

**2019 HOUSE POLITICAL SUBDIVISIONS**

**HB 1338**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

2/1/2019

HB 1338

Job # 32029

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle typed by Mary Brucker

### Explanation or reason for introduction of bill/resolution:

Relating to exceptions to required permits for disposal of waste; relating to disposal of property and septic systems; and to declare an emergency

### Minutes:

Attachments 1-4

**Chairman J. Dockter:** Opens the hearing on HB 1338.

**Representative Headland:** (Handout #1,2) Handed out his testimony that he gave to a Congressional Committee in D.C. in July 2018. Introduced the bill. This bill will allow counties and city park boards who have been given rights to this property, from the Federal Government signed by President Trump, the ability to pass and sell this land to those of us who own structures on the particular lots being discussed. There are two areas of the state this covers; one is the Jamestown Reservoir which has 71 permitted cabins currently on Bureau property. The federal legislation turned this property over to the Stutsman County Park Board who we are asking with this bill to allow that to be sold to the people who own the structures that currently reside on these lots. The other area of the state this will cover is Patterson Lake in Dickinson who are under the same circumstances. Their property was turned over to the local park board who now wants the ability to be able to sell that to those who own the structures on the property. North Dakota statutes today prohibit the direct sale to the structure owner because of a value that's been placed in statute on \$1,000. If it's over \$1,000 the statute says it needs to be publicly bid. That really wouldn't work for those of us who own the structures already located on these parcels. There was one other issue I was trying to address when I had the bill drafted and that's the use and continued use of the septic systems that are currently operating and working in both of these cases but they may, through local ordinances, be under some pressure. The language now will probably put us in conflict with the Clean Water Act. I am going to offer an amendment that will take those three sections out of the bill. I ask that you keep this bill in committee for a short time to allow those of us interested parties to come up with some language that works.

**Representative Johnson:** What's the ownership structure of those 71 cabins?

**Representative Headland:** On the Jamestown Reservoir there are 71 cabins and there are some on Patterson Lake in Dickinson. It is structures that are owned and currently taxed locally. It's going to bring new property into the tax base.

**Representative Johnson:** Who owns them?

**Representative Headland:** Individuals like myself. I've been very involved in trying to get the legislation passed. It started with Senator Hoven and carried in the House by Senator Cramer.

**Representative Johnson:** Are these lake homes?

**Representative Headland:** Some of them are lake homes and year around structures; some of them are purely cabins.

**Representative Johnson:** There's no business organization that owns them?

**Representative Headland:** No, they are just individual tax paying citizens.

**Representative Adams:** Did you sign a lease with the federal government?

**Representative Headland:** We sign a lease for a five-year period then we have to sign again. It worked for 40 years but times change. The reason we pursued this bill now is because the Bureau in their fee structure was where it was unaffordable.

**Chairman J. Dockter:** This will give you certainty in the future. It will be a lot easier to sell your cabin in the future.

**Representative Fegley:** Do I understand that this is on a zero-dollar basis or are there any funds that are going to be transferred?

**Representative Headland:** No. There will be an appraisal done on each lot and it's going to be appraised by the square foot. You are going to write the county park board a check for that amount. The federal legislation says it has to be turned over to the Bureau of Reclamation.

**Representative K. Koppelman:** Are you currently paying taxes on the structure?

**Representative Headland:** Yes.

**Representative K. Koppelman:** So they are able to tax the structure even though it's not on private land. How does that work now with the taxability of the structure even though you don't own the land under it?

**Representative Headland:** I'm not sure. Obviously the legislature has given them authority to tax those structures.

**Representative Ertelt:** Is the fee structure to renew the same for each parcel? What is the cost associated with it?

**Representative Headland:** Prior to passage of this federal legislation the fee structure was done on the Jamestown Reservoir with two options; pay the permit fee for a year around lease and the other option was a part-time lease which was exactly 50% of the cost of the full-time lease. My current lease for a year around was almost \$4,000 in addition to the \$2,400 of property tax. As a summer getaway that can be used four to five months it was rather expensive. The Bureau came in with a number much higher than that. The federal legislation has passed. We're simply asking to amend the statute in these two cases so we can purchase the property directly from the entities that the Bureau has assigned it to without having to worry about someone coming and bidding us up.

**Representative Magrum:** Can you explain the process to get this land back to the state?

**Representative Headland:** We had Senator Hoven take a run at it before. It took several years for us to get this finally in a position to get it moved. There is a process for them to get it done; they had hearings on both the House and Senate sides and were able to use a rule in order to get the legislation passed then sent it to the President's desk and he signed it. There is a record of it.

**Representative Guggisberg:** How much of this land that is now available is set up to be purchased and how much more will be available for private people to buy?

**Representative Headland:** I don't know. It was designed that any property that was given to the Bureau when they built the reservoirs the property that would remain with the Bureau is all of the acreage below the flood plain and anything above the flood plain has been given to the local entities who were managing and permitting. I don't know what will happen with the excess properties. I'm hopeful they will be able to develop and beautify it.

