

2015 HOUSE AGRICULTURE

HB 1197


2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee Peace Garden Room, State Capitol

HB 1197
1/22/2015
22371

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds

Minutes:

Attachments #1-5

Representative Hofstad: Sponsor of the bill

This committee represents the leading industry in our state. This bill is important to that industry. We have the right to buy and own land. This bill prohibits public funds to be used by nonprofit organizations to purchase and hold title in real property for wildlife and conservation purposes. This is not an anti-hunting bill or to prohibit the private/public partnerships that have been developed.

I have passed out an amendment that speaks to that issue. (Attachment #1)

The amendment was developed with the help of the ND Game & Fish Department. It preserves those public/private partnerships. It must be done in harmony with the agriculture community. This insures that our agriculture community is not at a disadvantage when buying land.

A nonprofit organization has an advantage at an auction. First there is a tax advantage in addition to public dollars. The nonprofit is welcome to be there. The issue is public taxpayer dollars bidding against individual farmers. It doesn't prevent them from buying land or easements. It does prevent them from using public dollars.

North Dakota is known as a federal land state. When the federal government obtained the Louisiana Purchase, they were charged with granting or selling that public domain land. They granted some of that land to the states and railroads. This state was built on private land ownership.

Chairman Dennis Johnson: (5:00) How would you rate the hunting opportunities and access in our part of the state?

Representative Hofstad: We live in the center of the prairie pothole region. We live in a 2 ½ million acre basin filled with potholes. The lake has grown from 40,000 acres to

160,000 acres. All of our potholes are filled. There is more water in that basin than ever before. We have more ducks, etc. than before. We have many opportunities for hunting.

Chairman Dennis Johnson: What responsibility should nonprofits play in access to hunting?

Representative Hofstad: They should recognize that agriculture is a huge player in this game. North Dakota is one of the only states where you can hunt if it is not posted. Nonprofits need to engage the agricultural community.

Representative Craig Headland: Your bill is simple. We don't want any nonprofit to have access to government money and compete to purchase private property. It is a fairness issue.

Representative Diane Larson: I received a phone call from a constituent. He thinks this bill would prohibit any nonprofit from partnering with Game and Fish since they get public funds to get land. Correct?

Representative Hofstad: The original bill did. Now the amendment (Attachment #1) would allow those private/public partnerships. This is not intended to stop those partnerships.

Representative Tom Kading: What do you mean by interest in real property? Is it your intent to prohibit 99-year leases?

Representative Hofstad: No. The bill prohibits public funds from going to nonprofits for the purchase of land.

Representative Tom Kading: You would allow a nonprofit with government money to get a 99 year lease for the purpose of conservation?

Representative Hofstad: No. The amendment says 50 years.

Representative Joshua Boschee: What if a private landowner wants to sell at a private sale? Would that be restricted based on this bill?

Representative Hofstad: It would prevent that nonprofit coming with public dollars. It levels the playing field.

Representative Joshua Boschee: What if there is no auction? Is the sale restricted?

Representative Hofstad: Yes. They can't buy with public dollars.

Representative Joshua Boschee: Are there any other sales of private property where we limit the type of funds that can be used?

Representative Hofstad: We have thousands of acres purchased by the federal government for easement land. This bill comes from Measure 5.

Representative Joshua Boschee: I appreciate the concern when private buyers are competing with someone who is backed by taxpayer dollars. But it restricts a seller from making their own sale because of the government dollars. I would support this with an amendment that would not restrict a private sale. As a realtor I don't know of any situation where we restrict an individual from selling to a willing buyer based on the funds available.

Representative Hofstad: I am not sure of the flow of public dollars to 501C3's to nonprofits. The constitution of our state prohibits picking winners and losers.

Representative Craig Headland: Could we get clarification. I think there are laws on the books now that prohibit a sale from a private owner to a nonprofit without some type of process.

Chairman Dennis Johnson: We'll have our intern check that out. (Attachment #5)

Representative Jessica Haak: Will this have an impact on what the Outdoor Heritage Fund can approve to take on as projects?

Representative Hofstad: No. It is important to continue that. There is a check and balance in place.

Dan Wogsland, Executive Director, ND Grain Growers Association: (Attachment #2) (18:24)

Jon Godfreid, ND Chamber: We are in full support of HB 1197. To put it in line with the Outdoor Heritage Fund, you could turn the easement into a 20-year easement

Dan Braun, ND Farmers Union: (Attachment #3) (21:36) Also in support of HB 1197. We support the projects through the Outdoor Heritage Fund that are producer focused. With amendments that would be permissible. Our member-driven policy supports conservation projects that are forward looking and do not tie up the land for more than 20 years. We do not support the acquisition of land for conservation projects.

Julie Ellingson, ND Stockmen's Association: We are also in support of HB 1197. We have policies for single voluntary renewable conservation easements no longer 20 years.

Pete Hanebutt, ND Farm Bureau: We also support HB 1197.

Galen Peterson, Northwest Landowners Association: (Attachment #4)

Levi Otis, Drainage Contractor in ND: (26:11) Most of our customers are farmers and producers. We are in support.

Opposition:

None

Neutral:

Terry Steinwand, Director, ND Game and Fish Department: (27:28) My concern is we deal with a lot of public/private partnerships. There are eight nonprofits that recently received Outdoor Heritage Fund grants. I try to balance all interests including agriculture, outdoor recreation.

Chairman Dennis Johnson: You feel with the amendments you would be comfortable.

Terry Steinwand: If it is about not using public funds for acquisition and easements of 50 years. Easements going beyond the lifetime of a landowner have been an issue.

Paul Myerchin, Bismarck Attorney: (29:46) I was a supporter of Measure 5. From the comments in support of this bill, I was deeply concerned about the perspective that wildlife is attempting to cram something down the throats of agriculture. If that is how the agriculture community feels about Measure 5, I think the better approach would be to have the wildlife and agriculture communities sit down and talk out their differences. Without the landowners being able to receive money for conservation projects on their land, the wildlife we enjoy will not be there.

Representative Craig Headland: I am a farmer. I don't understand your point. The duck population is the largest in history. I take offense to your comment that we are losing our wildlife. I take pride in conservation. I enjoy hunting myself. The agriculture community resents the fact that the wildlife community doesn't respect their desire for conservation.

