** asked about grazing rights and the state's obligation to the federal government

**Mr. Schaeffer** answered that his understanding was that once the state purchased the land, the grazing privileges would be severed and the leases would revert back to the grazing associations to lease these lands to other ranchers.

**Rep. Mike Timm, Vice Chairman** asked how long the federal government would maintain the control of the leases.

**Mr. Schaeffer** answered that on the federal lands they would control these rights as long as they owned the lands.

**Mr. Gary Preszler's** written testimony (handout #42-10, attached) to clarify issues of constitutionality of sections 4 and 5 of SB2145 was accepted into the record. Mr. Preszler is from of the North Dakota Lands Department. There was no spoken testimony.

**Rep. Ken Svedjan, Chairman** closed the hearing on SB2145 and said he would assign this bill to a sub committee to discuss these issues.




2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2145

House Government Performance Division

☐ Conference Committee

Hearing Date March 24, 2005

Tape Number	Side A	Side B	Meter #
2	X		2340-End
		X	1-4230
Committee Clerk Signature 			

Minutes: **Chair Carlson** opened the hearing on SB 2145, relating to provide for acquisition of certain land by the parks and recreation department.

**Lance Goabe, Office of the Governor, Policy Advisor:** Overview of bill. (SEE SB 2145)

**Chair Carlson:** Let's go back to the restrictions on the use. First of all, it says that it must remain open to grazing, hunting, and the current purposes for which the land is used. The only restrictions would be the ones in this bill, correct?

**Lance:** There are easements of there some pipelines across the property, and there are 5 production wells, and I think 2 disposal wells. So, there are easements, but not land use restrictions, but there are access easements.

**Chair Carlson:** Then it says energy exploration and development and extraction activities may not be limited or restricted on the land required under this act. So, no matter who bought it, that would go with the land and written in the deed?

**Lance:** That particular phrase was in the original version of the bill, because there was consideration of a conservation easement. That was put in place so we wouldn't limit oil expiration or extraction in any way, but I don't think it would carry over with anybody else.

**Chair Carlson:** Say the state decides to sell half of this, could that new owner restrict energy exploration on that land?

**Lance:** No.

**Rep. Glassheim:** In a normal conveyance, could there be any limit on the exact location of it?

**Mr. Ness:** There are state guidelines and policies that prohibit 300 ft from any occupied building.

**Chair Carlson:** Then the land required by this act must be leased, so as to maintain current grazing activities and relationships in the general area.

**Lance:** The effort there that the Senate incorporated that particular phrase, is that this particular ranch, the 5200 acres is associated with a 18,000 acre grazing allotment of Forest Service lands.

**Curly Hougland:** I disagree with that interpretation. The state can own this property just like it does with state school land in the area. As long as the property is leased to a private operator, the less he becomes the permanent deed with the Grazing Association, because the lease controls the use of the base property.

**Chair Carlson:** So, if it is leased to an active operator or private operator, then you believe that the 18,000 acre allotment of Forest Service land would go with it?

**Curly:** Yes. The Forest Service's arrangement with the Grazing Association consists of a master lease. The entire geography within the Grazing Association is under the control of the

Grazing Association by contract with the Forest Service. I disagree with that, knowing the Forest Service can control a specific part of that whole allotment.

**Chair Carlson:** Is that the bridge?

**Lance:** Those two titles 24 and 32 were with respect to public rights of way, and one of them is referring to the condemnation action and the other one is quick take action. The county talked about a low water crossing, a low bridge.

**Chair Carlson:** Is there an actual law in the books that says there is no net gain?

**Lance:** No.

**Rep. Skarphol:** In section 3, what about if they make money on the deal, who gets the money?

**Lance:** It would go in the same ratio.

**Lance:** From our perspective, the concept in the bill is good. The only thing that raises a lot of concern was that section 4. We have no problem with the no net gain, but the limiting it to those 4 counties is probably what's causing us as much problem as anything. If we have a no net gain, perhaps it should be something to the effect of just state lands in general, or other school lands. Other properties could be considered for sale by that interim committee, and not just limited to those 4 counties.

**Rep. Glassheim:** Do you know how much public land there is in ND?

**Lance:** I know that we have about 1.2 million acres of US Forest Service land.

**Chair Carlson:** So, this is a very small percentage that would need to be liquidated, if we thought that was a good idea. Do you want to sell any, do we need to no net gain? If we do have it, do we need to sell it in those 4 targeted counties?

**Lance:** We're OK with the no net gain perspective. We think the concept makes good sense, but the property that we're looking at is unique enough that we think every piece has value for recreation, hunting, or canoe access for the lake.

**Rep. Glassheim:** If we retain oil rights, grazing rights, ranching rights, what is the disadvantage of not having it being public ownership?

**Lance:** It's a policy statement in a lot of organizations that we have enough public land, and we don't need more, but I will let them explain that.

**Rep. Monson:** We could take out these 4 counties and not name them, but my experience is we don't gore their ox, we gore somebody else's ox. People don't want to see any change of any kind one way or the other.

**Lance:** My only experience with respect to having property being considered for sale by the state was the last Legislative Session authorized the Board of School and University Lands to evaluate their under-performing or non-performing properties for the replacement of the no mow areas in DOT property. There were hearings on each particular property and each location had varying amounts of support or opposition, but they definitely took some of them off the consideration because of local opposition similar to this.

**Rep. Monson:** In the meantime, we bought this land and now we have to get rid of some. Are they going to find that without a big fight someplace else?

**Lance:** The Land Department has found some properties that don't have interest from agricultural uses, but I can't tell you how much that is.

**Stephanie, Legislative Council:** If there was a profit, it would go to the general fund sense there is no specific references to what would happen to any additional money.

**Rep. Skarphol:** What part is unique?

**Doug Prochal:** It is a puzzle, and all the pieces fit together interestingly enough in evaluating this property, and they are all integrated.

**Rep. Skarphol:** What part of it is unique that you want to preserve for posterity?

**Doug:** Once you go out there and look and visit, it is all tied together. If we were just a preserve, it limits the use of it for public use. I believe that this is unique to offer recreation in its entirety, and still accomplish the purposes of all those other existing uses.

**Rep. Skarphol:** I'm having some difficulty as someone who has a little bit of experience grazing cattle or buffalo. With the concept of being able to have that for public use, and still having available for an operating ranch, I can't see myself wanting tourists out there circulating around on my grazing land.

**Doug:** Cattle would predominately be over in the 18,000 acre preserve for summer pasture, and then come back. So, the primary recreation period they would be on their spring pasture and fall pasture.

**Chair Carlson:** So, your saying that you consider the 4200 acres as one piece that has value for the Park and Recs.

**Doug:** Yes.

**Rep. Glassheim:** Selling off say half of it. Would that affect the animal units and the ranch?

**Rep. Kempenich:** It depends on what kind of permit is with this place. If it's inventory, it would. If it's a turn-in, it might not.

**Chair Carlson:** Your intention would have been, in the Governor's office, that you sell the outlying pieces to keep the remaining 4200 acres for a State owned park?

**Lance:** As this concept has developed, that's accurate.

**Rep. Kempenich:** Overview of amendment. (SEE AMENDMENT 50391.0404)

**Chair Carlson:** Do you manage all the lands that we own, or just the school lands?

**Mr. Pressler:** Just the school lands.

**Rep. Monson:** It sounds like your continually selling land all the time. Acquiring new land, not by purchase, just by people defaulting on loans, and your turning around and selling them all the time. Are we actually in a situation where we were gaining state land, or selling off more than we were getting in periods of time? How does this no net gain thing work?

**Mr. Pressler:** Under that policy it's very restricted. We have earned about 27 million dollars from farm loans, and personal real-estate mortgages. Our desire is to have 65 million.

**Chair Carlson:** Does this bill allow lands to be used, or not?

**Lance:** My understanding is the lands that this is referring to is the grant lands, as originally drafted. All it says is the Board of University and School Lands shall sell.

**Curly Hougland:** Overview of amendment. (SEE AMENDMENT 50391.0403)

**Rep. Monson:** Your saying even the 1200 acres that the state keeps must be leased immediately back for grazing. Is that correct?

**Curly:** Yes, that's to maintain the claim to the privilege of grazing.

**Rep. Monson:** The limit is the use of that 1200 acres by the state to lease for grazing, but can they develop a campground? Is that limited saying it has to be leased for grazing?

**Curly:** Clearly it's the intent of the state who would have 1260 acres here, that ultimately would not be part of the remaining working ranch. I think that would be a negotiated situation. If that

acres of the park uses is not available for grazing, then your base property is raised, and the number of animals reduced. So, the size of the ranch will be reduced proportionately.

**Chair Carlson:** How are the Fed's going to view this?

**Curly:** The Grazing Association is the arbiter of that. The rules of the Grazing Association are pretty clear about what happens.

**Rep. Glassheim:** What is the advantage of selling this land, since even if it weren't the same ownership, we would lease it for private operators to use, and you would keep all the animal units that are already there. So, what is the harm of keeping it in state, or what is the benefit of rushing to sell it off?

**Curly:** I'm representing the Landowners Association of ND. We think private ownership of property is pretty important to our system. We're resisting the sell of any fashion of government ownership of land, unless it is absolutely necessary. There is a difference on how property is managed, if it's privately owned versus government owned.

**Wade Schafer:** This is a working ranch. If you start piecing it off, it may not be a functional ranch. If Eberts and the state try and sell that off as a working ranch again, essential parts of it are missing.

**Rep. Glassheim:** Your objections to having it in public ownership is mainly ideological. I mean your trying to prove a point, rather than practical. I would support keeping ranchers ranching, and I would support keeping oil accessible, but there's no gain for persons who are ranching, but whether it's in public or private ownership. Am I wrong?

**Curly:** If you look at a privately owned home, or a neighborhood where all the homes are privately owned, and then go to a neighborhood where most of the homes are owned by absently

owners and rented, I think you'll see a lot of difference in the way they are kept up, the way the property is managed. There is pride of ownership issues, and all kinds of other things that go along with it.

**Chair Carlson:** You got some options. Lance said the Federal Government was interested in buying the land. The state can buy the land and either keep it, or dispose of it, or we can wash our hands of this whole process, and say let the marketplace determine the value of this land. Let somebody buy it in a free, up, and open market.

**Rep. Kemenich:** What makes it tough is when you start cutting up the river bottom and stuff, that back country that's away from it, the value decreases quite a bit. When you start taking away the indemnities of the land, because basically what you got is clay butte.

**Rep. Skarphol:** You seem to think this property is unique. I want each of them to tell me what's any more unique about that orange area then the green or white areas that surround it.

**Wade:** In my opinion, if you look at this map, there isn't a block of state land that is a park that the state could manage for recreation. The uniqueness that I see is that Theodore Roosevelt actually chased cattle up the draws through there, and described it from his front porch. I think that is something that North Dakota's have that other states don't.

**Rep. Skarphol:** What makes it more acceptable to have it publicly owned and unique than privately owned and unique? Couldn't a private enterprise develop it and make it a tourist attraction, as well as anyone else?

**Wade:** That certainly could happen. It just seems that the state is in a position to do that for citizens. If it goes to a private individual, there's no guarantee that will happen.



**Rep. Timm:** Has anybody indicated to you that if this land is bought, and I see that white shade going down and that's where the river land is. Has anybody indicated to you that if the state buys this at a good price, which I understand is a very good price, that some of these other privately owned people are going to come to the state and try to get the same kind of a price all the way down the line there?

**Chair Carlson:** It has not been discussed at all. The question is that the Elkhorn is what adds special value to this piece compared to the other ones. When was the last time we purchased any new park land in the state?

**Doug:** It would have been the Frostfire Ski area in 2001.

**Mike Donahue, ND Wildlife Federation, and the United Sportsman of ND:** We oppose section 4 of the bill. We do not agree with the no net gain analogy. We support state purchasing, but we don't think that no net gain should be adopted as a policy in an appropriation bill.

**Rep. Glassheim:** Would hunting be available?

**Doug:** Currently, it is.

**Mike Mackeral, ND Chapter of the Wildlife Society:** We support the acquisition of the property as a State park, but we questioned why the state would want to require all the 5200 acres for a state park, and then propose to sell at least 4,000 acres back off. Why buy 5,000 acres, and then sell 4,000. The part of the unique purpose of it would be that it would be a State park, not a National park.

**Brian Kramer, ND Farm Bureau:** We support the amendment 0403. If they maintain the 1260 acres that are in the unique portion of that, that would be the significant and unique portion of that property. The rest of it being sold in one unit provides the best opportunity for a single

operator to access those grazing rights, and to have a viable working operation. We like the idea of the state doing that.

**Rep. Monson:** I still have a big problem with the biggest paragraph on these amendments, the very last sentence. To me the way this reads is if the state bought this, we'd have to sell everything but the 1260 acres. The 1260 acres that we did keep, we'd have to turn around and lease it out. Why do we want to fool with it at all?

**Brian:** To maintain that grazing allotment was the reason behind leasing that as soon as possible. I'm certain that the amendments drawn up with that 1260 acres would be the states, would not have to be leased out immediately. The idea is that the major portions of that property is leased out so that the easements of the grazing allotments are maintained as one unit, and sold as one unit so that it is a viable operation.

**Rep. Monson:** I guess my problem with it is that we're going to sell so much of it, and we're going to lease so much of it, and it doesn't give us any reason to buy it if we're going to sell it and lease it and not have any rights to do anything with it. So, I'm saying is that we're going to leave that language in here that says we're going to lease it, then we have to put a limit on how long we're going to lease it for if we are ever going to get any state benefit out of it for park purposes or development of a campground. You're OK with that?

**Brian:** Yes, we are.

Closed Hearing on SB 2145.

Govt Performance  
2/4/5

### General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date March 30, 2005			
Tape Number	Side A	B Side	Meter #
1	X		1-2135
Committee Clerk Signature <i>Stephen N Thomas</i>			

Minutes: **Chair Carlson** opened the general discussion on SB 2145, relating to provide for acquisition of certain land by the parks and recreation department.

**Jeff Nelson, Legislative Council:** Overview of amendment.

(SEE AMENDMENT 50391.0410)

**Rep. Skarphol:** Let's talk about section 1, as I'm reading this now, it appears to me that the Parks Department could buy it and could sell any portion of it that they wish to sell. It does not require that it be one big chunk, they could parcel it out to several potential buyers as long as it continues to be used for hunting and grazing.

**Jeff:** Yes.

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**Rep. Skarphol:** They are required to lease whatever they own to maintain the current grazing activities and relationships in a general area.

**Jeff:** Yes.

**Rep. Skarphol:** Section 3 does not provide for any opportunity for us to sell the properties donated to us. Is that correct?

**Jeff:** That's correct.

**Rep. Skarphol:** That easement would apply to the lands that we would have donated to the state in that event?

**Jeff:** Yes.

**Rep. Skarphol:** Is there a requirement that we lease what we acquired to the parties that purchase this for the balance of the ranch, or could we lease it conceivably to someone different?

**Jeff:** There is no restriction on who the state would lease it to.

**Rep. Glassheim:** I'll move approval.

**Rep. Skarphol:** Second.

Overview of amendment. (SEE AMENDMENT 50391.0406)

**Rep. Glassheim:** I move to further amend to add the 4th proposal without section 4 from 0406.

**Rep. Monson:** Second.

Voice vote, amendment passes.

**Chair Carlson:** We have an amendment 0410 added on to with 0406.

**Rep. Skarphol:** I move to amend the amendment.

**Rep. Monson:** Second.

Roll call vote. SB 2145 is a do pass, as amended.

2145

**Chair Carlson:** My assumption was that the easement was only available in the 3rd option, and it was not available in the first two.

**Rep. Skarphol:** I move we reconsider our action on SB 2145.

**Rep. Monson:** Second.

Voice vote.

**Chair Carlson:** Is it possible to fix that so the easement is only available on option 3.

**Jeff:** Yes. I would add a provision to section 2 similar to that contained in subdivision D of subsection 1 of section 1 of the land may not be incumbered by a conservation easement.

**Rep. Skarphol:** I move.

**Rep. Monson:** Second.

Voice vote, passes.

**Rep. Skarphol:** I move a do pass, as amended on SB 2145.

**Rep. Monson:** Second.

Roll call vote. SB 2145 is a do pass, as amended.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2145

Ebert's Ranch

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 31, 2005

Tape Number	Side A	Side B	Meter #
2	X		#15.7 - #43.5
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on SB2145.

**Rep. Al Carlson** moved to adopt amendment #0411 to SB2145.

**Rep. Bob Skarphol** seconded

**Rep. Al Carlson** explained the bill includes 4 options for the seller to choose from up to the date of December 31, 2005. Rep Carlson explained the four options as listed in the bill, and the amendments listed in amendment #0411.

**Rep. Eliot Glassheim** explained section 4 of amendment #0411

**Rep. Ken Svedjan, Chairman** asked if section 4 becomes another option.

**Rep. Eliot Glassheim** answered that this is one of the four options provided by the bill.

**Rep. Al Carlson** commented that section 1 also included the language that Parks and Receptions could sell off parcels of this property and the funds would be used to pay back part of the costs to obtain the land.

**Rep. Mike Timm, Vice Chairman** asked if all of these sections replace the No Net Gail policy that was in the original bill..

**Rep. Al Carlson** answered that this was correct.

**Rep. Ron Carlisle** asked if the money mentioned on the bottom of page 1 was real money.

**Rep. Al Carlson** answered that it was real money that would go to the Ebert's, but it could be paid back if the land was subdivided and sold off.

**Rep. Ken Svedjan, Chairman** clarified that the amount discussed would pertain to the option discussed in section 1, and the \$ 3.5 would pertain to section 2. Section 3 has no money at all because it is a gifting aspect regarding the view shed in the primitive park area .

**Rep. Al Carlson** explained that section 3 would allow them to access whatever the easement value is and then they could sell that land to anybody else. In exchange for us working with them on the easement they would have to deed to us the view shed area and the primitive park area.

**Rep. Ken Svedjan, Chairman** commented that the fourth option would be that the bank would be into this sale for \$2.4 million.

**Rep. Pam Gulleeson** commented that the testimony in the original hearing clearly stated that everyone involved would rather see this land owned by the state rather than the federal government. Has the federal government ever made an offer on this property? Is there any documentation that shows that they are even interested in this purchase?

**Rep. Al Carlson** answered that there is no documentation of this interest.

**Rep. Pam Gulleeson** commented that in her research, the federal government does not know about purchasing this land.

**Rep. Keith Kempenich** explained that it was Noel Poe, former Director of the Roosevelt National Park. who first starting talking about this.