**Representative Magrum:** Do you have to pay the lease again for 2019?

**Representative Headland:** We will be paying the lease until the transfer is official, the legislation passes, the appraisals have been done, they come up with a cost for each lot, the surveying, and anything else that has to happen.

**Chairman Dockter:** Is there further support?

**Representative Lefor:** I served on the Dickinson Park Board for 20 years so I am familiar with the history of this. It has been a long and frustrating process for these individuals. In the past most of them were seasonal but that has changed. The local park district was the managing agency on behalf of the federal government as something the local park boards didn't want to have. The \$3,400 fee which is paid in Dickinson has 41 lots. Those dollars go to the Dickinson Park District. There is loss of revenue for the park board but they are in favor of this. These people have tried to get this in law for 20-30 years. The 41 lots would be transferred to private ownership and the remaining lots would still go to the Game and Fish and recreational lands will still stay with the state. They are not asking for ownership of that.

**Chairman J. Dockter:** We are talking about Patterson and the Reservoir. Does anyone know if Heart Butte dam is in the same situation are they going to be included?

**Representative Lefor:** No, to my understanding it's just Jamestown and Dickinson.

**Representative Magrum:** Who is the overseeing agency to watch over this transfer to the parks?

**Representative Lefor:** The Dickinson Park Board is the managing agency on behalf of the federal government. The federal government sets the guidelines then the local park district works with the individuals on that transfer.

**Representative Guggisberg:** Will the park district not sell any of the land anymore?

**Representative Lefor:** I believe the rest of the land will be managed by the park district. The recreational lands will not be sold to private owners; it's just the private lots.

**Representative Ertelt:** The land was turned over to the park boards and now you're saying the park board is the managing agency on behalf of the federal government. I don't understand that.

**Representative Lefor:** The park district does not own it. The Bureau of Reclamation owns it. The Dickinson Park District is the managing agency that runs it on behalf of the federal government.

**Representative Ertelt:** Is this bill intending to provide for the transfer of the land from the Bureau of Reclamation to the park board and then to the property owner?

**Representative Lefor:** The federal government with the park district managing it would facilitate the transfer to the private ownership.

**Tom Fisher, President of Patterson Lake Homeowners Association.** (Handout #3) I think a little of the confusion is who exactly owns what right now. The bill written into law last December has done where the Bureau of Reclamation has now given these properties to the managing partners. Now the Dickinson Parks and Rec owns that land and Stutsman County owns their land around the Jamestown Reservoir.

**Chairman Dockter:** So we have to go through the appraisal process, the surveying, and everything but they own it then they can sell the lots to the individuals?

**Tom Fisher:** Correct. Now we're just working on state level so that there will be an exception written for these two managing entities to sell it privately to individuals. Read his testimony, ended at 31:58.

**Representative Adams:** On this property where you're the Homeowner's Association, do you take care of all of your own roads?

**Tom Fisher:** We take care of our own property boundaries but the county takes care of the roads. With this passage the county would be given the easement for the roads so they would keep taking care of them. We pay county taxes.

**Representative Hatlestad:** With the passage of this bill your property will be sold to you based on the appraisal, there will be no open bidding at all?

**Tom Fisher:** That is correct and that is why they added the word “conveyance” into the bill. It will allow us to have first choice to buy our land from underneath our homes. Someone could come in and buy my land then I would need to do something with my house. This is why Senator Hoven got involved because there was no security. They can’t even get a loan to buy a house so we’re stuck and we’re stuck with these increasing permit fees.

**Representative Ertelt:** Do the park boards own the land above the flood plain and is that a 100 year flood plain?

**Tom Fisher:** They set an elevation mark. Senator Hoven’s staff worked with the Bureau of Reclamation and set elevation marks where the property home ownership will start and where the Bureau would end up owning the land and the surface water below.

**Representative Ertelt:** You mentioned not being able to take out home improvement loan or access equity because the land below you isn’t owned but that hasn’t actually changed since the construction of any of the structures, correct?

**Tom Fisher:** No, we have never owned the land below our homes.

**Representative Ertelt:** Why wouldn’t the lenders now not provide a loan?

**Tom Fisher:** We’re still under a yearly permit and with that there is no security. Our park board in Dickinson will be working on a long term lease if some choose not to purchase their lots.

**Representative Ertelt:** Are you saying that loans were available and now no longer?

**Tom Fisher:** They were available up until 5 years ago. With the increased fees the banks sent out letters to all the homeowners saying there was too much uncertainty and they were no longer willing to stick money into these homes.

**Representative Ertelt:** This would apply to the permit holders on Patterson Lake and the Jamestown Reservoir but it would also apply to any additional land owned by the park board so they would be able to sell that?

**Tom Fisher:** The original intent of the bill was that any of the recreational lands would stay recreational. There were some constraints in the original bill that Senator Hoven got passed. I don’t think they are going to open another 100 lots.