Paul Myerchin: We have common ground. I'd like to see the Governor's office step up to get these two sides together to talk about the differences.

Representative Craig Headland: You have to understand the agriculture community's position of having to compete with government money. That is what this bill addresses.

Paul Myerchin: There are landowners, about 700, that would like to do conservation easements on their land. The only way it can get done is with government money along with private money.

Representative Dwight Kiefert: I am also a farmer. You are operating on some misconceptions. My CRP is getting \$40/acre while my neighbor is renting his land out for \$150/acre. While I was growing up we never saw a coyote. Now with CRP we don't hunt deer any more. We hunt coyotes. The CRP brought the predators. Now we have special hunting season to hunt Canada goose because they are eating our crops. Look at the real problems such as predators.

What would really help the wildlife would be the trees and shelterbelts that are taken out.

Paul Myerchin: I see what you see. I don't know that this bill is the answer.

Chairman Dennis Johnson: I am a farmer too. We have seen this explosion of wildlife. We see \$25,000 to \$30,000 of our beans gone every fall when we harvest because of the over population of ducks and geese. There is wildlife out there.

Chairman Dennis Johnson: Closed the hearing

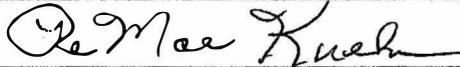
2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1197
1/29/2015
Job #22834

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds
(Committee Work)

Minutes:

Representative Diane Larson: I had a constituent contact me after the hearing. Under Century Code 10-06.1-10, Subsection 3-- Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats, the Governor must approve the proposed acquisition.

They felt this was in law.

Chairman Dennis Johnson: This bill doesn't change anything. It is talking about using public funds for a nonprofit to make that acquisition. We have amendments to address the concerns of ND Game and Fish.

Representative Craig Headland: Moved amendment #15.0395.01001

Representative Alex Looyen: Seconded the motion

Voice Vote taken. Motion carried.

Representative Joshua Boschee: Moved amendment to change 50 years to 20 years to be in line with the Outdoor Heritage Fund.

Representative Alex Looyen: Seconded the motion.

Voice Vote taken. Motion carried

Representative Alex Looyen: Moved Do Pass as amended.

Representative Diane Larson: Seconded the motion

Representative Joshua Boschee: If we pass this, how is this different than the Natural Areas Land Acquisition Advisory Committee? It is my understanding that in order for any nonprofit or corporation to buy land they need to go through that committee. That committee is the check on the spending?

Representative Craig Headland: This is so they can't use government money to make those purchases. They can still make them but not with government money.

Representative Jessica Haak: How would this affect the Outdoor Heritage Fund? It is my understanding that the Outdoor Heritage Fund contracts with nonprofits. How would that work if they are contracting and doing easements with public money and nonprofits?

Chairman Dennis Johnson: It doesn't. That is why we had Game and Fish go through this bill. The amendments assured us the bill would be alright for the Heritage Fund.

A Roll Call vote was taken: Yes 9 , No 3 , Absent 1 .

Do Pass as amended carries.

Representative Bert Anderson will carry the bill.


2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1197
2/6/2015
Job #23393

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds
(Committee Work)

Minutes:

Attachment #1

Chairman Dennis Johnson: We passed this out of committee with amendments. There are still concerns on how this would affect the Heritage Fund. We need a motion to reconsider our actions on the passage of HB 1197.

Representative Alex Looyen: Moved to reconsider HB 1197.

Representative Cynthia Schreiber Beck: Seconded the motion

Voice Vote. Motion passed.

Chairman Dennis Johnson: Explained amendment. (Attachment #1)
The amendment addresses the concerns of the Heritage Fund. The Game and Fish, Department of Transportation, etc. have seen the amendments and are comfortable with them.

We changed the years from twenty to thirty. The easement programs like in the Devils Lake area are thirty-year federal programs. The addition on line 9 is to make sure a governmental entity is placed in there so it would address the Heritage Fund.

Representative Diane Larson: Moved the amendments

Representative Cynthia Schreiber Beck: Seconded the motion

Voice vote. Motion carried.

Representative Alex Looyen: Moved Do Pass as amended

Representative Cynthia Schreiber Beck: Seconded the motion.

A Roll Call vote was taken: Yes 13, No 0, Absent 0.

Do Pass as amended carries.

(Vote is shown on revised
Standing Committee Report of January 30, 2015--Module 18_021)

Representative Bert Anderson will carry the bill.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1197

Page 1, line 1, replace "conservation" with "real property and"

Page 1, line 1, after "easements" insert "for wildlife or conservation purposes"

Page 1, line 5, replace "**conservation**" with "**certain real property and**"

Page 1, line 7, replace "purchase" with "purpose"

Page 1, line 7, after "of" insert "holding"

Page 1, line 8, after "property" insert "or an easement longer than fifty years"

Page 1, line 8, remove ", including a wildlife or wetland easement"

Renumber accordingly

1-29-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1197

Page 1, line 1, replace "conservation" with "real property and"

Page 1, line 1, after "easements" insert "for wildlife or conservation purposes"

Page 1, line 5, replace "conservation" with "certain real property and"

Page 1, line 7, replace "purchase" with "purpose"

Page 1, line 7, after "of" insert "holding"

Page 1, line 8, after "property" insert "or an easement longer than twenty years"

Page 1, line 8, remove ", including a wildlife or wetland easement"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 9, replace "twenty" with "thirty"

Page 1, line 9, after "purposes" insert ". This section does not apply to a state governmental entity in a partnership with a nongovernmental entity, if the state governmental entity derives a benefit from the partnership"

Renumber accordingly

SK
2/9/15

February 9, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1197

Page 1, line 1, replace "conservation" with "real property and"

Page 1, line 1, after "easements" insert "for wildlife or conservation purposes"

Page 1, line 5, replace "conservation" with "**certain real property and**"

Page 1, line 7, replace "purchase" with "purpose"

Page 1, line 7, after "of" insert "holding"

Page 1, line 8, after "property" insert "or an easement longer than thirty years"

Page 1, line 8, remove ", including a wildlife or wetland easement"

Page 1, line 8, after the underscored period insert "This section does not apply to a state governmental entity in a partnership with a nongovernmental entity, if the state governmental entity derives a benefit from the partnership."

