

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1356

2001 HOUSE NATURAL RESOURCES

HB 1356

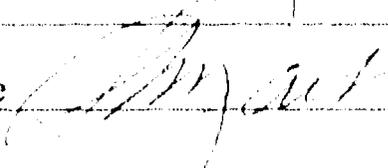
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1356

House Natural Resources Committee

Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1	x		525 to 3851
2	x		1649 to 2779
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 1356. Rep. Wrangham will introduce the bill.

Rep. Wrangham - District 8: (See written testimony). Three months ago I didn't know what spear fishing from dark houses was, but a constituent asked me to check into it and I did. As I checked into it I found a lot of enthusiasm out there. My constituent was from Minnesota originally and would drive 250 miles one way to participate in this sport, if he could. However, Minnesota does not allow North Dakotans to dark house spear fish. I have talked with Game and Fish and we can do the same thing for Minnesotans by proclamation. Currently spear fishing is

permitted in North Dakota and would be permitted in dark houses as well as underwater if there were provisions made for it in the Governor's last proclamation for the Game and Fish Department. However, in the past, they have decided not to write the rules, however this legislation does write the rules and of course they would still be the authority on how long the season was, the species included, what lakes would be available. They would be in complete control. We are not dictating anything to them. We are not taking any powers away from them, we are just asking for some sort of season. This is something that I have been reassured by many groups that it would not have any negative effect on our fisheries, and would only allow us one more thing to do in the winter.

Rep. Klein: What is a dark house?

Rep. Wrangham: I guess it would be a fish house without windows.

Chairman Rennerfeldt: Any questions of the committee?

Eric Pearson: I am in favor of passage of HB 1356. (see written testimony).

Rep. Winrich: What sort of enforcement problems might arise if the proclamation for example permitted the taking of Northern Pike by spearing, but not Walleyes and other species. How difficult is it to identify the species of fish looking down through a hole in the ice?

Pearson: I don't think it is very difficult at all. It would be like looking at a picture of a fish on TV, where most of the sportsmen who are out there are avid sportsmen, they know the difference between Walleye and Pike.

Rep. Winrich: It seems to me that most of those characteristics have to do with color and shape of fins and so on, if you are looking down at the top of the fish a lot of those details are not clear or not available.

Pearson: I would disagree, I think they are available. You are able to differentiate by sight, it is a very clear picture. If the water isn't clear, you won't be able to fish there. Generally, the area where spear fishermen are in would be very shallow water. Walleye do not generally inhabit that shallow of water. That is not their preferred habitat, you will see other fish species coming through, but by the nature of what they look like and their shape, I think it is easily differentiated.

Rep. Porter: There is not much catch and release going on in this sport?

Pearson: You have that decision as per say bow hunters, to attempt to take that fish or not. It is very similar to bow hunting, where a hunter who takes a deer that doesn't have much chance for survival, they have to go and track that deer down. Spear fishing, that fish isn't going to go off another 100 yards and die, it will be right there. They will be able to take that fish.

Rep. Porter: One of the problems that I have heard from Minnesota in regards to this sport is the lake clarity problem and people introducing the white patio rocks and other foreign objects into the water at the base of their fishing area to improve the clarity. If they have a fishing problem and they put foreign objects into the water and into sandy bottom lakes, how are we going to prevent that from happening in North Dakota.

Pearson: Education is the first thing. I am a big fan of letting people know the right way to spear fish. That is the wrong way. Not only that, but it probably is in violation of a Corps ruling, by introducing a foreign fill to a state or federal water body. That is a law you are breaking and it is unethical. There are questions that come up like that in any type of hunting or fishing ethics. That relates back to you're going to find unethical people in any situation.

Rep. Porter: I have two questions, one is the resident only issue, should we allow this to happen in North Dakota should we look at the same restrictions that other states have and allow only North Dakotans to do, and the other thing is in regards to technology, using lights, underwater

cameras, what other restrictions would you see necessary before we would open this kind of a season up?

Pearson: If you look at the other states surrounding us and their regulations. Minnesota does have regulations for residents only. South Dakota, Montana do not. You buy a license you are able to perform that activity. Where would we get most of our non resident persons, I don't know. Would they be coming here to do that? There is such a small group of fisherman that would actually pursue this sport that not allowing non residents wouldn't be a large number at all. I don't think it will be a significant amount of residents pursuing this activity but it does allow for another activity for a small group of fishermen. It also opens up other opportunities for decoy carving. Decoys have been in the past a method of taking Pike, homemade or other decoys that people take pride in making and showing at Sport shows. It is another time honored tradition to lure in Pike for spear fishing. It would open up that avenue as well.

Rep. Porter: If you could just touch briefly on those technologies of underwater cameras and those kinds of things that are available now.. Would they add to or detract from the sport. Do they need to be regulated?