**Representative Magrum:** Did the federal government give a deadline so it won’t drag out?

**Tom Fisher:** I believe it is 5 years that this transfer has to take place for the federal government to transfer it over to the local entities.

**Representative K. Koppelman:** Is the process of doing this in the federal law that was passed?

**Tom Fisher:** Yes, it's in the federal law.

**Representative K. Koppelman:** Is there any specifics on where the appraisal needs to come from?

**Tom Fisher:** There is a set of guidelines that the Office of Evaluation Services would have to review. What is written in the federal law was that it had to be a local third party appraisal. The federal government sent in two appraisers from out of state and they came during the oil boom thinking they would do appraisals on these properties. The only solution was to have legislation and take it to the level of Washington D.C. because it was out of our local Bureau of Reclamation's hands. Senator Hoven then became involved in this and helped us take care of it.

**Representative K. Koppelman:** In North Dakota we are used to owning the ground under us, so this is unusual for us. When you hire a local appraiser how do you come up with a comparable sale when nobody around there owns the land under the lot or owns private lots? Is it based on the average sale of similar properties around? Are there other lakes with private lots within a relative proximity?

**Tom Fisher:** There are some private properties around Lake Sacajawea that they can compare to but you don't have the city nearby. It has to be based on raw unimproved land because that's what this land was to begin with. If our 41 beautiful homes weren't on this property it would still just be a pasture and there would still be cattle grazing there. They will have to find something similar to being out of town with the utilities. They will have to put a value per acre then divide that out what it is per square footage.

**Chairman Dockter:** Is there anyone else in support?

**Darren Peterson, President of the Cabin Association in Jamestown:** Read part of Representative Headland's testimony. Ended testimony at 49:37.

**Representative Hatlestad:** Does the law permit you to keep your septic systems?

**Darren Peterson:** They have all been checked and at the present time everything is in good working order. If rules or codes change then if it's failed, we'll fix it.

**Chairman Dockter:** Is there anyone else in support? Is there opposition?

**Karl Rockeman,** Director of the Division of Water Quality within the North Dakota Department of Health's Environmental Health Section. (Handout #4). Read his testimony, ended testimony at 53:53.

**Representative Johnson:** I think I missed something earlier. We are removing entire pages, the powers and duties. What powers and duties are left for you?

**Karl Rockeman:** We are just asking for the changes to be removed as those pages are water pollution and control laws.

**Representative K. Koppelman:** Representative Headland indicated he wanted some time with the bill for further amendments but you're saying you believe the amendment he brought handles it.

**Karl Rockeman:** The amendment he brought addresses our concerns but I don't know that it entirely addresses the concerns the Mr. Headland and his constituents have. We would certainly be willing to work for an equitable resolution for everybody's concern. I certainly don't want to take anyone's cabin away from them.

**Chairman Dockter:** Is there any further opposition?

**Representative K. Koppelman:** We just heard from the Department of Health that the amendment you brought was sufficient to clear up the concerns they had but earlier you asked us to hold the bill longer. Are you still working on amendments related to that?

**Representative Headland:** Yes I would. Since there is no fiscal note there's no need for it to be rushed to the floor. We are just looking for protection from overzealous local regulators. I want you to allow for some neutral testimony from Game and Fish.

**Chairman Dockter:** Is there further opposition?

**Scott Peterson, Deputy Director at North Dakota Game and Fish:** We also have property that sits on both sites. We would benefit from the transfer of that property to the department as well. Right now have a 99-year lease with the United States Bureau of Reclamation.

**Chairman J. Dockter:** How much land does that involve?

**Scott Peterson:** Dickinson has 10 acres and it's probably similar in Jamestown. We would like certainty beyond 99 years.

**Representative Hatlestad:** The lease you have is in no way affected by this bill? This only affects the transfer of that land to the property owners while yours's stays as it?

**Scott Peterson:** That's correct. This transfer in no way affects the land we currently have a lease on.

**Chairman Dockter:** Is there any further neutral testimony? Seeing none we will close the hearing on HB 1338.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

2/14/2019

HB 1338

Job # 32797

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle typed by Mary Brucker

### Explanation or reason for introduction of bill/resolution:

Relating to exception to required permits for disposal of waste; relating to disposal of property and septic systems; and to declare an emergency.

### Minutes:

Attachment 1

**Chairman J. Dockter:** Opened for committee work. This is the bill Representative Headland brought before us. It's about septic systems and the cabins at Patterson Lake and the Jamestown Reservoir. They are requesting to go through the process so they can purchase their cabin lots from the federal government. Amendments were distributed from Representative Headland prior to this meeting, 19.0512.05001. See attachment #1.

**Representative Fegley:** **MADE A MOTION TO ADOPT THE AMENDMENT.**

**Representative Hatlestad:** **SECONDED**

**Representative Ertelt:** This amendment gets rid of the septic part of it?

**Chairman J. Dockter:** I believe that is correct. It has to take out the four sections.

**Vice Chairman Pyle:** In my notes I said it was a violation of the Clean Water Act so they offered amendments to clean up that part.