**Rep. Eliot Glassheim** commented that there has been money set aside by the federal government conservation folks for an easement on this land. (meter Tape #2, side A, #28.0)

**Rep. Ken Svedjan, Chairman** commented that an easement would be much different than the purchase of the land.

**Rep. Al Carlson** commented that the easement is only in section 3 and there have been some new developments concerning this that Mr. Gaebe needs to share with us.

**Mr.. Lance Gaebe** from the Office of the Governor explained that the Grasslands Reserve Easement would have offered \$2.1 million for protection of the grasslands. This week we found out that there are no perpetual easements allowed in the state of North Dakota because of a state law that prevents it. This means that the offer would change to be \$630,000 rather than the \$2.1 million.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0411.  
Motion carried.

**Rep. Eliot Glassheim** moved to further amend SB2145 with amendment #0412. Rep Glassheim explained that adopting all four options is confusing. Amendment #0412 is essentially section 4 of the bill that would replace the whole of amendment #0411. This would mean that there is only one option instead of 4. This option is the best of them all and is the cleanest and clearest.

**Rep. Bob Skarphol** commented that he would resist this amendment because what counts is what the Ebert's think so they should have as many options to choose from as possible.

**Rep. Al Carlson** commented that he agreed with Rep Skarphol. The question is do we want to spend \$3.8 million to purchase their ranch or not. This gives them different vehicles but the money stays the same throughout all options.

**Rep. Keith Kempenich** commented that the Ebert's have said all along what they wanted. These options only muddy the waters.



**Rep. Bob Skarphol** commented that he spoke to the Ebert's on the phone for a half an hour and it is still unclear what they wanted.

**Rep. Eliot Glassheim** explained the flaws in each of the other options in amendment #0411.

**Rep. Al Carlson** commented that we cannot speak for the Ebert's and that we should give them a number of options to choose from.

**Rep. David Monson** commented that if the state wants to buy the land they should just appropriate the money and buy it. Section 2 is done well.

**Rep. Ken Svedjan, Chairman** called for a voice vote to adopt amendment #0412. Motion failed.

**Rep. Al Carlson** moved a Do Pass As Amended (meter Tape #2, side A, #37.8)

**Rep. Eliot Glassheim** seconded and commented that the state ought to buy the land because of its historical roots and it would be a good investment for the state. This is a unique opportunity to preserve this land and respect its history.

**Rep. Keith Kempenich** commented that this place has been in private hands for over 120 years.

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for SB2145. Motion carried with a vote of 12 yeas, 10 nays and 1 absences. Rep Carlson will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on SB2145 and adjourned the meeting.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2145

Page 1, line 6, after "Dakota" insert ", subject to the conditions and restrictions contained in this Act"

Page 2, line 7, after "**SALE**" insert "**- DIVESTITURE REQUIRED**"

Page 2, line 8, after "may" insert "retain up to 1,260 acres, more or less, located in the northwest quarter of section 2 of township 143-102; and the southwest quarter of section 27, section 33, and section 34 of township 144-102 and west of the proposed road, the existing road, and established trail running generally southeast to northwest across the property and east of the Little Missouri River and shall" and replace "any parcel or parcels of land included in the acquisition authorized by this Act" with "that portion of the land acquired under this Act north and east of the existing road and established trail dividing the property and running generally southeast to northwest, including the road right of way. Any land acquired pursuant to this Act must be leased immediately to landowners in the area for grazing purposes."

Page 2, line 10, after the period insert "The land divested and sold pursuant to this section must be sold within five years of the date of acquisition and must be sold in one parcel in order to preserve and maintain its viability as a working ranch."

Page 2, line 18, remove "in Slope, Golden Valley, Billings, and McKenzie Counties"

Renumber accordingly

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2145

Page 2, line 18, replace "5,225.2 acres of land in Slope, Golden Valley, Billings, and McKenzie Counties" with "an amount of state-owned land equal to the amount of land acquired under this Act"

Page 2, remove line 19

Page 2, line 20, remove "of this Act"

Renumber accordingly

**PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2145**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for acquisition of certain land by the parks and recreation department; to provide an appropriation; to provide a continuing appropriation; to provide for a legislative council study; and to provide for reports to the legislative council.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. ACQUISITION OF LAND AUTHORIZED.** The parks and recreation department may acquire 5,225.2 acres of land, more or less, known as the Eberts ranch, in western North Dakota. The land acquired under this authorization is subject to the following conditions and restrictions:

1. Land acquired pursuant to this Act must remain open to grazing, hunting, oil and gas production, low-impact recreational activities, and other normal uses otherwise provided in the general area.
2. Rights to oil and gas mineral exploration, development, and production must remain in force but reasonable conditions for exploration and development of oil and gas may be established by the board of university and school lands.
3. Land acquired pursuant to this Act must be leased so as to maintain current grazing activities and relationships in the general area.
4. Land acquired pursuant to this Act may not be encumbered by a conservation easement, preservation easement, or similar land use restriction.
5. Land acquired pursuant to this Act must be maintained as a working ranch. The parks and recreation department shall manage the property to preserve the grazing, haying, ranching, and oil and gas development practices currently in force and develop low-impact recreational activities.
6. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this Act as to form and legality.

**SECTION 2. APPROPRIATION.** There is appropriated \$522,520 from the game and fish fund, \$2,476,760 from the accumulated undivided profits of the Bank of North Dakota, and \$524,720 from federal or other special funds, or so much of the amounts as may be necessary to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in section 1 of this Act, for the period beginning with the effective date of this Act and ending June 30, 2007.

**SECTION 3. USE OF PROCEEDS OF SALE - CONTINUING APPROPRIATION.** The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this Act, subject to the restriction that the department reserve any minerals the department acquires pursuant to this Act. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this Act. The parks and recreation department may lease any parcel or parcels of land acquired under this Act. Up to

one-half of the funds received by the department from leasing activity may be used to defray the maintenance and management costs incurred by the department on land acquired pursuant to this Act. The remaining lease funds must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this Act. Any lease income earned by the department under this section is appropriated to the department on a continuing basis for the purposes specified in this section.

**SECTION 4. NO NET GAIN OF STATE LAND - SALE OF LAND BY BOARD OF UNIVERSITY AND SCHOOL LANDS AUTHORIZED.** The acquisition authorized by this Act may not result in a net gain of state-owned land. To ensure that the acquisition authorized by this Act does not result in a net gain of state-owned land, the board of university and school lands shall sell 5,225.2 acres of land less any parcel or parcels of land sold by the parks and recreation department under section 3 of this Act within the period beginning with the effective date of this Act and ending July 31, 2011. The board shall reserve all minerals it currently owns on any land sold pursuant to this section.

**SECTION 5. PAYMENTS IN LIEU OF TAXES.** The department shall make payments in lieu of property taxes on the property acquired pursuant to this Act calculated in the same manner as if the property were subject to full assessment and levy of property taxes.

**SECTION 6. LEGISLATIVE COUNCIL STUDY - REPORTS - PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.** The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this Act. The study must include preparation of a plan by the parks and recreation department of future public uses and benefit of the land acquired by this Act as well as how much of the main parcel the state should retain. The parks and recreation department shall report periodically to the legislative council concerning implementation of this Act and the extent to which the department is complying with the ranching, grazing, oil and gas development, grassland activity, tourism, and low-impact recreational conditions contained in this Act. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

**PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2145**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for acquisition of certain land by the parks and recreation department; to provide an appropriation; to provide for a legislative council study; and to provide for reports to the legislative council.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. ACQUISITION OF LAND AUTHORIZED - APPROPRIATION -  
USE OF PROCEEDS OF SALE - LEGISLATIVE COUNCIL STUDY - REPORTS -  
PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire 5,225.2 acres of land, more or less, in western North Dakota. The land acquired under this authorization is subject to the following conditions and restrictions:
  - a. Land acquired pursuant to this section must remain open to grazing, hunting, the current purposes for which the land is used, and other normal recreational activities and use as otherwise provided in the general area.
  - b. Energy exploration, development, and extraction activities may not be limited or restricted on any land acquired under this section.
  - c. Land acquired pursuant to this section must be leased so as to maintain current grazing activities and relationships in the general area.
  - d. Land acquired pursuant to this section may not be encumbered by a conservation easement, preservation easement, or similar land-use restriction.
  - e. Land acquired pursuant to this section may not be sold, conveyed, or transferred to the United States or any instrumentality of the United States.
  - f. Land acquired pursuant to this section is subject to existing or future right-of-way easements acquired pursuant to title 24 or 32 for public transportation requirements identified by political subdivisions or the state.
  - g. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. There is appropriated \$522,520 from the game and fish fund, \$2,476,760 from the accumulated undivided profits of the Bank of North Dakota and \$524,720 from federal or other special funds, or so much of the amounts as may be necessary, to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in subsection 1, for the period beginning with the effective date of this Act and ending June 30, 2007.

3. The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this section, subject to the restrictions in subdivision e of subsection 1 and the restriction that the department reserve any minerals the department acquires pursuant to this section. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this Act.
4. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section and how much of the main parcel the state should retain. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 2. ACQUISITION OF LAND AUTHORIZED - APPROPRIATION -  
USE OF PROCEEDS OF SALE - LEGISLATIVE COUNCIL STUDY - REPORTS -  
PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire 5,225.2 acres of land, more or less, in western North Dakota. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. There is appropriated \$3,524,000 from the accumulated undivided profits of the Bank of North Dakota, or so much of the amount as may be necessary, to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in subsection 1, for the period beginning with the effective date of this Act and ending June 30, 2007.
3. The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this section. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota.
4. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section and how much of the main parcel the state should retain. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 3. ACQUISITION OF LAND AUTHORIZED - LEGISLATIVE  
COUNCIL STUDY - REPORTS - PARKS AND RECREATION DEPARTMENT LAND  
ACQUISITION STUDY.**

1. The parks and recreation department may acquire by gift that portion of the Eberts ranch that encompasses the viewshed and the primitive park area, in western North Dakota. The state and its officials shall use their best efforts to secure federal funds and a conservation easement or similar land-use restriction for the sellers. In consideration of and in exchange for the best efforts of the state and its officials to obtain federal funds and the conservation easement, the sellers shall convey that portion of the Eberts ranch containing the viewshed and the primitive park area to the state. The conservation easement must be placed on the entire parcel. The land acquired under this authorization is subject to the following conditions and restrictions:
  - a. Land acquired pursuant to this section must remain open to grazing, hunting, the current purposes for which the land is used, and other normal recreational activities and use as otherwise provided in the general area.
  - b. Energy exploration, development, and extraction activities may not be limited or restricted on any land acquired under this section.
  - c. Land acquired pursuant to this section must be leased so as to maintain current grazing activities and relationships in the general area.
  - d. Land acquired pursuant to this section may not be encumbered by a conservation easement, preservation easement, or similar land-use restriction.
  - e. Land acquired pursuant to this section may not be sold, conveyed, or transferred to the United States or any instrumentality of the United States.
  - f. Land acquired pursuant to this section is subject to existing or future right-of-way easements acquired pursuant to title 24 or 32 for public transportation requirements identified by political subdivisions or the state.
  - g. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 4. SELLER TO EXERCISE OPTION - EXPIRATION.** Sections 1, 2, and 3 of this Act are options for acquisition of the land described in those sections. The seller may exercise its option to sell or convey the land described in this Act by indicating its preference for the procedure described in section 1, 2, or 3 of this Act. The seller shall communicate its option to the governor by December 31, 2005. If the seller has not selected an option by December 31, 2005, the options expire and are of no force and effect."



Renumber accordingly

Date: March 30, 2005  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2145

House Government Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50391.0410 with changes

Action Taken DO PASS, AS Amended

Motion Made By Rep Glassheim Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Changes to Amendments

Date: March 30, 2005  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2145

House Government Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50391.0411 ~~0410 with changes~~

Action Taken Do Pass, AS Amended

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Chairman Carlson

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

Easement only available for 3rd option

✓

Date: March 31, 2005  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2145**

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50391.0411

Action Taken DO PASS AS AMENDED

Motion Made By Rep Carlson Seconded By Rep Glassheim

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson		X	Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard		X	Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt		X	Rep. Chet Pollert	AB	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleason		X	Rep. James Kerzman		X
Rep. Ron Carlisle		X	Rep. Ralph Metcalf	X	
Rep. Keith Kempenich		X			
Rep. Blair Thoreson		X			
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 12 No 10

Absent 1

Floor Assignment Rep Carlson

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

**REPORT OF STANDING COMMITTEE**

SB 2145, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 10 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2145 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for acquisition of certain land by the parks and recreation department; to provide an appropriation; to provide a continuing appropriation; to provide for a legislative council study; and to provide for reports to the legislative council.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. ACQUISITION OF LAND AUTHORIZED - APPROPRIATION -  
USE OF PROCEEDS OF SALE - LEGISLATIVE COUNCIL STUDY - REPORTS -  
PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire 5,225.2 acres of land, more or less, in western North Dakota. The land acquired under this authorization is subject to the following conditions and restrictions:
  - a. Land acquired pursuant to this section must remain open to grazing, hunting, the current purposes for which the land is used, and other normal recreational activities and use as otherwise provided in the general area.
  - b. Energy exploration, development, and extraction activities may not be limited or restricted on any land acquired under this section.
  - c. Land acquired pursuant to this section must be leased so as to maintain current grazing activities and relationships in the general area.
  - d. Land acquired pursuant to this section may not be encumbered by a conservation easement, preservation easement, or similar land use restriction.
  - e. Land acquired pursuant to this section may not be sold, conveyed, or transferred to the United States or any instrumentality of the United States.
  - f. Land acquired pursuant to this section is subject to existing or future right-of-way easements acquired pursuant to title 24 or 32 for public transportation requirements identified by political subdivisions or the state.
  - g. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. There is appropriated \$522,520 from the game and fish fund, \$2,476,760 from the accumulated undivided profits of the Bank of North Dakota and \$524,720 from federal or other special funds, or so much of the amounts as may be necessary, to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in subsection 1, for the period beginning with the effective date of this Act and ending June 30, 2007.

3. The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this section, subject to the restrictions in subdivision e of subsection 1 and the restriction that the department reserve any minerals the department acquires pursuant to this section. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this Act.
4. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section and how much of the main parcel the state should retain. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 2. ACQUISITION OF LAND AUTHORIZED - APPROPRIATION -  
USE OF PROCEEDS OF SALE - LEGISLATIVE COUNCIL STUDY - REPORTS -  
PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire 5,225.2 acres of land, more or less, in western North Dakota. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. There is appropriated \$3,524,000 from the accumulated undivided profits of the Bank of North Dakota, or so much of the amount as may be necessary, to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in subsection 1, for the period beginning with the effective date of this Act and ending June 30, 2007.
3. The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this section. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota.
4. Land acquired pursuant to this section may not be encumbered by a conservation easement, preservation easement, or similar land use restriction.
5. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section and how much of the main parcel the state should retain. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section.

The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 3. ACQUISITION OF LAND AUTHORIZED - LEGISLATIVE COUNCIL STUDY - REPORTS - PARKS AND RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire by gift that portion of the Eberts ranch that encompasses the viewshed and the primitive park area, in western North Dakota. The state and its officials shall use their best efforts to secure federal funds and a conservation easement or similar land use restriction for the sellers. In consideration of and in exchange for the best efforts of the state and its officials to obtain federal funds and the conservation easement, the sellers shall convey that portion of the Eberts ranch containing the viewshed and the primitive park area to the state. The conservation easement must be placed on the entire parcel. The land acquired under this authorization is subject to the following conditions and restrictions:
  - a. Land acquired pursuant to this section must remain open to grazing, hunting, the current purposes for which the land is used, and other normal recreational activities and use as otherwise provided in the general area.
  - b. Energy exploration, development, and extraction activities may not be limited or restricted on any land acquired under this section.
  - c. Land acquired pursuant to this section must be leased so as to maintain current grazing activities and relationships in the general area.
  - d. Land acquired pursuant to this section may not be sold, conveyed, or transferred to the United States or any instrumentality of the United States.
  - e. Land acquired pursuant to this section is subject to existing or future right-of-way easements acquired pursuant to title 24 or 32 for public transportation requirements identified by political subdivisions or the state.
  - f. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The legislative council shall monitor the acquisition. The study must include a determination of the future public usefulness and benefit of the land acquired under this section. The parks and recreation department and the board of university and school lands shall report periodically to the legislative council the status of the acquisition authorized by this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 4. ACQUISITION OF LAND AUTHORIZED - APPROPRIATION -  
USE OF PROCEEDS OF SALE - CONTINUING APPROPRIATION - PAYMENTS IN  
LIEU OF TAXES - LEGISLATIVE COUNCIL STUDY - REPORTS - PARKS AND  
RECREATION DEPARTMENT LAND ACQUISITION STUDY.**

1. The parks and recreation department may acquire 5,225.2 acres of land, more or less, known as the Eberts ranch, in western North Dakota. The land acquired under this authorization is subject to the following conditions and restrictions:
  - a. Land acquired pursuant to this section must remain open to grazing, hunting, oil and gas production, low-impact recreational activities, and other normal uses otherwise provided in the general area.
  - b. Rights to oil and gas mineral exploration, development, and production must remain in force but reasonable conditions for exploration and development of oil and gas may be established by the board of university and school lands.
  - c. Land acquired pursuant to this section must be leased so as to maintain current grazing activities and relationships in the general area.
  - d. Land acquired pursuant to this section may not be encumbered by a conservation easement, preservation easement, or similar land use restriction.
  - e. Land acquired pursuant to this section must be maintained as a working ranch. The parks and recreation department shall manage the property to preserve the grazing, haying, ranching, and oil and gas development practices currently in force and develop low-impact recreational activities.
  - f. The attorney general shall approve all documents necessary to effectuate the acquisition authorized by this section as to form and legality.
2. There is appropriated \$522,520 from the game and fish fund, \$2,476,760 from the accumulated undivided profits of the Bank of North Dakota, and \$524,720 from federal or other special funds, or so much of the amounts as may be necessary to the parks and recreation department, for the purpose of defraying the expenses of the purchase of the land described in subsection 1, for the period beginning with the effective date of this Act and ending June 30, 2007.
3. The parks and recreation department may sell any parcel or parcels of land included in the acquisition authorized by this section, subject to the restriction that the department reserve any minerals the department acquires pursuant to this section. Funds received by the parks and recreation department from such sales must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this section. The parks and recreation department may lease any parcel or parcels of land acquired under this section. Up to one-half of the funds received by the department from leasing activity may be used to defray the maintenance and management costs incurred by the department on land acquired



pursuant to this section. The remaining lease funds must be used to restore the funds utilized from the accumulated undivided profits of the Bank of North Dakota and the game and fish fund in the same ratio that these funds are used to make the land acquisition authorized by this section. Any lease income earned by the department under this section is appropriated to the department on a continuing basis for the purposes specified in this section.

