

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2266

2001 SENATE NATURAL RESOURCES
SB 2266

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2266

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
1	X		Start - 38.1
2-9-01 1	X		24.4 - 26.9
Committee Clerk Signature <i>J. Smith</i>			

Minutes:

SENATOR FISCHER opened the Committee meeting.

Roll call was taken indicating all committee members present.

SENATOR TOLLEFSON opened the hearing on SB 2266. A BILL RELATING TO THE DURATION OF EASEMENTS.

SENATOR RANDEL CHRISTMANN of District 33, cosponsor of SB 2266 testified for the record in support of the bill.

SENATOR STEVEN TOMAC of District 31 prime sponsor of the SB 2266 testified that was probably the most important bill of this committee in this legislative session, because it addresses a major policy decision that the state has to consider. There has been much debate as to the development of land adjacent to the Missouri River and it's corridor. Should the state take exception to the 99 year easement law and allow the land owner to make permanent use of that

land. He feels the issue deserves good debate and that as a state are we doing the right thing in allowing or not allowing the development.

REPRESENTATIVE JOHN MAHONEY, of District 33, cosponsor of SB 2266, testified that the area between Garrison Dam and Lake Oahe is the only stretch not developed and the farmers along the area should be given the opportunity to get something for keeping it in it's natural state comparable to the offers they get from developers.

ANDY MORK, Chairman of BOMMM (Burleigh, Oliver, Morton, McClean, Mercer Counties) organized since the mid 1980's with the express purpose of promoting bank stabilization testified in support SB 2266. They look at the bill as an "anti-development easement". As they would envision it is that the land owner would sell the development rights, keep all the others rights, and then keep a certain amount of footage along the river natural.

ERIC AASMUNDSTAD, President of the North Dakota Farm Bureau, testified in support of SB 2266 because the bill is so well defined. We are philosophically opposed to professional easements, but in this instance we have very specific policy that deals with this and as we understand it, it is very narrowly defined for lands adjacent to the Missouri River. Although they still have reservations about who hold these easements, who will manage them and the manage practices.

BILL PFEIFER, representing the North Dakota Wildlife Society testified in support of SB 2266 (See attached testimony).

Written testimony was presented of MIKE DONAHUE representing the North Dakota Wildlife Federation, Inc. (See attached testimony).

DAVID BORLDUS, president of the North Dakota Lewis & Clark Bicentennial Foundation of Washburn and the president of the National Council of the Lewis & Clark Bicentennial testified

that they are in favor in any efforts that would preserve the natural setting along the Missouri River.

MALCOLM BROWN representing the Real Property Section of the North Dakota State Bar Association testified in a neutral position of SB 2266. (See attached testimony).

TRACY POTTER, representing the Ft. Abraham Lincoln Foundation, testified in support of SB 2266, that this approach clearly solves one dilemma concerning the development of the area and the views. The foundation is unhappy about zoning restrictions and would much rather prefer a compromise position where a landowner can sign a conservation easement and funding provided to the landowner for foregoing the rights to the development of the land.

WES TOSSETT, spoke on behalf Dennis Miller of Landowner Association who is opposed the bill, but he wanted to express his own neutral position. He felt that when a person dies they should not dictate the future owners. He felt that we should zone instead of having a perpetual easements. He passed out a document on "Myths About Conservation Easements".

There was no opposing testimony presented.

SENATOR TOLLEFSON closed the hearing on SB 2266.

FEBRUARY 9, 2001

SENATOR FISCHER reopened discussion on SB 2266.

SENATOR TRAYNOR made a motion for a "DO NOT PASS" of SB 2266.

SENATOR EVERY second the motion.

Discussion was held and like the sister bill, SB 2319, a better more encompassing bill is scheduled for next week, SB 2288. All agreed that the every landowner has the right to sell easements to their property.

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Senate Natural Resources Committee

Bill/Resolution Number SB 2266

Hearing Date 2-2-01

SENATOR FISCHER called for a roll vote. The vote indicated 5 YAYS, 2 NAYS, 0 ABSENT

OR NOT VOTING.

SENATOR EVERY will carry SB 2266.

REPORT OF STANDING COMMITTEE (410)
February 9, 2001 2:05 p.m.

Module No: SR-24-2892
Carrier: Every
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2266: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2266 was placed on the Eleventh order on the calendar.

