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PRESENTATION BY

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North Dakota State Land Department

SENATE CONCURRENT RESOLUTION NO. 4027

**Interim Natural Resources Committee
November 4, 2009**

School and institutional lands were granted to the State of North Dakota at statehood solely for the support of the schools and various state institutions. The constitutional responsibility for managing these trust lands rests with the Board of University and School Lands composed of the Governor, the Secretary of State, the Attorney General, the State Treasurer and the Superintendent of Public Instruction.

Eighty percent of the land received at statehood has been sold and only 20% remains. The Land Board currently manages 707,403 acres. Land sales were emphasized until the mid 1970s when the Land Board, under increasing public and legislative opposition to land sales, decided that having sold 80% of the land was time to switch to a land retention policy. Since then, the Land Board has restricted land sales to isolated, difficult to manage tracts and tracts with a low return on investment.

In 1998, the Land Board worked with Northern Trust to model the impact that trust lands have on the Land Board's total portfolio of assets. They found that the steady stream of income provided by trust lands helped reduce the investment risk of the Land Board's total portfolio of assets. Although trust lands produced slightly less return than some financial assets, the consistency of returns provided by trust lands greatly reduced overall portfolio risk. They recommended that for investment purposes, the Land Board should not reduce its land holdings below the then current level.

The subject of SCR 4027 was to study leasing school trust lands. Approximately 7% of State's producers lease school trust lands (2,500 lessees, more or less). Throughout the State's history there has been a strong emphasis on making these lands equally available and without preference to 100% of the producers who may want the opportunity to bid on them rather than tying them up in the hands of a few producers through preferential leasing. Article IX, sections 8 and 9, of the State's constitution ensures an open and fair leasing process by limiting the lease term to 5 years and prohibiting lessee preference. This also protects the potential income to the trust funds by encouraging competitive market value rents at public auction.

In our experience, the majority of the ranchers and farmers in North Dakota are responsible lessees, treat the land with respect, and improve the land as needed. We are not sure what improvements the following language in SCR 4027 referred to and no examples were given during legislative testimony: "... encourage lessees to make improvements that they otherwise would not make under a shorter lease term".

The legislature has already provided two important tools to encourage improvements on trust lands. First, N.D.C.C. 15-08-26 protects 100% of a lessee's out of pocket investment in permanent improvements on trust lands against financial loss. The most common improvements under this statute are wells, dugouts and dams for livestock water but other improvements can also be constructed if they are needed.

Secondly, N.D.C.C. 15-04-24 allows the Land Board to invest money in improvements on school trust lands for "...weed and insect control costs, clean-up costs, capital improvement rent credits ... and expenses determined by the board as necessary to manage, preserve and enhance the value of the trust asset." This important tool allows the Land Board to participate in and encourage improvements to trust lands. For example, the land board provides cost share to construct livestock water developments and also pays 100% of the cost of noxious weed control through a combination of reduced rent and rent credits. The minimum opening bid at auction is also reduced to account for the lessee's cost of constructing and maintaining fences.

In addition to the income for the trusts and agricultural leasing opportunities for producers, trust lands provide non-monetary benefits to the people of North Dakota. Over 99% of the lands (707,403 acres) are open to hunting each fall and to dispersed, non-vehicular recreation during the remainder of the year. Activities such as hiking, fishing, bird watching, and prairie dog hunting are popular on trust lands. These lands are also predominately native grass prairie and as such, are a part of our natural resource heritage.

We believe that the current 5 year lease term is generous and that the legislature has already provided important financial incentives and tools for lessees to improve school trust lands. Rents are also "frozen" during the current 5 year lease term but that would not be possible if the term was longer. The Land Board would need to implement an adjustable rental rate under a longer lease term scenario. We are also not aware of improvements that need to be made that have not been made because the lease term is too short or because a current lessee does not have leasing preference. Longer lease terms and leasing preference would not only require a constitutional amendment, they are also unnecessary. Such changes would not improve the management of trust lands but would reduce leasing opportunities for the majority of the producers in North Dakota and would also reduce income to the trusts.