**Voice vote: Motion carried**

**Chairman Dockter:** We have before us amended HB 1338.

**Representative Adams:** **MADE A MOTION FOR A DO PASS AS AMENDED**

**Representative Magrum:** **SECONDED**

**Chairman Dockter:** Is there further discussion?

**Representative Johnson:** This sort of thing happens all the time with political subs. The federal government will give property to a political subdivision of the state which then can sell it. It's very common. Our park district did it in Fargo.

**Chairman Dockter:** Is there further discussion?

**ROLL CALL VOTE: 13 YES 0 NO 1 ABSENT**

**Vice Chairman Pyle will carry this bill.**

DA 2/19/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

Page 1, line 1, remove "to create and enact a new subsection to section 61-28-06 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to exceptions to required permits for disposal of waste;"

Page 1, line 3, replace the second "sections" with "and section"

Page 1, line 4, remove "and 61-28-04, and subsection 4 of section 61-28-04.1"

Page 1, line 5, remove "and septic systems"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 14

Renumber accordingly

Date: 2-14-19  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1338

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0512.05001 - see attachment #1

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Fegley Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:					
Vice Chairman Pyle:					
Rep. Ertelt:					
Rep. Fegley:					
Rep. Hatlestad:					
Rep. Johnson					
Rep K. Koppelman:					
Rep. Longmuir					
Rep. Magrum:					
Rep. Simons:					
Rep. Toman:					
Rep. Strinden:					
Rep. Adams:					
Rep. Guggisberg					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Remove "and septic systems" on p.1 line 5  
Remove four sections  
Voice Vote Carried

Date: 2-14-19  
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1338

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0512.05001

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Adams Seconded By Rep. Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:	/				
Rep. Fegley:	/				
Rep. Hatlestad:	/				
Rep. Johnson	/				
Rep K. Koppelman:	A				
Rep. Longmuir	/				
Rep. Magrum:	/				
Rep. Simons:	/				
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg	/				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Pyle

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

**REPORT OF STANDING COMMITTEE**

**HB 1338: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1338 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new subsection to section 61-28-06 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to exceptions to required permits for disposal of waste;"

Page 1, line 3, replace the second "sections" with "and section"

Page 1, line 4, remove "and 61-28-04, and subsection 4 of section 61-28-04.1"

Page 1, line 5, remove "and septic systems"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 14

Re-number accordingly

**2019 SENATE POLITICAL SUBDIVISIONS**

**HB 1338**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB1338  
3/7/2019  
Job # 33390

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Jo Wocken

### Explanation or reason for introduction of bill/resolution:

Relating to disposal of property and to declare an emergency.

### Minutes:

Written attachment #1 Rep. Mike Lefor  
Written attachment #2 Mr. Tom Fisher  
Written attachment #3 Mr. Darin Peterson testimony from  
Rep. Craig Headland in DC.

**Chairman Burckhard** opened the hearing on HB1338. Senators Burckhard, Anderson, Kannianen, D. Larson, Dotzenrod were present, Senator J. Lee was absent.

**Representative Craig Headland:** I am hear asking for your favorable support of HB1338. It is a fairly simple bill. It is following a piece of federal legislation that we were able to get passed with the help of Senator Hoeven, Senator Cramer, and former Senator Heitkamp. It is a pretty simple bill. It's just going to allow to beneficiaries of federal land that was conveyed to them. It will allow them to sell it to the structure owner. People own cabins on this land that was permitted by the Bureau of Reclamation through about 30 years of work and effort we've finally gotten to an area where the Bureau has conveyed the property to the two park districts in both cases, both on the Jamestown Reservoir and the Patterson Lake in Dickinson. The bill will simply allow those political subdivisions to sell it directly to the cabin owner. In current statute it says it would to go to public bid if it has a value of over \$1000. I think everybody understands how that is just simply wouldn't be a workable situation. I can answer questions as we've got interested parties here that want to testify. I think they would probably be better to answer these questions for you.

**Rep. Mike Lefor:** Represent District 37. In support of HB1338 with **Written attachment #1** (2:27-4:37).

**Chairman Burckhard:** So, the local park board will work with the local homeowners. I didn't know they will sell them the land at whatever the value is and then they actually own it?

**Rep. Lefor:** That is correct. They would through the evaluation process and those types of things to get the land sold to the local cabin homeowners or homeowners.

**Chairman Burckhard:** And that money goes to the park board in that case?

**Rep. Lefor:** I believe that it does. It goes back to the federal government.

**Senator Dotzenrod:** This bill appears to like on pg.1 that first one there, your amending existing law. So most of that section 11-27.01 is existing. It says there on line 13, if its less than \$1000 it may be sold at a private sale. In other cases, it may be sold only at public sale. Is there some anticipation that if I heard you right, that some of these will be sold then some of these cracks will be sold? Did I understand that right?

