

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

3023

2001 HOUSE NATURAL RESOURCES

HCR 3023

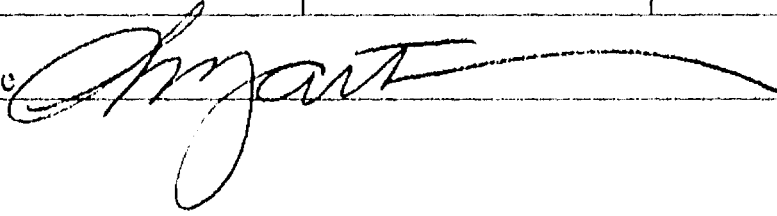
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3023

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1		x	4617 to end
2	x		1 to 1377
Committee Clerk Signature 			

Minutes:

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

Chairman Rennerfeldt: I will open the hearing HCR 3023.

James Kerzmann - District 35: You can see what the resolution is about. Basically I have been working with a group of ranchers in western North Dakota and this is an issue that keeps coming up. I would like to see this as a tool. It's not going to be for everybody, but I think there are a lot of myths out there. I would like to see this issue studied. I have studied how other states are handling it and I feel very glad that we don't offer it to our landowners. This resolution would look on it at a state wide level. My bill would basically be a pilot project for drainage of the Little Missouri. This would open it up to the state. I would hope we take a serious look at this, it

is an alternative. In stead of having the land sold and out of production forever, it is a way to keep it in agriculture. It would be a win win situation. We could reward the landowners for being good stewards. I think that is the purpose of the whole thing.

Chairman Rennerfeldt: Are there any questions of the committee?

Rep. Klein: The biggest problem I have when I talk about these easements, they say isn't 99 years long enough. It is three generations already. That's been the opposition I have been getting. I really don't know how to answer that question.

Kerzmann: The biggest reason you have to go with perpetual is to get the Federal money to go through. That is as far as tax breaks, federal funding, that is one of the things this study would look at.

Rep. DeKrey: Would you be amiable to any amendments? The two things I look at is on the back page, where it says "easements have offered a numbers of states a new system". I hate to make a statement that sounds like that's a bona fide conclusion because I am not sure they have done that. That might be something that should be studied to see if they actually have done that. Then when you get down into the second part of that says "use of easements to protect agriculture", I would be more comfortable if it was to control agriculture.

Kerzmann: On the surface I don't see a lot of problems with it. But I think we want the study to be conclusive. We want to look at the total picture, not just a snapshot.

Chairman Rennerfeldt: Any other questions from the committee?

Bill Pfeifer - North Dakota Chapter of the Wildlife Society: We are in support of HCR 3023.  
(See written testimony).

Chairman Rennerfeldt: You have easements do not change the land use. But easements could, you could have an easement to do many different things.

Pfiefer: The landowner has the option. If there is going to be restrictions, don't take it. Many organizations can take easements. If the wording isn't something that is to your liking then don't do it. It is just an option.

Chairman Rennerfeldt: Any questions from the committee?

Joe Satrom - Ducks Unlimited: I want to support this study resolution. Mostly because it is a complicated subject. We introduced some of you to easements in this ag conservation dialogue last summer. I have learned a lot in that process, but I want to tell you that is rapidly becoming more complicated. It is a tool where there are literally hundreds of agreements being done around the US every week. It is a popular way to determine land use. It is far broader my particular interest in conservation. There are access and egress easements, utilities, transmission, pipeline, and wind generation easements. There are complicated and controversial topics like drainage and wetland easements. Which we are very familiar with being highly controversial in North Dakota. All other 49 states recognize cultural, historical, flood mitigation, conservation and other easements. There are really two types - term easements and perpetual easements. As many of you know, the wetlands easements that are so controversial in North Dakota are perpetual easements. There are about 12,000 of those contracts. My understanding too, that a couple percent of those 12,000 are in fact very controversial. That's quit a number. I hope you will take a look at this in the interim because I think it is something ND can benefit from. We are one the great open space and agricultural states in the country. We have a lot of values that are starting to get a lot of attention. Once you live out on I-94 west of Jamestown, from there west, on the coteau, land values are not going to be based on agricultural use those acres now can be sold for recreational values that are higher than what you and I could justify paying to farm or ranch it. That is a phenomena that is happening all over the west. I don't think it can be limited in our free