4. The department shall make payments in lieu of property taxes on the property acquired pursuant to this section calculated in the same manner as if the property were subject to full assessment and levy of property taxes.
5. The legislative council shall study, during the 2005-06 interim, issues related to the parks and recreation department land acquisition authorized by this section. The study must include preparation of a plan by the parks and recreation department of future public uses and benefit of the land acquired by this section as well as how much of the main parcel the state should retain. The parks and recreation department shall report periodically to the legislative council concerning implementation of this section and the extent to which the department is complying with the ranching, grazing, oil and gas development, grassland activity, tourism, and low-impact recreational conditions contained in this section. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

**SECTION 5. SELLER TO EXERCISE OPTION - EXPIRATION.** Sections 1, 2, 3, and 4 of this Act are options for acquisition of the land described in those sections. The seller may exercise its option to sell or convey the land described in this Act by indicating its preference for the procedure described in section 1, 2, 3, or 4 of this Act. The seller shall communicate its option to the governor by December 31, 2005. If the seller has not selected an option by December 31, 2005, the options expire and are of no force and effect."

Renumber accordingly

2005 TESTIMONY

SB 2145

W

SB 2145  
Elkhorn Ranch  
Senate Appropriations Committee  
January 5, 2005

Testimony by Rod Backman on behalf of ND Parks &  
Recreation Department

Chairman Holmberg and members of the Committee, my name is Rod Backman, I have been retained by ND Parks to assist with the details of the acquisition of the Elkhorn Ranch. The scope of my service included assisting with the acquisition, identification and acquisition of funds, working with the National Park Service and the US Department of Agriculture (USDA), discussions and negotiations with the sellers and other services as directed by ND Parks.

At this time Mr. Chairman I would like to walk the committee through the handout which describes the funding needed and the proposed sources of that funding.

The property is approximately 5225 acres with a value and agreed upon sale price of \$3,524,000. The plan is to access a Federal Grasslands Reserve Program (GRP) easement through the USDA. The easement is designed to prevent development of sensitive property and to keep it in agricultural uses (grazing). The Federal GRP funds are available and are currently designated specifically for this project. The GRP will contribute \$2,065,560 toward the purchase price leaving a balance due of \$1,458,440.

The remaining amount is to be funded by \$524,700 of Federal Land and Water Conservation funds. These funds require an equal match of non-federal dollars (which will be met with the ND Game & Fish dollars plus \$100,000 of the loan described below). The ND Game & Fish Department will contribute \$424,700 and non-state entities have committed to \$209,040.

That leaves \$300,000 to be funded with a loan from the Bank of ND (BND). ND Parks will have the authority to sell approximately 978 acres of outlying noncontiguous lands for the purpose of repaying the BND loan. Section 5 of the bill provides that any sale proceeds in excess of the BND debt will be deposited into the General Fund. If the land sale proceeds are not sufficient to retire the debt, I expect Parks will return to the legislature for purposes of an additional appropriation.

Section 4 provides for the borrowing authority, Section 3 is the transfer of the Game & Fish funds, and Section 2 is the appropriation of those two sources to ND Parks & Recreation.

Mr. Chairman that is a very quick overview of the funding, I would be happy to attempt to answer any questions you or the Committee may have.

5 ✓

PROPOSED ELKHORN RANCH ACQUISITION  
(Eberts Ranch, Billings County)

Acreage = 5225.5

4247.2 contiguous land – 195.6 acres permitted for development

978.3 acres outlying

Section 24 172.2 acres

Section 35 168.3 acres

Section 27 637.8 acres

Property Value = \$3,524,000 established through negotiation resulting in a signed Agreement in Principle with the landowner in July, 2004 and confirmed in October correspondence between the sellers and the Governor.

NRCS Grassland Reserve Program easement over ranch contributes \$2,065,560 toward the purchase leaving a balance of \$1,458,440.

Financial Obligations

Parks and Recreation (Land & Water Conservation Fund)	\$ 524,700
Game & Fish	\$ 424,700*
Bank of North Dakota Loan	<u>\$ 300,000*</u>
Repayment of loan with sale of outlying acres	
State Financial Commitment	\$1,249,400
Balance of Funding Needed from External Sources	\$ 209,040

Source of External Funding

- Natural Resource Trust
- Rocky Mountain Elk Foundation

Total Acquisition Value \$1,458,440

\*State funding pending legislative approval – Senate Bill 2145

**Status of Conservation Cost-Share Assistance Programs  
Administered by the Natural Resources Conservation Service (NRCS)**

FY2003	Program *	Requests			Approvals			Unfunded		
		Allocation	# Aps	Acres	\$	# Aps	Acres	\$	# Aps	\$
	EQIP	\$ 13,135,751	2010	1,216,100	\$ 28,138,000	654	386,000	\$ 13,135,751	1356	\$ 15,002,249
	WRP	\$ 2,600,000	93	16,533	\$ 7,262,921	43	6,753	\$ 2,719,412	23	\$ 3,360,000
	GRP	\$ 3,298,000	471	305,000	\$ 35,800,000	3	5660	\$ 3,298,000	468	\$ 32,502,000
	FRLPP	\$ 681,000	1		\$ 680,000	1	113	\$ 680,000	0	\$ -
	WHIP	\$ 230,000	26	6,500	\$ 1,063,000	10	15,000	\$ 230,000	16	\$ 833,000
<b>Total FY03</b>		<b>\$ 19,944,751</b>	<b>2601</b>	<b>1,544,133</b>	<b>\$ 72,943,921</b>	<b>711</b>	<b>413,526</b>	<b>\$ 20,063,163</b>	<b>1863</b>	<b>\$ 51,697,249</b>

<b>Existing</b>	EQIP					3382	1,223,100	\$ 29,841,000		
<b>Contracts</b>	WRP					77	14562	\$ 4,097,256		
<b>1995 - 2002</b>	WHIP					190	7160	\$ 919,300		
	EWP					122	15100	\$ 11,000,000		
<b>Total</b>							<b>1,259,922</b>	<b>\$ 45,857,556</b>		

\* EQIP = Environmental Quality Incentives Program

WRP = Wetlands Reserve Program

GRP = Grasslands Reserve Program

FRLPP = Farm and Ranch Land Protection Program

WHIP = Wildlife Habitat Incentives Program

EWP = Emergency Watershed Protection Program

**Status of Conservation Cost-Share Assistance Programs  
Administered by the Natural Resources Conservation Service (NRCS)  
As of August 25, 2003**

FY2003	Requests			Approvals			Unfunded	
	Program *	Allocation	# Aps	Acres	\$	# Aps	Acres	\$
	EQIP	\$ 11,023,300	2010	1,216,100	\$ 28,138,000	516	545,800	\$ 11,022,000
	WRP	\$ 2,600,000	76	10,953	\$ 4,290,421	46	6,459	\$ 2,414,477
	GRP	\$ 698,000	471	305,000	\$ 35,800,000	2**	1160	\$ 698,000
	FRLPP	\$ 681,000	1		\$ 680,000	1	113	\$ 680,000
	WHIP	\$ 230,000	26	6,500	\$ 1,063,000	10	15,000	\$ 230,000
<b>Total FY03</b>		<b>\$ 15,232,300</b>			<b>\$ 69,971,421</b>		<b>568,532</b>	<b>\$ 15,044,477</b>

<b>Existing</b>	EQIP					3382	1,223,100	\$ 29,841,000
<b>Contracts</b>	WRP					77	14562	\$ 4,097,256
<b>1995 - 2002</b>	WHIP					190	7160	\$ 919,300
	EWP					122	15100	\$ 11,000,000
<b>Total</b>							<b>1,259,922</b>	<b>\$ 45,857,556</b>

\* EQIP = Environmental Quality Incentives Program  
WRP = Wetlands Reserve Program  
GRP = Grasslands Reserve Program  
FRLPP = Farm and Ranch Land Protection Program  
WHIP = Wildlife Habitat Incentives Program  
EWP = Emergency Watershed Protection Program

\*\* Preliminary

**EQIP ANALYSIS**

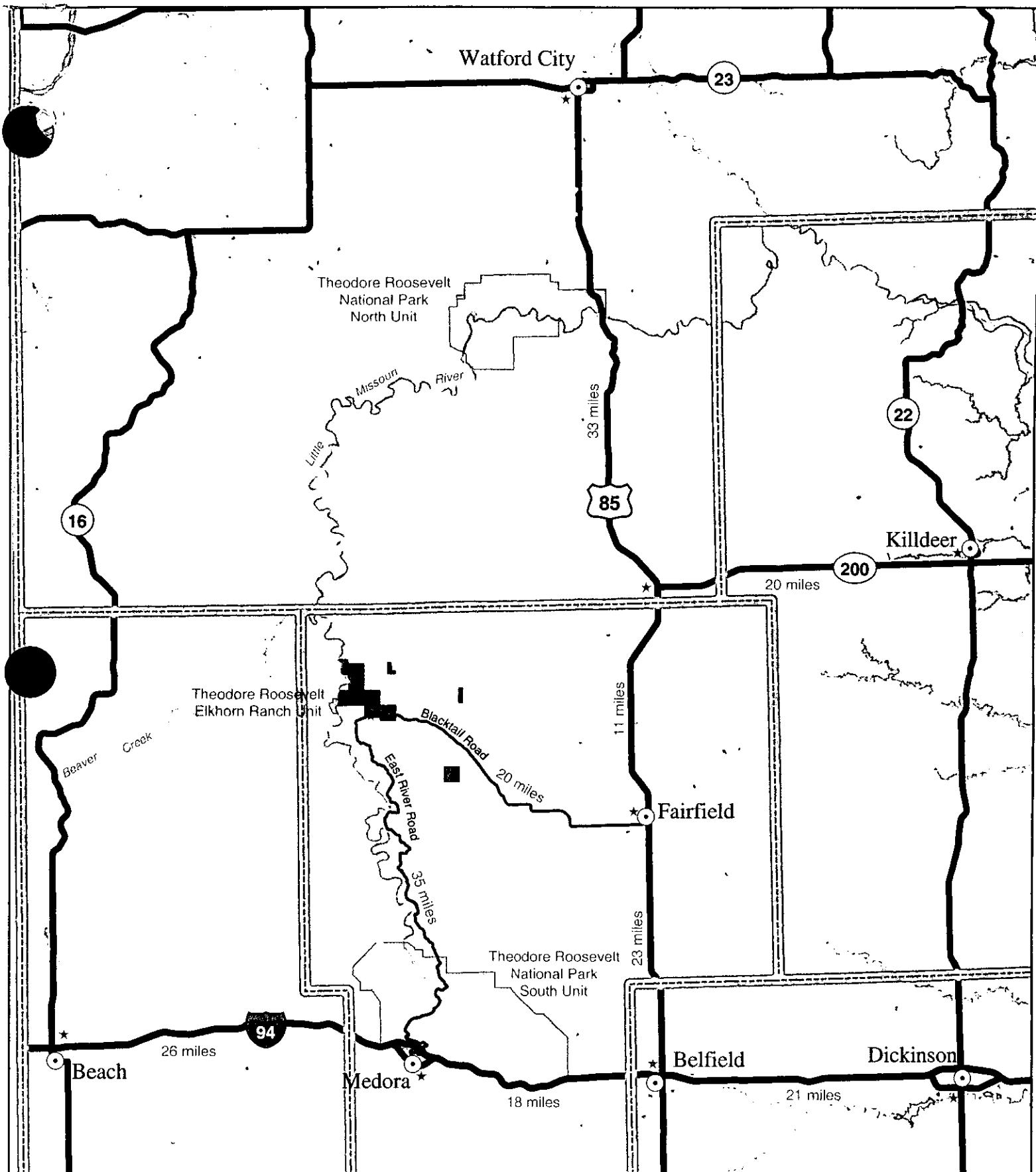
Cost-Share # Per Contract  
Acres Per Contract  
Cost-Share # Per Acre

**FY95-02**

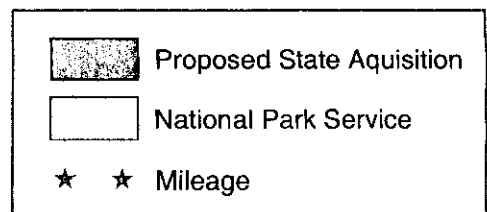
**\$ 8,823**  
**362**  
**\$ 24**

**FY03**

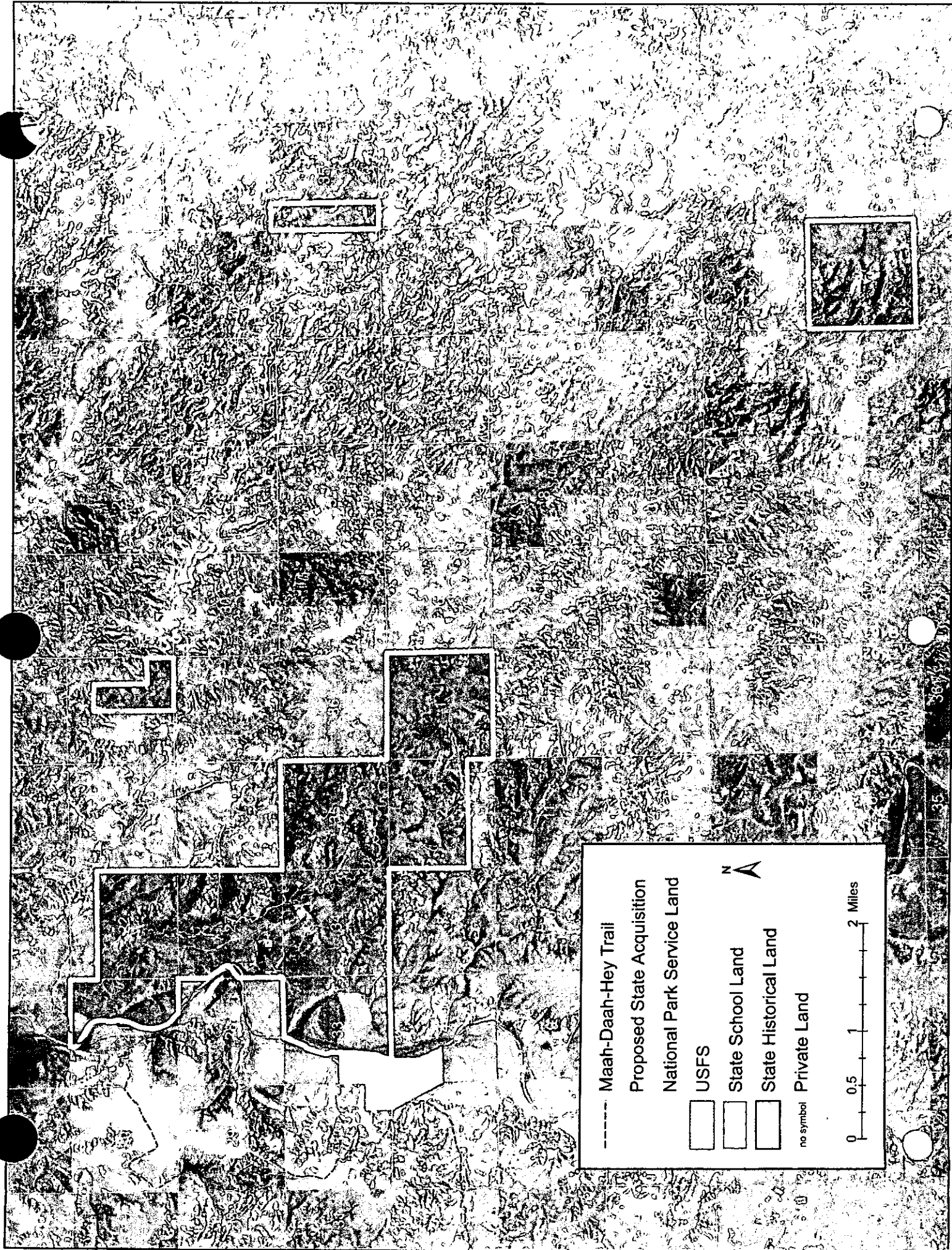
**\$ 21,360**  
**1,057**  
**\$ 22**



# Proposed State Acquisition Location Map







----- Maah-Daah-Hey Trail

Proposed State Acquisition

National Park Service Land

USFS

State School Land

State Historical Land

Private Land



0 0.5 1 2 Miles

EBERT'S RANCH PARCEL DESCRIPTIONS:

THE FOLLOWING TRACTS ARE IN THE MAIN RANCH TRACT:

- Section 21 - E1/2 of the NE 1/4 and lots 1,4,5,6+9
  - Section 22 - S 1/2; S1/2 of the NW 1/4; S 1/2 of the NE 1/4
  - Section 27 - E 1/2; E 1/2 of the W 1/2; NW1/4 of the NW 1/4; SW 1/4 of the SW 1/4 ; Lots 1,2 + 3
  - Section 33 - SE 1/4; E 1/4 of the NE 1/4; SW 1/4 of the NE 1/4 ; Lots 1,4,5 + 8  
(ALL ABOVE ARE IN TWSP 144N, RANGE 102 WEST, BILLINGS CO.)
  
  - Section 2 - S 1/2 of the NW 1/4; N 1/2 of the SE 1/4; N 1/2 of the SW 1/2; S 1/2 of the NE 1/4; + Lots 1,2,3 +4
  - Section 35 - ALL  
(ALL ABOVE ARE IN TWSP 143N, RANGE 102 WEST, BILLINGS CO.)
- 

THE FOLLOWING ARE IN THREE OUTLYING TRACTS:

NORTH TRACT:

- Section 24 - SW 1/4 of the NE 1/4; NW 1/4 of the SE 1/4; S 1/2 of the SE 1/4;  
Located in TWSP 144N, RANGE 102 WEST, BILLINGS COUNTY

MIDDLE TRACT:

- Section 35 - W 1/2 of the W1/2;  
Located in TWSP 144 N, RANGE 101 W, BILLINGS COUNTY

SOUTH TRACT:

- Section 27 - All  
Located in TWSP 143N, RANGE 101 W.