Pearson: As far as enhancing spear fishing, any type of device that you have to help yourself take a fish is up for debate. I personally think it opens up a whole new window to the underwater world for sportsmen. I do think it is enhanced whether by spearing or ice angling. Your opportunities are enhanced by electronics, whether or not they should be outlawed or prohibited during spear fishing, I don't think so. If they are prohibited for other sports, then yes. That is a much larger debate for other angling opportunities than I think it is for dark house spear fishing. I personally am in favor of using those items. It is very interesting and instructional and education looking down there and seeing what the fish are doing. I think it is a neat things for kids to see. I

am very in favor of opening those opportunities. Economically it allows the sales of other sporting equipment.

Rep. Nottestad: Based on your testimony and your e-mail, you are quite familiar with fishing in this area, is there a tremendous surge for this? If there is, how heavily is the impact of these people on the South Dakota dark houses? Do we have a lot of people driving down from Bismarek and fishing in South Dakota cause it is legal there? Do they just want to bring this sport back up here so they won't have to travel?

Pearson: I don't think we have a very large number of fishermen doing this. I do think there is a constituency out there that have either come from Minnesota who have that in their heritage and would like to try this sport. I think it is intriguing that they get a view of the underside of the lake. As I said earlier there is a large enough hole to see down in the lake, that is a view that people rarely have. It provides the opportunity to enjoy that resource.

Chairman Rennerfeldt: Any further questions of the committee?

Dean Hildebrand - Director North Dakota Game and Fish Department: Game and Fish takes a neutral position on this bill. (See written testimony).

Rep. Nottestad: The dark house so to speak versus the window ones, would that have any concerns for your wardens at all?

Hildebrand: No, this is not difficult to administer at all. Right now if you are fishing from a fish house, there are two major types of these, there is a portable you take with you and those that you leave permanently on the ice. Those permanently on the ice, we have a dimension, we tell you the materials and of course you can have a window in it, you cannot have a lock on the door, so the warden can come up and walk in anytime he wants to. The only difference would be if somebody would just take a panel and stick it in there right now or cover it. Many people just lay

down, throw a tarp over their head and fish that way. Stick a pole up there and move around the lake quite quickly. No, it is not a problem.

Rep. Nottestad: Following up on that, by cutting the larger holes and moving from place to place, when they do that is there any markings required until these holes freeze over. They are large enough that they could cause problems.

Hildebrand: Yes, the hole as you see there would probably be 3x2'. Normally when they cut these, there are several ways to cut, and normally they will push the block down and slide it under the ice, rather than bring it out and set it on top of the ice. If they do bring it out, they should break it into chunks so that someone doesn't hit it. There are always obstacles on the ice. I talked to the wardens over in Minnesota and asked them if it was a problem. Not any more than someone dropping something into the water and having it float and get hit with a boat. Not that big of a concern. The holes when they leave them open we ask them to put a marker there. I think we would do something of that particular nature also.

Rep. Nottestad: Should that be put in the proclamation?

Rep. DeKrey: Haven't we heard this before, and why haven't we done it?

Hildebrand: We haven't done it, the ND Sports Fishing Congress has gone on record in opposition to this bill. We had that little survey we took a look at. What I am telling you is that we can do it. There are people for it and there are people against it. But I know that Eric is for it, my recommendation is if we were going to do this in North Dakota, my attitude is I think I would open it up to residents as well as non residents. We get beat up so much on the resident, non resident issue that if I can bring them in to ice fish and we can hold down the numbers on it, we may be able to fill the gap a little.

Rep. DeKrey: We have the reciprocity for trappers, can we put the reciprocity in here for Minnesota and hopefully we can open up there state for North Dakota?

Hildebrand: We start talking about hunting in ND they get pretty nervous over there, they always look for a way of retaliating. Yes, it could be put in reciprocity. I don't look for a lot of people doing this, but there are a lot of dedicated people doing this. We have the flexibility of opening it or closing it, I would only do it with Northern Pike to begin with.

Chairman Rennerfeldt: Any further questions of the committee? Any one else wish to testify in favor of this bill. Anyone opposed?

Jim Nagel - ND Sport Fishing Congress: Both points I want to cover in regards to our opposition on this bill have already been brought up. Rep. Porter stole my thunder as to there not being much catch and release in this sport. That is one reason we are opposed to this bill. Conventional fishing methods allow for catch and release fishing, spear fishing would not. Spear fishing does target the larger species. The larger end of the species is the female and the breeding stock. There is that issue of no catch and release and that is why we are opposed to this bill. The other issue is we do have safety concerns as far as the block of ice laying on the table of the lake after the fish house is gone, as well as the open hole. If you do choose to pass this bill, we would urge that something be put into code as to flagging those hazards.

Rep. Nottestad: If you ask this be put in code, there would be an awful lot in code, wouldn't it be better to put it in proclamation?

