

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2224

2001 SENATE AGRICULTURE

SB 2224

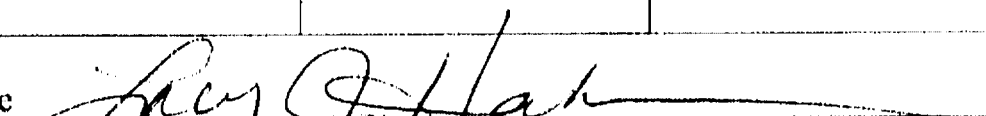
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2224

Senate Agriculture Committee

Conference Committee

Hearing Date January 26, 2001

Tape Number		Side A	Side B	Meter #
Jan. 26	1	X		25.8 - 32.2
Feb. 1	2	X		0.0 - 9.9
Committee Clerk Signature 				

Minutes:

SENATOR NICHOLS; Sponsor, introduced this bill. This bill simply states that highways with no-mow areas may be hayed or mowed after July 15th of each year without payment or penalty

SENATOR O' CONNELL; Sponsor, testified in support of this bill.

SENATOR SOLBERG; Sponsor, testified in support of this bill. Economic bill. This a resource that we are not using, could be used for hay.

REPRESENTATIVE DELZER; Sponsor, testified in support of this bill.

SENATOR KLEIN; Are we going to lose transportation dollars?

REPRESENTATIVE DELZER; It is my understanding the government has the right to open areas for haying in times of need. I think this bill will go a little beyond that and say that it is always open after the fiftieth of July.

BRIAN KRAMER; ND Farm Bureau, testified in support of this bill. We have been supportive of trying to remove the no-mow restrictions on the highways since their inception. Insurance losses - accidents from the lack of haying along roads.

JULIE ELLINGSON; ND Stockman's Association, testified in support of this bill. We believe that this bill will save time and money for the highway department in terms of snow removal and at the same time put the grass into good use in terms of livestock feed.

ROBERT WIRTZ; testified in support of this bill. Shared with the committee the things that have happened to him over the years since the highway was put in. The highway runs through his ranch, taking away more than 7 acres.

SENATOR WANZEK; Do you feel that you were misled in believing that you could mow in a no-mow area and they confiscated your hay after the fact.

DALLAS MOORE; Testified in support of this bill.

BILL PFEIFER; ND Chapter The Wildlife Society, testified in opposition to this bill. See attached testimony.

SENATOR ERBELE; What detrimental effect do you see for wildlife by mowing after July 15th?

BILL PFEIFER; If this is mowed every year you don't get the taller, denser stand and is probably advantageous to mow this every four or fifth year by removing this because then you start to encourage the presence of small animals.

SENATOR URLACHER; Are all no-mow areas under replacement for habitat?

BILL PFEIFER; Yes, they are.

SENATOR NICHOLS; Cost for the farmers - loss of land in field and pasture.

GRANT LEVI; NDDOT - Deputy Director for Engineering, provided information and presented maps showing the no-mow areas.

SENATOR WANZEK; How is the amount of acres that are affected determined?

GRANT LEVI; It is part of our project development process. We send a biologist out, who goes through and identifies either through the soil or the water present, the wetland acres.

SENATOR KLEIN; Will this bill hurt transportation funding?

GRANT LEVI; I am not sure.

SENATOR NICHOLS; At the time these evaluations were made, were there an exact determination on the trade.

GRANT LEVI; It varies depending on the project.

SENATOR URLACHER; Can a certain portion along the road be mowed for safety?

GRANT LEVI; We do allow the top of the road and the in slope of the roadway. We cut them down for snow, and provides visibility for drivers.

The hearing was closed.

February 1, 2001

Discussion was held:

SENATOR KLEIN; I think that we are being sensitive to the nesting time.

SENATOR URLACHER; This bill allows landowners to cut in the no-mow areas but some of that is already used for mitigation and they wouldn't be able to break the mitigation.

SENATOR KLEIN moved DO PASS on this bill.

SENATOR ERBELE seconded the motion.

SENATOR URLACHER; They don't recognize a lot of acres that are wildlife habitat. Look at all the CRP we have. It is there because of wildlife, I am for any land we can open up.

Page 4

Senate Agriculture Committee

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SENATOR URLACHER; There is more wildlife numbers today than there ever has been and

there is still the discussion that we are ruining habitat but we are building habitat as well.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR NICHOLS will carry the bill.

**CO**

**NET**

**NEXT FIGURE**

Date: 2-1-01  
Roll Call Vote #: 4

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~SB 2223~~

2224

Senate Agriculture Committee

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

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

Action Taken DO PASS

Motion Made By SEN. KLEIN Seconded By SEN. ERBELE

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment SENATOR NICHOLS

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



**REPORT OF STANDING COMMITTEE (410)**  
**February 1, 2001 4:36 p.m.**

**Module No: SR-18-2167**  
**Carrier: Nichols**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2224: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2224 was placed on the**  
**Eleventh order on the calendar.**

2001 HOUSE AGRICULTURE

SB 2224

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2224

House Agriculture Committee

Conference Committee

Hearing Date 3--1--01

Tape Number	Side A	Side B	Meter #
FOUR	A		00 TO 4200
Committee Clerk Signature <i>Edward D. Johnson</i>			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN THE HEARING ON SB 2224.