**Rep. Lefor:** The goal here is to have all the homeowners own their land underneath their property.

**Senator Dotzenrod:** So this language about may be sold only at public sale, that I suppose is that how the land owner will acquire that land that is under his cabin and go to a public sale?

**Rep. Lefor:** I would defer that question to people behind me.

**Mr. Tom Fisher:** President, Patterson Lake Homeowners Association. Written attachment #2 (6:38-10:44). We wish to be in strong support of HB1338.

**Chairman Burckhard:** Why is there an emergency declared on this bill, what's the story on that?

**Mr. Tom Fisher:** With the work that Senator Hoeven's done, in the lengthy process this will take with the studies with the federal government needs to do and then they will have to be a survey, then an appraisal. What Senator Hoeven did a few years back is and this is all that started it. There was an evaluation by the federal government done of our properties. For example, I was paying \$2400 a year at that time for my cabin fee. The Bureau of Reclamation came up with a number saying we were going to be paying \$6825 dollars a year. So, that is quite increase in one year's time. That with our \$3000 of property tax that more or less would've phased out every homeowner out there. So, Senator Hoeven stepped in and capped the permit fees over a five-year period. So that is why there is also an emergency clause put on there, because these fees will keep increasing over the next remaining three years that are on that piece of legislation. So, we would like to have it done as soon as possible.

**Senator Anderson:** So, give us a little bit of history here now what happens if the federal government said the Bureau of Reclamation "can" convey or "must" convey the property that is my first question to the local park board?

**Mr. Tom Fisher:** The federal government "must" convey it to the local park board. So that is already happened and then it will be a memorandum of agreement and then they will have a few studies that they have to do, do an overall survey at the Bureau of Reclamation land. Once that has happened then it will be turned over to the park boards and then they will do a survey breaking out the individual lots and then there will be an appraisal on those individual lots for the homeowners.

**Senator Anderson:** So the Bureau of Reclamation will continue to manage the reservoir? Is that my understanding?

**Mr. Tom Fisher:** Correct. They will continue to manage both of the dams and the water of the lake itself.

**Senator Anderson:** The property conveyed to the park board then is that to the water line or to the historical high water mark of the dam or how exactly?

**Mr. Tom Fisher:** It is in Jamestown and Dickinson. They have a certain elevation of high water level so that is where the bureau will and the ownership then would split it at that elevation level.

**Senator Anderson:** So the then the public would still have access to the beach in front of your house. **Mr. Tom Fischer:** correct. **Senator Anderson:** But you would own to whatever that high water mark or wherever they decide is the right place. **Mr. Tom Fisher:** That was one of the main things when this original federal bill was being written was to make sure that all of those acreage around the lakes that their still would be public access to all of those which there will be.

**Senator Anderson:** You mentioned that you pay property taxes so is the Bureau of Reclamation pay in lieu of property taxes to the local county and then they divide that up for you guys or how does that work. Usually, if you don't own the land you don't pay property taxes on it.

**Mr. Tom Fisher:** I wish that were the case. But we call it more of a real estate tax just on our structures and there is also an equation built into their somehow where we were actually paying part of the property taxes as the value of the land.

**Chairman Burckhard:** So Mr. Fisher are there mineral rights at issue here when you have land under your house and that oil in Dickinson. No consideration?

**Mr. Tom Fisher:** The federal government retained those rights.

**Mr. Darin Peterson:** President of the Jamestown Cabin Association. Tom pretty much covered everything, so I am just going to read a little bit to keep this simple. I think Representative Headland handed out his testimony in DC so I am going to cover a couple of those points. Very strong support of HB1338 **Written attachment #3** (14:55-17:54).

**Senator Dotzenrod:** I had asked earlier when Rep. Lefor was here, and I see now when you read the bill, there is no requirement that it has to sold at public sale. I misread that. It does that.

**Mr. Darin Peterson:** I think it for under \$1000.

**Senator Dotzenrod:** What it says, when the property to be disposed is property conveyed pursuant to public law, or property estimated to be by the board to be less than \$1000. It may be sold at private sale upon resolution of the board. The private sale language would apply

to property conveyed this way. So there is no statutory requirement, it would be for a couple of other different situations, but, this one there is no requirement.

**Senator Anderson:** The property could be sold at public sale now, but of course, it would contingent on the lease that you have. But when that lease expires then the person who paid the most at the public sale, would end up with the property. Whether that was you or somebody else. So I think that is really why they want to negotiate a private sale now instead of having only that public sale option which some developer might come in and buy all the property up and then settle it off again to somebody else. How long are your leases now?

**Mr. Darin Peterson:** Well, they were 99 years and now they are every 5 years, so the history was quite a while, but now they are every 5 years.

**Senator Anderson:** So the 99 years expired and now they started at 5 or they changed the federal law.

**Mr. Darin Peterson:** 5 years.

**Senator Anderson:** That is maybe one reason why the emergency clause is in the 5 years are up then it can go to the public sale.