Renumber accordingly

Date: 1/29/2015

Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: 15.0395.01001

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. Headland Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Bosch		
Vice Chairman Wayne Trotter			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looyen					
Rep. Cynthia Schreiber Beck					

Vote Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep.

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

Amendment from Rep. Hofstad

Date: 1/29/2015

Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** 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 Rep. Boschee Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Boschee		
Vice Chairman Wayne Trottier			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looyen					
Rep. Cynthia Schreiber Beck					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. _____

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

Amendment to change page 1, line 8--fifty years to twenty years

Date: 1/29/2015

Roll Call Vote #: 3

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: 15.0395.01002

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. Looyzen Seconded By Rep. Larson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Bosch		X
Vice Chairman Wayne Trottier	X		Rep. Jessica Haak		X
Rep. Bert Anderson	X		Rep. Alisa Mitskog		X
Rep. Alan Fehr	X				
Rep. Craig Headland	X				
Rep. Tom Kading	AB				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. Alex Looyzen	X				
Rep. Cynthia Schreiber Beck	X				

Total (Yes) 9 No 3

Absent 1

Floor Assignment Rep. Bert Anderson

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

Date: 2/6/2015

Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** 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 Rep. Looyen Seconded By Rep. Schreiber-Beck

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Bosch		
Vice Chairman Wayne Trottier			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looyen					
Rep. Cynthia Schreiber Beck					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep.

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

Date: 2/6/2015

Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: 15.0395.02001

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. Larson Seconded By Rep. Schreiber-Beck

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Bosch		
Vice Chairman Wayne Trottier			Rep. Jessica Haak		
Rep. Bert Anderson			Rep. Alisa Mitskog		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Tom Kading					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. Alex Looyen					
Rep. Cynthia Schreiber Beck					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. _____

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

Date: 2/6/2015

Roll Call Vote #: 3

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

House **Agriculture** 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 Rep. Looyen Seconded By Rep. Schreiber-Beck

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Bosch	X	
Vice Chairman Wayne Trotter	X		Rep. Jessica Haak	X	
Rep. Bert Anderson	X		Rep. Alisa Mitskog	X	
Rep. Alan Fehr	X				
Rep. Craig Headland	X				
Rep. Tom Kading	X				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. Alex Looyen	X				
Rep. Cynthia Schreiber Beck	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Bert Anderson

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

February 6

REPORT OF STANDING COMMITTEE

HB 1197: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1197 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "conservation" with "real property and"

Page 1, line 1, after "easements" insert "for wildlife or conservation purposes"

Page 1, line 5, replace "**conservation**" with "**certain real property and**"

Page 1, line 7, replace "purchase" with "purpose"

Page 1, line 7, after "of" insert "holding"

Page 1, line 8, after "property" insert "or an easement longer than thirty years"

Page 1, line 8, remove ", including a wildlife or wetland easement"

Page 1, line 8, after the underscored period insert "This section does not apply to a state governmental entity in a partnership with a nongovernmental entity, if the state governmental entity derives a benefit from the partnership."

Renumber accordingly

2015 SENATE AGRICULTURE

HB 1197

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1197
3/12/2015
Job #24745

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Emmery Hotberg

Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds

Minutes:

Attachment: #1-#4

Chairman Miller opened the hearing on HB 1197.

Representative Hofstad, District 15 introduced the HB 1197. He stated that he was motivated to sponsor the bill because of measure 5. He said that we currently have a situation within the laws that allow nonprofits to take money from raiding the piggy bank. The intention of this bill to stop that from happening but it is not an anti-hunting bill or a bill that would prohibit any nonprofits from acquiring land, it is simply says if a non-profit is getting money from any kind of a government funding process that that government entity may not now bid for land.

He stated that he did not want to prevent any private/public partnerships and that he was comfortable with a government agency partnering with a private entity to provide opportunities to citizens. The bill does have some problems because it does say that this section does not apply to a state government entity, that state government entity I think does cause some problems because we have counties and cities that also have these public/private partnerships. Representative Hofstad offered an amendment to remove that word state from the bill (see attachment #1).

Senator Klein: (5:45) Could you speak to the easement longer than thirty years? What's significant about thirty years?

Representative Hofstad: Thirty years seems to be the span when most of us that are involved in agriculture can endure. Maybe it is the length of time that a family member farms that farm and then the next generation comes on. At least it is a time certain; it's not a perpetual easement, it's not a 99 year easement, it brings that easement down to a time where the next owner that comes on can at least again make that decision and have that conversation again.

Chairman Miller: I need to understand what this bill is accomplishing here, we're saying that the government can't enter into an agreement if it is less than thirty years or if the government feels it's in the best interest of the government?

Representative Hofstad: That would be true, yes.

Chairman Miller: If the government's giving out money, wouldn't they be able to determine that it is in the best interest?

Representative Hofstad: The government can do that, for example the heritage fund is an example where there are private/public partnerships. What this is trying to address is the issue where you could appropriate and take funds out of the general fund and give to a nonprofit organizations without any restrictions. This places those restrictions that that private nonprofit organization could not use those public funds without the partnership of a government to buy land or to buy easements.

Chairman Miller: Unless its less than thirty years, correct?

Representative Hofstad: No, there would be no case where that nonprofit organization could use public funds to buy land or acquire an easement without the partnership of a government agency.

Vice Chairman Luick: That is not the way I read this bill. On line 9 it says that an "organization for the purpose of holding any interest in real property or an easement longer than thirty years." That thirty years in my opinion would say they have that opportunity to buy or lease that land up to that 30 year time frame and then they could roll it over and do the same thing on another piece of property. They would have to get rid of the property in thirty years and roll it over and purchase some other piece of property; that's the scenario I would see in this with the language I am reading.

Representative Hofstad: The intent is that a nonprofit organization may not use public funds to acquire land or an easement. That was the way it was originally drafted

Vice Chairman Luick: In here is says longer than 30 years.

Senator Oban: Correct me if I'm wrong, but aren't there several safe guards in place to prevent this from happening? I understand that there was a lot of discussion about it during the measure 5 debate, but can they even do it now the way it is?

Representative Hofstad: I think they could. If you could initiate a measure and convince the public that you can use the public dollars to fund your nonprofit, you probably could. I do not believe that there are any safe guards within our system that would prevent that from happening?