NORTH DAKOTA GAME AND FISH DEPARTMENT TESTIMONY  
SB 2145  
SENATE APPROPRIATIONS COMMITTEE  
JANUARY 5, 2005

Roger Rosow  
Rep  
ND  
GAMF  
FAH

The North Dakota Game and Fish Department strongly supports the acquisition by the North Dakota Parks and Recreation Department, of the Elkhorn Ranch in Billings County. The Game and Fish Department is willing to become a financial partner in this project. The overall goals of this acquisition fit well with our Department's overall mission, but more specifically our goal of providing the sporting public with access to high quality hunting lands.

The Game and Fish Department does not desire to be the fee title owner of this property with hands-on land management responsibilities. This property has a wide variety of values, of which hunting and wildlife is only a part. Our contribution to this project would center on the aspect of having this property provide high quality habitat open to public hunting in perpetuity.

The Game and Fish Departments monetary contribution to this project in the sum of \$424,720 is based on the appraised value of hunting and wildlife related values as appraised by Luther Appraisal Services Inc. The comparative lands used, were operational ranches in Eastern Montana. This appraisal was based on properties Montana Game Fish and Parks has acquired easements and are similar types of land involving hunting access and land protection.

The Game and Fish Department supports a **DO PASS** recommendation on SB 2145.

1-5-05

**Testimony -in support of SB 2145 The Elkhorn Ranch Project  
Presented to the Senate Appropriations Committee  
by Lance Gaebe, policy advisor in the Office of the Governor**

Meter # 160

Mr. Chairman and members of the Senate Appropriations Committee:

I appear before you today to provide the background, explanation and support of the acquisition of property in the North Dakota badlands. The Elkhorn ranch project authorized by SB 2145 is the culmination of several years of efforts to protect and make available to the public, land that was once ranched and hunted by Theodore Roosevelt.

Prior to his presidency, Theodore Roosevelt began ranching along the Little Missouri River south of Medora at the Maltese Cross. Experiencing more passerby traffic than suited the solitude he sought, Mr. Roosevelt relocated north of Medora to a site he named the Elkhorn Ranch. A stone foundation of that ranch house remains along the Little Missouri River within a 200-acre site owned and managed by Theodore Roosevelt National Park.

Adjacent landowners to the Elkhorn Ranch Historic Site are offering the 5200 +/- acre property for public use to preserve a remnant of the ranch. The bill before you presents an opportunity for the state to acquire that ranch and protect the historic, scenic and economic uses of the land, much of which was part of the former president's ranch. The property is located directly across the Little Missouri River from the National Park Service maintained Elkhorn cabin site.

Some historical context is appropriate: Two years ago the state was approached by local officials and residents opposed to more federal acquisition as was then being proposed by the Natural Park Service in an effort to acquire the ranch as part of a Park expansion. NPS ownership had the potential to limit the hunting and economic activities on the land, and the prospects for additional federal ownership in Billings County was negatively received. State ownership was offered as an alternative to that federal park expansion, and management by the state will guarantee preserving existing uses including grazing, hunting and energy development along with providing a variety of low impact outdoor recreation opportunities.

Opportunities such as this cannot be planned, since a willing seller is necessary. The state did not pursue this acquisition rather we were approached for the values noted, and as an alternative to restrictive federal ownership. I should point out that federal efforts to acquire the property continue: In September, in the most recent appropriation for the US Department of the Interior, the Senate Appropriations Committee inserted language into S. 2804 indicating support for the establishment of a national preserve and instructions to the National Park Service to submit a funding proposal for the Elkhorn property.

We have been aggressive and creative in building a funding package using federal and special funds for the acquisition. The only element preventing finalization of the sale is respective spending authority for the NDPRD and NDGFD. This legislation requests the spending authority to transfer funds from the Game and Fish Department and the spending authority for the NDPRD to process payment to the landowners. Doug Prchal of the North Dakota Parks and Recreation Department, and Roger Rostvet of the Game and Fish Department and Rod Backman, who has been helping with this project will follow me with testimony

explaining how the property will be managed and offer a detailed explanation of the financial package.

I would like to offer two simple amendments to the bill that were accidental omissions on my part in my haste to have this bill ready for your consideration. One would simply add the word "grazing" to uses permitted under state ownership, and the other would permit the sale of unconnected tracts to the main ranch, as the section as it is now drafted has led some to believe that the state could buy the property only to turn around and sell it again.

While ranching, Theodore Roosevelt enjoyed hunting in the rugged badlands, wildlife was plentiful and he wrote extensively about his North Dakota ranching and hunting experiences. The opportunity, in this historic setting, exists for the public to ride, walk and hunt on the lands enjoyed by former President Roosevelt. By maintaining existing land uses the visiting public can learn about the life and experiences of this conservation president. It is appropriate that we are discussing this legacy on 100<sup>th</sup> anniversary of Roosevelt's inauguration to the presidency after being elected in 1904. This is a unique project which will continue to link TR's legacy with North Dakota, and which will allow our tourism officials to highlight the truth in the *Legendary* brand when they promote the State's virtues to prospective visitors.

A state managed public use area between the north and south units of Theodore Roosevelt National Park allows diverse outdoor recreation that is generally limiting on federal land in the area. The wide variety of experiences will include hunting, hiking, biking, picnic, camping, horseback, canoeing, photography and historic programs. We ask for your full endorsement and approval of this proposal. We are available for any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO 2145

Page 1, line 7, after "open to" insert "grazing,"

Page 2, line 9, after "sell any" insert "non-contiguous"



## BILLINGS COUNTY

### Board of Commissioners

PO Box 168 MEDORA, ND 5864



Phone: (701)623-4377

#### District 1

Joseph L. Kessel  
(701)863-6551

#### District 2

Mike Kasian  
(701) 677-5589

Fax (701) 623-4896

#### District 3

James Arthaud  
(701)623-4461

### Senate Bill 2145

*in support*

### Senate Appropriations Committee

January 5, 2005

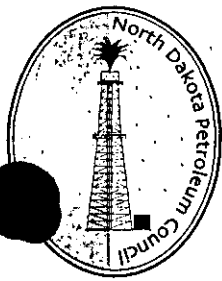
Mr. Chairman and members of the Committee, My name is Jim Arthaud, I am Vice-Chairman of the Billings County Commission. Also attending today is Joe Kessel, Chairman of the Billings County Commission. I appear before you today in support of Senate Bill 2145.

I think it is important for the Committee to understand how this proposal for a State Preserve evolved. In 2002, the Federal Government prepared an Environmental Assessment on its plan to take much of this same land to be managed as a National Park or a National Preserve. For numerous reasons, Billings County, along with other Western North Dakota counties, were opposed to expanding the Theodore Roosevelt National Park at this location. Federal ownership over such a Park or Preserve would not insure the continued availability of oil exploration, hunting, or grazing. It could also significantly decrease revenues of Western North Dakota counties due to county ownership of land or minerals. We do not support federal ownership of additional properties in Billings County as we feel it continues to erode our economic and population base. Billings County strenuously objected to the proposal for the National Park Service's acquisition of this property. While, the Billings County Commission would prefer the property to stay in private ownership we will support the acquisition of the Ebert Ranch by the State of North Dakota. The State preserve proposal assures that grazing, hunting, and energy development can continue, each of which is necessary for our support and for the well being of our county and its residents.

We would like to offer an amendment that would guarantee the rights of the counties for present and future transportation needs across government-owned property. In a county that is already 50% federal and state owned, public transportation corridors are critical to our infrastructure. In addition, because of the rugged terrain and intermingled public and private property, having access for transportation is critical.

Billings County strongly urges you to support this amendment.

Thank you, I would be happy to answer any questions.



# North Dakota Petroleum Council

A Division of the American Petroleum Institute  
and the  
North Dakota Oil and Gas Association

~~ZZZ~~  
Ron Ness  
Executive Director

~~ZZ~~  
Marsha Reimnitz  
Office Manager

Email: [ndpc@btigate.com](mailto:ndpc@btigate.com)  
Phone: 701-223-6380  
Fax: 701-222-0006  
120 N. 3rd Street • Suite 225  
P.O. Box 1395  
Bismarck, ND 58502-1395

**Senate Bill 2145**  
**Senate Appropriations Committee**  
**January 5, 2005**

Mr. Chairman and members of the Committee, my name is Ron Ness, President of the North Dakota Petroleum Council. I appear before you today in support of Senate Bill 2145. We believe state ownership is a better solution than federal ownership of this property.

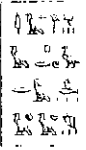
The language allowing energy exploration, development, and extraction activities without restriction is essential for our support of this bill. The area of the proposed land purchase contains seven operating oil and gas wells. Fifteen other wells have been drilled and reclaimed.

This area contains great potential for continued oil and gas production and future development.

In addition, two of the state's largest oil and gas production pipelines traverse through the property. One of the pipelines is the major crude oil trunk line for North Dakota's only remaining refinery. The other is the major natural gas collection line for a large number of wells in the national grasslands. These pipelines were initially laid on private land to avoid public lands, and now they could end up traversing a state or federal lands, which would increase liability and potentially limit their owners' ability to react to disruptions or expand operations. It is a testament to the cooperative effort between landowners and the oil and gas industry that these properties are deemed suitable to be included in our park system after many years of production activity.

Thank you, I would be happy to answer any questions.





*North Dakota Chapter*

## THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE  
ON SB 2145, JANUARY 5, 2005**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mike McEnroe speaking on behalf of the North Dakota Chapter of The Wildlife Society. The North Dakota Chapter supports SB 2145.

The Chapter appreciates the hard work and negotiations undertaken by the Governor's office, the North Dakota Parks and Recreation Department, the North Dakota Game and Fish Department, and the legislators on the Emergency Commission in developing this proposal to acquire this historic area as an addition to the State's Nature Preserve System. We would also like to thank the other private and NGO partners such as the North Dakota Natural Resources Trust and the Rocky Mountain Elk Foundation that put funding into this project. The diversity of the partnerships speak to the strength of this project. We also understand that the Billings County Commission supports the project with acquisition by the State agencies rather than the National Park Service.



**Administration:**  
1101 1<sup>st</sup> Ave N  
Fargo, ND 58102  
P.O. Box 2064  
Fargo, ND 58107-2064  
701-298-2200 • 1-800-367-9668  
Fax: 701-298-2210

**State Headquarters:**  
4023 State St  
Bismarck, ND 58503  
P.O. Box 2793  
Bismarck, ND 58502-2793  
701-224-0330 • 1-800-932-8869  
Fax: 701-224-9485

*Kelle*  
*[Signature]*  
*X*

## **North Dakota Farm Bureau**

[www.ndfb.org](http://www.ndfb.org)

### **North Dakota Farm Bureau Testimony on SB 2145**

Good afternoon Chairman Holmberg and members of the Senate Appropriations Committee. I am Brian Kramer. I am here representing the 27,500 member families of North Dakota Farm Bureau. We oppose Senate Bill 2145. We see no need to take productive land out of private ownership and place it in the hands of our state government to be administered by the parks and recreation department.

Our most recent policy states, "We support a net reduction of government-owned land. For every acre acquired, a reduction of two acres should be made and/or for every dollar of value acquired, two dollars of value should be relinquished." Further policy says, "We support a no net gain of government land." We also support the sale of state and federal land back to the private sector.

Senate Bill 2145 provides state funds to match federal funds in purchasing the land in question, commonly referred to as the Ebert Tract. The federal funding comes from the Natural Resources Conservation Service Grasslands Program. These funds are intended to help producers establish and maintain viable, working agriculture operations. This purchase does not meet those criteria. In fact, it competes with our agricultural producers for those federal conservation funds.

We adamantly oppose using state funds for this purpose. If the state feels this property is so unique and of such historical significance, then the state should sell some of the property it currently owns to finance the purchase. In this way, there is no additional expense to the state and there is no expansion of government-owned land in our state.

We hope you will agree and give SB 2145 a "do not pass" recommendation. Thank you for your time. I would try to answer any questions you may have.

*One future. One voice.*



Cass County  
**WILDLIFE CLUB**

Box 336  
Casselton, ND 58012



**TESTIMONY OF HAROLD NEAMEYER**  
**CASS COUNTY WILDLIFE CLUB**  
PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE  
ON

**SB2145**

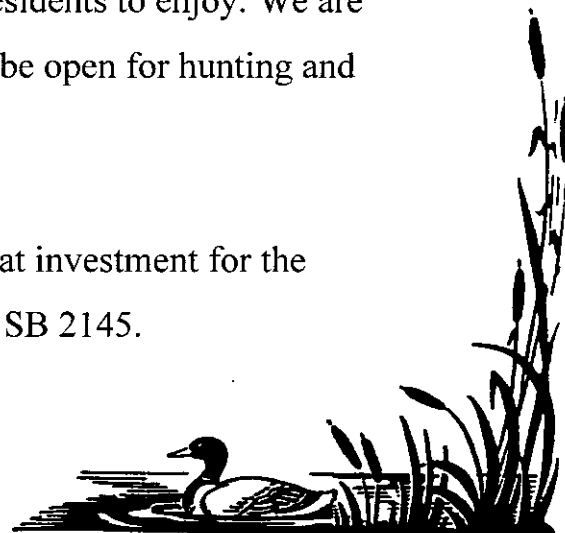
JANUARY 5, 2005

Mr. Chairman and Members of the Committee:

I am Harold Neameyer speaking on behalf of the Cass County Wildlife Club, an organization of over 200 sportspeople organized to promote conservation of wildlife, to promote sportsmanship in hunting and fishing and to support the proper management of these resources.

The Cass County Wildlife Club supports SB 2145 which authorizes the purchase of the Ebert Ranch. The ranch is a historic piece of property that belongs in the State Parks and Recreation system. The club believes this property should be available for all North Dakota residents to enjoy. We are happy to see that the bill requires that the land is to be open for hunting and other recreational activities.

Authorizing this purchase appears to be a great investment for the people of North Dakota. We support the passage of SB 2145.



Mr Chairman and members of this committee. I'm Don berge of ~~FARGO~~<sup>FARGO</sup>  
President of the Landowners association of ND(LAND). I'm here  
not only representing Land, but also as a landowner and a  
concerned citizen of ND. I'm here to oppose the sale to any entity  
other than a private individual.

There are four points that I'd like to discuss with you today:

- (1) property rights;
- (2) owner responsibility;
- (3) financing;
- (4) and finally, past experiences.

First of all, this country was founded on individual liberties and  
the right to property ownership. Government was to be limited in  
scope and undoubtedly individual entrepreneurship has led to our  
greatness. As an organization, we believe local control is not only  
desired, but necessary to assure the betterment of the community.  
Those that live in an affected area should have a say as to the  
outcome.

Coupled with property rights comes also responsibility. A  
responsibility to future generations. A responsibility that has  
ramifications on the future of an industry. How soon we forget  
that an opportunity was made available to us when we all started  
in our chosen endeavors. The ability to ranch on this property as  
we know it will be forever lost.. Once it's gone from private  
ownership it's gone. No turning back the clock.

Thirdly financing. According to the Bismarck Tribune the vast majority of the financing is coming from the Natural Resources Conservation Service. Tell me, in this day and age of deficit spending, Does the NRCS have the where with all to grant anything? We are mortgaging our future which should not be done. As we all know, so called free money has it fatal flaws. Strings are attached and new rules put in place that no one can possibly adhere to and make a living.

In conclusion, past experiences are a benchmark for this and future acquisitions. Ask Wayne Hage for example. He too thought that things would remain the same when ownership changes occurred. Unfortunately he found that rules and regulations can change at anyone's whim. His life and occupation has suffered since. Countless expenses occurred that should never have happened. If this was the only instance of private to public ownership in our fair state, maybe we'd look at this differently. But since the United Nations Environment Conference at Rio De Janero in 1992, too much top down governing has been occurring. A world view and an anti individual has transpired. Outside influence and authority rules supreme. Local control no longer matters. We hear of Greenways, heritage centers, buffer zones, and conservation easements throughout the state. On your desk during the pre-session, a booklet dealing with Sustainable Development and the UN Wildlands Projects was made available. Review it. You will see a parallel here and its ramifications.

I ask for a No vote on this measure. Let private ownership be a trademark of ND.

Thank you.

XIII

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**BADLANDS CONSERVATION ALLIANCE**  
A VOICE FOR WILD NORTH DAKOTA PLACES

**Badlands Conservation Alliance**  
**Field Office**  
801 North 10 Street  
Bismarck, ND 58501  
701-255-4958 [www.badlandsconservation.org](http://www.badlandsconservation.org)

**RE: Senate Bill No. 2145**

Testimony of the Badlands Conservation Alliance before the Senate Appropriations Committee  
January 5, 2005

Chairman Holmberg, Members of the Senate Appropriations Committee:

My name is Jan Swenson. I am speaking as Executive Director of the Badlands Conservation Alliance, a non-profit public education and conservation organization headquartered in Gladstone, North Dakota.

The Badlands Conservation Alliance has spoken in favor of public acquisition of the Eberts Ranch as a legacy to our 26<sup>th</sup> President Theodore Roosevelt since its inception. We view the generosity of the Eberts family's vision as an opportunity for both the State and the Nation, and hope that completion of public acquisition will be expedited for the benefit of all.

Lack of specific reference to the Eberts property and the proposed Elkhorn Nature Preserve in the language of SB 2145 denies us all an opportunity for celebration and pride that is certainly at the core of this project's intent.

The Badlands Conservation Alliance has several concerns with current language:

- Under Section 1, No.2, it appears the energy industry has carte blanche. It has been the Badlands Conservation Alliance's understanding that mineral rights would be honored in the proposed preserve but that the viewshed of the existing Elkhorn Ranch Unit of Theodore Roosevelt National Park would be protected. We don't see that reflected in this language. In fact, we see the opposite. While we understand that the management planning process will identify direction, without specific protection of that viewshed, the Eberts' intent and the support of the Badlands Conservation Alliance is nullified.
- Furthermore, in Section 1, No.3, the State limits its ability to make best management decisions. Considering the state and federal interest in Theodore Roosevelt and the federal source of the majority of the acquisition funding, we should not tie our hands against any future mutual benefit.
- Finally, Section 5 refers to sale of "any parcel or parcels of land included in the acquisition". Are we buying or selling? The Badlands Conservation Alliance supports the land exchanges discussed over the life of this project wherein those outlying parcels are used to block up the boundaries of an Elkhorn Nature Preserve. Isolated as they are, use by local ranchers would be problematic and likely not bring the financial outcomes the State anticipates. Here again, No. 3 under Section 1 curtails the best opportunity for the State in trading or selling these outliers to the more managerially efficient Forest Service. Under Forest Service management they would remain available to local livestock interests without fragmentation or unwarranted private expense.

The Badlands Conservation Alliance supports the public acquisition of the Eberts Ranch, supports the appropriation of funding for such purchase, but cannot support SB 2145 as written.