enterprise society, but it does create what is the opportunity of the easement. That differential in value between its use for some other purpose than agricultural use, in a general sense creates its easement value. This topic is complicated enough that the American Farm Bureau did us all a great favor this fall and published The Landowners Guide to Conservation Easements. It is a very wonderful book, written objectively. It is well worth reading. Let me conclude by saying that we hope at Ducks Unlimited and as someone who has lived here all of his life, that somehow a study like this would lead to some understanding between farmers and conservation. We've had a remarkable response to our permanent easement program. It is fundamentally wrong that the only people who can fund permanent easements in the United States is the federal government. Easements can be a valuable tool, and they will provide landowners with some valuable recognition. I hope this can be supported. If I may address Rep. Klein's questions about why isn't 99 years long enough? Frankly for many landowners 10 years is long enough. For others 30 years is. For my family which has farmed for 125 years I don't mind the wetland easement, but I'm not sure a perpetual easement on my land doesn't make sense. For our ground at this point in time I couldn't make that decision. Many landowners that would exercise that right for 30 or 50 or 99 years may know their land and want it preserved. It think it is how you look at the right to own property, which is largely spelled out the Federal government in our system.

Rep. DeKrey: In your last statement you said there were good easements and bad easements. I couldn't agree with you more. The fact is when you write the state law, you write it generic enough so we try to get every situation to fit in. When we just give a blanket perpetual easement aren't we basically saying there is good ones and bad ones, and we are going to get some bad ones and we just have to accept that?

Satrom: I think an informed landowner, and there is a section in the Farm Bureau sponsored book called The Process of An Informed Decision Making by Landowners... There are really detailed guidelines as to how a landowner might approach this in an appropriate way. We more than two years ago offered Gov. Schaffer and farm groups the opportunity to start land trusts on their own. I frankly felt that ag groups in North Dakota could do a much better job. They are doing that in many other states now, I think that by establishing a relationship of trust, maybe by looking at what other states have done. We can help ND Landowners make informed decisions about this.

Vice Chair Nelson: I think this is a great tool, and I think we should look at easements from a comprehensive standpoint. I am just wondering if the structure of an interim committee is set up how that can be accomplished? If this study resolution does pass and gets shipped off to the interim ag committee, somehow that may bring out a particular bias from that committee, whereas if it goes to another committee it may pick up another bias. I think the only way we are going to get anywhere in this process is that we bring all our particular bias to the table and meet head on. I don't see a particular interim committee structure that fits that. So how do we do that?

Satrom: I am optimistic that you current elected leaders of our state can take this on and treat it fairly. We think this democracy works. There are some benefits in getting late to the table, we have a lot to learn from other states. We probably have the most miserable story of permanent wetland easements in the country. We have more of them. We feel comfortable that it can be done. They should just be used where they work. They won't just be conservation easements.

Chairman Rennerfeldt: Any further questions of the committee?

Ben Wall - ND Grassland Stewardship Initiative Committee: The reason we asked Rep. Kerzmann to adapt the study resolution is in our discussion we came up with many of the same

type of questions asked here. What benefit can they be to the general landowner. We thought this body would be a good place to start. Personally I don't agree with perpetual. I maybe want to protect something for a while and this might give me the tool or opportunity to make an informed decision.

Chairman Rennerfeldt: Any questions from the committee? Anyone else that would like to speak in favor of this resolution? Any opposition to HCR 3023. If not, I will close the hearing.

### COMMITTEE WORK

Chairman Rennerfeldt: Committee, let's take up HCR 3023.

Rep. Nottestad: I move a Do Pass.

Rep. Keiser: I second.

Chairman Rennerfeldt: Any discussion on this resolution?

Vice Chair Nelson: What happens with one of these resolutions is we moved this process to them, but the ultimate wisdom of the Legislative Council decides if it puts on a study resolution or not. I think it should be a committee project.

Rep. Keiser: I agree and disagree with Rep. Nelson. Administrative rules are an example. They take painstaking efforts on Administrative Rules to try and provide everything to that committee from all of the committees, so that as you have hearings, those committees are all represented. I think that our leadership in their wisdom can identify these people. They have in the past.

Rep. Winrich: I was going to make a comment similar to what Rep. Keiser said. Also point out after the Legislative Council chooses the resolutions they are going to study and representatives have an opportunity to express their preference for certain interim committees. You know which studies the committees are going to be doing, so people who are interested in a particular area

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Bill/Resolution Number HCR 3023  
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can request to be a part of that study. That is a self selecting process, but it would serve to bring appropriate views to the table.

Chairman Rennerfeldt: Any other comments, or discussion? Call the roll.