Senator Oban: Wouldn't the anti-corporate farming law that we just discussed be one of them that prevents nonprofits from buying land?

Chairman Miller: Specific to a nonprofit corporation.

Dan Wogsland, ND Grain Growers: (12:00) (see attachment #2) testified in favor of HB 1197.

Chairman Miller: I read the bill and I see thirty years, I see if the government says it's in our best interest. I am just wondering if some nonprofit comes in and wants a grant for an easement on land, a government agency (like Game & Fish) could determine it is in the best interest of the public and provide funds for that easement.

Dan Wogsland: One of the problems they had in the house were funds such as the outdoor heritage which allows for twenty year easements and also for water bank problems which allows for thirty year easements to be used in ND. I think we could all agree that when outdoor heritage funds goes through the advisory committee for specific purposes and have a good public benefit should be allowed. I think that was an attempt by the house to correct some of those problems. Same goes with federal farm bank programs so that willing participants can take advantage of programs to the state. Whether the language in 1197 is appropriate or whether the committee can up with better language, I think those are considerations that need and should be addressed in this legislation. I do want to point out that ND tax payers should not have to compete with real estate transactions, including easements. That is wrong public policy.

Chairman Miller: So we have the Heritage Fund and we are going to a twenty year easement or something of that nature, can we just end the paragraph in the bill?

Dan Wogsland: ND Grain Growers is willing to work with the committee to put the proper language in place.

Pete Hannibet, ND Farm Bureau testified in support of HB 1197 and told the committee that he would work with them with any changes they may make.

Jon Galfread, GNDC: testified in support of HB 1197. Said he shared some of the concerns committee has raised and would like to help alleviate any of those but stated that the intent of the language is clear.

Brian Johnson, CEO Soil Conservation Districts: testified in support of HB 1197 We are a nonprofit and it is fundamentally wrong that folks should have to compete against their tax dollars when it comes to real-estate. We're here in support of HB 1197. Whether we need to adjust the language to get at the intent, I think the intent is pretty clear.

Julie Ellingson, Stockman's Association: testified in support of HB 1197 (see attachment #3) 19:47 She addressed some of the concerns that Senator Oban had brought up pertaining to the this bill and the intent is not to change any of the processes that are already in place for the acquisition of land for nonprofits, however this would underscore the inappropriateness on the use of government funds for those purchases.

Senator Oban: So it's basically a statement saying that we already do this but this ensures that it's done?

Julie Ellingson: The intent of this bill is that government funds could not be used for those transactions so the same steps in the process for a nonprofit to purchase land would remain as is but dollars from the government could not be used in those purchases.

Senator Oban: I assume the problem with all of this is the use of tax payer money, not the fact that it is a nonprofit organization, correct?

Julie Ellingson: Correct.

Senator Oban: I am always curious why we specifically say nonprofit when frankly it doesn't matter what organization or entity it is if it's using taxpayer money.

Julie Ellingson: I can't disagree.

Vice Chairman Luick: We have to be careful because whenever a nonprofit comes into the picture of purchasing real estate they tend to take the property taxes off of that piece of property that's purchased from those local entities.

Bill Wocken, Bismarck City Administrator: testified in support of Representative Hofstad's amendment. Stated he would be in strong support of that since they have been able to use partnerships in the past for a number of mitigation projects and it would be very important that the city would be included in the partnership language.

Senator Warner: We are thinking about land, but would things like bank stabilization along the Missouri River where you had urban properties be relevant here?

Bill Wocken: That could be one of the instances. As a city, we get into draining the wetlands at the end of an airport runway so we don't have duck and goose and habitat. We end up with the storm water areas and end up draining a swamp to put a road through--that's what we run into most often. It certainly is possible that there could be some mitigation attached to the river stabilization but I don't have personal knowledge of that but it certainly would be possible.

Senator Warner: I hadn't thought of mitigation at all, but that would be a public purpose wouldn't it?

Bill Wocken: Yes.

Senator Oban: I'm glad you're here because I had also received some conversation that I had with a friend of mine who works for an engineering firm who often works with city and county governments and that's why I assumed most of you are here which is good to ease our minds for the purposes of mitigation. The way the bill is written as long as state is removed you would be comfortable with, correct?

Bill Wocken: Yes, that would be what we would be looking for.

Carmen Miller, Public Policy Coordinator of Ducks Unlimited: stated that she wasn't here for or against the bill but was seeking clarification and wanted to address some unintended consequences of the bill (see attachment #4).

Senator Warner: (28:20) My understanding of what you're talking about and those kinds of things, do those partnerships imply an ongoing relationship between a government entity and your nonprofit or is it a onetime transaction where your nonprofit has purchased land using government money in order that the government may draw out the benefit from the mitigation?

Carmen Miller: It is a onetime transaction. The developer doesn't have to engage in an expensive and time consuming and complicated mitigation project themselves, they just provide the funds and give us a time frame in which to do it. We have three years to satisfy that credit on the backend and that's the nature of the corps of engineer's project. So whether or not that is a partnership is the question here but it is a transaction with a governmental entity where they are paying us for a service and on the backend we satisfy those credits. We are willing to work with the committee to clarify this issue and I think this is not a transaction that was anticipated.

Senator Oban: Are there safe guards in place that have prevented this from happening in the past?

Carmen Miller: There are a couple of situations and safeguards that are in place. First of all, the only real grant program out there and state funds that are used for conservation purposes is the outdoor heritage fund which cannot be used to purchase land in the first place and has restrictions on how long property can be encumbered using those funds so that's one example. Again, the corporate farming law provides the loan mechanism by which nonprofits can acquire land in the first place. Early on there was some discussion about nonprofits competing at auctions. Auction is a transaction that happens in the moment and is not compatible with the approvals that are required for nonprofits to acquire land. Nonprofits are essentially not allowed to go to auctions.

Senator Oban: In the case of Ducks Unlimited, what is the history of you purchasing land if ever?

Chairman Miller: We own one property in ND with the exception of our building here in Bismarck and that property wasn't purchased, it was donated.

Chairman Miller: Is there anything to prevent your organization from utilizing an agent or somebody to purchase land at an auction?

Carmen Miller: I can't imagine that scenario, I don't think that's happened and I don't think it's really an issue.

