

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1502

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1502

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1502

House Political Subdivisions Committee

Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1		x	7.4 to end
2	x		0.3 to 35.4
Committee Clerk Signature <i>Lauren Lynde</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1502, A bill for an Act to provide for replacement of private property acquired by state agencies.

Rep. Damschen representing District 10 and prime sponsor of HB 1502 speaking in support of the bill wants the bill to known as the "no-net-loss of privately owned property. State and federal agencies are continuously acquiring land which basically removes it from the tax rolls. Also about equally disturbing is that no one seems to have a complete inventory of all the state land. Some agencies do but overall there does not seem to be an inventory list anywhere. His written comments are attached. There was a lot of discussion about not only how much but how can the bill be implemented as some agencies like the highway department needs land for roads but couldn't gain anything by replacing it; similarly universities receive gifts of land but how does you acquire other property to replace --how or what? There was also equity factors in value and quality -- offset by volume quantities. There were many questions including parks, wildlife, game

and fish, wetlands and much more. It appeared that most were favorable to knowing how much land is under state control.

Discussion continued with Rep. Damschen to (29.5) .

Eric AAmundstadt representing the ND farm Bureau spoke in support of the bill. They support the concept of no-net-loss in private ownership. There were questions from the committee on PILT payments. With these payments the sales taxes, excise taxes and the like are lost so it isn't full payment for what is lost.

Rep. Herbal, Vice Chairman (33.8) You said that with these payments that money goes to the schools and not to the county.

Eric Asmunstadt : Yes that is true of the federal PILT payments --- not sure about the state payments. When the question was asked in Pembina County with County Commissioners present and no one was able to give a good solid answer but did say it went for schools and raods but not government administration.

The discussion continued on whether government had a propensity to own land.

Pat Seaworth : representing the Board of Higher Education spoke in opposition to the bill. The problem is that the Universities do receive gifts but there is some confusion because some of the land is actually owned by foundations associated with the University. It is somewhat in conceivable as to how the University could effectively carry out the purchase and sales of property due to variances in value -- i.e. Cass County Valley Land -- how do you find a comparable replacement if it isn't on the market or if you don't already own it. Further the question of when you need to find a replacement because values change over a period of a few short years -- you may be bequeathed land but it takes years to settle the estate thus the title.

Another example is the BSC (Bismarck State College) is on a site where the entire site was donated for the school purpose specifically. They don't own other land so how can you give up like amounts -- in the city. The discussion with Mr. Seaworth continue to the end of Tape 1 Side B.

Mr. Seaworth's testimony continued on Tape 2 Side A.

The discussion continued on the subject of non-profit foundations, constitutional prohibitions and gifts.

Grant Levi Deputy Director for Engineering for the North Dakota Department of Transportation testified in opposition to HB 1502 as written. Ownership of land for four lane highways, other roads and bridges is a public use. A copy of his prepared remarks is attached.

Jason Dubord represented by Mike Donahue spoke in opposition to the bill. A copy of his letter is attached.

Patrick Fricke representing the State Housing and Finance Agency spoke against the bill. There are some 46 different programs and regional agencies which hold land some time for significant periods of time until developments are complete or in the cases of mortgages held for the term of the mortgage followed by a default when they get the land 'back'. With the many loans and titles with lender interest in the title the mechanics of this bill would be a problem. Federal funds and block grants further complicate the issue of property transfers.

Mike Limke representing the Game and Fish Department appeared to provide information on their various programs. They do have a complete inventory of all the lands they own and each parcels tax payments. Mr. Limkle offered to make this list available to the

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House Political Subdivisions Committee
Bill/Resolution Number HB 1502
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committee. There was question and answer discussions with Mr. Limke that continued to (34.9)

There being no further testimony for nor against HB 1502 **Rep.Devlin, Chairman** closed the hearing . (35.4)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1502 b

House Political Subdivisions Committee

Conference Committee

Hearing Date February 3, 2005

Tape Number	Side A	Side B	Meter #
3	x		1.7 to 5.4
Committee Clerk Signature <i>Laura H. Zick</i>			

Minutes: In work session **Rep.Devlin, Chairman** after discussion appointed subcommittee to prepared amendments or recommendations the following week. End (5.4).

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1502 c

House Political Subdivisions Committee

Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
2		x	29.5 to 35.5

Committee Clerk Signature *Louise B. Zile*

Minutes: **Rep. Devlin, Chairman** in work session opened the discussion for action on HB 1502.

Rep. Koppelman speaking for the subcommittee presented a proposed amendment -- lc 50733.0201. His motion to adopt the amendment was seconded by **Rep. Ekstrom**. The motion carried on a voice vote.

Rep. Herbal, Vice Chairman moved a 'Do Not Pass as amended' motion for HB 1502. **Rep. Dietrich** seconded the motion. On a roll call vote the motion carried **10 ayes 1 nay 1 absent**.

Rep. Herbal, Vice Chairman was designated to carry HB 1502 on the floor.