**Senator Diane Larson:** Does this apply to any other property other than just at Jamestown and Dickinson? Are those the only 2 properties impacted by this bill?

**Mr. Darin Peterson:** Right.

**Senator Kannianen:** Dennis Wallin is my wife's uncle and he's really excited about this. I know you probably can't directly speak to this. Is there anyone from the Park District, are there individuals that would not be able to afford the purchase, the lands right away. Is there with the passage of this? Is there some assurance that the park district would hang on to that and not sell it to anybody else?

**Mr. Darin Peterson:** Yes, that discussion is made without knowing everybody's finances. There is a clause in there where the county and I can't speak for Dickinson, but the Stutsman County Park Board would hold on to that land so they wouldn't have to buy it and then that cabin owner would work with the county and the county would assess them kind of permit deed but it would be done locally. Not at a national level. So yes those people would not be, as they have up to 5 years I believe or up to 5 years to find financing and if not then the county would still retain ownership of it and they would work on an agreement with the county for continuance, the county park board.

**Chairman Burckhard** asked for more favorable, opposition or neutral testimony on HB1338. No one responded. He then closed the hearing on HB1338. I actually would like to act on this one because of the emergency clause.

**Senator Diane Larson moved do pass on HB1338.**

**Senator Kannianen moved a 2<sup>nd</sup>**

**Roll call vote: 5 Yea, 0 No, 1 Absent**

**Carrier: Senator Kannianen**

Date: 3-7-2019  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. H.B. 1338**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Sen. Diane Larson Seconded By Senator Kannianen

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard	X		Sen. Jim Dotzenrod	X	
Vice chair Howard Anderson	X				
Sen. Diane Larson	X				
Sen. Judy Lee					
Sen. Jordan Kannianen	X				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Kannianen

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

**REPORT OF STANDING COMMITTEE**

**HB 1338, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1338 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1338**

HB 1338 #1

2-1-19

p.1

**Testimony of Craig Headland  
North Dakota House Representative District 29  
Jamestown Reservoir Cabin Owners Association Board Member**

**House Committee on Natural Resources  
Subcommittee on Water, Power & Oceans  
July 11, 2018**

Greetings, my name is Craig Headland. I am here today representing the Jamestown Reservoir Cabin Owners Association. Our Association is made up of 71 permit holders who have permanent cabins along the shores of the Jamestown Reservoir located in Jamestown, ND. We wish to be recorded in strong support of H.R. 6039.

The Jamestown Cabin Owners Association would like to express our deep gratitude to Congressman Kevin Cramer for his sponsorship of this legislation and both he and Senator John Hoven for their thoughtful support throughout this process.

The Jamestown Reservoir (the river) has served Jamestown and the surrounding region since 1953 when it was first placed into service. It has since become a major outdoor recreation destination for area residents. The reservoir amasses 11 miles of water and shoreline with two public marinas, two public beaches, two full-service campgrounds, and six public access points. Continued access to the river is important to everyone in the region for both recreation and the economic vitality of our community.

The Jamestown Cabin Owners have been seeking to purchase the lots on which our cabins are located for decades. We have the support of our city, county, state and federal elected officials as well as the Bureau of Reclamation, the local Park Board and the North Dakota Game and Fish Department. We have met with representatives from each of these groups on numerous occasions and can share with you that there has been no opposition expressed as we present this request to you. The Jamestown Cabin Owners Association has taken very seriously the varied interests and concerns of all stakeholders. Our process has been transparent and thorough, providing opportunity for open discussion with all parties and as a result, you can be assured that this request will not disrupt the current users' ability to use or access the river in any way, now or in the future.

Throughout the past 60 years, cabin permit holders have been important stewards of our land. We take pride in not only the ownership of our homes, but also the manner in which we steward the land on and around which our homes reside. We have invested in protecting the shoreline, cared for the landscape, and have provided a more attractive place for visitors to enjoy. For most of us, our home is our greatest investment and asset. Passage of this bill would provide us with certainty as we make the necessary improvements to maintain our homes and the land on and around them. Passage of H.R. 6039 would provide assurance to the cabin owners that our investment in these initiatives is secure, and would protect us from the uncertain tax and permit assessments that we have experienced in recent years. Many of the cabin owners are on fixed incomes and the volatility that comes with this uncertainty makes planning difficult.

It is important to note that the cabin owners pay property taxes to Stutsman County and the Jamestown School District for the assessed value of our homes. Additionally, we pay an annual permit fee to the park department. These funds have been used to help maintain the public lands, recreation areas and

1/2/2018

#1  
HB 1338  
2-1-19  
p. 2

access points around the river. If this bill is approved, we will pay additional property taxes for the assessed value of our land, further benefitting our community.

In conclusion, we request your support of H.R. 6039 allowing the Jamestown Cabin Owners to acquire the land on which their cabins have resided for the past 60 years. Doing so provides us with certainty of our continued use without changing utilization of the river and its surrounding public access areas in any way. Thank you for your consideration and I look forward to answering your questions.