Also, Senator Luick mentioned the issue of taxes and nonprofits, under ND's corporate farming law, any nonprofits that own land are required to pay taxes on it.

Vice Chairman Luick: I apologize, I was not aware of that.

Carmen Miller: That was an amendment to the corporate farming law that if a nonprofit owns land they have to pay taxes on it.

Vice Chairman Luick: Does that stand for any nonprofit?

Mike McEnroe, Retired Biologist and Landowner, Sheridan County: Nonprofit corporations do not have to pay taxes unless they are nonprofit conservation groups. The corporate farm law was changed several years ago to require nonprofit conservation groups to pay taxes, which they do.

Chairman Miller closed the hearing on HB 1197.

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1197
3/12/2015
Job #24762

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Emmery Brothberg

Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds

Minutes:

Attachments: n/a

Chairman Miller opened the committee work on HB 1197 and suggested taking out lines 10-13 in HB 1197.

Senator Warner: I think that is a huge issue. If you have an airport authority that has to shut down the airport runway expansion because a federal law requires them to mitigate the swamp that is on the end of it and you tell them that as a government entity, they cannot contract with a nonprofit, you're going to stop the airport.

Chairman Miller: They can still mitigate, they just can't contract with a nonprofit.

Senator Warner: How would they do that? Are you going to set up an agency within city government or within the airport authority that they are going to permanently own another tract of land somewhere else that they are going to maintain as a wetland?

Chairman Miller: They don't have to own it; they just have to mitigate it. Someone else can mitigate it.

Senator Warner: Yes, a nonprofit.

Chairman Miller: Or a farmer who has a wetland, it doesn't necessarily have to be a nonprofit.

Senator Oban: I don't think this has anything to do with what our stance on measure 5. I think this has to do with the exact example that the cities and counties are using for mitigation plans, such as Ducks Unlimited. For us to inhibit that would be huge. I know the city of Bismarck saved a million dollars by doing it and that would have a big effect on the district I represent and I'm not willing to mess around with that. To me, this doesn't have anything to do with anyone's feelings on what happened with measure 5, I would just have a serious issue with removing that because it's the partnership between the city of

Bismarck and allowing them to buy mitigation credits and it's the same conversation I had with the city of Grand Forks.

Senator Warner: The real beauty of the plan the way it's done now is that it's a single transaction. They just buy a credit, the credit is used by Ducks Unlimited and then they create a mitigation agreement with a farmer, someone who owns land that is adaptable as a wetland or is a wetland and some sort of easement is created and there is a public benefit to do doing it that way because it doesn't tie up the resources of the city in managing this wetland or checking compliance. You've had a onetime transaction where all of the responsibility has been transferred away from the city or county government to another entity which has to hold itself accountable to the federal government or whatever agency has put in the requirement for the mitigation. It gets county and city governments out of a huge liability trail by creating this one time transaction.

Senator Klein: I would suggest that we go to the sponsor who seems to have done a lot of work on this. We also heard from the Grain Growers and they certainly supportive of this but they want to get it right also so I think maybe a collaborative effort. They left it in for a reason so maybe that's how we have to work it through. My guess is if we removed it, it probably wouldn't withstand the concur do not concur especially if they see that it will create a problem. I think they want to get it passed somehow.

Senator Oban moved Representative Hofstad's amendment.

The committee determined to wait on the amendment until the committee was ready to take final action on the bill.

Chairman Miller closed the discussion on HB 1197.

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee Roosevelt Park Room, State Capitol

HB 1197
3/19/2015
Job #25097

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Emmery Grotberg

Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds

Minutes:

Attachments: # 1-3

Chairman Miller opened the discussion on HB 1197.

Vice Chairman Luick offered a few amendments. Vice Chairman Luick passed out and explained Amendment 15.0395.03003 (see attachment #1).

Senator Klein: There's probably a value in those lines. We will probably create more problems than are possibly fixed and I think there may be unintended consequences here. I did get a note from a city planner in Watford City and we certainly don't want any of the political subdivisions coming out against the bill.

Senator Oban: I would echo everything Senator Klein stated except I would remove the word "probably." I think there would be serious implications based on the testimony we heard from the cities. While I understand what the bill is intending to do, I want to make sure that does not in turn make it worse or harm political subdivisions when we know they use this program.

Vice Chairman Luick passed out amendment 15.0395.03004 which was offered by Representative Hofstad (see attachment #2).

Senator Warner: I would be entirely in support of this amendment.

Vice Chairman Luick handed out amendment 15.0395.03002 (see attachment #3).

Chairman Miller explained the amendment.

Vice Chairman Luick: The purpose of this amendment is that the intention of the bill is to allow for some movement on mitigation of wetlands or the need for acquiring these properties to carry through with projects. The way I read line 9 allows up to 30 years for the purchase and easements on this. If it's a private purchase, I agree it should happen.

Senator Klein: I'm trying to recall what Representative Hofstad said. Did it actually have to do with some sort of water easements? Mr. Wogsland spoke to that at the agriculture meeting. Mr. Wogsland, could you shed some light on this?

Dan Wogsland, Grain Growers Association: I believe this language is contained in here because of the use of the outdoor heritage fund and I believe that is a 20 year deal. The use of easements in the water bank and federal programs that are 30 years in length, that's my understanding of why that language is in there.

Senator Klein: What is the downside of the removal of that language?

Dan Wogsland: It may preclude some efforts in the outdoor heritage fund and some producers in ND from taking easements in some of the federal programs. I do not know the total impacts.

Senator Klein: Conceivably, that would be a concern?

Dan Wogsland: That's my understanding of why it was done; but again, I was not involved in that language.

Chairman Miller: We are talking in this bill exclusively about nonprofit organizations.

Dan Wogsland: In the outdoor heritage fund for example, there may be a case where an easement is taken on a program or a project and they would use outdoor heritage funds to do that. Whether or not that is a good idea or a bad idea is up to the committee. From the ND Grain Growers standpoint, we are comfortable if the language is stricken; we're comfortable if the language stays.

Chairman Miller: Why does the city want to keep this language?

Dan Wogsland: My conjecture is that there are some areas in mitigation where they may need state funds for mitigation purposes. Often when a city makes improvements, they have to go out and buy mitigation credits.

