MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

3011

2001 HOUSE NATURAL RESOURCES

HCR 3011

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3011

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
2	x		2855 to end
2		x	526 to 1800
3	x		1 to 767

Committee Clerk Signature

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Drovdal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich,

Chairman Rennerfeldt: I'll open the hearing on HCR 3011.

Rep. Hanson - District 48: Before you is HCR 3011 which simply says that the states know better on gun control rather than getting directions from Washington, DC, we ask that we control our own gun legislation. The things that might happen in Washington DC and California are not relevant to the state of ND. So I ask your support of HCR 3011.

Rep. Drovdal: I am glad we agree that local control is good, are we going to take the same philosophy over to our control of National Grasslands and our Lake Sakakawea and our recently enacted lands signed into wilderness by Bill Clinton?

Rep. Hanson: I don't think this is relevant to this.

Chairman Renner feldt: Any further questions from the committee? Anyone else here to speak in favor of HCR 3011. If not, is there any opposition to HCR 3011?

Sen. Randy Christmann - District 33: Thank you for the opportunity to express some opposition to this resolution. (See written testimony and letter from NRA).

Rep. Hanson: I introduced this resolution to just the opposite of what you are saying. I don't want Washington DC to tell us how to run our gun control in ND. We want less, it is not the same as LA or Washington DC. This resolution is just the opposite of what you are saying.

Christmann: I don't know that that is a question. Something's are above even states rights. This is one of them. The states, nor the Federal government have the authority to be taking away our Second Amendment rights. To urge them to delegate that authority is to imply that the states do have that right, and they do not. This cannot be delegated away.

Rep. Solberg: What part of this HCR is taking away the rights?

Christmann: When we ask in lines 15-17 that the Federal Government recognize states rights and rely on states to determine appropriate regulation of states gun control that is implying very clearly. If you feel the states have a right to let you keep your right to bear arms, that implies that the state has a right to take it away. A state does not have that right and sending this message implies that we in the ND Legislature that any state has the right to determine whether you can keep and bear arms. They do not. We ought not imply that.

Rep. Winrich: If I understand your position correctly, you are saying we cannot regulate the use of firearms at any level. That the state has not right to regulate the use of firearms?

Christmann: No, I wouldn't exactly say that. The instant check system, we have passed laws that have been found to be constitutional. For example that prohibits the felon to own firearms. Those

are things that have been approved by the Federal Court, the court that protects our Second Amendment rights. I do not believe that a state has a right to carry that a step farther. That is what this resolution implies.

Rep. Winrich: What would be an example of carrying it a step farther?

Christmann: For example, if a state said anyone who had ever been convicted of a misdemeanor. That would be carrying it a step farther, I am a strong Tenth Amendment advocate, but I do not believe that ND or any other states have the right to do something like that.

Rep. Winrich: Last week we heard HB 1263 and subsequently recommended Do Not Pass. The bill was defeated by the House which currently regulates how muzzle loading rifles may be used. Is that current state law in violation of the Second Amendment, in your opinion?

Christmann: I haven't seen the bill. I am not acquainted with what it attempted to do. I am guessing here that what it has to do, is a hunting licensing thing, where we allow people to have special access to some times and some wildlife with muzzle loading licenses. I am doubtful that there was a bill that prohibited the ownership of a particular type of firearm.

Rep. Winrich: What the bill would have did was to permit the use of telescopic sights on muzzle loading rifles. So essentially, the current state law says you cannot carry a weapon with a telescopic sight on it during a certain hunting season. If effect restricting the rights of certain people to carry a certain type of weapon. Would you consider that to be unconstitutional?

Christmann: I totally disagree with the premise. I am fine with not allowing muzzle loaders to hunt during the special muzzle loaders season with a muzzle loader and a telescopic sight. Just the same way I am fine with not allowing water fowl hunters to go out with a high power rifle picking off geese, a half mile away. It is not sportsmen like, that is why we do not allow that as

part of our hunting proclamation. This doesn't mean we prohibit citizens from owning a high power rifle with a telescopic sight, that is the fundamental difference.

Rep. Keiser: I am curious about something. In our legislative process, frequently we pass bills that after they are implemented into law we are not sure what happens until we come back and look at legislative intent. I was amazed that a majority of constitutional scholars disagreed with your and the NRA's interpretation of the right to bear arms. Are you aware of that?