HB 1338 #2  
2-1-19

19.0512.05001  
Title.

Prepared by the Legislative Council staff for  
Representative Headland  
January 31, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

- Page 1, line 1, remove "to create and enact a new subsection to section 61-28-06 of the North Dakota"
  - Page 1, line 2, remove "Century Code, relating to exceptions to required permits for disposal of waste;"
  - Page 1, line 3, replace the second "sections" with "and section"
  - Page 1, line 4, remove "and 61-28-04, and subsection 4 of section 61-28-04.1"
  - Page 1, line 5, remove "and septic systems"
  - Page 2, remove lines 30 and 31
  - Page 3, remove lines 1 through 30
  - Page 4, remove lines 1 through 31
  - Page 5, remove lines 1 through 31
  - Page 6, remove lines 1 through 14
- Renumber accordingly

**Testimony of Tom Fisher**  
**President, Patterson Lake Homeowners Association**  
**Before the Political Subdivisions Committee**  
**North Dakota House of Representatives**  
**February 1, 2019**

#3

HB 1338

2-1-19

p. 1

Good Morning, my name is Tom Fisher. I am President of the Patterson Lake Homeowners Association. I am here today representing the 41 permit holders who have permanent homes along the shores of Patterson Lake near Dickinson in southwest North Dakota. We wish to be recorded in strong support of House Bill 1338.

The Patterson Lake Homeowners Association would like to thank Representatives Lefor and Steiner, along with Senator Wardner for their sponsorship and support for this important legislation. I would also like to thank the Chairman and fellow members of the Political Subdivisions Committee for the opportunity to speak to you today about House Bill 1338.

As a brief history, the Dickinson Dam was completed by the Bureau of Reclamation in May of 1950, impounding the Heart River. The dam, amongst the rolling hills and prairies, created the Edward Arthur Patterson Lake, which covers nearly 1,200 surface acres and 22 miles of shoreline. The original purpose of the dam and lake was as a municipal water source for the city of Dickinson, with recreation and irrigation as secondary usages. In 1991, the City of Dickinson began getting their water from the Missouri River through the Southwest Pipeline Project, and in 1996, the Southwest Water Authority was established to take over the management of the Southwest Pipeline Project. Since that change in 1991, the dam and lake are no longer utilized for the primary original purpose of construction. Patterson Lake is now used primarily for recreation and adds a tremendous quality of life to the City of Dickinson and the surrounding communities.

The Patterson Lake Homeowners have been trying to purchase the land from under their homes around this lake for over 30 years. Over those years, the Patterson Lake Homeowners Association has worked with and had countless meetings with the Local Park Board Members, the City and County Officials, the North Dakota Game and Fish Department, the Bureau of Reclamation and our Local State Legislators. During that time, each of these individuals has expressed support for all our combined efforts. These efforts did not go unnoticed.

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2-1-19  
P. 2

Roughly three years ago I was given the opportunity to meet with Senator Hoeven to explain our situation at Lake Patterson. In the last few years, Senator Hoeven was able to come up with a solution by introducing and passing a Bill into Public Law which establishes a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota. All of the hardwork Senator Hoeven has put forth along with the co-sponsorship and support from Senators' Heitkamp and Cramer is the direct culmination of the House Bill 1338 that I am testifying about today.

With the passage of House Bill 1338, the homeowners will be given the option to buy the land from under their permanent homes. For most of us, our home is our greatest investment and asset. This bill would allow financial lenders to use the land and all the improvements the homeowners have made over the years as securities. By doing so, this will open the opportunities so we can make home improvements or utilize the equity for whatever purpose we deem necessary and appropriate. For example, lenders have recently advised us that we can no longer take out home improvement loans for our homes or access the equity due to not owning the land under the structures. Passage of Bill 1338 will not only provide us the opportunity to make improvements to our homes, but it will also eliminate financial uncertainties.

The Patterson Lake Homeowners Association members are very active in the community. Most have been on numerous volunteer committees and boards and helped with countless city and county projects. The members are tax paying, productive, hardworking people who are excellent stewards of the land and lake that we choose to enjoy as homeowners. We, as homeowners, support House Bill 1338. With the Bill's passage, we too will have a chance to experience the American Dream of home ownership and security.

Are there any questions?

Thank you for your time.

**Testimony**  
**House Bill 1338**  
**House Political Subdivisions Committee**  
**North Dakota Department of Health**

#4  
HB 1338  
2-1-19

Good morning Chairman Dockter and members of the House Political Subdivisions Committee. My name is Karl Rockeman, and I am the Director of the Division of Water Quality within the North Dakota Department of Health's Environmental Health Section. The Division of Water Quality protects and monitors our water resources to ensure the quality of surface and ground water for the public's use.

