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2001 HOUSE NATURAL RESOURCES

HB 1278

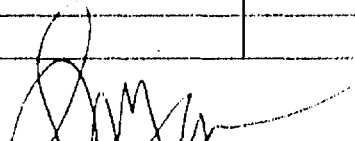
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1278

House Natural Resources Committee

Conference Committee

Hearing Date January 26, 2001

Tape Number	Side A	Side B	Meter #
1	x		2892 to end
1		x	1 to end
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 on HB 1278. Read the title.

Rep. Rod Froelich - District 35: (See written testimony).

Chairman Rennerfeldt: Any questions of the committee?

Rep. Jim Boehm - District 31: I agree with our previous speaker. It is just a matter of being treated the same as any other property owner. (shares story for example). I think this bill is a good bill, it is a matter of fairness.

Chairman Rennerfeldt: Anyone else to testify in favor of this bill?

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James Kerzman - District 35: It is a property rights issue. We get contacted all the time. Upland game hunting has been an economic boost to our County. I have never charged for hunting. I have a good relationship with 98% of the hunters that come to my place. They come and ask, I give permission. I have had a few problems over the years. My father owns some land, part in CRP and right behind it is a section of PLOTS land. I put signs in there, but numerous times that hunters start at the PLOTS land and just continue on through the whole two miles. I have a problem with that. It is a property rights issue. It should be considered posted. Another problem we are having, I have been working with the Ranchers out in the western part of the state. They have a lot of co-mingled land, federal and private. You have acres and acres of land with riparian and so forth, how do you go about posting? How do you keep checking on it. A lot of it isn't fenced. You need to get a hold of the owner and get permission, consider it all posted. That is what this does. I don't think it is asking for that much? SD has this and had for a lot of years. Montana is a little bit different, they color some posts. I had a guy call me the other day and he said last year it took me a whole day to put up hunting signs and then police my land all hunting season long. Our constituents are asking for this. Hunting is good for the economy, but let's do it in a respectful way. What we have now is just driving a wedge in-between.

Chairman Rennerfeldt: What is the northern boundary, is it everything south of the Missouri or south and west of the Missouri, McKenzie County? Where the Missouri runs south of Williston all the way?

Boehm: Yes

Rep. Nottestad: Last year when this bill came up, one of the main ones from your district that came in and spoke in favor of the bill were the companies that held the leases in the Mott/Regent Area. Would this bill benefit them as much as they said it would benefit them last year?

Boehm: I think it would help them too. What they do now is furnish the signs, the landowner has to put them up and furnish a description of where they are at, they guide service.

Rep. Nottestad: If this bill then passes, do they have to put any signs up?

Boehm: No, not unless they want to leave it open access hunting. Then they put up a sign that says you can hunt there.

Rep. Nottestad: They couldn't put up a sign like that without permission of the landowner. In essence your bill prohibits that.

Boehm: I don't think so. The signage is just the opposite of the way it is now. Today you put up a sign that you want to post land, with the bill you put up a sign if you want open hunting. A lot like the PLOT land.

Chairman Rennerfeldt: Any further questions of the committee?

Eric Aasmundstad - ND Farm Bureau: (See written testimony)

Chairman Rennerfeldt: Any questions of the committee?

Rep. Porter: Do you look at this like a foot in the door type of bill, where you could get this passed for southwestern ND and then come back two years from now and get it for the rest of the state? Or do you think it would be fine just to have that area and not the rest of the state?

Aasmundstad: We feel that privately owned land should be respected. If you want access to private ground, what is the harm in asking? I don't know if we could call it a foot in the door, but our organization would be supportive of something along those lines. We are a property rights organization.

Rep. Porter: One follow up question, as far as correlation's made back and forth between ownership of land in town and ownership of land out in the country. Do you think as a landowner in town I should be allowed to post my sidewalks so people have to walk out in the public streets

or should I carry the liability for them to walk on my sidewalks and if I don't shovel and they slip and fall then my homeowners has to pay for their injuries.

Aasmundstad: I was very careful not to make any reference to that in my testimony because I don't draw that correlation myself. To me those are two separate issues.

