

1999 HOUSE EDUCATION
HB 1084

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1084

House Education Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
#1	x		4.8 to 21.0
Committee Clerk Signature <i>Sarry Wagner - Jed</i>			

Minutes:

CHAIRMAN KELSCH: Open the hearing on HB 1084 and ask the clerk to read the title. There is a fiscal note attached. Clerk said the fiscal note was taken back. Who would like to testify in support of HB 1084

MIKE BRAND: see written testimony attached. Are there any questions?

CHAIRMAN KELSCH: Are there any questions? Rep Haas

REP HAAS: Commissioner may may cancel undepreciated cost at the end of the agree.

BRAND: If the lessee fails to make the minimum bid at public auction.

REP HAAS: In that case, and five years remains in the lease, then the land sits there unused for five years until it depreciates to zero. In that case the first lessee would be out the money paid.

BRAND: Yes

CHAIRMAN KELSCH: Rep Nottestad

REP NOTTESTAD: In the first para of your testimony using the example and the lessee loses the lease, if the land is going to be used for a different purpose would that still hold?

BRAND: Dug outs are really not at issue. We advertise that at auction. So the next lessee would be required to pay depreciation if it is a benefit to the next lessee.

REP NOTTESTAD: Even though used for a different purpose?

BRAND: Yes

CHAIRMAN KELSCH: Rep Brandenburg

REP BRANDENBURG: If they put up a fence and do a lease for 5 years, then take the fence down when they lose the lease. They can't come to an agreement with new lessee so new lessee puts up a new fence, why does that happen?

BRAND: Fences are personal property and not attached to the land.

REP BRANDENBURG: There is a time period in which to take the fence down if they lose the lease?

BRAND: Yes, 120 days or April 30th.

REP BRANDENBRUG: But the fence, I do see as an issue.

CHAIRMAN KELSCH: Rep Nelson

REP NELSON: Devils Lake region, the land becomes inundated with water and the value of the land as depreciated itself. The lessee decides that its not worth the minimum bid, does he lose the remaining depreciation on the improvement.

BRAND: In the flooded areas the lease has been adjusted.

REP NELSON: Did your department send a letter to the Legislators that had no value because of water?

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House Education Committee

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BRAND: The tracts on the list, have a zero per cent or less on return. Most improvements are fully depreciated. The law is to protect the lessees investment.

CHAIRMAN KELSCH: Any further questions for Mr Brand. Thank you Mike. Anyone else who wishes to appear in support of HB 1084? Anyone who wishes to appear in opposition of HB 1084? HEARING CLOSED.

COMMITTEE ACTION 1-12-99 hb 1084

CHAIRMAN KELSCH: Let's take up HB 1084. What are the wishes of the committee? Rep Thoreson moves a DO PASS on HB 1084 seconded by Rep Hanson. any committee discussion, being none, clerk call the roll. Carried by a vote of 15 yes 0 no 0 absent ---floor assignment Rep Grumbo.

Date: 1-12-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1084

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Thoreson Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg		✓
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson	✓				
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Grumbo

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

REPORT OF STANDING COMMITTEE (410)
January 13, 1999 1:44 p.m.

Module No: HR-06-0560
Carrier: Grumbo
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1084: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1084 was placed on the
Eleventh order on the calendar.

1999 SENATE EDUCATION

HB 1084

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1084

Senate Education Committee

Conference Committee

Hearing Date February 9, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-982
Committee Clerk Signature <i>Linda Christman</i>			

Minutes:

SENATOR FREBORG opened the hearing on HB1084. All senators present.

Testimony in Favor: Mike Brand, Director of Surface Management, State Land Department.

Mike explained the bill. Written testimony attached.

SENATOR REDLIN : Who does the approval.

Mike: Approval is by the commissioner and that will not change.

SENATOR REDLIN : Next line it says commissioner shall determine the cost, so you already have the right to approve it and determine the cost. What are we doing new.

Mike: Changes it to allow the commissioner discretion on deciding.

SENATOR FREBORG : Thank you Mike.