End of record (35.5).

House Amendments to HB 1502 - Political Subdivisions Committee 02/11/2005

Page 1, line 1, replace "private" with "privately owned real"

Page 1, line 4, after "owned" insert "real"

Page 1, line 7, after the period insert "This section does not apply to the department of transportation for purposes of acquisition of real property for roads, highways, bridges, infrastructure, and wetlands mitigation purposes."

Renumber accordingly

Date: February 3, 2005
 Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1502

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number 50733.0201
amend Kop EK end

Action Taken D.N.P. as amended

Motion Made By Mr Herb Seconded By Mr Kal Dietrich

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman		✓			
Rep. Kretschmar	✓				
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes) 10 No 1

Absent 1

Floor Assignment Rep. Herb -

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

REPORT OF STANDING COMMITTEE

HB 1502: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1502 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "private" with "privately owned real"

Page 1, line 4, after "owned" insert "real"

Page 1, line 7, after the period insert "This section does not apply to the department of transportation for purposes of acquisition of real property for roads, highways, bridges, infrastructure, and wetlands mitigation purposes."

Renumber accordingly

2005 TESTIMONY

HB 1502

TESTIMONY IN FAVOR OF HB 1502

POLITICAL SUBDIVISIONS COMMITTEE

1/28/2005

Mr. Chairman, members of the Political Subdivisions Committee:

For the record, I am Representative Chuck Damschen. I represent District 10, which encompasses all but 2 townships of Pembina County, all of Cavalier County and the northern 2/3 of Towner County.

I am before you today to introduce HB 1502, a bill that is best described as a "no-net-loss of privately owned property" bill. Simply put, it would require that any time an entity or agency of the state acquires privately owned property that entity or agency must place an equal amount of its property back into private ownership.

I realize this bill does not address all aspects of government owned land as it applies only to the state. I will assume the blame for this shortcoming and assure you that if this committee wishes to amend it to apply to federal government you have my full support if an enforcement mechanism is provided.

I do hope you will give HB 1502 some serious consideration. It mirrors a resolution that has been adopted by several counties in my area of the state. The increase in government ownership of land has seriously eroded the tax bases of our counties and townships and payment in lieu of taxes (PILT) doesn't fill in the gaps. Even if every PILT were 100%, it still comes out of the taxpayer's pocket.

If state ownership results in land being taken out of production, as it often does, this has a serious impact on businesses in the surrounding communities as input expenditures for seed, feed, fertilizer, chemical, fuel, etc. are absent from the economy. It also takes away from the grain volume handled by local grain buyers. The state is also a formidable bidding opponent for a private individual seeking to purchase land.

Private ownership of property is one of the fundamental principles of our democratic republic. In previous governments, ownership of property was allowed at the discretion of the government or the king or whoever ruled. If the ruling entity decided it wanted the property back it simply took it back without regard for how such actions affected the people. Our forefathers realized the importance of private ownership and property owners' rights and conceived a government and constitution charged with protecting our rights, not granting them.

I would like to provide you with an inventory of state owned property, but in researching my testimony I find that apparently no such inventory exists. HCR 3005 attempts to address this as well as how to best use and manage the inventory. The fact that the state has failed to inventory their property is a good case for this bill.

I believe some state agencies will oppose this bill for various reasons. I also believe that the state owns enough land that if properly managed, they could "horse trade" among different agencies to cover the needs of all. Remember, government ownership of land makes it easier for the government to govern, but I remind you again, that our government is charged with protecting the rights of the people, not ruling over the people. Agency directors paid by taxpayer dollars have even less right to rule over the people than elected officials.

I don't believe state agencies sit down at a meeting and conspire to take land out of private ownership with devious motives, at least I hope not. But I think as a gradual process, agency ownership of land becomes a convenience that the agencies become very reluctant to give up. Where and when do we as lawmakers bring this issue back into perspective with our Constitution? Our forefathers preferred to limit government ownership to land needed for post offices, roads, military forts or bases, and government headquarters.

I think HB 1502 is an important first step forward in returning to the structure of government our forefathers envisioned. I encourage you to give this bill a do-pass recommendation.

Thank you, and I will attempt to answer any questions the committee may have.

North Dakota Wildlife Federation

Abundant wildlife and wildlife habitat, and access to wildlife recreational opportunities



1/28/2005

For: House Political Subdivision Committee

Ref: HB1502

The North Dakota Wildlife Federation and the United Sportsmen of North Dakota oppose HB1502 and ask for a Do not pass.

This bill is not aimed at being good Public Law and/or policy.

This bill merely supports the philosophy a few aiming to impose that philosophy on the public at great social, conservation and recreation cost to the public.

HB1502, in our opinion, states that anything and everything that government does is bad.

Please, defeat this bill.