Nagel: I guess that would be acceptable. We would not insist it be in code. Somehow it needs to be addressed.

Chairman Rennerfeldt: Any questions of the committee? Any one else wish to speak in opposition to this bill? If not, I will close the hearing on HB 1356.

COMMITTEE WORK

Chairman Rennerfeldt: How about HB 1356?

Rep. DeKrey: I move a Do Pass.

Rep. Solberg: I second.

Rep. Klein: Did we address the issue for non residents?

Rep. Hanson: The issue with Minnesota?

Chairman Rennerfeldt: Didn't he suggest a reciprocity with them?

Rep. Porter: I don't like the way the bill is now, but if we were to amend it to have reciprocity with other states that allow us as non residents to go to their state and do the same sport, I wouldn't have any problem with this bill. I think we have quite a community living along the Red River that is going to be able to drive west and participate in this sport in our great state, but we can't drive east and participate in their state. I have a problem with that.

Chairman Rennerfeldt: Do we have to withdraw the motion.

Rep. DeKrey: I withdraw my motion.

Rep. Solberg: I withdraw my second.

Rep. Porter: I move an amendment that we allow non residents reciprocity with the states that allow us to participate in their state.

Rep. DeKrey: I second.

Chairman Rennerfeldt: Any discussion on the amendments?

Rep. Winrich: I am not sure I understand. When you made the motion you said that we would allow reciprocity with other states. When you started talking about this earlier I thought you wanted to mandate reciprocity?

Rep. Porter: The intent of the amendment is to allow reciprocity in those states that allow us as non residents to go into their state and spear fish, like South Dakota and Montana which allow us as non residents to go into. It would not allow a person from Minnesota to come into North Dakota unless Minnesota changes their regulations to allow us to come into Minnesota.

Rep. Winrich: I guess my question would be, apparently much of the management of Wildlife, Game and Fish and so on... Here is really controlled by the Governors proclamation that comes out of the Game and Fish Department. That is where we set seasons and limits. Since the Director of Game and Fish testified that reciprocity would be part of department policy. What is the advantage of putting it into law? In stead of allowing the managers of the resource to operate the way they have been doing?

Rep. Porter: I wasn't here for that, but my understanding is the commissioner wanted to open it up completely to residents and non residents. What this amendment would say is that if your state allows us as North Dakotans to come to your state and do this sport, then you are more than welcome to come to North Dakota to do it. But if you don't allow us in your state, then your residents can't come to our state.

Rep. Nottestad: I see the rationale for this, but I also see a quagmire. If someone in the state of Mississippi wants to come up here and go ice fishing we have to have permission to have reciprocity that North Dakotans can ice fish in Mississippi. I don't think we will have that. Who is going to sell these licenses? For the dealer selling licenses, they are going to have to have a moving target about who they are allowed to sell licenses to.

Rep. DeKrey: We have reciprocity here with trapping and other things through the code and it has never been a problem before in printing non resident licenses for fishing or hunting, or anything else, so why all of a sudden is having non residents and reciprocity a problem?

Rep. Nottestad: I can understand it, but we are talking here about a thing that is unique to this sport which is the ice. How can there be reciprocity in a state that doesn't have ice? We are saying to these people they can never take part if they want to. I am looking at the air base. We have residents from all over the United States. Because they are from someplace that can't do this.... We are getting into something here I shouldn't have brought up. The other areas there is a common thing, they trap, whether warm or cold. Here it is limited to this area. I see lots of problems with it.

Rep. Solberg: I heard Rep. Porter say adjoining states, didn't I?

Rep. Porter: No, but he sure should have.

Rep. Hanson: Minnesota has residents only, so we can over there. Maybe we ought to limit it to residents only and not mess with it.

Rep. Keiser: The reciprocity is not as complicated as Rep. Nottestad makes it. The reciprocity applies solely to the states which issue a license for spear fishing. That is the key. If your state has ice spear fishing and issues a license and you can't purchase one as a North Dakotan, then they can't either. I think the amendment is clean and simple.

Rep. Galvin: I can't understand and legislation that limits - we are not exactly over run with people coming in here. We are always trying to get someone to come to North Dakota.

Rep. DeKrey: I am sure we are going to be overrun with guys wanting to stand over a hole in the ice with a fishing pole.

Chairman Rennerfeldt: All in favor of the amendments signify by saying Aye. Opposed?
Amendments carry. We have HB 1356 before us as amended.

Rep. DeKrey: I move a Do Pass as Amended.

Rep. Droydal: I second.