**MOTION FOR A DO PASS**

**YES, 13      NO, 2**

**CARRIED BY REP. KEISER**

Date: 2/8/01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HR 3023

House Natural Resources Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep. Nottestad Seconded By Rep. Keiser

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) 13 No 2

Absent \_\_\_\_\_

Floor Assignment Rep. Keiser

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

REPORT OF STANDING COMMITTEE (410)  
February 8, 2001 12:54 p.m.

Module No: HR-23-2723  
Carrier: Keiser  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HCR 3023: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends **DO PASS** (13 YEAS, 2 NAYS, ABSENT AND NOT VOTING). HCR 3023 was placed on the Eleventh order on the calendar.

2001 SENATE NATURAL RESOURCES

HCR 3023

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3023

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-1-01

Tape Number	Side A	Side B	Meter #
2	X		3.5 - 22.1
3-8-01 1	X		Start - 3.3
Committee Clerk Signature <i>Janel J. Jones</i>			

Minutes:

SENATOR FISCHER opened the hearing on HCR 3023.

REPRESENTATIVE JAMES KERZMAN, of District 35 cosponsor, introduced HCR 3023, A RESOLUTION FOR A STUDY RELATING TO THE USE OF EASEMENTS TO PROTECT AGRICULTURAL AND OTHER LANDS IN NORTH DAKOTA (See attached testimony).

He passed around a copy of the minutes of the last meeting of the Grasslands Stewardship Initiative for viewing.

BILL PFEIFER, representing the North Dakota Chapter of the Wildlife Society testified in support of HCR 3023 (See attached testimony).

MIKE DONAHUE, representing the North Dakota Wildlife Federation and the United Sportsmen of North Dakota testified in support of HCR 3023. His groups felt that because SB 2388 was moving along well they wouldn't need HCR 3023, but reconsidered and felt the study should happen.

JOE SATROM, Director of the Land Protection Program of the Ducks Unlimited, Inc. testified in support of HCR 3023. He agreed this is an important study and it would give a chance for a group of legislatures to hear from experts and land owners that have had both negative and positive experiences with easements.

GERALD REICHERT, representing the Nature Conservancy testified in support of HCR 3023. Within his work he has a very good understanding of easements, but there is a long way to go for people to fully understand what easements are all about and this study would head in the right direction.

MIKE DWYER, representing the North Dakota Water Users went on record in support of HCR 3023.

CHUCK DAMSCHEN, representing LAND Association testified in support of HCR 3023. He felt the study is necessary because there is a lot of uncertainties and controversy over easements. The rules seem to be unclear as to easements, there are issues about gubernatorial consents, whether it is a property right to sell off easements of future owners, terms of easements, and some questions as to the legality of perpetual easements. This study should address these issues. SENATOR KELSH asked if there is proof that easements have lowered the value of the land and have eroded the tax base.

CHUCK DAMSCHEN answered that the counties have shown decrease in value, but the taxes are kind of a gray area.

SENATOR FISCHER closed the hearing on HCR 3023.

**March 8, 2001**

SENATOR FISCHER opened discussion on HCR 3023.

SENATOR KELSH made a motion for "DO PASS" of HCR 3023.

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Hearing Date 3-2-01

SENATOR TRAYNOR second the motion.

He further commented that he sponsored a bill on easements and that this resolution would not be a conflict and is a needed study.

SENATOR FISCHER rolled for a roll vote of HCR 3023 indicating 7 YAYS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

SENATOR TOLLEFSON will carry the HCR 3023 and will be on the consent calendar.

Date:

3-2-01

## 2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

**BILL/RESOLUTION NO.** 3123

Senate NATURAL RESOURCES

Committee

☐ Subcommittee on☐ Conference Committee

Legislative Council Amendment Number

### Action Taken

**Motion Made By**

## Seconded

By

[illegible]

**Total (Yes)**

**Absent**

## Floor Assignment

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

REPORT OF STANDING COMMITTEE (410)  
March 8, 2001 1:19 p.m.

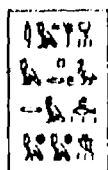
Module No: SR-40-5127  
Carrier: Tollefson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HCR 3023: Natural Resources Committee (Sen. Fischer, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3023 was placed on the Tenth order on the calendar.