Christmann: I have heard stories like that, and seen reports that come to a different conclusion.

Rep. Keiser: But the majority of the constitutional scholars, there are some that agree with your position. I am saying that the majority take a different position.

Christmann: I think it depends on how the questions are asked.

Rep. Kelsh: The intent of this resolution is to prevent the Federal government passing laws that are more restrictive than the people of ND wish them to be. I just want to ask you if you would be open to inclusion of language in this resolution that would make that intent?

Christmann: I have always been in favor of doing whatever we can to limit people like President Clinton and the Justice Department from trying to steam roll over our Second Amendment rights. So if there is anything like that we can do, I would be delighted to see it done. I am adamantly opposed to anything, we as a legislature representing the people of ND, that implies that any unit of government has the right to abridge our Second Amendment right.

Chairman Rennerfeldt: So you see this as a way to open the doors for maybe gun registration, outlawing hand guns, a long list of things. Is that how you interpret this?

Christmann: Absolutely correct. There are some states with a very intolerant mind set where hunting maybe isn't a part of their heritage. Or they don't cherish the right to own guns, where their elected officials may choose to ban firearm ownership altogether. For those people who live

there that do cherish those rights, I stand with the people who are stuck under that type of state situation. We need to never ever allow our basic fundamental rights to be taken away by a state government.

Chairman Rennerfeldt: Any further questions of the committee? Anyone else opposed to HCR 3011?

Sen. Heitkamp - District 27: I want to make one thing clear, why my name is on this bill and why Rep. Hanson spoke to me and the other sponsors of this bill. It is one thing and one thing only, that is to protect the rights of gun owners in the state of ND. That is the motivation. This bill is here because of the frustration of myself and others on this bill itself, in regards to what the Federal government has done in regards to firearms. That goes far beyond anyone justice department or president. This HCR really is about saying to the Federal government that the states are frustrated. In North Dakota we have a situation where we have a low crime rate and a high gun ownership rate. What does that tell you, the difference in what is thought on the national level. What we are trying to tell the Federal government is that before you go passing anymore bills that restrict our rights as North Dakotans, we're going to stand up as a state and say look, if you are going to do that you had better leave it to us states. That is what this resolution does. Both sides will know what the intent of this resolution does.

Chairman Rennerfeldt: Anyone have any questions?

Rep. Droydal: I understand where you are coming from. I don't disagree with you. We have sent notices to Washington that we want control in the state and they haven't listened at all. Sen. Christmann is saying that the strongest guarantee that we have of bearing arms is the US Constitution. Do you disagree with that statement? It is much stronger than anything we could pass here.

Heitkamp: I think that the best answer given on that. In many times, it comes down to the way the question is worded. Ask yourself if on a National level people believe that high rate of gun ownership means a high rate of crime. I would dare say on a national level would be yes. That is not true, we can prove it is not true. Many people in ND own guns, yet our crime rate is low. Those are the types of signals we are trying to get at. The motivation of this resolution is simply to say we want to retain our gun ownership in ND.

Rep. Porter: When you look at dividing the states into fifty states, as a united front we all stand for the Second Amendment. I look at this and think if we divide it up it is easier to conquer what the Second Amendment stands for. My question comes, if I want to hunt in Wyoming and I have to drive through South Dakota to get there, and they outlaw the type of gun I am carrying then that makes me illegal in one state and legal in another for something right now that is guaranteed under the Second Amendment.

Heitkamp: Good point, that is what we are getting at here. I believe and you do to, that the greater power is the constitution. We have that support. I don't think anyone in this room is so foolish they don't realize that in certain parts of the country are picking away at the edges of it. Aren't we in the best interest of being able to have that discussion statewide. I dare say when you take a look at the resolution like this and think it is going to change the Constitution, you are taking a little too far a step.

Rep. Porter: The wording talks about hunting and the use of guns for hunting, it doesn't address target shooting, any other rights afforded to us by the Constitution of the US. Australia and New Zealand implemented gun control similar to what this would imply, that it is okay to have a gun for hunting, but you can't have the semiautomatic shotgun that your grandfather gave you, etc. I guess the wording is limited to the word hunting, imposed that we can pick and choose the type

of weapons people are allowed to have in ND in comparison to what we are allowed right now under the Federal Constitution.