Chairman Miller: What is a credit?

Vice Chairman Luick: I believe one credit is one acre.

Dan Wogsland: That would be my understanding as well. As we have it presently in the state, we have different values for the need for mitigation.

Vice Chairman Luick: There is a formula that has to do with the value of that particular mitigated area.

Dan Wogsland: You would probably find this in counties as well where they do county road projects so that would impact a wetland area and there would be a need for mitigation using state funds to fulfill that need.

Chairman Miller: Is there a mitigation credit bank?

Dan Wogsland: MN has done a good job of mitigation banks; ND not so much but there is a need.

Chairman Miller: If a city wants to build a park and there is a wetland, they need to buy some wetland credits. The main go-to place is something like ducks unlimited?

Dan Wogsland: That would be my understanding. Ducks Unlimited were one of those who talked about that. In the area of the Fargo Diversion for example, they are the go-to people on the mitigation. In fact, that was mandated by the US Army Corps of Engineers.

Chairman Miller: How do Ducks Unlimited get their wetland credits?

Dan Wogsland: They may go out to a private landowner and offer to develop some acres for a certain amount. They may charge the county a certain number of dollars but they can create their banks.

Chairman Miller: Why doesn't the city go directly to the farm owner?

Dan Wogsland: It goes back to values and the type of wetland you have, I would say that you don't have a lot of private mitigation banks in ND. There's been an attempt in defense of NRCS, but again it's been slow starting in the state.

Chairman Miller: To your knowledge, when you are mitigating a wetland, can I have a space in one city and mitigate it in another county?

Dan Wogsland: I believe it may be possible but it may be watershed driven as well.

Senator Klein: Recently folks are upset because the state bought a farm because they are working on Highway 85. For every acre they are taking up on Highway 85, they need two acres of similar land. The DOT must have a lot of mitigated acres.

Dan Wogsland: They are probably the largest user of mitigation credits in the state.

Senator Oban: I was just going to provide this bit of information from a friend of mine. In her message to me she said that "to design a wetland to fulfill mitigation for a single project, it is possible to do it on your own and it may be preferable in some cases. This does require finding a willing landowner, proceeding with negotiations, design, contractor services, and monitoring for five years. The time it takes to do this is why it's nice to have that program in place where they can just purchase the credits." So my understanding is they can do it on their own but many choose not too because of the process it takes.

Vice Chairman Luick: My understanding is if the DOT had a road project to go through and there was a wetland there that they needed to deal with, it is my understanding that they have 5 years to complete mitigation on those projects. Is that true? Some of the testimony says they can mitigate and buy these credits instantly and get out of harm's way.

If they do have that 5 years to actually complete that process, that instant purchase of that credit may not hold so much merit.

Dan Wogsland: I can't answer that.

Senator Oban: I don't know if as a part of buying of the credits, there is some sort of agreement that would change that five years; but for sure if you do it on your own the monitoring required for five years.

Vice Chairman Luick: As I understand it, you do have that 5 years to reestablish that wetland somewhere else.

Chairman Miller closed the discussion on HB 1197.

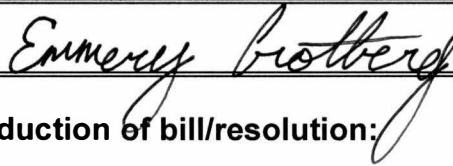
2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1197
3/20/2015
Job #25175

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a prohibition on the purchase of conservation easements with public funds.

Minutes:

Attachments: n/a

Chairman Miller opened the committee work on HB 1197 and said he would like to consider the two Luick amendments: 3002 and 3004.

Senator Klein moved to adopt the amendments 15.0395.03002 and 15.0395.03004.

Senator Oban seconded the motion.

Senator Klein: We discussed the state question earlier and I think everyone was in agreement with that. I did talk with the prime sponsor; he wasn't sure why they put in the thirty years and he didn't have any issues with removing that. I also spoke with him about the removal of the last three lines and he said that would create a potential fire storm. They had that discussion in the house and suggested that that should stay in because he wants the bill to pass.

Senator Warner: I spoke with Anita Thomas (Legislative Council) because I didn't want us to be throwing up road blocks and she said that she did not know because someone else had done the legal work on this bill. I'm comfortable with it in or out but I think I'm more comfortable with it out so that we're silent on the issue.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.

The amendments are adopted.

Senator Klein moved for Do Pass on engrossed HB 1197 as amended.

Senator Oban seconded the motion.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.

Senate Agriculture Committee

HB 1197

3/20/15

Page 2

Do Pass carries.

Vice Chairman Luick will carry the committee's recommendation to the senate floor.

March 12, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 9, remove "longer than thirty years"

Renumber accordingly

March 12, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 10, remove "state"

Page 1, line 11, remove "state"

Renumber accordingly

3/20/15
JAL

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 9, remove "longer than thirty years"

Page 1, line 10, remove "state"

Page 1, line 11, remove "state"

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: 15.0395.03004 and 15.0395.03002

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 Senator Klein Seconded By Senator Oban

Senators	Yes	No	Senators	Yes	No
Chairman Joe Miller	Y		Sen. Erin Oban	Y	
Vice Chairman Larry Luick	Y		Sen. John M. Warner	Y	
Sen. Jerry Klein	Y				
Sen. Oley Larsen	Y				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

Adopt two of Vice Chairman Luick's amendments.

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1197**

Senate Agriculture 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 Senator Klein Seconded By Senator Oban

Senators	Yes	No	Senators	Yes	No
Chairman Joe Miller	Y		Sen. Erin Oban	Y	
Vice Chairman Larry Luick	Y		Sen. John M. Warner	Y	
Sen. Jerry Klein	Y				
Sen. Oley Larsen	Y				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

HB 1197, as engrossed: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1197 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "longer than thirty years"

Page 1, line 10, remove "state"

Page 1, line 11, remove "state"

Renumber accordingly

2015 TESTIMONY

HB 1197

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1197

Page 1, line 1, replace "conservation" with "real property and"

Page 1, line 1, after "easements" insert "for wildlife or conservation purposes"

Page 1, line 5, replace "**conservation**" with "**certain real property and**"

Page 1, line 7, replace "purchase" with "purpose"

Page 1, line 7, after "of" insert "holding"

Page 1, line 8, after "property" insert "or an easement longer than fifty years"

Page 1, line 8, remove ", including a wildlife or wetland easement"

Renumber accordingly



Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on HB 1197
House Agriculture Committee
January 22, 2015

Chairman Johnson, members of the House Agriculture Committee, for the record my name is Dan Wogsland, Executive Director for the North Dakota Grain Growers Association. NDGGA comes before you today in support of HB 1197.