Rep. Kelsh: In the last twenty years we have stiffened the penalty for DUI's and it seems to cut down on the number of arrests. What would you think of the idea of doing the same thing with people who violate the posting laws. Do you think that would have any effect if they knew there were severe consequences?

Aasmundstad: There possibly could be, I would just as soon see that not happen. If they respect what other people have, that should never be an issue.

Rep. Kelsh: You said that 90% are respectful and courteous, but it is that 10%. If they knew there was a severe consequence for violating the law, do you think that you would be in favor of that?

Aasmundstad: I would think our membership would be supportive of something along those lines. I would hope we wouldn't have to go there. This bill to me should not hinder the ability that people have to access private land. There is going to have to be more communication. Will severe penalties curtail violation, we would hope so. But we don't know.

Chairman Rennerfeldt: Any further questions of the committee?

Walter Meier: It has been 26 years since I introduced this very same legislation. We debated this bill on the house floor and the conclusion we came to at that time was that what was good for one part of the state was not necessarily good for the entire state. Being the Southwest consists mostly of large acre cattle ranches and very sparse population, it is important that we know who is out there. Our family owns ranches in South Dakota, this law has been in effect there for a long time, we have had no problems and we believe that since conditions are similar I can see no

reason why it should not work here. My understanding of the bill is that the land is considered posted unless otherwise stated. I don't think asking someone for permission to hunt is expecting too much. I hope you give this HB 1278 a Do Pass.

Rep. Porter: Would you then agree if this law would go into effect that we should allow road and ditch hunting between the fence lines like they do in South Dakota? Because their law would not be similar to this, they allow road hunting with their automatic trespass bill. Would you oppose an amendment onto this that would allow road hunting?

Meier: I would not. I don't have any problem with that, my problem is open gates.

Rep. Porter: You would rather have it match South Dakota to have road hunting.

Meier: I would have no problem with that.

Chairman Rennerfeldt: Any other questions committee?

Dennis Miller - LAND President: (See written testimony).

Chairman Rennerfeldt: Are there any questions of the committee?

Gene Harris - ND Stockmen's Association: Many of us have made a commitment to own land in this state. When they make that commitment they make a commitment to nurture the deer or wildlife. They do that as a privilege they extend to the sportsmen. Many of the people we are targeting that bill toward I wouldn't give the privilege of calling sportsmen, they are license holders that feel they have a right to hunt. They have to have a landowner that will allow them to hunt. The people that are against this bill those are the hunters. We need to reward the landowners and the sportsmen that have formed a relationship over the years. We post all our land and make an effort to ensure there is no one else on that land. We are allowing them to hunt on our land, we think they should extend the same privilege to us, they are protected by their rights as city residents as we should be in the country. I think we need to repair the

relationship between sportsmen and landowners. This bill will start to reward landowners for their commitment.

Chairman Rennerfeldt: Any questions for the committee?

Allan Lund: I wrote Rep. Rod Froelich a letter pertaining to this bill and he asked me to read it to your committee. (reads letter).

Chairman Rennerfeldt: Any questions from the committee?

Bob Gangle: I would like to say a few words in favor of HB 1278. I have been following this legislative business for better than 30 years. This bill keeps coming up and gets treated as a joke by some of the sporting groups, it has been getting killed by recession. I've looked at HB 1278 and there is nothing in there that pertains to having written permission. Trappers in ND have had to do that for many years. Sportsmen groups have been able to kill a trespass bill in the past and may be able to do that again. But I would urge them to get their heads together and see if there is something that can be done with this problem. If this bill is not favorable, we need to get together and work on something that is. Landowners have trouble keeping control of things when the season is open and will resort to whatever measures they need to, to keep control. And if we go to a fee hunting situation it will have ramifications we don't even know about now.

Vice Chair Nelson: Do you post your land?

Gangle: Yes.

Vice Chair Nelson: Do you allow hunting?

Gangle: The last two years I have allowed people to hunt turkeys on my property, before that we had kept it posted because we hunted ourselves. The turkeys are around the homestead, so the hunting is around the farmstead. In the past 20 years of hunting I have only had trouble with 4. 1/4 of what is out there.

Vice Chair Nelson: Do you know of violators that have gone into your property without permission?