REPRESENTATIVE DELZER: SB 2224 is a bill that would have to do with the now mow areas. It would allow haying after July 15th. This has been an on going situation. I know the Governor can allow mowing after July 15th. This would simply make it open all the time. I think it is a good idea. I don't see any reason why we don't do it. I'd much like to see my ditches mowed. I am here in support of the Bill.

SEN. NICHOLS: Thank you Mr Chairman. Dist 4. This bill would allow for mowing after July 15. This date was chosen specifically so that the Governor could permit mowing after that date. When easements agree being taken the date is July 15. Why we should pass this Bill. Safety reasons. Animal are harder to see without the mowing. Snow is also a problem in the no hay areas. The high ways are more expensive to maintain in the no mow areas.

Noxious weeds are also a problem. The highway department try's to do a good job, I know.

Page 2

House Agriculture Committee

Bill/Resolution Number SB 2224

Hearing Date 3--1--01

There are economies involved. Hay to farmers and ranchers. There are 8,100 acres I think that fit under this designation. Three to four bales per acre which is fairly conservative. We are looking at about \$500,000.00 dollars of economic impact for farmers and ranchers across the state. Each of the ranchers that testified in the Senate hearing last week testified that they were promised that they could hay in their areas. They are trying to correct the situation so that they can hay. We will have to get together with the Federal dollars and if we can get the Governor to sign it we will be able to get together with DOT Federal Departments, etc.

CHAIRMAN NICHOLAS: Rep. Mueller

REP. MUELLER: How many miles are we talking about.

Sen. Nichols: The miles are primarily along Highway # 2 and Highway # 83.

The right away was purchased. on highway #. The two lanes were not built so there is more hay along #2

SEN SOLBERG: Dist. 7 This is a good Bill. Cost savings to Highway Department. Cost savings to the Highway Department. Certainly to the benefit of the land owner that has given up land. We would like to have our no mow areas back. We here we will lose Federal Dollars but I think we should call their Bluff. We can sit down and talk to DOT FEDERAL. I think it is time that we do something for the farmers and ranchers.

CHAIRMAN NICHOLAS: Any more support for HB 2224. Any opposition to 2224.

DAVID SPRYNCZYNATYK: DIRECTOR OF NDDOT.

PLEASE SEE PRINTED TESTIMONY THAT IS ATTACHED.

Mr Chairman and Committee Member: Any questions:

REPRESENTATIVE FROELICH: Is there any chance that the mowing could be done every other year, rather than every year.

DAVID S: The reference to the periodic mowing is not just every other year. It is every five years or so. It depends on what has happened in the mean time in terms of water conditions. What the role of the habitat has been? The need to cut to revitalize it etc. There is no definition. It just says periodic. The no mow has been enforced since the agreements have been entered into. Those go back to the 70's and 80'. There have been a number of occasions six or seven or so years because of the disaster declaration. The Governor has declared disaster and has stated and allowed us to go in and have those areas mowed earlier to provide hay. To my knowledge it has been enforced since the very beginning. When ever we hear of a violation we go out and with the land owner and catch it before he mows the whole area.

CHAIRMAN NICHOLAS: Any other questions?

Vice Chairman Johnson: Has there ever been conversation of moving these acres?

DAVID S: Yes, there has been recently. That second alternative is, the state could be required to mitigate the environmental impact of allowing mowing on right of way currently designated 'no-mow'. The states cost to purchase the necessary land would amount to 2 million to \$2.5 million. Please look at the no-mow areas map. We would acquire land near the areas that would be released from the no-mow area. Look at the map and see the distribution. In the event that SB 2224 dose pass into law that would certainly be one of the first things we would want to do is to try to work with the Federal Hi-way Administration and the other agencies. See what it is that we would have to do. We certainly not in any position to repay the farmers. My concern is that this would increase the cost to our department to about

\$2 million dollars. That could push back other projects. My testimony addresses the whole 350 mile stretch.

Rep. Onstad: Who is going to file complaints?

David S: We went into binding agreements. The law did require mitigation. The idea of the no-mow areas were accepted and agreed. It would be the Federal Hi-way administration that would come back at us for violating the agreement. The legal binding agreement that we had with them.

REP. LLOYD: What kind of compensation was arranged initially with farmers with No-hay areas.

DAVID S: The lands that we are talking about was compensated at \$4 to \$450. per acre.

I have not been aware that any where in the contract with the landowners that said in addition to the payment for the land they also have rights also to other areas for mowing. This was tested in the courts a few year ago. The court said dose in fact belong to the state and there is no documentation that would give the former land owner any right to it. The sold it.

Rep. Mueller: Can this be worked out with the Federal Hi-way department.

DAVID S: The Federal Hi-way Administration is seriously concerned about this Bill. They believe it violates agreement that we have. That is where they laid out these two alternatives that I described to you.

REPRESENTATIVE LEMIEUX: If we give up 8,000 acres of Hi-way safety for 140 acres of wetland. That is an awful price to pay because I cruise along these Hi-ways. I consider the no-mow area a hazardous zones.