My testimony relates to Sections 5-7 of the bill, the Amendments to NDCC 61-28. The Department objects to the bill as written, as it would exempt the areas identified around the two reservoirs from key portions of the state's water pollution control law and implementation of the federal Clean Water Act and Safe Drinking Water Act. By removing these areas from the protection of our state water pollution control laws, it creates an inequity among different landowners, eliminates enforcement of public and environmental health protections and jeopardizes our EPA primacy for those programs.

Our understanding is this bill attempts to address septic system regulation by local health units. It does not provide the relief being sought as NDCC 61-28 does not cover the activities or authorities of local health units, which are separate political subdivisions, with separate authority for regulation of septic systems.

The Department has had conversations with some of the involved parties and is willing to facilitate further discussions to help resolve any concerns. Also, another bill, SB 2241 requests an interim study of septic system regulation and may be looking at changes during the interim.

We would ask that sections 5-7 be struck, or a do not pass be recommended. This concludes my testimony. I am happy to answer any questions you may have.

19.0512.05001  
Title.

Prepared by the Legislative Council staff for  
Representative Headland  
January 31, 2019

#1  
HB 1338  
2-14-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

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Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 14

Renumber accordingly

H.B. 1338  
3.7.2019  
att #1

Good Morning Chairman Burckhard and members of the Senate Political Subdivisions committee, my name is Rep. Mike Lefor and I represent District 37 - Dickinson in the North Dakota House. I am here in support of HB 1338 which, in effective, would allow cabin owners in Stutsman and Stark County to purchase the land under their homes.

In the Dickinson area around Patterson Lake, the cabin owners have attempted to work with the federal government to be able to own their land. I served on the Dickinson Park Board for nearly twenty years and that agency was the managing agency for the federal government in regard to Patterson Lake.

During that time, the local park board has worked with the owners to be able to own their own land. We have always been supportive of their efforts. The owners have had difficulty selling their properties due to the fact they can only mortgage for a short term due to the fact they do not own their land.

Recently, Senator John Hoeven was able to forward legislation to allow the federal government to sell the land to these home owners. They have been working on this project for well over twenty years.

HB 1338 allows this to happen in the areas described in federal law. If this bill passes into law, the local park board will work with the home owners to make this happen. The federal government has given their approval for this process to happen, the local park board, which is the managing agency has supported this effort for many years and the owners want this to happen.

This is a win-win situation and did not have any opposition in the House. I ask for the committee to give this bill a do pass recommendation and I would be happy to answer any questions.

**Testimony of Tom Fisher  
President, Patterson Lake Homeowners Association  
Before the Senate Political Subdivisions Committee  
North Dakota House of Representatives  
March 7th, 2019**

Good Morning, my name is Tom Fisher. I am President of the Patterson Lake Homeowners Association. I am here today representing the 41 permit holders who have permanent homes along the shores of Patterson Lake near Dickinson in southwest North Dakota. We wish to be recorded in strong support of House Bill 1338.

The Patterson Lake Homeowners Association would like to thank Representatives Lefor and Steiner, along with Senator Wardner for their sponsorship and support for this important legislation. I would also like to thank the Chairman and fellow members of the Political Subdivisions Committee for the opportunity to speak to you today about House Bill 1338.

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Roughly three years ago I was given the opportunity to meet with Senator Hoeven to explain our situation at Lake Patterson. In the last few years, Senator Hoeven was able to come up with a solution by introducing and passing a Bill into Public Law which establishes a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota. All of the hardwork Senator Hoeven has put forth along with the co-sponsorship and support from Senators' Heitkamp and Cramer is the direct culmination of the House Bill 1338 that I am testifying about today.

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Are there any questions?

Thank you for your time.

*H.B. 1338*  
*3-7-2019*  
*att #3*  
*p.1*

**Testimony of Craig Headland**  
**North Dakota House Representative District 29**  
**Jamestown Reservoir Cabin Owners Association Board Member**

**House Committee on Natural Resources**  
**Subcommittee on Water, Power & Oceans**  
**July 11, 2018**

Greetings, my name is Craig Headland. I am here today representing the Jamestown Reservoir Cabin Owners Association. Our Association is made up of 71 permit holders who have permanent cabins along the shores of the Jamestown Reservoir located in Jamestown, ND. We wish to be recorded in strong support of H.R. 6039.

The Jamestown Cabin Owners Association would like to express our deep gratitude to Congressman Kevin Cramer for his sponsorship of this legislation and both he and Senator John Hoven for their thoughtful support throughout this process.

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It is important to note that the cabin owners pay property taxes to Stutsman County and the Jamestown School District for the assessed value of our homes. Additionally, we pay an annual permit fee to the park department. These funds have been used to help maintain the public lands, recreation areas and

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access points around the river. If this bill is approved, we will pay additional property taxes for the assessed value of our land, further benefitting our community.

In conclusion, we request your support of H.R. 6039 allowing the Jamestown Cabin Owners to acquire the land on which their cabins have resided for the past 60 years. Doing so provides us with certainty of our continued use without changing utilization of the river and its surrounding public access areas in any way. Thank you for your consideration and I look forward to answering your questions.