

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4037

2005 SENATE JUDICIARY

SCR 4037

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4037

Senate Judiciary Committee

☐ Conference Committee

Hearing Date February 28, 2005

Tape Number	Side A	Side B	Meter #
1		X	2623 - End
Committee Clerk Signature <i>Maria L Solberg</i>			

Minutes: Relating to Fences and the updating of the Statute..

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Wade Mooser, ND Stockman's Assoc. (meter 2629) Introduced the Resolution. After a review of the laws. The most frequently asked question is about property lines and fences going through and on and who owns them. People transfer property do not know if they own the fence, who should maintain it. If one side has cattle and the other does not... We need to have more clarification on the ownership and maintenance of.

Sen. Randy Christmann, Dist. #3 - Introduced the bill. This issue came up out of my district with a common problem of two ranchers; one keeps up the fence and the other does not. The way the wire is attached to the post determines if the cattle stay in. If it is the wrong side then the cattle can easily push it off the post. Sited problems. After researching the law we realized that

it was a hundred years old. We no longer have "fence watchers" who mandates the policing of this? This has the potential of legal conflict.

Sen. Trenbeath stated that this was the first time he has reviewed the "fences" portion of the code and agreed with Sen. Christmann 100%, it is outdated and confusing. Last review of the law was 1943, original law was 1903.

Terry Traynor - Association of Counties. We support the bill (meter 3200) The County Commissioners would welcome a review of this statute. It appears that when a township is unorganized the County ends up with falling into the role of "fence viewers". They get in the middle of what really is a civil matter that should be before a judge. This is a difficult and unclear law. Sometimes it has become very costly due to the fact that they have to survey and reestablish monument markers and things to sort out where the correct placement of the fence is.

Senator Syverson questioned the counties responsibility to satisfy these problems? Yes, cited a case in Morton County (meter 3450).

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Committee discussed the confusion of City verses Rural Fences and the study should be only on the rural fences. Requested an amendment to clarify this.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 4037

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 1, 2005

Tape Number	Side A	Side B	Meter #
1	X		5970 - end 5970
Committee Clerk Signature <i>Mona L. Salby</i>			

Minutes: Relating to the study of fences.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen. Traynor handed out the amendments requested by the committee. Att. #1. **Senator Triplett** sited that she would like this to better clarify the city limit fences vs. the rural fences.

Senator Syverson made the motion to do pass amendment 53062.0101 and Senator Triplett seconded the amendment. All members were in favor and motion passes.

Sen. Nelson made the motion to do pass as amended and **Senator Syverson** seconded the motion. All committee members were in favor and motion passes

Carrier: **Senator Syverson**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Att #1

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4037

Page 1, line 1, after "fences" insert "located outside the corporate limits of the state's cities"

Page 1, line 2, replace "their" with "the" and after "relevancy" insert "of those laws"

Page 1, line 3, replace "out" with "our"

Page 1, line 15, after "fences" insert "located outside the corporate limits of the state's cities",
replace "their" with "the", and after "relevancy" insert "of those laws"

Renumber accordingly

Date: 3/1/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 4037

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Amend 93062.0101

Motion Made By Senator Syverson Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath					

Total (Yes) _____ 6 No _____ 0

Absent _____ 0

Floor Assignment Senator

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

Date: 3/1/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HAB~~ SCR 4037

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Do Pass As Amended

Motion Made By Senator Nelson Seconded By Senator Syverson

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) _____ 6 No _____ 0

Absent _____ 0

Floor Assignment Senator Syverson

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

REPORT OF STANDING COMMITTEE

SCR 4037: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4037 was placed on the Sixth order on the calendar.

Page 1, line 1, after "fences" insert "located outside the corporate limits of the state's cities"

Page 1, line 2, replace "their" with "the" and after "relevancy" insert "of those laws"

Page 1, line 3, replace "out" with "our"

Page 1, line 15, after "fences" insert "located outside the corporate limits of the state's cities", replace "their" with "the", and after "relevancy" insert "of those laws"

Renumber accordingly

2005 HOUSE POLITICAL SUBDIVISIONS

SCR 4037

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4037

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 17, 2005

Tape Number	Side A	Side B	Meter #
1	x		7.9 to 13.7
Committee Clerk Signature <i>Louise B. Zink</i>			

Minutes: **Rep. Devlin, Chairman** was sponsor on the resolution and elected to present the background as Sen. Christmann was not available at this time. **Rep. Herbal, Vice Chairman** Chaired the meeting while Chairman Devlin discussed the resolution. It asks the Legislative Council to study the various fencing laws that counties and townships deal with --- many of them are a hundred years old. There is a feeling that many of them are outdated -- in fact some may be creating problems for political subdivisions. On the Senate side they exempted out all of the cities -- because that wasn't the intent.

Rep. Ekstrom (9.7) Some neighbors in Fargo have had some contentious moments about maintaining their fence -- that wouldn't be covered under these studies?

Rep. Devlin, -- No-- this is strictly rural.

Rep. Kretschmar (10.9) There used to be a law that the County Commissioners were designated to settle fencing disputes -- when you were a county commissioner - - did you ever get involved in that?

Page 2

House Political Subdivisions Committee

Bill/Resolution Number SCR 4037

Hearing Date March 17, 2005

Rep.Devlin, -- No -- never did.

Rep. Wrangham (11.8) moved a 'Do Pass' motion for SCR 4037. **Rep. Herbal, Vice**

Chairman seconded the motion. On a roll call vote the motion carried **10 ayes 0 nays**

2 absent. Rep. Devlin was designated to carry SCR 4037 on the floor.

Rep. Ekstrom I trust that this will go on the consent calendar. **Rep.Devlin, Chairman --** It will go on the consent calendar. End (13.7) .

Date: March 17, 2005
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4037

House POLITICAL SUBDIVISIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken To Pass on Consent

Motion Made By Rep. Wrangham Seconded By Rep. Herbel -

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	A				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes) 10 No 0

Absent 2

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE (410)
March 17, 2005 12:20 p.m.

Module No: HR-49-5256
Carrier: Devlin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4037, as engrossed: Political Subdivisions Committee (Rep. Devlin, Chairman)
recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (11 YEAS,
0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SCR 4037 was placed on the
Tenth order on the calendar.