1-5-5

Senate Appropriations Committee / SB 2145  
State Capitol  
Bismarck, ND

Mr Chairman and Members,

My name is Dennis Miller. I have served as president of LAND and other state organizations. I represent myself, although my testimony supports the position of LAND on this issue.

I oppose the appropriation of funds for the purchase of the Ebertz Ranch on these grounds:

I am an owner of farm property. Since 1987 to the present, my real estate tax has increased from \$540 per quarter section to \$840 this year, a 53% increase, or 3% per year. Maybe one farm taken off the tax roles, or using recycled tax dollars to pay property tax doesn't make a difference, but these purchases/takeovers are occurring from east to west, north to south and pretty soon they add up to something. Wasn't it a federal colleague who said a billion here and a billion there and pretty soon you have something.

The increase of property tax while rural services have decreased indicates we don't have the money to pay for our existing programs, as I'm sure we will hear endlessly during this session of the state legislature. If we don't have money to fund existing programs, why are we spending money to expand State responsibilities?

My second reason for opposing this appropriation concerns philosophy. North Dakota has approximately 64 wildlife refuges already, more than any other state in the nation. We hear of endless acquisitions of rural property by non-profits, NDGF and USFWS for wildlife production. I ask you today: How much is enough? Is 3.5 million acres of CRP enough? Using tax dollars to purchase this ranch is subsidizing the transfer of business from the implement dealer and sales barn to the tourist motel and café. How much is enough?

Secretary of Agriculture through the Natural Resources Conservation Service of the United States Department of Agriculture for the purposes of restoring, enhancing, and protecting grassland acreage, including shrubland, rangeland, pastureland, and other lands, and for protecting related conservation values, including wildlife habitat and biodiversity.

**NOW THEREFORE**, in consideration of the sum of \_\_\_\_\_ Dollars(\$ \_\_\_\_\_), Grantor hereby grants and conveys with general warranty of title, to the United States and its assigns an easement in the Property, including development rights and access to the Property, as defined herein. It is the intent of Grantor to convey and relinquish all development rights to Grantee for the purpose of protecting the conservation values identified herein. This Deed shall constitute a servitude upon the Property so encumbered, shall run with the land and shall bind Grantor, its heirs, successors, assigns, lessees, and any other person claiming under them.

Subject, however, to any valid rights of record.

The term of this easement is perpetual [or \_\_\_\_ years, expiring on \_\_\_\_ 20 \_\_\_\_]

## **II. Purposes**

It is the primary purpose of this Deed to retain the Property in grassland by restoring and conserving native and desired non-native grasses, forbs, and shrubs, and the enhancement and protection of wildlife habitat, biodiversity, and other conservation values referenced in this Deed (collectively referred to as the "grassland and other conservation values").

## **III. Permitted, Prohibited, Restricted and Reserved Activities**

**A. Grassland Uses of the Property.** Grantor is permitted to graze, hay, harvest for seed production, mow, construct fire breaks, conduct fire rehabilitation activities, and conduct common grazing practices, including maintenance and necessary cultural practices, consistent with the conservation purposes of this Deed. As used in this Deed, the term "common grazing practices" means those practices customary to the region where the Property is located related to livestock grazing, and includes forage management and necessary cultural practices such as the infrastructure required to conduct livestock grazing on the Property. Grantor shall not hay, mow or harvest for seed during certain nesting seasons for birds whose populations Grantee determines are in significant decline. Such determinations shall be made in writing to the Grantor, or set forth within the Conservation Plan on the Property (see paragraph IV. A.).

**B. Quiet Enjoyment.** In addition, Grantor reserves for itself and its invitees the right of quiet

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use and enjoyment and the right to convey or lease the Property and restrict public access.

**C. Prohibited Acts.** Grantor shall not perform, nor knowingly allow others to perform, any act, including those prohibited or restricted herein, that is inconsistent with the purposes of this Deed.

**D. Crop Cultivation.** Except for grassland uses permitted in paragraph III. A., the cultivation or production of crops, non-perennial forages for human or domestic animal consumption, or seed production is prohibited.

**E. Non-Grassland Land Uses.** The establishment of tree or shrub nurseries, fruit or nut producing trees, vineyards, tree farms or plantations, aquaculture ponds, or any activity that breaks the surface of the soil, except as specifically permitted in this Deed, is prohibited.

**F. Incidental Lands.** Grantee may determine that the enrollment of certain incidental lands (including but not limited to ponds and woods) present on this Property at the time this Deed is executed and identified in the Baseline Inventory Report, may be necessary to facilitate the administration of the easement boundary. The Grantor may utilize and maintain such incidental lands in a manner that is compatible with the purposes of this Deed, as determined by Grantee.

**G. Topography.** Altering the existing topography of the Property by digging, plowing, disking, or otherwise disturbing the surface is prohibited, unless the Grantee determines such actions are necessary to restore and maintain the viability of grassland and other conservation values, or are otherwise specifically permitted by this Deed, and provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of grassland and other conservation values.

**H. Waste.** Dumping, collecting, recycling, or storing of trash, refuse, waste, sewage, or other debris is prohibited, except that animal waste may be applied on the Property as fertilizer as long as Grantee provides Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of the grassland and other conservation values.

**I. Mining.** The exploration, development, mining, or extraction of soil, sand, gravel, mineral, oil, gas, or any other hydrocarbon substance from the surface of the Property is prohibited. However, subsurface exploration and extraction of oil, gas, and minerals may be conducted utilizing techniques and methods that result in only a temporary disturbance to the surface of the soil, ~~as determined by the Grantee~~, if Grantee ~~also~~ determines that such activities are consistent with conserving and maintaining the viability of grassland and other conservation values, and Grantee provides Grantor, in advance and in writing, approval subject to the terms and conditions

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in accordance with locally accepted practices

Grantee determines are necessary to ensure the protection of these conservation values, including, but not limited to, requiring that all structures are located beneath the soil surface and that any disturbed surface is restored promptly to grassland. Subsurface extraction of gas, oil, and minerals may be conducted by off-site methods (such as slant drilling) that do not impact the surface of the Property. Any extraction permitted pursuant to this paragraph shall be conducted in compliance with Federal, State and local regulations and permits.

**J. Construction of Buildings, Livestock Facilities or Other Structures.** The repair, maintenance, or replacement of existing corrals, livestock holding pens, windmills, barns, or other minor structures, as identified in the Baseline Inventory Report, necessary to conduct common grazing practices on the Property, are permitted at the same location and within the existing footprint of such structures. Construction of new buildings, livestock facilities, or other structures necessary to conduct common grazing practices on the Property may be permitted on the Property, if the Grantee determines that such activities are consistent with maintaining the viability of the grassland and other conservation values, and provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of these conservation values.

**K. Watering Facilities.** Grantor may maintain existing watering facilities (i.e. water tanks, troughs, and dugout ponds) for livestock or wildlife in their current location as identified in the Baseline Inventory Report. Grantor may construct or place on the Property new watering facilities for livestock and wildlife if Grantee determines that such facilities are consistent with maintaining the viability of grassland and other conservation values, and Grantee provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of these conservation values.

**L. Fences.** Existing fences may be repaired or replaced and new fences may be built on the Property for the purposes of managing livestock in a manner that is customary in the region where the Property is located and consistent with the purposes of this Deed set forth at Part II.

**M. Roads and Impervious Surfaces.** No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, nor shall any road for access or other purposes be constructed. However, new roads necessary to conduct common grazing practices as permitted herein on the Property may be constructed with prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to maintain the viability of the grassland and other conservation values. Existing roads may be maintained and repaired in their current condition and within their existing footprint as identified in the Baseline Inventory Report. Maintenance and repair of existing roads shall not be construed to permit the paving of any existing road not already paved or otherwise covered in an

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impervious material.

**N. Timber Harvesting.** Trees may be cut to control insects and disease, prevent personal injury and property damage, obtain firewood for personal use, and construct fences as permitted herein, with prior written approval of Grantee. Any commercial harvesting shall be conducted in accordance with a forest management plan as set forth in paragraph IV. C. herein.

**O. Recreational Uses.** Undeveloped, passive, recreational uses, such as hiking, camping, bird watching, hunting, and fishing are permitted as long as such uses, as determined by Grantee, do not impair the grassland and other conservation values.

**P. Motorized Vehicle Use.** Motorized vehicle use on the Property is prohibited, except as necessary to carry out uses permitted herein on the Property. Off-road vehicle courses for snowmobiles, all-terrain vehicles, motorcycles, or other motorized vehicles are prohibited.

**Q. Development Rights.** The Property shall not be developed except as expressly permitted by this Deed. Subject to valid existing rights of record, all development rights associated with the Property are vested in Grantee. The Parties agree that these development rights are terminated and extinguished and may not be used on or transferred off of the Property to any other property or otherwise used.

**R. Signs.** Except for no trespassing signs, for sale signs, and signs identifying the owner of the Property, all other signs, advertisements, and billboards of any nature are prohibited. The permitted signs may not exceed 15 square feet in size. The Parties agree that the United States has the right to erect and maintain signs on the Property for the purpose of identifying this easement.

**S. Exotic Species.** The introduction, cultivation, or use of exotic plant or animal species is prohibited on the Property without prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to ensure the protection of the grassland resources and other conservation values referenced in this Deed.

**T. Subdivision.** The Property may be subdivided with prior written approval by Grantee. The terms of this Deed shall apply to any subdivided parcels.

**U. Utilities.** The installation or relocation of new public or private utilities, including electric, telephone, or other communications services over the Property, is prohibited. Existing utilities on the Property may be maintained, repaired, removed, or replaced at their current location as identified in the Baseline Inventory Report. The installation, repair, and maintenance of

underground utilities such as electric, gas, water, sewer lines, or other utilities may be permitted on the Property if Grantee determines that such activities will result in only a temporary disturbance to the surface of the soil, are consistent with conserving and maintaining the grassland and other conservation values, and provides the Grantor, in advance and in writing, approval subject to terms and conditions Grantee determines are necessary to ensure the viability of the grassland and other conservation values. The construction of wind and solar energy generation facilities are prohibited, except when their primary use is necessary for conducting common grazing practices on the Property, such as providing energy necessary for feeding, watering, and care of livestock, and the Grantee provides Grantor, in advance and in writing, approval subject to terms and conditions Grantee determines to ensure the protection of these conservation values.

**V. Water Rights.** Grantor shall retain the right to use the water rights described in Exhibit A for the present and future use on the Property, as well as all wells, ditches, canals, headgates, springs, reservoirs, water allotments, and water rights of ways associated with the Property and identified in the Baseline Inventory Report. With the prior written approval of Grantee, Grantor may transfer, lease, sell, or otherwise separate a portion of those water rights from the Property that the Grantee determines are not necessary to ensure the function of the grazing operation and the protection of the grassland and other conservation values.

**W. Restoration.** In furthering the conservation purposes of this Deed, Grantor may restore grasses, forbs, and shrubs on the Property if approved in advance and in writing by Grantee. In addition, Grantee shall have the right to enter the Property to undertake, at its own expense or on a cost-share basis with Grantor or other entity, activities to restore, protect, manage, maintain, enhance, and monitor the grassland and other conservation values.

#### **IV. Affirmative Duties: Planning Requirements**

**A. Conservation Plan.** The Parties agree that good resource management and land stewardship is important for present and future generations, for the protection and enhancement of grasses and other native and desirable, non-native vegetation on the Property, and in furtherance of its conservation values. The Grantor agrees to implement a Conservation Plan on the Property developed and approved by the Grantor and NRCS, which describes the practices, measures, and other conditions necessary for restoring and maintaining the viability of grassland and other conservation values. Subsequent to recording of this Deed, the Conservation Plan will be revised when necessary, as determined by NRCS or the Grantor, to reflect any changes in the use of the Property that affect the viability of the grassland or other conservation values. The revised Conservation Plan shall be developed and approved by the Grantor and NRCS. The Conservation Plan shall not include any provisions inconsistent with the purposes of this Deed.

**B. Pest and Weed Control.** Grantor is responsible for control of noxious weeds and pests according to Federal and State law.

**C. Forest Management Plan.** Commercial harvesting shall be conducted in accordance with a forest management plan prepared by a licensed, professional forester, which is approved in advance and in writing by Grantee, and which does not impair the grassland and other conservation values, including the protection of animal and plant diversity. A copy of this plan shall be provided to and approved by Grantee at least one month prior to any timber harvest.

## **V. Enforcement and Transfer**

### **A. Enforcement.**

1. Grantee has the right to prevent, correct, or require correction of violations of the terms of this Deed. Upon notification to the Grantor, Grantee or Grantee's agents may enter the Property to inspect for violations, including, but not limited to, assessing compliance with the Conservation Plan or other plan described in Section IV above. However, notification by Grantee prior to entry is not required when the Grantee believes there may be a violation of the terms of this Deed. If Grantee finds a violation, Grantee may at its discretion take appropriate legal action in law or equity. Upon discovery of a violation, Grantee shall notify Grantor in writing of the violation. Except when an ongoing or imminent violation could, as determined by Grantee, seriously impair the conservation values of the Property, Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing any legal action.
  2. If Grantor fails to cure the violation within 30 days after receipt of a notice of violation, Grantee may bring an action in court to enforce the terms of this Deed, to enjoin the violation, and to require restoration of the Property to the condition that existed prior to any such injury. Where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in halting and correcting the violation, including but not limited to reasonable attorneys' fees.
  3. Any delay by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor shall not be deemed a waiver by Grantee of such rights with respect to that violation. Moreover, any failure by Grantee to discover a violation of this Deed, or forbearance by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor, shall not be deemed a waiver by Grantee of such rights with respect to any subsequent violation.
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**B. Transfer of Easement Ownership.** Upon prior written consent from the Grantor, the Secretary of the United States Department of Agriculture ("Secretary") may transfer this easement to an Easement Holder, subject to the right to inspect the Property periodically and the terms set forth below. The Easement Holder must be a State agency, or private conservation or land trust organization which, at the time of transfer, is a qualified organization under 16 U.S.C. 3838q that the Secretary determines has the appropriate authority, expertise, and resources necessary to assume title ownership to this easement. This easement shall survive any merger of the fee and easement interests in the Property.

1. In the event that the Easement Holder fails to enforce the terms of this easement, as determined in the discretion of the Secretary, the Secretary, his or her successors and assigns, shall have the right to enforce the terms of this easement through any and all authorities available under Federal or State law or, at the option of the Secretary, to have all right, title, or interest in this easement revert to the United States of America. Further, in the event the Easement Holder dissolves or attempts to terminate this easement, then all right, title, and interest shall revert to the United States of America.
2. The Easement Holder may only transfer this easement to another qualified public or private entity as provided for under 16 U.S.C. 3838q(c)(1)-(4) as that statute reads on the day that this Deed is executed, and the Grantor consents to the transfer.
3. Should this easement be transferred pursuant to this provision, all warranties and indemnifications provided for in this Deed shall continue to apply to the United States. Subsequent to the transfer of this easement, the Easement Holder shall be responsible for conservation planning and implementation, and will adhere to the NRCS Field Office Technical Guide for maintaining the viability of grassland and other conservation values.
4. Due to the Federal interest in this Deed, this Deed cannot be subject to condemnation without the permission of the United States.

## **VI. General Terms**

**A. Access.** No public access is conveyed by this Deed. Grantor maintains the right and obligation to prevent trespass and control access by the public pursuant to Federal and State law, provided that Grantee has the right of ingress and egress to the Property over Grantor's property, whether or not Grantor's property is adjacent to or appurtenant to the Property, for the exercise of

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Grantee's rights under this Deed. The authorized representatives of Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.

**B. Responsibilities of Grantor and Grantee Not Affected.** Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way affect any existing obligations of Grantor as the owner of the Property. For example:

1. **Taxes.** Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property.

2. **Upkeep and Maintenance.** Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property.

**C. Rights Acquired.** The property rights of the United States acquired under this Deed shall be unaffected by any subsequent amendments to or repeal of the Grassland Reserve Program. If Grantor receives consideration for this easement in installments, the Parties agree that the conveyance of this easement shall be effective upon payment of the first installment.

**D. Subsequent Conveyances.** Grantor agrees to notify Grantee in writing of the names and addresses of any party to whom the Property is to be transferred at or prior to the time the transfer is consummated. Grantor and its successors and assigns shall specifically refer to this Deed in any subsequent lease, deed, or other instrument by which any interest in the Property is conveyed.

**E. Subsequent Liens.** No provisions of this Deed should be construed as impairing the ability of Grantor to use this Property as collateral for a loan, provided that any mortgage or lien associated with the loan is subject to or subordinated to this Deed.

**F. Severability.** If any provision of this Deed is found to be invalid, the remainder of its provisions shall remain in force.

**G. Rules of Construction.** This Deed shall be interpreted under the laws of the United States. Any ambiguities in this Deed and questions as to the validity of any of its specific provisions shall be resolved in favor of Grantee so as to preserve the conservation values of the Property and to give maximum effect to the purposes of this Deed.

**H. Environmental Warranty.** "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing

standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

**"Hazardous Materials"** means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to defend and indemnify Grantee against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath, or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Material contributed after this date to the Property by Grantee.

**I. General Indemnification.** Grantor shall indemnify and hold harmless Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Property, which may arise from, but is not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this



Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

**J. Notices.** Any notices required by this Deed shall be in writing and personally delivered or sent by certified mail, return receipt requested, to Grantor and Grantee.

**K. No Merger.** If Grantee at some future time acquires the underlying fee title in the Property, the interest conveyed by this Deed will not merge with fee title but will continue to exist and be managed as a separate estate.

**L. Acceptance.** The signature below of Grantee's authorized representative constitutes acceptance of the rights and responsibilities conveyed by this Deed to the United States.

**M. Captions.** The captions used in this Deed have been inserted solely for convenience of reference. They are not part of this Deed and shall have no effect upon its interpretation.

**N. Rights and Obligations.** All provisions of this Deed apply to Grantor or Grantee and their respective agents, heirs, executors, administrators, assigns, and any other successors.

**TO HAVE AND TO HOLD**, this Conservation Easement Deed is granted to the United States of America and assigns. Grantor covenants that it is vested with good title to the Property and shall warrant and defend the same on behalf of the United States against all claims and demands. Grantor covenants to comply with the terms and conditions enumerated in this Deed governing use of the Property, and adjacent lands owned by the Grantor used for access to the Property, and to refrain from any activity that is restricted, prohibited, or inconsistent with the purposes of this Conservation Easement Deed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Landowner(s) \_\_\_\_\_  
\_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

I \_\_\_\_\_, being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Conservation Easement Deed with respect to the rights and duties of the United States.