Thank you,
Mike Donahue
Lobbyist #275



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POLITICAL SUBDIVISION COMMITTEE

**Grant Levi, P.E. – Deputy Director for Engineering
North Dakota Department of Transportation**

HB 1502

Good Morning Mr. Chairman and Members of the committee. For the record my name is Grant Levi, I'm the Deputy Director for Engineering with the NDDOT. We oppose House Bill 1502 as written.

To accomplish our mission, which is to provide a transportation system to safely move people and goods, we must acquire privately owned property without disposing of property. We acquire property in fee title to make our transportation system safer.

The additional property we acquire is needed to modify sharp curves, to cut down hills to reduce the passing sight distance, and to add lanes in rural and urban areas to provide for needed capacity. All of these improvements to our transportation system are needed to ensure we maintain a safe transportation system. Since 2002, we have acquired approximately 400 acres in fee title. (43 of those acres were in larger cities.)

Two of our upcoming projects, the four laning of US 2 and the relocation of Hwy 281 in the Devils Lake basin, will require us to purchase over 1,000 acres. In addition to these projects, we do have other right-of-way needs.

To accomplish our mission, we must have the ability to purchase property from private landowners without disposing of property. Attached is a summary of the NDDOT's land assets.

Mr. Chairman, I would be happy to answer any questions.

Attachment – HB 1502

The NDDOT has the approximate acres of the following lands as of the end of 2004:

1.	Highway right-of-way	.....	199,626 acres
2.	Gravel Pit Sites	.....	1,338 acres
3.	Radio Tower Sites	.....	196 acres
4.	District and Maintenance Sites	.....	<u>650 acres</u>
	Total Acres Owned		201,810

The NDDOT also enters into lease agreements with land owners to address the mitigation of impact to wetlands as result of highway improvements. The following is a list of the Wetland Easements by County:

Towner	.....	528 acres
Grand Forks	.....	304 acres
Nelson	.....	173 acres
Bowman	.....	5 acres
Ramsey	.....	24 acres
Stutsman	.....	64 acres
Mountrail	.....	30 acres
Grant	.....	<u>41 acres</u>
	Total Easement Acres	1,169

During 2002, 2003, and 2004, the NDDOT purchased 359 acres of right-of-way for rural highway projects. The projects with the larger right-of-way needs are as follows:

1.	US 281 By-Pass at Jamestown	.....	91 acres
2.	US 52 from Kenmare to Brooks Jct.	.....	65 acres
3.	ND 19 connection to US 281 near Devils Lake	.....	68 acres
4.	ND 1804 at Bismarck phase 1	.....	36 acres
5.	ND 57 from Jct.281 to Fort Totten	.....	<u>26 acres</u>
	Subtotal		286 acres
6.	38 other projects with lesser amounts of R/W	.....	<u>73 acres</u>
	Total		359 acres

During this same period, the NDDOT purchased 43 acres of right-of-way for 16 urban projects.

Testimony from North Dakota Parks and Recreation Department
January 31, 2005

House Bill – 1502
House Political Subdivisions Committee
Prairie Room

Chairman Devlin and members of House Political Subdivisions committee, I am Doug Prchal, Director of the North Dakota Parks and Recreation Department. This testimony offers information regarding proposed actions of HB – 1502.

For summary background, the State Park system is comprised of roughly 7000 acres of deeded public lands providing 12 recreation areas within an 18 unit park system set aside for public use. The remaining areas are on leased federal lands on Lake Sakakawea and Devils Lake or land leased from private landowners, DOT or county properties. The newest state park, Cross Ranch, was added to the system in 1987 by donation of 350 acres from the Nature Conservancy to provide a public recreation resource adjacent to the Missouri River and the recently purchased Cross Ranch Nature Preserve.

The Department does not pursue lands, rather, acquisition goals are limited to small tracts identified adjacent to existing state parks during master planning events over past years. Lands are approved in the planning documents by private landowners interested in adding the tracts for public use, at some point. These tracts would either be sold or donated. Citizens have also listed tracts in their wills for transfer to the department either to be put into recreation use or disposed of for benefit of park system needs. Department budgets reflect agency actions, reviewed by the governor and ultimately the legislative assembly.

In the event a landowner chose to sell or donate one of the tracts identified in the master plans or the department received a tract through an estate gift and it was deemed of value as a public recreation resource, the tenants of HB – 1502 would require equivalent acres be disposed of within a respective park or disposal somewhere within the park system. In either event, selecting a tract for disposal would likely raise local opposition of reduction to their recreation resource acreage.

Currently, SB-2145 considers adding an acquisition in the Badlands adjacent to Theodore Roosevelt's Elkhorn Ranch. Should that acquisition of roughly 4000 acres be approved in this session, HB-1502 could possibly require the department to reduce existing deeded land by almost 60%. Identifying which parks to divest of would prove challenging.

This information is provided to aid you in your deliberation of this bill. I would be glad to visit with the committee, in more detail, at your convenience. In addition, we invite a thorough review of lands owned or managed for State Park System use in regard to their purpose and value to the local, regional and state quality of life as well as the contribution state parks provide to the tourism economy of the state.