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2001 TESTIMONY

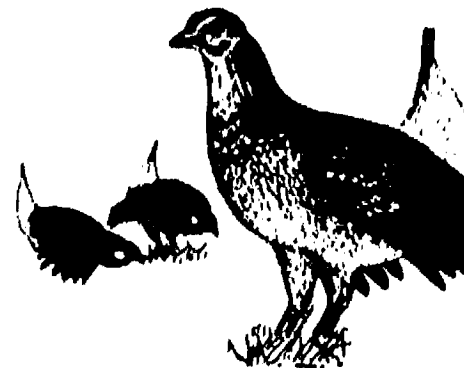
SB 2266



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 SB 2266, February 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 SB 2266.

It certainly is a welcome change to have legislation introduced which removes encumbrances for landowners to manage their land as best suits their needs.

Recent legislation passed a "takings" Bill that was to provide private property rights to landowners thereby preventing restrictions that would deny the landowner the greatest economic benefit. This Bill does just that. It removes the ninety-nine-year easement restriction on property in the Garrison reach of the Missouri River, that portion of the river from Garrison Dam to the upper end of Lake Oahe.

Lands in this area are becoming of increased interest to potential buyers wishing to convert farm lands into suburban settings. The change of land use is rapidly eroding this farming industry. In addition, the scenic value of this unique area is deteriorating and will be lost forever if development continues the same as in the past.

Removing the current ninety-nine-year easement restrictions from this reach of the Missouri River will allow easements that will help the landowners in keeping farm lands in the farming business.

Easements, whether purchased by a governmental entity or an organization, are intended to preserve the integrity of that landscape. Easements serve as another tool that

the landowner has at his disposal in determining how it best suits his management needs. Selling an easement can well mean the difference between salvaging a viable farm or ranch operation or losing it forever.

When discussing easements, the question always comes up of the unfairness of leaving land with an easement on it to the next generations that will not have options of deciding how they want to manage the land. The answer is that the present owner has the option of leaving his property as he so desires, with or without an easement, or if he even wishes to leave his property to his descendants.

Removing the ninety-nine-year easement limitation is a community wish and has the community backing. I have here copies of about a thousand postcards, with signatures, indicating their approval of the removal of the ninety-nine-year easement restriction. These thousand signatures are not from parties living in distant locations; they are signatures of community people, living in or near this reach of the Missouri River, who want to see this area protected.

Easements do not take the land out of production, but they do benefit the landowner by maintaining a lower tax base than if the land were subdivided.

The Wildlife Society supports SB 2266 because it gives the landowner another tool and another option in managing his land. Therefore, we ask the committee for a unanimous DO PASS vote.

February 2, 2001

For: North Dakota Senate Natural Resources Committee

Reference: SB 2266 and SB 2319

The North Dakota Wildlife Federation, Inc. supports SB 2266 and SB 2319 and asks for a do pass for each bill

The Federation believes that a landowner should have the right to enter in to a perpetual easement if he or she so desires.

Within the areas designated in the bills, not all landowners will enter in to an easement. But, for those that do, normally they will gain a substantial tax advantage.

All in all, we believe that agriculture, conservation, development, and aesthetics will gain from this change.

**Mike Donahue
Lobbyist #258**

TESTIMONY OF MALCOLM H. BROWN
SENATE NATURAL RESOURCES COMMITTEE
SB 2266 and SB 2319
FEBRUARY 2, 2001

Mr. Chairman and Members of the Committee:

I appear on behalf of the Real Property Section of the North Dakota State Bar Association. While we neither support nor oppose SB 2266 or SB 2319, we believe certain information should be considered by the Committee in its deliberations on these bills.

First of all, there are many types of easements. There are easements for waterfowl purposes, there are easements for drainage purposes, there are easements for conservation purposes, etc. There are also easements for electric transmission lines, for gas, oil, and other commodity pipelines. There are easements for cell phone towers, and there are easements for restricting the use of land for aviation purposes near airports. All of these types of easements would be affected by the amendments proposed by SB 2266 and SB 2319.

For instance, if these bills were law, a pipeline to cross North Dakota could have a perpetual term where it crossed the Missouri River and the Missouri Coteau, but would have only a 99-year term where it went through eastern North Dakota. A cell phone tower could have a perpetual existence in the Missouri Coteau, but in Cass County would be limited to 99 years.

Thus, the first issue that may be considered with regard to these bills is whether easements should have a statutory limit on their term, or whether easements should be allowed to be perpetual based on the agreements between the parties to the easements.