As the Committee is well aware, HB 1197 would disallow public funds to be used by nongovernmental (ngo) entities for the purchase of any interest in real property for wildlife or conservation purposes. It is important to point out the bill does not preclude nongovernmental entities from using their own funds to purchase any interest in real property for wildlife or conservation purposes provided they qualify and are approved by the proper governmental entities in North Dakota. The measure just does not allow for ngo's to use taxpayer funds.

The clear fact is that North Dakota farmers should not have to compete against their own tax money regarding real estate transactions in the state of North Dakota. For a farmer, for example, to compete with an ngo in a real estate transactions where the ngo is using the farmer's own tax money to vie for the land purchase is both morally wrong and is terrible public policy.

Additionally the legislation prevents further abuse of taxpayer money by closing a loophole in the system which allows ngo's to have taxpayers pay over and over again for the same parcel of land. HB 1197 is a clear step in a positive direction to correct these inequities.

Chairman Johnson, members of the House Agriculture Committee, abuse of public funds by ngo's was one of the cruxes of agriculture's opposition to the failed initiated measure which North Dakota voters sounded rejected in the last election. North Dakota voters realized that giving ngo's Carte Blanc with their tax money to compete with North Dakota farmers and ranchers in real estate transactions, including easements, was the wrong public policy approach.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

Nonetheless immediately after the 2014 election certain nongovernmental entities declared their intent to continue to pursue their tax money grab.

Chairman Johnson, members of the House Agriculture Committee, HB 1197 complies with the voters' wishes regarding the use of taxpayer monies and it represents a positive step in preventing ngo's from abusing taxpayer monies and the public's trust. Therefore the North Dakota Grain Growers Association respectfully requests the House Agriculture Committee's favorable recommendation of HB 1197 and we ask for a Do Pass on the legislation.



#3

House Agriculture Committee

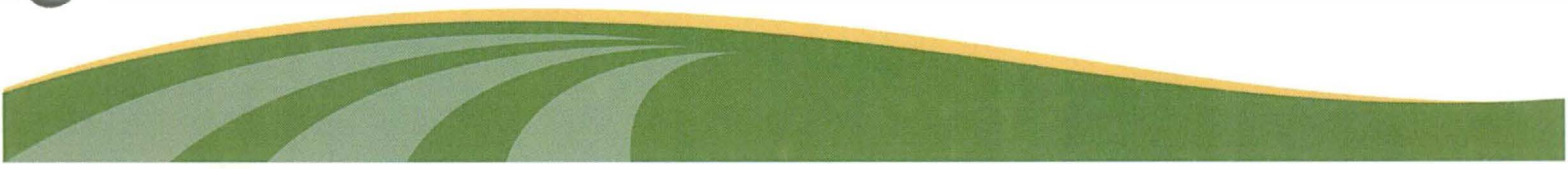
HB 1197

January 22, 2015

Chairman Johnson and members of the House Agriculture Committee, my name is Dane Braun, and I'm here to represent North Dakota Farmers Union. Our organization is in support of the concept behind HB 1197.

We support projects through the Outdoor Heritage Fund that are producer-focused and with the amendment those would be permissible. Our member-driven policy supports conservation projects that are forward looking and do not tie up the land for more than 20 years. We do not support the acquisition of land for conservation projects.

We urge a do pass.



#4

Northwest Landowners Association's Testimony in support of HB1197
House Agriculture Committee
January 22, 2015

Chairman Johnson and members of the House Agriculture Committee,

I am Galen Peterson from Northwest Landowners Association (NWLA). We currently have 450 members--farmers, ranchers, and landowners, mostly from north central, northwest, and west central North Dakota. We are very concerned about our land and know what needs to be done to conserve it.

NWLA supports HB1197 and asks for your favorable consideration. Any easement on land is a burden and places restrictions, now and the future on that land. No one knows what the best use of the land resource will be 25 or 50 years from now. It is especially burdensome when nonprofits, many who have their main base out of state, are able to obtain that easement. There should not be any government agencies funding their "conservation projects". Most of these projects are not a benefit to North Dakota or our land.

Thank you.

1/22/15

HB 1197

#5

2. To the extent farming or ranching is essential to a nonprofit organization's charitable purposes, a nonprofit organization actively engaged in the business of farming or ranching in this state on January 1, 1983, may continue to engage in the business of farming or ranching without interruption after January 1, 1983.
3. A nonprofit organization that owned farmland or ranchland for the preservation of unique historical, archaeological, or environmental land before January 1, 1983, may continue ownership of that land without interruption after January 1, 1983. An organization that is holding land for scenic preservation shall either prohibit all hunting, or if any parcel of the land is open to hunting, it must be open to hunting by the general public.

by
Brian
Johnson,
Intern

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.
2. The land may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:
 - a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.
 - b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a corporation or limited liability company allowed to engage in farming or ranching under section 10-06.1-12.
 - c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.
 - d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.
 - e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.
 - f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.
3. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees. The advisory committee shall hold a public hearing with

the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.
5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

10-06.1-11. Required divestiture of agricultural land.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit corporation that acquires land by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the corporation fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

10-06.1-12. Corporation or limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a domestic corporation or a domestic limited liability company from owning real estate and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32 which are not inconsistent with this chapter. The following requirements also apply:

1. If a corporation, the corporation must not have more than fifteen shareholders. If a limited liability company, the limited liability company must not have more than fifteen members.
2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, or the spouse of a person so related.
3. Each shareholder or member must be an individual or one of the following:
 - a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
 - b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.
5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.
6. If a corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch. If a limited liability company, the governors and managers of the limited liability company must be members who are actively engaged in operating the farm or ranch and at least one of its members must be an individual residing on or operating the farm or ranch.
7. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its

February 6, 2015

#1

15.0395.02001
Title.

Prepared by the Legislative Council staff for
Representative D. Johnson
February 4, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 9, replace "twenty" with "thirty"

Page 1, line 9, after "purposes" insert ". This section does not apply to a state governmental entity in a partnership with a nongovernmental entity, if the state governmental entity derives a benefit from the partnership"

Renumber accordingly

15.0395.03001
Title.

Prepared by the Legislative Council staff for
Representative Hofstad
February 19, 2015

#1
3/12/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 10, remove "state"

Page 1, line 11, remove "state"

Renumber accordingly



Your voice for wheat and barley. www.ndgga.com

**North Dakota Grain Growers Association
Testimony on HB 1197
Senate Agriculture Committee
March 12, 2015**

Chairman Miller, members of the Senate Agriculture Committee, for the record my name is Dan Wogsland, Executive Director for the North Dakota Grain Growers Association. NDGGA comes before you today in support of HB 1197.