### Acknowledgment

In the State or Commonwealth of \_\_\_\_\_, County, Borough or Parish of \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said jurisdiction, personally appeared \_\_\_\_\_ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

IN TESTIMONY WHEREOF, I have hereunto my hand and Notarial Seal subscribed and affixed in said jurisdiction, the day and year above written.

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires:

This instrument was drafted by the Natural Resources Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250-1400.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA'S TARGET Center at (202)720-2600 (Voice and TDD).

To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington, DC 20250-9410, or call 202-720-5964 (voice or TDD), USDA is an equal opportunity provider and employer.

II

Amendments to the USDA NRCS

Grassland Conservation Program Conservation Easement: NRCS-CPA-255

12/2004

**Stuck-out language is removed and underlined language is added**

*The following language will be inserted at any appropriate place within the deed:*

The parties acknowledge that the terms of this Deed are taken subject to the rights of outstanding mineral owners and to North Dakota state law governing mineral estates, existing easements and water rights.

*Amend page 2, the second to the last line of Section I*

After the Phrase: "Subject, however, to any valid rights of record"

add the following:

including the pending condemnation actions initiated by Billings County, North Dakota. Because this easement is taken with notice that the right to construct a road on the easement property has been claimed, the Grantee expressly acknowledges the right of the state or local government to construct a single road across the Property. With regard to the location of said road, the Grantee shall determine that the location of said road minimizes any adverse effect to the grassland and the other conservation values of the Property, including habitat for the Greater Sage Grouse, and the Grantee shall receive commensurate

compensation for any lost economic and conservation values of the GRP easement area that will be subject to the road right of way.

*Amend page 3 Section III paragraph I.*

**I. Mining.** The exploration, development, mining or extraction of soil, sand gravel, mineral, oil, gas, or any other hydrocarbon substance from the surface of the Property is prohibited. However, subsurface exploration and extraction of oil, gas, and minerals may be conducted utilizing techniques and methods that result in only a temporary disturbance to the surface of the soil, in accordance with locally accepted practices, ~~as determined by the Grantee.~~ if Grantee also determines that such activities are consistent with conserving and maintaining the viability of grassland and other conservation values, and Grantee provides Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of these conservation values, including, but not limited to, requiring that all structure are located beneath the soil surface and that nay disturbed surface is restored promptly to grassland. Subsurface extraction of gas, oil, and minerals may be conducted by off-site methods (such and slant drilling) that do not impact the surface of the Property. Any extraction permitted pursuant to this paragraph shall be conducted in compliance with Federal, State and local regulations and permits.

*Amend Page 4 Section III. paragraph M.*

**M. Roads and Impervious Surfaces.** No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or other impervious paving material, nor shall any road for access or other purposes be constructed. However, new roads necessary to conduct common grazing practices as permitted herein on the Property may be constructed with prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to maintain the viability of the grassland and other conservation values. ~~Existing roads~~ Roads may be maintained, and repaired and improved, ~~in their current condition and~~ within their existing footprint as identified in the Baseline Inventory Report. Maintenance, ~~and repair,~~ and improvement of any existing roads shall not be construed to permit the paving of any existing road not already paved or otherwise covered in an impervious material.

SB2145  
Senate Appropriations Committee  
Harvest Room  
January 5, 2005

(750)

### ELKHORN RANCH MANAGEMENT CONCEPT

Chairman Holmberg and members of Senate Appropriations, I am Doug Prchal, Director North Dakota Parks and Recreation Department. The proposed acquisition offers a unique opportunity for public access and outdoor recreation pursuits on lands Theodore Roosevelt enjoyed and wrote of while living in the Badlands. Management focus will maintain existing land uses while also establishing public use areas adjacent to the original Elkhorn Ranch owned and managed by Theodore Roosevelt. State ownership retains the view-shed of the historic ranch site, and provides opportunities for expanding public knowledge of the nations leading conservation President. Development opportunities to enhance public enjoyment will be limited to low-density, primitive facilities including a variety of non-motorized trails, camping experiences and water based access. Hunting and grazing, two land-uses former President Roosevelt was engaged in are primary uses of the property. Oil and gas development will be maintained also, but done with sensitivity to visual and scenic objectives.

#### Objectives:

1. Management of the property will be under the supervision of the ND Parks and Recreation Department. Hunting proclamations and consultation would be provided by the NDGFD through a cooperative agreement. Grazing assistance would be provided from Natural Resources Conservation Service directed by a Conservation Plan with further assistance from the State Land Department on lease options for grazing rights. Management of oil and gas development will require oversight by the Oil and Gas Division of the Industrial Commission. All other public use management, resource management and property maintenance would be undertaken by state parks.
2. The ranch property will be enrolled in the Grassland Reserve Program requiring grazing as a management tool. That program also allows a full range of hunting, oil and gas development, and public use including non-motorized trails, interpretive signage and programs and overnight camping.
3. Creating a "Badlands Experience" whereby visitors can learn of, ride and walk on lands Theodore Roosevelt ranched and hunted on. Opportunities will be created for visitors to involve themselves in re-established settings that Theodore Roosevelt experienced.

#### Management and Development

This project creates a unique partnership to maximize public use, resource management, educational and interpretive value leading to positive economic value to the region. The ND Parks and Recreation Department, through multi-agency partnership, intends to create a model exhibiting the compatibility of grazing, energy extraction, hunting and the array of public use opportunities and experiences this project offers.

The 2005-2007 Executive budget recommendation contains a \$419,000.00 appropriation for initial operations, development and staffing requirements. Specifics of that appropriation are detailed within the attached briefing paper.

Future development and operations costs will be outlined in a General Development and Management Plan proposed after acquisition is finalized. The 2007-2009 budget recommendation will include further details of future budgetary needs.

### OPPORTUNITIES

1. The vision for this property.
  - Creating opportunities for visitors to involve themselves in re-established settings that Theodore Roosevelt experienced.
  - Provide expanded public use in the Little Missouri Badlands while protecting the historic view-sheds near and around the Historic Elkhorn Ranch home-site.
  - The acquisition presents an opportunity to demonstrate several things:
    - Wildlife habitat and livestock grazing can coexist and are, in fact, mutually beneficial to each other if done with grassland habitat as the primary goal.
    - Oil, grazing, and healthy grasslands can be accommodated on the same property.
  - Cultural, historical, and wildlife sites of significance are important to North Dakota and ND State Agencies are capable of managing them.
2. State Ownership
  - State acquisition and management is due to local opposition to further federal ownership of lands. Additionally, greater flexibility exists by the state to provide expanded public use. Grazing, hunting and oil and gas will be able to continue.
  - The benefits to the state as well as to the local community are many; local input into management and use of the property, job opportunities, expanded outdoor uses in recreation, hunting, and historic preservation benefits to local and state economies.
3. Operation plans are conceptually outlined for public use and development in the context of this draft paper. In addition:
  - Potential opportunity also exists for commercial horse concessions with rustic cabins allowing overnight stays and various aspects of early ranching experiences.
  - A canoe launch and takeout is proposed on the property offering potential private enterprise opportunities.
4. The Maah Daah Hey Trail bisects the NW corner of the ranch site, midway between Sully Creek State Park and the North Unit of Theodore Roosevelt National Park. A central location like this provides for destination traffic to base out of the ranch to enjoy horseback, hiking or biking experiences either to the north or south.

In summary, this ranch was not pursued by the department, it was offered to the state for public use by the private landowner. A thorough evaluation of this prospect discovered a variety of attributes, as noted, for creation of a significant public use area and tourism destination. We have the opportunity to promote one of the significant legends in our states history, Theodore Roosevelt. Approval of this legislation would allow us to begin that opportunity. We ask for your favorable approval of the requested budget authority allowing the purchase to proceed.

Handout #  
42-2  
Lance Gaebe

**Testimony –in support of SB 2145 The Elkhorn Ranch Project**  
**Presented to the House Appropriations Committee March 8, 2005**  
**By Lance Gaebe, policy advisor in the Office of the Governor**

Chairman Svedjan and members of the House Appropriations Committee:

I appear before you today to provide the background, explanation and support of the acquisition of a ranch property in the North Dakota badlands. The Elkhorn ranch project authorized by SB 2145 is the culmination of several years of efforts to protect, and make available to the public, land that was once ranched and hunted by Theodore Roosevelt.

Prior to his presidency, Theodore Roosevelt began ranching along the Little Missouri River south of Medora at the Maltese Cross. Experiencing more passerby traffic than suited the solitude he sought, Mr. Roosevelt relocated north of Medora to a site he named the Elkhorn Ranch. A stone foundation of that ranch house remains along the Little Missouri River within a 200-acre site owned and managed by the Theodore Roosevelt National Park.

Adjacent landowners to the Elkhorn Ranch Historic Site are offering the 5200 +/- acre property for public use to preserve a remnant of the ranch. The bill before you is the authorization for the state to acquire that ranch (much of which was part of the former president's ranch) and protect the historic, scenic and economic uses of the land. The property is located directly across the Little Missouri River from the National Park Service maintained Elkhorn cabin site.

Some historical context is appropriate: Two years ago the state was approached by local officials and residents opposed to a plan for federal acquisition of the property as was then being proposed by the Natural Park Service to acquire the ranch as part of a Park expansion. Federal ownership had the potential to limit the hunting and economic activities on the land, and the prospect for additional federal ownership in Billings County was negatively received. After much local opposition, state ownership was offered as an alternative to that federal park expansion, and management by the Parks and Recreations Department was suggested in an effort to preserve existing uses including grazing, hunting and energy development--along with providing a variety of low impact outdoor recreation opportunities for the public.

Opportunities such as this cannot be planned, since a willing seller is necessary. I should emphasize that the state did not pursue this acquisition; rather we were approached for the values noted, and as an alternative to more restrictive federal ownership.



Federal efforts to acquire the property continue: In September 2004, in the most recent appropriation for the United States Department of the Interior, the Senate Appropriations Committee inserted report language into SB 2804 indicating support for the establishment of a national preserve and instructions to the National Park Service to submit a funding proposal for acquisition of the Elkhorn property.

While ranching, Theodore Roosevelt enjoyed hunting in the rugged badlands, wildlife was plentiful and he wrote extensively about his North Dakota ranching and hunting experiences. The opportunity, in this historic setting, exists for the public to ride, walk, camp and hunt on the lands enjoyed by former President Roosevelt. By maintaining existing land uses, the visiting public can learn about the life and experiences of this conservation president. It is appropriate that we are discussing this legacy only weeks after the 100<sup>th</sup> anniversary of Roosevelt's inauguration to the presidency after being elected in 1904. This is a unique project which will continue to link TR's legacy with North Dakota, and which will allow our tourism officials to highlight the truth in the Legendary brand when they promote the State's virtues to prospective visitors.

Re-engrossed SB 2145, the bill that you have before you, is senate version of the plan for the state to buy this ranch, and to ensure that it continues to operate as a ranch and to keep it from being sold to, or transferred to the federal government.

Section 1 is fairly self explanatory--it simply provides the authorization for the parks and recreation department to acquire the 5,225.2 acre property and ensure that it be available for energy, hunting, and agricultural uses. Provisions in this section included the conditions:

- the land shall be leased for grazing purposes
- energy exploration and extraction may not be limited
- the land cannot be encumbered by conservation easements
- the land cannot be sold to the federal government
- future road rights-of-way must be allowed

Section 2 the appropriation

- \$522,520 from the Game and Fish fund is equal to the \$100/acre of the appraised wildlife/hunting value of the property
- \$524,720 in federal funds--this figure is the amount authorized by a federal program to which the parks and recreation department has access, called Land and Water Conservation Grant, it must be used for recreation purposes
- The remainder of the \$3.5 million purchase price will be appropriated from the profits of the State Bank -- \$2,476,760

### Section 3

Explains that acquired minerals obtained by the Parks and Recreation Department be retained if the surface property is sold. Furthermore, the section indicates that as portions of the property are sold, the proceeds must return to the Bank of North Dakota and Game and Fish Fund in the same ratio as they are used to make the purchase.

### Section 4

Is a condition that the acquisition of the property will not create a net gain of state owned property and combined with section 5 will make recommendations of portions of the acquired property and parcels of School land in four western counties that will be sold in order to not have a increase in State public land holdings.

### Section 5 –

- Requires the Legislative Council to study the use and the benefit of acquired property for Parks and Recreation purposes, and to make recommendations which portions shall be retained
- The legislative council will also review and recommend which parcels of school land will be made available for sale, so as not to negatively impact ranchers or farmers who may already be using the property as part of their operations

Doug Prchal of the North Dakota Parks and Recreation Department, Roger Rostvet of the Game and Fish Department and Rod Backman, who has been helping with this project, will follow me with testimony explaining how the property will be managed and offer a detailed explanation of the financial package.

I should add that the original concept as introduced would have authorized the acquisition of the property without the use of any general fund dollars. The plan would have utilized a USDA Grasslands Reserve Program easement for slightly more than \$2 million of the project costs. The effort was a creative funding package using federal and special funds and a partnership with conservation organizations for the acquisition of the park preserve. We are prepared to answer your questions about how that plan was formulated and what the parameters of the USDA easement entail.

In closing Mr. Chairman, a state managed public use area between the north and south units of Theodore Roosevelt National Park allows diverse outdoor recreation in the area coexisting with ranching and energy activities. The wide variety of experiences will include hunting, hiking, biking, picnic, camping, horseback, canoeing, photography and historic programs. We ask for your full endorsement and approval of this proposal. We are available for any questions.

## ELKHORN RANCH MANAGEMENT CONCEPT

Chairman Svedjan and members of House Appropriations, I am Doug Prchal, Director North Dakota Parks and Recreation Department. The proposed acquisition offers the state a unique opportunity for public access and outdoor recreation pursuits on lands Theodore Roosevelt enjoyed and wrote of while living in the Badlands. Management objectives maintain existing land uses while also establishing public use areas adjacent to the original Elkhorn Ranch owned and managed by Theodore Roosevelt. State ownership retains the view-shed of the historic ranch site while development, to enhance public enjoyment, will be limited to low-density, primitive facilities including a variety of non-motorized trails, camping experiences and water based access. Hunting and grazing, two land-uses former President Roosevelt was engaged in are primary uses of the property. Oil and gas development will be maintained also, but done with sensitivity to visual and scenic objectives.

### Objectives:

1. Management of the property will be under the supervision of the ND Parks and Recreation Department. Hunting consultation relating to proclamations and game management would be provided by the NDGFD through a cooperative agreement. Grazing will be maintained on the property through leasing bids with assistance from the State Land Department on recommended options. Management of the oil and gas development will require oversight by the Oil and Gas Division of the Industrial Commission. All other public use management, resource management and property maintenance would be the direct responsibility of state parks.
2. The ranch property provides an existing system of trails and woody draws within the lowlands that offer opportunities for overnight camping, day use areas, including non-motorized trails, interpretive signage and a variety of special programs for visitors.
3. Creating a "Badlands Experience" whereby visitors can learn of, ride and walk on lands Theodore Roosevelt ranched and hunted on. Opportunities can be created for visitors to involve themselves in re-established settings that Theodore Roosevelt experienced.

### Management and Development

This project creates a unique partnership to maximize public use, resource management, educational and interpretive value leading to positive economic value to the region. The ND Parks and Recreation Department, through multi-agency partnership, has the opportunity to create a model exhibiting the compatibility of grazing, energy extraction, hunting and the array of public use and experiences this project offers.

The 2005-2007 executive budget recommended a \$419,000.00 appropriation for operations, development and staffing requirements. Specifics of that appropriation are detailed within the attached briefing paper. House appropriations removed that budget request during the budget hearing. The restructured project contained in the re-engrossed bill, specifically the interim study over the next biennium, negates initiating any development and accordingly operations funding for this budget cycle. However, one of the two FTE will be necessary to assist with the planning and data collection for the interim study. That request was made during testimony delivered to the Senate Appropriations last week.

Future development and operations costs will be outlined in a General Development and Management Plan proposed after acquisition is finalized. The 2007-2009 budget recommendation will include further details of future budgetary needs.

### OPPORTUNITIES

1. The vision for this property.
  - The acquisition presents an opportunity to demonstrate several things:
    - Wildlife habitat and livestock grazing can coexist and are, in fact, mutually beneficial to each other if done with grassland habitat as the primary goal.
    - Oil, grazing, healthy grasslands and outdoor recreation can be accommodated on the same property without conflicting with one another.
  - Provide enhanced public use in the Little Missouri Badlands while protecting the historic view-sheds near and around the Historic Elkhorn Ranch home-site.
  - Creating opportunities for visitors to involve themselves in re-established settings that Theodore Roosevelt experienced.
  - Cultural, historical, and wildlife sites of significance are important to North Dakota and ND State Agencies are capable of managing them.
2. State Ownership
  - State acquisition and management is due to local opposition to further federal ownership of lands. Additionally, greater flexibility exists under state management for the provision of enhanced public use. Grazing, hunting and oil and gas will be able to continue with state ownership and management.
  - The benefits to the state as well as to the local community are many; local input into management and use of the property, job opportunities, expanded outdoor uses in recreation, hunting, and historic preservation benefits local and state economies.
3. Operation plans are conceptually outlined for public use and development in the context of this draft paper. In addition:
  - Potential opportunity also exists for commercial horse concessions with rustic cabins allowing overnight stays and various aspects of early ranching experiences.
  - A canoe launch and takeout is proposed on the property offering potential private enterprise opportunities.
4. The Maah Daah Hey Trail bisects the NW corner of the ranch site, midway between Sully Creek State Park and the North Unit of Theodore Roosevelt National Park. A central location like this provides for destination traffic to base out of the ranch to enjoy horseback, hiking or biking experiences either to the north or south.

In summary, this ranch was not pursued by the department, it was offered to the state for public use by the private landowner. A thorough evaluation of this prospect discovered a variety of attributes, as noted, for creation of a significant public use area and tourism destination. The site offers enhanced visitor experiences directly connected to one of the significant legends in our states history, Theodore Roosevelt. Approval of this legislation would allow us to begin that opportunity. We ask for your favorable approval of the project and budget authority to allow the purchase to proceed.