Heitkamp: The upside for what you just described is that I think you are going to find that people are wrong and you have the power if you think this wording is to limited to amend it. Make it better. If you think you need to go beyond hunting, amend it. You as a Legislature, if you have a problem then you deal with it. Send the message, that is what this is all about.

Chairman Rennerfeldt: Any other questions of the committee? I will close the hearing on HCR 3011.

COMMITTEE WORK

Chairman Rennerfeldt: I will call the committee back to order. Why don't we take HCR 3011 first thing.

Rep. Hanson: Can you hold that thing, I want to get amendments for it.

Chairman Rennerfeldt: I would like to get it out today.

(Some discussion followed, meter reading 60)

Vice Chair Nelson: I move a Do Not Pass on HCR 3011.

Rep. Porter: I second.

Chairman Rennerfeldt: Any further discussion?

Rep. Winrich: I oppose a Do Not Pass. I have to say I was flabbergasted by Sen. Christmann's interpretation of this resolution. We have a number of laws that regulate who can carry guns, when they can carry guns, we cannot have a law that violates the Second Amendment of the Constitution. As long as those laws are Constitutional, and we reviewed several of them, there is nothing wrong with having them at the state level. This resolution does not repeal the Second Amendment of the Constitution. It doesn't even call for that, it simply says that those kinds of

laws already on the books should be dealt with at the state level rather than the Federal level. I don't see anything wrong with that. I don't see it as being opposed to the right to bear arms.

Rep. Klein: Why would the NRA be opposed to it then?

Rep. Winrich: I don't know.

Rep. Klein: That would be the only reason they would be opposed to it?

Rep. Winrich: Is what?

Rep. Klein: The NRA is opposed to it, so I am thinking it is the Second Amendment. That is the only reason I could think that they would be opposed to it.

Rep. Winrich: I don't know, may be they haven't read the resolution.

Rep. Solberg: This is merely a statement that we are supporting the NRA doctorate. I don't see how this is different than the NRA doctorate. The resolution is not a law, but merely making a statement. That's how I looked at it. I am going to vote no on a Do Not Pass.

Chairman Rennerfeldt: Any further discussion?

Rep. Keiser: The way this reads, I have absolutely no problem with it. I don't necessarily agree with Sen. Christmann. What does concern me, and I am not going to support it because of the way it is worded, the statement does what we intend. It certainly would get into our intent. What would happen if we and 20 states passed a resolution with the language on line 15, 16, and 17 without looking into the intent, with just the exact words I can see Congress looking at it and saying "Look we have 17 states out there that want this to be a state right", and using it against us. We always ask, what are the other states doing? If too many states did this, used this language, I think this would then be a potential argument for the states to be in charge of this. Without amendments I can't support it.

Chairman Rennerfeldt: My fear is the fact that if we go with this, the heavily populated states would regulate guns and after you get a big enough population, eventually we will be flopping in the breeze. The Feds will say that you have all this population that want gun control, so lets pull everybody back under our wing again, and we well be outvoted. You will get the domino effect going in this direction.

Rep. Galvin: I am not a lawyer, but this I don't understand. I realize the concerns some people have. I don't think it will harm anything if we vote it down. Since there are doubts about it, I think that would be the wisest choice.

Rep. DeKrey: I am going to vote against a Do Not Pass and my reasons are that I wasn't here and I haven't heard the testimony, so I am going to wait and hear the floor debate until I make up my mind.

Chairman Rennerfeldt: Call the roll for a Do Not Pass.

MOTION CARRIES FOR A DO NOT PASS

YES, 10 NO, 5

CARRIED BY REP. PORTER

Date: 02/01/
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3011

House Natural Resources Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Nelson Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson		✓
Jon O. Nelson - Vice Chairman	✓		Scot Kelsh		✓
Curtis E. Brekke	✓		Lonnie B. Winrich		✓
Duane DeKrey		✓	Dorvan Solberg		✓
David Drovdal	✓				
Pat Galvin	✓				
George Keiser	✓				
Frank Klein	✓				
Darrell D. Nottestad	✓				
Todd Porter	✓				
Dave Weiler	✓				

Total (Yes) 10 No 5

Absent _____

Floor Assignment Rep. Porter

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2001 7:55 a.m.