Gangle: In the past yes.

Vice Chair Nelson: What would prevent them from going into their land if it was considered posted.

Gangle: Nothing. If they are in that frame of mind there is nothing you can do except report them and get them arrested.

Vice Chair Nelson: The point I would like to make, is that landowner and sportsmen relationship must be built. I think one of the reasons that this bill hasn't passed in previous years is that those people who encourage people to hunt that a number of the population, if they are working families, to create those relationships take a long time. How do you begin that process? That is the balance we need to weigh. The violators will be there if we pass this bill or not. What does it do to the rest of the public.

Gangle: In anything it should strengthen the landowner relationship if the sportsmen have to go out there and talk to them. But the people that come from town or out of state that expect to go in there and you don't know them, that is a poor way of doing that.

Chairman Rennerfeldt: Any more testimony.

Andy Mork: I am in support of this bill. We have a lot of game on our land. There is a presumption in ND that un-posted land can be hunted. So you have to post your land. We do post it. Instead of introducing bills like this why hasn't someone gotten the Attorney Generals opinion or ND Supreme Court opinion verifying we are striking down the right to be on private property. We have the same problem with snowmobilers. Private property is just that. In town it is a matter of property in the country it is wide open.

Chairman Rennerfeldt: Any questions of the committee?

Emery Beck: This bill for the most part is pretty good, except under section 3, I would like to see it amended that you could put a distance of 100 yards or something off the property that you are hunting on that you can go on the other property to retrieve the game. They just walk across the land, chase the game out and say they are looking for wounded game. It is a legal loophole. Game and Fish told hunters they could do this, the Attorney Generals office gave them the opinion it could be done. We need to close the loopholes before passage.

Rep. Porter: Wouldn't they have to be your neighbors in order to do that? Follow the land around you that is posted?

Beck: Oh no! You can legally drive on a road. Game and Fish tells people if I own land on both sides of the road it is posted no hunting. If I own land on one side of the road and someone else owns land on the other side of the road, you can hunt the road. You have to have the land posted on both sides, the same person.

Rep. Porter: That is not entirely true. It just needs to be posted on both sides, not owned by the same owner on both sides.

Beck: The person on one side gives permission to hunt and he still hunts the road.

Rep. Porter: Only till the middle of the road.

Chairman Rennerfeldt: Any further questions?

Beck: The person on the other side in the middle can still shoot an animal over there and still walk through mine, even though it is still not there. Only to flush it.

Wade Williams: This law is in effect statewide for trappers and it works. Take that into consideration.

Chairman Rennerfeldt: Any testimony opposed to this bill?

Scott Lang - ND Bow Hunters: We oppose this bill. (gives background). If I thought HB 1278 would solve the problems I would be supportive of it. A lot of land is being sold in ND to out of towners. It is very difficult to find out who those people are. What I am finding more and more, that ownership is so far removed. I wish that 1278 was a fix all. There is a concern about sloth hunters. The posted signs don't help to get to the landowners. A great percentage of land is owned by non residents and it is difficult to find these people. I don't think 1278 is going to fix this problem. What should we do. I think we should make a stiffer fine for trespassing. I don't think it is a great percentage of people that don't talk to land owners. HB 1278 in this state would make more of a problem for hunters. SD has a lot of large ownership properties and not as much federal land, you can make one stop and get landowners permission. The state of Montana has the same law, but one-third of the state is state owned and the rest of the ownership is in large blocks. Here in ND I can have as many as 12 landowners in one section of land. The ND Bow Hunters oppose this bill.

Chairman Rennerfeldt: Any questions of the committee?

Roger Rostvet - ND Game and Fish: (see written testimony).

Rep. Porter: In a recent publication from Game and Fish they talked about the violations of the previous year. One of them I looked at was the trespassing without permission. It was less than 20 of the number of convictions for hunting on posted land. This was the entire year. Is there a problem convicting people trespassing? Does the warden need to witness the crime, are the land owners not willing to take it all the way? Less than 20 a years does not seem to be a huge trespassing problem to me?

Rostvet: As in any type of violation law, it requires the person who witnessed the violation testify. On an individual basis, we have some landowners that are very willing to testify if it goes