SENATOR COOK : Move a DO PASS on HB1084.

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Senate Education Committee
Bill/Resolution Number HB1084
Hearing Date February 9, 1999

SENATOR WANZEK : 2nd

Vote: 7 Yes 0 No

CARRIER: SENATOR WANZEK

Date: 2/9/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1684

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass on HB 1684

Motion Made By Cook Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Wanzek

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

REPORT OF STANDING COMMITTEE (410)
February 9, 1999 11:26 a.m.

Module No: SR-26-2322
Carrier: Wanzek
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1084: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1084 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY
HB 1084

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STATE LAND DEPARTMENT

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Robert J. Olheiser
COMMISSIONER

TESTIMONY OF MIKE BRAND
Director, Surface Management

IN SUPPORT OF
HOUSE BILL NO. 1084
House Education Committee

January 12, 1999

Section 15-08-26 of the North Dakota Century Code was enacted to provide a mechanism for the protection of a lessee's investment in improvements on school trust lands. In the event a lease is lost before the lessee has full use of an improvement, this section allows compensation for the lost use. An improvement constructed on school trust land with the Land Commissioner's approval may have the lessee's out of pocket expenses depreciated for a period of time, no longer than 10 years. In other words, if a lessee invested \$1,000 in a livestock water dugout on school trust land and then lost the lease 5 years later, the next lessee would be required to pay the previous lessee 50% of the cost - \$500 in this case.

This process has usually worked well and has helped lessees make investments in school trust lands because they know that they will receive value for their improvements, either through use or payment, if the lease is lost.

House Bill 1084 proposes two material changes in this section of the Century Code:

1. The changes on page one, lines 13 – 21 are intended to clarify the method of calculating the cost of the permanent improvement and the amount that may be depreciated. It gives the commissioner clear discretionary authority to determine the amount to be depreciated for approved permanent improvements. This authority is necessary so that a lessee who receives a permit to construct a permanent improvement does not have unilateral authority to exceed the original cost estimates and then demand payment or depreciation for cost over runs. This change would not discourage the improvement of school trust lands, but would protect the leasing value of school trust lands in the event of an unapproved cost over run.
2. The changes on page one, lines 22-24 and on page two, lines 1 and 2 would allow lessees to make larger investments in permanent improvements on school trust lands. At the present time we have to limit the cost of a lessee's investment in school trust lands to ensure that we can maintain leasability at public auction. Excessive undepreciated costs in a permanent improvement would discourage others from leasing a tract of school trust land if the original lessee decided not to offer the minimum bid at public auction. In that event, the trust funds would have an unleasable tract of land because of an excessive undepreciated cost against it. The proposed change creates a level playing field. In other words, the commissioner could agree to a more expensive permanent improvement and in exchange, the lessee would agree to offer at least the minimum rent for the lease.

One final point, the State, the Federal Government and private organizations sometimes provide cost share assistance to lessees for constructing permanent improvements such as livestock water wells, dams, and cross fencing on school trust lands. This bill would not prevent the use of such cost share assistance on school trust lands. We expect that such assistance will continue to be available to lessees of school trust lands, but these expenses are not depreciated under this statute as are a lessee's out of pocket costs.

I respectfully request your support of House Bill 1084.

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Robert J. Olheiser
COMMISSIONER

TESTIMONY OF MIKE BRAND
Director, Surface Management

IN SUPPORT OF
HOUSE BILL NO. 1084
Senate Education Committee

February 9, 1999

Section 15-08-26 of the North Dakota Century Code was enacted to provide a mechanism for the protection of a lessee's investment in improvements on school trust lands. In the event a lease is lost before the lessee has full use of an improvement, this section allows compensation for the lost use. An improvement constructed on school trust land with the Land Commissioner's approval may have the lessee's out of pocket expenses depreciated for a period of time, no longer than 10 years. In other words, if a lessee invested \$1,000 in a livestock water dugout on school trust land and then lost the lease 5 years later, the next lessee would be required to pay the previous lessee 50% of the cost - \$500 in this case.

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I respectfully request your support of House Bill 1084.