As the Committee is well aware, HB 1197 would disallow public funds to be used by nongovernmental (ngo) nonprofit entities for the purchase of any interest in real property for wildlife or conservation purposes. It is important to point out the bill does not preclude nonprofit ngo's from using their own funds to purchase any interest in real property for wildlife or conservation purposes provided they qualify and are approved in North Dakota. The measure just does not allow for nonprofit ngo's to use taxpayer funds.

The clear fact is that North Dakota farmers should not have to compete against their own tax money regarding real estate transactions in the state of North Dakota. For a farmer, for example, to compete with a nonprofit ngo in a real estate transactions where the nonprofit is using the farmer's own tax money to vie for the land purchase is both morally wrong and is terrible public policy.

Additionally the legislation prevents further abuse of taxpayer money by closing a loophole in the system which allows nonprofit ngo's to have taxpayers pay over and over again for the same parcel of land. HB 1197 is a clear step in a positive direction to correct these inequities.

Committee members, abuse of public funds by nonprofit ngo's was one of the cruxes of agriculture's opposition to the failed initiated measure which North Dakota voters sounded rejected in the last election. North Dakota voters realized that giving nonprofit ngo's Carte Blanc with their tax money to compete with North Dakota farmers and ranchers in real estate transactions, including easements, was the wrong public policy approach.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

Chairman Miller, members of the Senate Agriculture Committee, HB 1197 complies with the voters' wishes regarding the use of taxpayer monies and it represents a positive step in preventing nonprofit ngo's from abusing taxpayer monies and the public's trust. Therefore the North Dakota Grain Growers Association respectfully requests the Senate Agriculture Committee's favorable recommendation of HB 1197 and we ask for a Do Pass on the legislation.

#3
3/12/15

HB 1197

Good morning, Chairman Miller and members of the Senate Agriculture Committee.

For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 85-year-old cattle producers' trade organization.

We rise in support of Engrossed HB 1197. Stockmen's Association members do not think it is appropriate for the government to provide dollars to non-profit organizations for the purchase or encumbrance of land because that, in effect, competes against private citizens trying to make a living off the land. It was a concern we raise in the recent Measure 5 debate, and why we feel strongly about this bill.

Additionally, we have established policy that speaks to our organization's support for voluntary, single-generation and renewable easements – easements that provide producers options and that do not tie the hands of future generations like those that are longer term. HB 1197's prohibition on government funds for non-government entities to purchase conservation or wildlife easements longer than 30 years matches up fairly well to that resolution, and is another reason why we ask for your favorable consideration of the bill today.



Testimony of Carmen Miller, Director of Public Policy
Ducks Unlimited, Inc.
Bismarck, ND
Before the Senate Committee on Agriculture
Senator Joe Miller, Chairman
House Bill 1197
March 12, 2015

Good morning, Mr. Chairman and members of the committee. My name is Carmen Miller and I am the Director of Public Policy for Ducks Unlimited's Great Plains Region in Bismarck. On behalf of Ducks Unlimited (DU) and our 7,400 members in North Dakota, I am here today to address possible unintended consequences of House Bill 1197 regarding the purchase of wetland mitigation credits by cities and counties.

But first I want to thank and acknowledge the work of Representatives Hofstad and Johnson for their work in amending this bill to minimize the unintended impacts to public-private partnerships, outlined in lines 10-11 of the Engrossed Bill. These partnerships have been an important conservation tool for many public entities, including the North Dakota Game and Fish Department.

We are experiencing rapid development and growth in North Dakota, both in the public and private sectors. When development occurs, in the form of new roads and schools, business construction, and airport expansion, sometimes wetlands are impacted. Federal law requires that those impacts be mitigated, and public and private developers can either mitigate wetlands on their own, or purchase mitigation credits. The purchase of wetland mitigation credits is authorized by the Corps of Engineers in North Dakota through a new program which allows either governmental agencies or nonprofit organizations to sell credits to the developing entity, and then within three years satisfy that credit through the replacement of other, comparable wetlands. Ducks Unlimited is currently the only organization providing this service to developers in North Dakota, and in the past year, several public and private entities have purchased wetland mitigation credits. Bismarck and Watford City, the Ramsey County Highway Department, and the Cass County Joint Water Resource District have all found purchasing credits more efficient and cost effective than undertaking their own wetland mitigation projects. Private entities purchasing credits have also included XTO Energy, BNSF, and the Canadian Pacific Railroad.

We are seeking clarification as to whether the exception for "partnerships," applies to these transactions, and whether political subdivisions, such as those who have purchased credits, are among the "state governmental entit[ies]" to whom the exception currently applies. In addition to those mentioned above, other local entities have also inquired about future credit purchases. This program has proven beneficial for political subdivisions, which desperately need options as they meet our state's growing infrastructure needs.

Thank you for your time and attention to this important issue.

15.0395.03003
Title.

Prepared by the Legislative Council staff for
Senator Luick

March 12, 2015

#1

3/19/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, remove lines 10 through 13

Renumber accordingly

15.0395.03004
Title.

Prepared by the Legislative Council staff for
Senator Luick

March 12, 2015

#2
3/19/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 10, remove "state"

Page 1, line 11, remove "state"

Renumber accordingly

15.0395.03002
Title.

Prepared by the Legislative Council staff for
Senator Luick

March 12, 2015

#3

3/19/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1197

Page 1, line 9, remove "longer than thirty years"

Renumber accordingly