2001 TESTIMONY

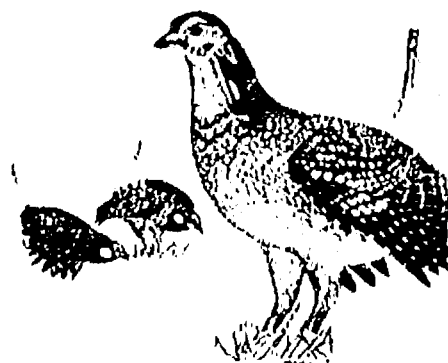
HCR 3023



*North Dakota Chapter*

## **THE WILDLIFE SOCIETY**

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF BILL PFEIFER  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
PRESENTED TO THE HOUSE NATURAL RESOURCE COMMITTEE  
ON HB 3023, February 8, 2001**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I'm Bill Pfeifer speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Wildlife Society supports HB 3023. An easement provides an opportunity to keep the family farm viable by providing a tool whereby a landowner can receive a financial reward.

Easements do not change the land use, they remain agricultural. The tax base remains at the agricultural level. The taxes are paid by the owner.

The conversion of agricultural lands into suburban settings is rapidly eroding the farm industry. Easements can slow that trend and help keep farmers and ranchers in business.

The restriction of a landowner selling an easement is in direct conflict with private property rights. Denying the landowner of that option removes the private property rights that we would like to hold so near and dear.

It is with these concerns that The Wildlife Society supports HCR 3023 and hopes the committee will do same by giving a unanimous DO PASS vote.

.....

# House Natural Resource Committee

February 7, 2001

Mr. Chairman and Members of the Committee,

The North Dakota Wildlife Federation Inc. and the United Sportsman of North Dakota support HCR 3023.

We ask for a do pass.

Thank you,

Mike Donahue  
Lobbyist # 258  
Telephone Number: 701-222-3899

## Testimony on House Concurrent Resolution 3023

Senate Natural Resources Committee

Representative James Kerzman

March 1, 2001

Senator Fisher and Members of the Committee, House Concurrent Resolution 3023 simply asks the Legislative Council to study the use of easements to protect agricultural and other lands, the effectiveness of easements in assisting landowners in their decision-making related to the future of their property, and the experience of other state, regional, and national efforts to protect agricultural and other lands including cropland, range land, forested land, wetland, riparian land, and cultural and scenic areas.

House Concurrent Resolution 3023 comes about through the workings of the Grasslands Stewardship Initiative, comprised of bipartisan stakeholders including ranchers, conservationists, park officials, legislators and business people. This is a group formed to address grasslands issues in this state, with a vision of multiple use, sustaining communities, a healthy ecosystem, and a viable economy that provides enhanced social, economic and ecological benefits for current and future generations.

Personally, I feel that easements are a "tool" that would allow landowners, private, and public groups, to work together to address common concerns; namely, keeping agricultural land agricultural, providing wildlife habitat, and protecting the natural beauty of the landscape.

Easements can come in many forms - whatever works for the particular situation. Easements are a "property rights" issue. North Dakota is the only state that restricts their usage. Easements are strictly voluntary, and the terms are agreements between parties.

We are all stewards of some sort. I personally hope that I can leave things as good or better than I found them. You all know how important agriculture, tourism, hunting and fishing are to this state. North Dakota's people are so resourceful that given the proper "tools," our citizens will work together to make this a viable state to be proud of, now and in the future.

Thank you for your time and consideration. I will be happy to answer any questions.

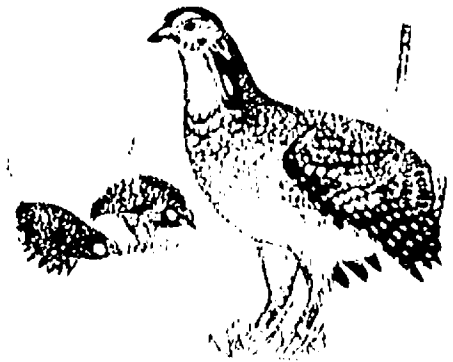
Representative James Kerzman



*North Dakota Chapter*

## **THE WILDLIFE SOCIETY**

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF BILL PFEIFER  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
PRESENTED TO THE SENATE NATURAL RESOURCE COMMITTEE  
ON HB 3023, March 2, 2001**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I'm Bill Pfeifer speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Wildlife Society supports HB 3023. An easement provides an opportunity to keep the family farm viable by providing a tool whereby a landowner can receive a financial reward.

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The restriction of a landowner selling an easement is in direct conflict with private property rights. Denying the landowner of that option removes the private property rights that we would like to hold so near and dear.

It is with these concerns that The Wildlife Society supports HCR 3023 and hopes the committee will do the same by giving a unanimous DO PASS vote.