Module No: HR-19-2178
Carrier: Porter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3011: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends **DO NOT PASS** (10 YEAS, 5 NAYS, ABSENT AND NOT VOTING). HCR 3011 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

HCR 3011

HOUSE NATURAL RESOURCES COMMITTEE
HCR 3011
Testimony of Sen. Randy Christmann

This resolution starts out recognizing the importance of hunting as a part of our heritage, recognizing our low crime rate, and recognizing the will of the people as shown in the recently passed constitutional amendment. Then it takes a sudden left turn.

When I first read this resolution, I was horrified to see that right here in the North Dakota Legislature there are some who have such a cavalier attitude toward our Bill of Rights. We are not dealing here with a trivial issue. We are dealing with the Second Amendment to the United States Constitution!! We are dealing with a right that is fundamental to our society and cannot be infringed by any government...not federal, not state, and not local!

I find it impossible to believe that anyone in this room would support the efforts of any of the fifty states to deny a fellow American their right to free speech. Would we ever contemplate encouraging any of the states to deny a fellow American their right to peacefully assemble or worship as they choose? If not, we had better start taking a bit more seriously our right to keep and bear arms because that right is just as fundamental as our rights to speech, religion, and assembly!

Less than 150 years ago our country endured the worst bloodbath in the history of this nation. They did it for a noble reason. They did it despite the traditions of the south, despite the terrible economic hardships that resulted, and despite what southerners considered their heritage. That noble reason was that the basic rights of people were even more important than states' rights to determine appropriate behavior. I am dismayed to see that some would now approve of a state government denying our fellow Americans their second amendment rights.

This is not something to be taken lightly. This is a first step down a slippery slope. If ever the day comes when states can start denying the rights guaranteed us in the United States Constitution this entire effort at living in a free society will come crashing down. It would never stop with one right. If one state can deny the right guaranteed by the second amendment why can't another state deny the right guaranteed by any other amendment? Let's not encourage the start of something awful. Let's not recklessly ask the United States Congress and our Congressional Delegation to give us a shove down that slope. Let's shoot this ridiculous resolution down.

National Rifle Association of America
Institute for Legislative Action
555 Capitol Mall, Suite 455
Sacramento, California 95814
(916) 446-2455 voice ▪ (916) 448-7469 fax

To: North Dakota House Committee on Natural Resources
Fr: Christopher Oswald, North Dakota State Liaison
Re: HCR 3011, Resolution urging Congress to recognize states' rights

MEMORANDUM IN OPPOSITION

On behalf of the many thousands of NRA members in North Dakota, I urge you to oppose HCR 3011, urging Congress to recognize states' rights in determining appropriate gun control measures.

The Second Amendment to the U.S. Constitution, along with the other nine amendments found in the Bill of Rights, guarantees individual liberties which cannot be revoked by governmental authority on any level; federal, state, or local. The Right to Keep and Bear Arms, along with the Right to Free Speech, freedom to assemble, and the freedom to worship are not privileges granted by government to the people. Rather, they are civil rights; fundamental freedoms granted to each person, that elected officials, agencies or bureaucrats cannot repeal, regardless of popular sentiment or economic benefit.

HCR 3011 mistakenly assumes that the states can better administrate gun control policies. Although it can certainly be argued that the federal government has clearly overstepped their bounds of authority on some firearms issues, there are some areas where federal authority is vital. Currently, federal law prohibits a state registry of lawful firearm owners and provides an instant check system to prevent gun sales to minors and felons. One need only look to states like California, Illinois and New York to realize that some federal authority is needed to protect states from interfering with a citizen's privacy and right to own a firearm. Regardless, the Right to Keep and Bear Arms should not be legislated away, and HCR 3011 misses the fundamental point of the Second Amendment: that of an individual right which cannot be ceded to any authority.

Additionally, HCR 3011 fails to acknowledge the other lawful purposes of firearms. Sport-shooting, collecting and self-defense are as essential to the North Dakotans who use firearms for these purposes, as the right to hunt is to the North Dakotan hunter.

While the intention of HCR 3011 is good, the implication of states legislating a fundamental right is a misguided one and should be defeated. As the largest and oldest association in the country dedicated to preserving the Second Amendment, the National Rifle Association of America stands ready and eager to aid you in crafting legislation that truly aids the citizens of North Dakota in protecting their Right To Keep and Bear Arms.

Should you have any questions regarding HCR 3011, please feel free to contact me at the numbers listed above.