# Proposed Elkhorn Ranch Acquisition

BRIEFING PAPER PREPARED FOR MEMBERS OF THE 59TH LEGISLATIVE ASSEMBLY - SENATE BILL 2145

## Purpose

Theodore Roosevelt wrote appreciatively of the wonders and beauty of the Badlands of North Dakota and of the time he spent hunting and ranching in western North Dakota. The land which our 26<sup>th</sup> President looked upon as a young man from his Elkhorn Ranch cabin is being offered by the Eberts family in an effort to leave a legacy. Their intent is to entrust the land to a public entity that will preserve and maintain the majestic views and natural qualities that Theodore Roosevelt, cherished. State ownership is preferred over further federal ownership, retains the view-shed of the historic ranch site, permits hunting, mineral extraction, grazing, and provides a setting for expanded education on and experiences of the nation's leading conservation President.

The proposed acquisition is located between the North and South units of Theodore Roosevelt National Park, surrounded on three sides by US Forest Service lands.

This property is also central to the Maah Daah Hey trail that traverses roughly 100 miles of rugged and beautiful ND Badlands and abuts three miles of the Little Missouri Scenic River. Setting this land aside for future generations protects a portion of Roosevelt's original ranch, prominently visible across the Little Missouri River. The boundaries of the ranch are not specifically known, but Roosevelt wrote in 1887, "My home ranch lies on both sides of the Little Missouri, the nearest ranchman above me being twelve, and the nearest below me about ten, miles distant". Multiple use recreation is afforded for camping, hiking, horseback, bike, photography, canoe, and nature study with the acquisition, expanding outdoor recreation opportunities to residents and visitors.

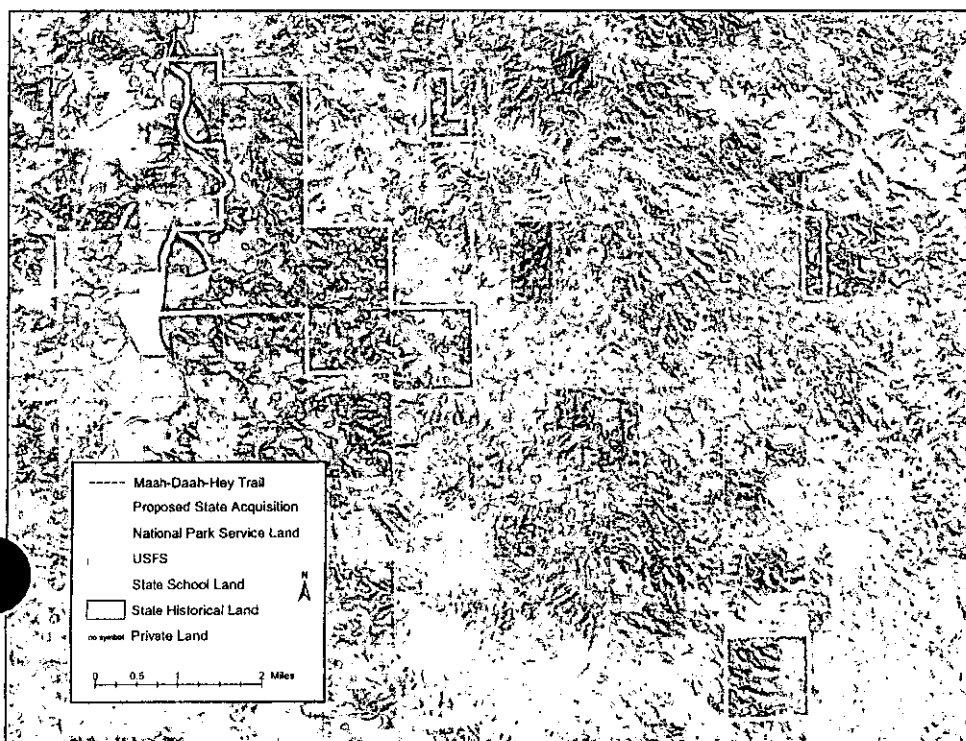
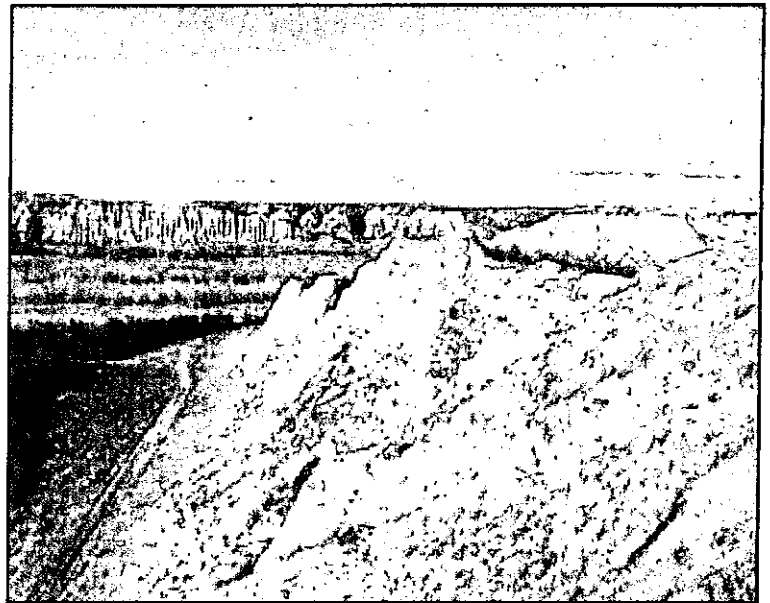
Upon thorough evaluation, the North Dakota Parks & Recreation Department, along with consultation from the North Dakota Game & Fish Department, Natural Resources Conservation Service, and other conservation groups, devised a plan

to purchase the property, without the use of state general fund dollars, to preserve this property. The financing plan is attached.

## Development and Management

Development of recreation opportunities to enhance public enjoyment will be limited to low-density, primitive facilities including a variety of non-motorized trails, camping experiences and water-based access. Hunting and grazing, two land-uses President Roosevelt engaged in, will continue to be an important land use. Oil and gas development will be maintained but done with sensitivity to visual and scenic objectives.

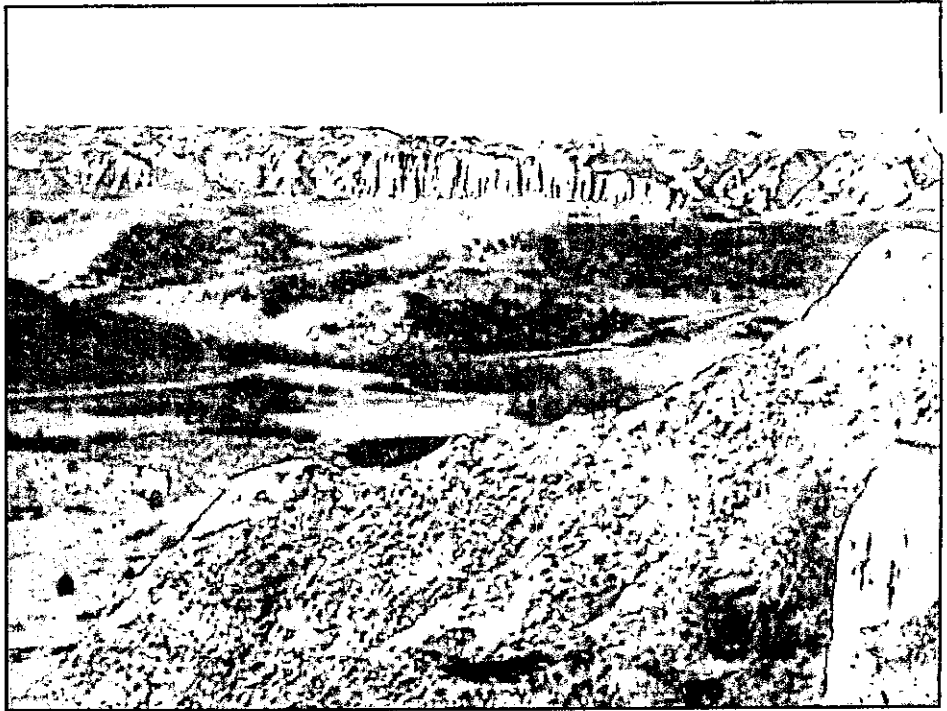
This map shows the property including outlying areas outlined in yellow and land ownership depicted by shading



Opportunity exists to create a model exhibiting the compatibility of grazing, energy extraction, and hunting within an array of public use experiences.

Broad public interest of the project provides opportunities for unique partnerships to maximize public use, resource management, and educational and interpretive value, leading to positive economic development in the region. To assist the Parks and Recreation Department the endeavor, a multi-disciplinary advisory team will be formed to review alternative concepts for development of the General Management Plan, assist with resource management decisions, review interpretive concepts, and explore options for cooperative agreements among a variety of agencies, organizations, and citizens.

The Parks and Recreation Department has a proven history of providing these services to the public while managing the resources at a level trusted by the citizens and resource groups in the state of North Dakota. The Department, in cooperation with other agencies, will provide sound management for this land property to ensure fulfillment of existing land uses while also providing public utilization for the citizens of North Dakota and its visitors.



#### Acquisition and Budget

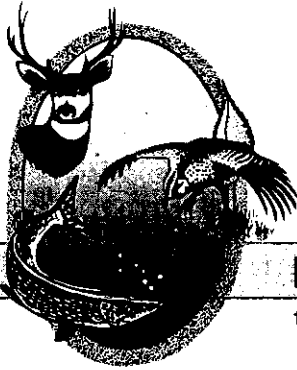
The re-engrossed SB 2175 plan for the acquisition of the property has changed and is detailed on the attached financial sheet, noting funding from the Bank of North Dakota to primarily replace federal NRCS Grasslands Easement funds and the Conservation funding. The three outlying tracts of land are part of the overall purchase, however, these tracts do not possess as significant of an opportunity as the main ranch property, so they will be sold pursuant to state law. The contiguous property encompassing roughly 4200 acres will be evaluated during an interim committee study to determine which lands are to be retained for the purposed outlined. The final acreage approved for use as the future preserve would require equivalent acreage to be sold from state school lands within the four contiguous counties.

The 2005-2007 executive budget recommended an appropriation of \$419,296 for initial operations (\$62,000), development (\$220,000) and staffing (\$137,296). This appropriation is derived from \$309,296 of general fund and \$110,000 of federal funding was removed from the department's appropriation during the House hearing. Given the intent of the interim study, there is agreement to hold off on development and since the property would not be managed for public use, no need for operations funding. However, to aid the department during the interim study one staff position of the 2 requested FTE was requested to be retained from Senate Appropriations.

Future development and operations costs would be included in the General Development and Management Plans proposed for undertaking after acquisition is finalized. Staffing levels would be included in the management are necessary for administrative oversight of operations, including visitor service, grazing management, oil and gas activity, hunting, resource management, maintenance, development, security, and oversight of contract activity.



Handout #42-5  
3/8/05  
Roger Rossow



"VARIETY IN HUNTING AND FISHING"

## **NORTH DAKOTA GAME AND FISH DEPARTMENT**

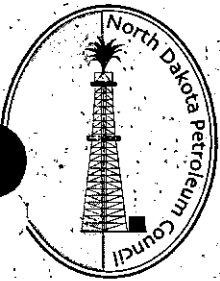
100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

**NORTH DAKOTA GAME AND FISH DEPARTMENT TESTIMONY**  
**SB 2145**  
**HOUSE APPROPRIATIONS COMMITTEE**  
**March 8, 2005**

The Game and Fish Department is willing to become a financial partner in this project. The overall goals of this acquisition fit well with our Department's overall mission, but more specifically our goal of providing the sporting public with access to high quality hunting lands.

The Game and Fish Department does not desire to be the fee title owner of this property with hands-on land management responsibilities. This property has a wide variety of values, of which hunting and wildlife is only a part. Our contribution to this project would center on the aspect of having this property provide high quality habitat open to public hunting in perpetuity.

The Game and Fish Departments monetary contribution to this project is based on the appraised per acre value of hunting and wildlife related values as appraised by Luther Appraisal Services Inc. The comparative lands used, were operational ranches in Eastern Montana. This appraisal was based on properties Montana Game Fish and Parks has acquired easements to that are similar to this property and involve hunting access and land protection.



# North Dakota Petroleum Council

A Division of the American Petroleum Institute  
and the  
North Dakota Oil and Gas Association

Ron Ness  
Executive Director

Marsha Reimnitz  
Office Manager

Email: ndpc@btigate.com  
Phone: 701-223-6380  
Fax: 701-222-0006  
120 N. 3rd Street • Suite 225  
P.O. Box 1395  
Bismarck, ND 58502-1395

## Senate Bill 2145

### Senate Appropriations Committee

~~January 6~~, 2005

March 8

Mr. Chairman and members of the Committee, my name is Ron Ness, President of the North Dakota Petroleum Council. I appear before you today in support of Senate Bill 2145. We believe state ownership is a better solution than federal ownership of this property.

*The Amendment bill is an improvement - it eliminates a cloud of uncertainty as to how this element would be managed. The minerals are split on this property.*  
The language allowing energy exploration, development, and extraction activities without restriction is essential for our support of this bill. The area of the proposed land purchase

contains seven operating oil and gas wells. Fifteen other wells have been drilled and reclaimed.

This area contains great potential for continued oil and gas production and future development.

In addition, two of the state's largest oil and gas production pipelines traverse through the property. One of the pipelines is the major crude oil trunk line for North Dakota's only remaining refinery. The other is the major natural gas collection line for a large number of wells

in the national grasslands. These pipelines were initially laid on private land to avoid public

lands, and now they could end up traversing a state or federal lands, which would increase liability and potentially limit their owners' ability to react to disruptions or expand operations. It

is a testament to the cooperative effort between landowners and the oil and gas industry that

these properties are deemed suitable to be included in our park system after <sup>over 30</sup> ~~many~~ years of production activity.

Thank you, I would be happy to answer any questions.

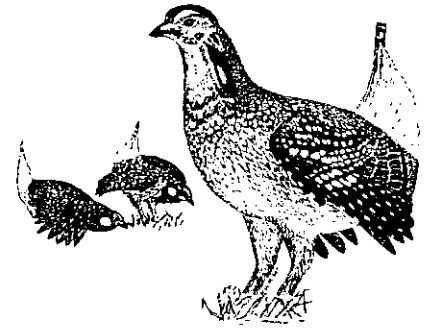




*North Dakota Chapter*

## **THE WILDLIFE SOCIETY**

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
PRESENTED TO THE HOUSE APPROPRIATIONS COMMITTEE  
ON SB 2145, MARCH 8, 2005**

**MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:**

**FOR THE RECORD, I AM MIKE McENROE SPEAKING ON BEHALF OF THE NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY, COMPRISED OF OVER 300 NATURAL RESOURCE PROFESSIONALS IN THE STATE.**

**AS ORIGINALLY INTRODUCED, THE CHAPTER SUPPORTED SB 2145, A PROPOSAL TO PURCHASE THE 5,225 ACRE EBERT RANCH AS A NATURE PRESERVE. UNFORTUNATELY, THE BILL HAS BEEN AMENDED TO THE POINT WHERE MANY OF THE BENEFITS FOR THE CITIZENS OF NORTH DAKOTA ARE NO LONGER THERE.**

**IT IS HARD TO IMAGINE A 5,000 ACRE BLOCK OF LAND ALONG THE SCENIC LITTLE MISSOURI RIVER, OVERLOOKING THE SITE OF TEDDY ROOSEVELT'S ELKHORN RANCH, AS NOT BEING AN OPPORTUNITY FOR THE STATE.**

**HOWEVER, THAT IS WHAT THE AMENDMENTS DO TO SB 2145. WHO CAN IMAGINE A STATE PARK OR NATURE PRESERVE SUBJECT TO A PROPOSED ROAD RIGHT-OF-WAY THAT THE CURRENT OWNERS ARE FIGHTING IN COURT, THAT IS SUBJECT TO THE SAME GRAZING ACTIVITY FOUND IN THE GENERAL AREA RATHER THAN THAT RECOMMENDED BY THE PARK MANAGERS, AND IS SUBJECT TO ENERGY DEVELOPMENT WITHOUT ANY APPARENT RESTRICTIONS?**

**IN ADDITION, AFTER ACQUIRING THE NEW STATE PARK, THE STATE LAND DEPARTMENT MUST SELL A SIMILAR ACREAGE OF STATE SCHOOL LANDS IN ORDER TO EFFECT A NO NET GAIN OF STATE LANDS. THE CHAPTER HAS LONG BEEN A SUPPORTER OF THE STATE SCHOOL**

LANDS AS A TREMENDOUS ASSET FOR THE PEOPLE OF THE STATE. WHY SHOULD THE STATE SELL 5,225 ACRES OF STATE SCHOOL LAND; LAND ORIGINALLY PURCHASED AS PART OF THE LOUISIANA PURCHASE; LANDS THAT DO HAVE SOME RESTRICTIONS ON ROAD DEVELOPMENT, GRAZING RATES, AND ENERGY DEVELOPMENT, AND REPLACE THEM WITH 5,225 ACRES OF LAND WITHOUT THESE PROTECTIONS? THIS CONCEPT WAS PROPOSED IN HB 1502 AND SOUNDLY DEFEATED BY A VOTE OF 71-17.

AS ORIGINALLY PROPOSED, THE EBERT RANCH ACQUISITION WAS GOING TO BE PARTIALLY FUNDED WITH A \$2.1 MILLION LAND PROTECTION EASEMENT FROM THE NRCS. THE AMENDED BILL FOREGOES THOSE FEDERAL FUNDS AND INSTEAD CALLS FOR USING \$2.4 MILLION FROM THE BANK OF NORTH DAKOTA.

THE ORIGINAL SB 2145 WAS A COMPROMISE, BUT IT WOULD HAVE CREATED A VALUABLE ADDITION TO THE STATE PARK AND RECREATION DEPARTMENT'S NATURE PRESERVE SYSTEM. THE CURRENT BILL WILL RESULT IN THE ACQUISITION OF A "PARK" WITH SO MANY NON-PARK USES THAT ITS VALUE AND USE WILL BE DIMINISHED. IT WILL COST THE STATE \$2.5 MILLION MORE THAN THE ORIGINAL PROPOSAL, AND IT WILL RESULT IN THE SALE OF 5,000 ACRES OF VALUABLE STATE SCHOOL LANDS.

THE CHAPTER URGES THE HOUSE APPROPRIATIONS COMMITTEE TO CONSIDER AMENDMENTS DELETING THE ROAD RIGHT-OF-WAY, ALLOWING ENERGY DEVELOPMENT IN ACCORDANCE WITH THE USUAL STATE RESTRICTIONS, USING THE NRCS LAND PROTECTION EASEMENT AS PART OF THE PURCHASE, AND NOT SELLING STATE SCHOOL LANDS. THANK YOU.

SB 2145  
Elkhorn Ranch  
House Appropriations Committee  
March 8, 2005

Testimony by Rod Backman on behalf of ND Parks &  
Recreation Department

Chairman Svedjan and members of the Committee, my name is Rod Backman, I have been retained by ND Parks to assist with the details of the acquisition of the Elkhorn Ranch. The scope of my service included assisting with the acquisition, identification and acquisition of funds, working with the National Park Service and the US Department of Agriculture (USDA), discussions and negotiations with the sellers and other services as directed by ND Parks.

At this time Mr. Chairman I would like to walk the committee through the handout which describes the funding needed and the proposed sources of that funding.

The property is approximately 5225 acres with a value and agreed upon sale price of \$3,524,000. The first column shows the source of funds as per SB2145 as introduced, and the second column is per SB2145 as it passed the Senate.

**Under SB2145 as introduced** the plan was to access a Federal Grasslands Reserve Program (GRP) easement through the USDA. The easement is designed to prevent development of sensitive property and to keep it in

agricultural uses (grazing). The Federal GRP funds are available and are currently designated specifically for this project. The GRP will contribute \$2,065,560 toward the purchase price leaving a balance due of \$1,458,440.

The remaining amount was to be funded by \$524,700 of Federal Land and Water Conservation funds. These funds require an equal match of non-federal dollars. The ND Game & Fish Department will contribute \$424,700 and non-state entities have committed to \$209,040.

That left \$300,000 to be funded with a loan from the Bank of ND (BND). ND Parks will have the authority to sell approximately 978 acres of outlying noncontiguous lands for the purpose of repaying the BND loan. Section 5 of the bill provided that any sale proceeds in excess of the BND debt would be deposited into the General Fund.

**According to SB2145 as it passed the Senate** the funding would be as disclosed in the second column of the handout. Federal Land & Water Conservation funds of \$524,720, ND Game & Fish special funds of \$522,520 and Bank of ND undivided profits of \$2,476,760.

Mr. Chairman that is a very quick overview of the funding, I would be happy to attempt to answer any questions you or the Committee may have.

PROPOSED ELKHORN RANCH ACQUISITION  
(Eberts Ranch, Billings County)

Acreage = 5225.5

4247.2 contiguous land (195.6 acres permitted for development)

978.3 acres outlying

Section 24      172.2 acres

Section 35      168.3 acres

Section 27      637.8 acres

Property Value = \$3,524,000 established through negotiation resulting in a signed Agreement in Principle with the landowner in July, 2004 and confirmed in October correspondence between the sellers and the Governor.

In SB 2145 as introduced, a NRCS Grassland Reserve Program easement on the ranch contributes \$2,065,560 toward the purchase, leaving a balance of \$1,458,440 from other sources.

	Senate Bill 2145	
<u>Financial Obligations</u>	<u>As Introduced</u>	<u>Reengrossed</u>
NRCS Easement	\$ 2,065,560	\$ 0
Parks and Recreation (Fed. Land & Water Conservation)	524,700	524,720
Game & Fish (Special funds)	424,700	522,520
Bank of North Dakota	300,000	2,476,760
Repayment with sale of outlying acres		
Balance of Funding Needed from External Sources	<u>209,040</u>	<u>0</u>
• Natural Resource Trust		
• Rocky Mountain Elk Foundation		
 Total Acquisition	 <u>\$3,524,000</u>	 <u>\$3,524,000</u>



Cass County  
**WILDLIFE CLUB**

Box 336  
Casselton, ND 58012



**TESTIMONY OF HAROLD NEAMEYER**  
**CASS COUNTY WILDLIFE CLUB**  
PRESENTED TO THE HOUSE APPROPRIATIONS COMMITTEE

ON

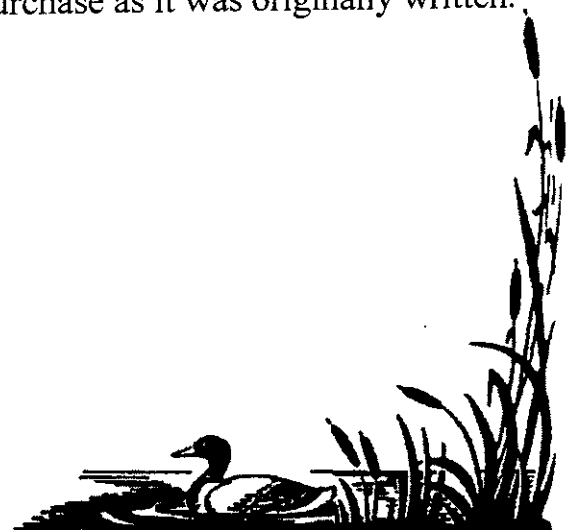
**SB 2145**  
MARCH 8, 2005

Mr. Chairman and Members of the Committee:

The CCWC opposes the purchase of the Eberts Ranch as the engrossed bill is written. The club initially supported the purchase, however they now oppose the purchase because of Section 4. This section outlines a "no net gain" of state land policy which the club feels is a bad policy. This action then leads to the sale of state school and university lands, an action the club opposes.

This purchase is a rare opportunity for the State to acquire property of historical significance, but we question if we are giving up too much to get it!

The club would very much like to support the purchase as it was originally written.



1707 North 9th Street  
PO Box 5523  
Bismarck, ND 58506-5523  
Phone: (701) 328-2800  
Fax: (701) 328-3650



[www.land.state.nd.us](http://www.land.state.nd.us)  
[www.discovernd.com](http://www.discovernd.com)

Gary D. Preszler, Commissioner

**TESTIMONY OF GARY D. PRESZLER**  
**COMMISSIONER**  
**North Dakota State Land Department**

**NEUTRAL TESTIMONY TO ENGROSSED SENATE BILL NO. 2145**

**House Appropriations Committee**

**March 8, 2005**

*Full Cmtee*

The Senate amendments contained in sections 4 and 5 of Engrossed Senate Bill No. 2145 direct that the Board of University and School Lands shall sell up to 5,225.2 acres of land in Slope, Golden Valley, Billings, and McKenzie counties by no later than 2011.

Since adoption of the amendments, comments made by legislators, the media, and callers to the Department have made me aware of two issues that may need some clarification.

First, statements have been made that the proceeds from the sale of school lands will be applied to the Bank of North Dakota loan made to fund the Parks and Recreation 5,225 acre western North Dakota acquisition. This statement is inaccurate, as the Constitution precludes the use of trust assets, or any proceeds, for any other purpose than for the benefit of the school trust fund beneficiaries. Any land sales proceeds would remain in the trust fund that owns the land and would not be available to pay back loans made for the purchase of the Eberts Ranch.

Second, school land lessees are under the impression that some sort of private sale can be consummated, or that a lessee will be given some sort of preference to acquire the land. Here again, the Constitution is limiting by requiring that any land sales be done by public auction to the highest bidder, without preference, and that any sale must be for not less than the fair market value. Incidentally, only one tract of land (155 acres) is not historically leased in these four counties. All other lands in these counties were leased at public auction, with the lessee paying not less than the minimum established rents.

The Board of University and School Lands has not taken a position on Senate Bill No. 2145, including sections 4 and 5 of the Engrossed bill, and consequently this testimony is solely to clarify issues of constitutionality.

*Written Testimony only -*

# Camel's Hump Lodge

Sentinel Butte, North Dakota

March 08, 2005

Chairman Svendjan

House Appropriations Committee

Fifty-Ninth Legislative Sessions

Full Cmtee

My name is Cindie S. Fugere. I'm a rancher/farmer in Stark, Billings and Golden Valley Counties. The second engrossment of Senate Bill 2145 is problematic.

Section 1, number 3 may conflict with Section 1, number 4 How will grazing activities and relationships be maintained without conservation easements? Will the grazing renter's ability to participate in any government programs be affected by this language? Many ranchers and farmers participate in a variety of conservation programs through USDA. What if the renter has a conservation plan on his home place, has land in CRP, a conservation tree planting, or utilizes the EQUIP program? These programs help defer the costs associated with waterlines, livestock wells and cross fencing and conservation. Won't the state even need access to partnerships from other government entities to improve this new land purchase?

By the way, where is the funding coming from to maintain and develop this ranch purchase in the long term? This is not outlined in the bill, but hopefully you have requested those budget estimates. Why doesn't the bill use the words park, preserve or historical preservation anywhere in it?

Section 3, line 7 and 8 Parks and Recreation Department may sell any parcel or parcels of land included in the acquisition of this Act. These words make me think this land is being purchased to re-sell, not purchased to preserve or protect for future generations.

Section 4, line 18 For some unknown reason, McKenzie, Golden Valley, Billings and Slope Counties have been singled out to make up for the 5,225.2 acres in the no net gains portion of this bill. Suddenly the Legislature may authorize the sale of land located in the heart of many of our ranches. This will cause a whole new wave of land development to be completed by July 31, 2011.

Please, may I offer a three word amendment under Section 44, line 18 after sell 5,225.2 acres, add "in any county except" Slope, Golden Valley, Billings, and McKenzie Counties. Otherwise you will be forcing more debt per ranch for auctioned state land purchases, or, less income per ranch because the rancher wasn't the high bidder, less land per ranch, and, last, less taxable sales in the state because fewer dollars will be earned through agricultural sales. Frankly speaking, it appears the state of North Dakota has designs on developing the West.

Kevin Cindie S. Fugere - 4360 131 R. Ave SW - Belfield, ND 58622

Ph: 701-575-4025 - E-mail: [info@camelshumplodge.com](mailto:info@camelshumplodge.com) - Web site: [www.camelshumplodge.com](http://www.camelshumplodge.com)



Handout #42-

Cindie S. Fugere

spoke for this person too -

**From:** "Lola Little Missouri Grazing Association" <lmga201@hotmail.com>  
**To:** <fugere@camelshumplodge.com>  
**Sent:** Monday, March 07, 2005 4:33 PM  
**Subject:** as we discussed

**Little Missouri Grazing Association**

201 Inman St., Box LL  
Amidon, ND 58620  
lmga201@hotmail.com  
701-879-6210

March 07, 2005

House Appropriations Committee  
Fifty-Ninth Legislative Assembly of North Dakota

Dear Sirs:

The Little Missouri Grazing Association is very concerned about the acquisition of certain land by the parks and recreation department. More so at this time are the concerns over the sale of state land to offset this purchase. Here are a few points and questions related to such land sales.

- 1) If this land is sold to the highest bidders as the constitution states, then outside big interests will likely raise the price to a point where it will be out of reach for the local rancher who has been caring for and using this land. This will cause a great deal of hardship to our local ranchers as well as the local economy as a whole. It will increase the difficulty for viable and sustainable ranches to survive in rural Western North Dakota. This would put a great strain on the small communities who struggle to survive already.
- 2) Will out of state owners, once they have purchased this land, take the initiative to keep up with the local effort to kill and control noxious weeds?
- 3) Where a rancher has made improvements or developments such as fences or water, will they be compensated for their efforts or simply be evicted?
- 4) This proposal has wide spread effects on North Dakota and MUST be studied from all angles before a final decision can be made. This purchase and in turn sale of state school land will effect nearly everybody living in Western North Dakota and may even reach farther than the boundaries of this state.

Thank you for your time and interest in our concerns.

Sincerely,

Loren (Shaky) Jacobson

President  
Little Missouri Grazing Association

03/07/2005

03-08-05

SB 2145

CHAIRMAN SVEDGAN & VICE CHAIRMAN MICHAEL TIMM, (LAD) & GENTLEMEN,  
MY NAME IS ROBERT HANSON AND I LIVE IN SLOPE CO. SECTION 4

I am here to testify in opposition to SB 2145. I am not here to voice an opinion on  
The question of whether or not the State should buy the Eberts ranch. What I would like  
To say is that if a sale of State Land in the South Western counties is done, it would  
Plunge the Livestock enterprises of a lot of people into chaos. First of all, these lands  
that are left in State ownership are almost all suitable only for grazing. The Tillable land  
Was purchased years ago. These lands typically would be attractive to "Ranchette"  
developers and for owners to build vacation homes. The price for these lands would be  
Far beyond what an agricultural operator could pay.

My family has leased a tract of School Land in Slope County since going back to the  
1920's. As a young kid, I could feel the tenseness and the anxiety of my parents as it  
came time for the "School Land Leasing Auction; and what might be the outcome. This  
Land is a vital part of our ranch and I believe the same can be said for every agricultural  
Enterprise family that is a leasee of the STATE TRUST LAND.

Let the Eberts Ranch proposition stand or fall on it's own merits. Selling the School  
Land in South Western North Dakota would deliver a blow that would have a far  
reaching effect.

Thank you,

Robert I. Hanson

**BADLANDS CONSERVATION ALLIANCE**  
A VOICE FOR WILD NORTH DAKOTA PLACES

**Badlands Conservation Alliance**  
**Field Office**  
801 North 10 Street  
Bismarck, ND 58501  
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**RE: Senate Bill No. 2145**

Testimony of the Badlands Conservation Alliance before the House Appropriations  
Committee

March 8, 2005

Chairman Svedjan, Vice Chairman Timm. Members of the House Appropriations  
Committee:

My name is Jan Swenson. I am speaking as Executive Director of the Badlands  
Conservation Alliance, a non-profit public education and conservation organization  
headquartered in Gladstone, North Dakota.

The Badlands Conservation Alliance must oppose passage of SB 2145 as written. It is a  
difficult moment for us. We have followed, participated in the public process, and  
supported public acquisition of the Eberts Ranch since the project's inception.

We oppose on three simple precepts:

First, that unrestricted and unlimited energy exploration, development, and extraction  
activities in a State acquisition is wrong. Should any other identified interest – be it  
grazing, recreation, or hunting – have been equally granted such reckless language, our  
response would have been the same.

Secondly, that a commercial road through a State park is in poor judgement. Three and  
one-half million dollars is a lot to spend for industrializing a landscape, and was not the  
intent of the Eberts family.

Thirdly, that sale of State Trust Lands to facilitate this purchase is a disingenuous trade.  
Loss of revenue to North Dakota's schools and children, loss of leased pastureland to  
western North Dakota's ranchers, and likely loss of hunting opportunities to North  
Dakota's sportsmen and women would result.

Misinformation regarding the federal Grassland Reserve Program easement has run  
rampant. This program allows for hunting, grazing and oil on easement acreage. The  
Eberts family has always insisted that these traditional uses continue.

The Elkhorn Ranch, and the meadowland, sheer cliffs, and grass plateaus that Theodore  
Roosevelt referenced on what is now the Eberts property, are a real place to Badlands  
Conservation Alliance members. This landscape has been a cherished destination for  
individuals and group explorations for years.

The Eberts families are real people, with a genuine vision to protect and preserve 26<sup>th</sup> President Theodore Roosevelt's legacy in North Dakota and beyond. They deserve a respectable offer.

I have attached several images in hopes that pictures really do paint a thousand words:

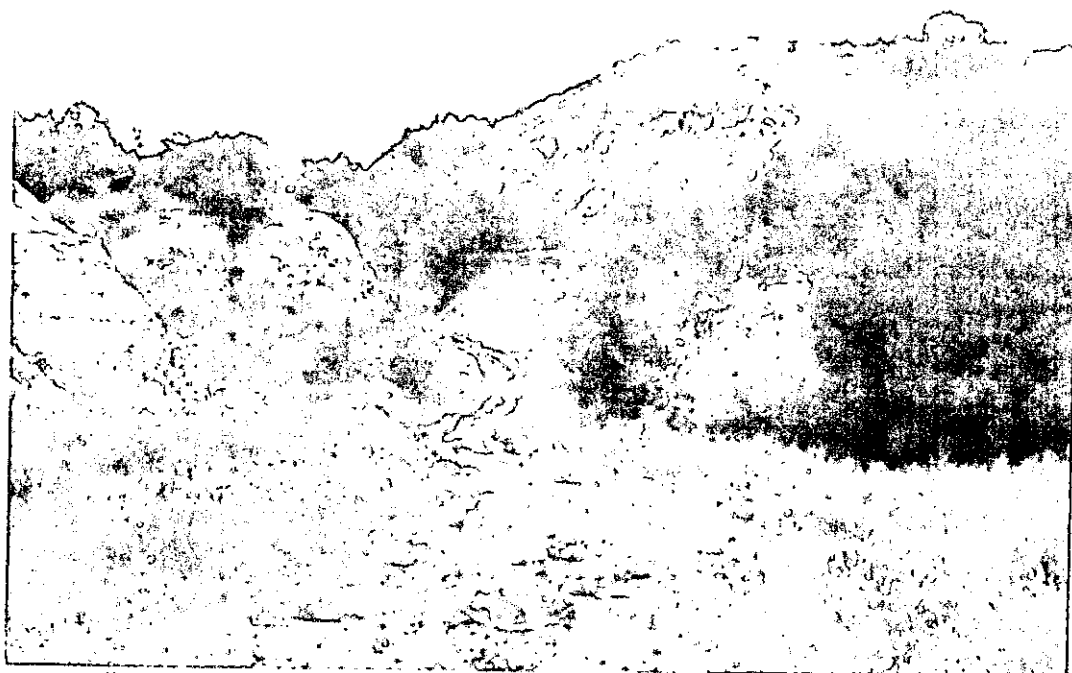
#1 illustrates the beauty of the Eberts Ranch



#2 is of Tweed Roosevelt, great grandson of President Roosevelt, in company with Ken and Norma Eberts. They are standing on the Eberts' bluff line; the Elkhorn Ranch Unit of Theodore Roosevelt National Park is their backdrop.



#3 is the private, little-used ranch road that Billings County wants to make into a commercial thoroughfare.



#4 illustrates the outcome of such a transformation. The dust and speed are visible; the accompanying rumble and grinding gears are not.



Public acquisition of the Eberts Ranch was, and could be again, a most excellent project. As SB 2145 stands, it is an expensive imitation.

*"So it is peculiarly incumbent on us here today so to act throughout our lives as to leave our children a heritage, for which we will receive their blessing and not their curse. ...*

*It is not what we have that will make us a great nation; it is the way in which we use it.*

*I do not undervalue for a moment our material prosperity; like all Americans, I like big things; big prairie, big forests and mountains, big wheat-fields, railroads, --- and herds of cattle, too --- big factories, steamboats, and everything else. But we must keep steadily in mind that no people were ever yet benefited by riches if their prosperity corrupted their virtue. It is of more importance that we should show ourselves honest, brave, truthful, and intelligent, than that we should **own** all the railways and grain elevators in the world."*

Theodore Roosevelt, July 4, 1886 in Dickinson, North Dakota

I would ask you, who owns this Bill? I offer that it is not the people of North Dakota.  
Do not pass SB 2145.