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House Natural Resources Committee
Bill/Resolution Number HB 1356
Hearing Date February 8, 2001

MOTION FOR A DO PASS AS AMENDED

YES, 15 NO, 0

CARRIED BY REP. WEILER

FISCAL NOTE
 Requested by Legislative Council
 01/22/2001

Bill/Resolution No.: HB 1356

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

None.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
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Phone Number: 328-6328

Date Prepared: 01/22/2001

10533.0101
Title.0200

Adopted by the Natural Resources
Committee

February 8, 2001

VR
2/9/01

AMENDMENTS TO HB 1356 **HOUSE NATURAL RESOURCES** **02/09/01**
Page 1, line 10, after the period insert "A nonresident may spearfish in this state if the
nonresident's state of residence provides the same privilege for residents of this state."

Renumber accordingly

Date: 02/08/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1356

House Natural Resources Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 00 PASS AS AMENDED

Motion Made By Rep. DeKrey Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson	✓	
Jon G. 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) 15 No 0

Absent _____

Floor Assignment Rep. Weiler

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

REPORT OF STANDING COMMITTEE (410)
February 9, 2001 3:38 p.m.

Module No: HR-24-2933
Carrier: Weiler
Insert LC: 10533.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1356: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, ABSENT AND NOT VOTING). HB 1356 was placed on the Sixth order on the calendar.

Page 1, line 10, after the period insert "A nonresident may spearfish in this state if the nonresident's state of residence provides the same privilege for residents of this state."

Renumber accordingly

2001 SENATE NATURAL RESOURCES

HB 1356

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1356

Senate Natural Resources Committee

Conference Committee

Hearing Date 3-8-01

Tape Number	Side A	Side B	Meter #
4	X		9.8 - 46.4
3-9-01 1		X	6.7 - 13.7
Committee Clerk Signature <i>Janet Jarne</i>			

Minutes:

SENATOR FISCHER opened the hearing on HB 1356.

REPRESENTATIVE DWIGHT WRANGHAM of District 8 cosponsor of HB 1356 introduced the bill RELATING TO THE GOVERNOR'S PROCLAMATION CONCERNING SPEAR FISHING FROM DARK HOUSES. (See attached testimony).

ERIC PEARSON from Bismarck, ND testified in support of HB 1356 (See attached testimony).

SENATOR EVERY asked how you can tell the difference of between a northern pike and muskies.

ERIC PEARSON explained that with education and just the willingness to catch pike would make the difference. He also showed the process and the equipment used.

GREG HORNER formerly from Minnesota testified in support of HB 1356. He explained his family history of spear fishing and how challenging and humane the sport is.

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Senate Natural Resources Committee
Bill/Resolution Number HB 1356
Hearing Date 3-8-01

KYLE BLANCHARD of Devil's Lake testified in support of HB 1356 and this sport could be another economic resource.

SENATOR FISCHER asked for neutral testimony.

DEAN HILDABRAND, director of the North Dakota Game & Fish Department testified in a neutral position of HB 1356. He explained that Eric Pearson has approached the Department many times and he was told to bring it to the legislature and that is how HB 1356 came about. The neutral stand that the department is taken in bringing it to the legislature is to familiarize the committee on rules and regulations that exist. He did urge the Committee to ease into and look into certain lakes and if the Committee did decide to pass HB 1356 the department would deal with it.

SENATOR EVERY asked if other states had any law endorsement problems with the sport.

DEAN HILDABRAND stated that other states are not reporting problems although there are accidents that do happen.

JIM NAGEL representing the North Dakota Sport Fishing Congress testified that they did oppose HB 1356 before the House Natural Resources Committee concerned about the safety issue and the catch & release issue. They have now repelled the membership are no longer opposed to HB 1356.

There was no opposing testimony.

SENATOR FISCHER closed the hearing on HB 1356.

March 9, 2001

SENATOR FISCHER reopened discussion on HB 1356.

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Senate Natural Resources Committee
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Hearing Date 3-8-01

Additional written testimony was presented by the North Dakota Game and Fish Department
(See attached testimony).

SENATOR TRAYNOR made a motion for "DO PASS" of HB 1356.

SENATOR FREBORG second the motion.

SENATOR FISCHER called for a roll vote of HB 1356 indicating a 6 YAYS, 1 NAYS AND
0 ABSENT OR NOT VOTING.

SENATOR TRAYNOR will carry HB 1356.

REPORT OF STANDING COMMITTEE (410)
March 9, 2001 1:11 p.m.

Module No: SR-41-5242
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1356, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman)
recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed
HB 1356 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1356

Dear Mr. Chairman, House Natural Resources Committee members and other interested persons,

My name is Eric Pearson, from Bismarck ND. I am writing to discuss HB 1356 concerning darkhouse spearing. I am in favor of a do-pass ruling from the committee and would like to affirm my interest in adding game fish species, specifically Northern Pike, to the proclamation for the ice fishing season. I apologize but I was unable to attend the hearing for this bill on Friday February 2, 2001, due to a work related meeting.

I am an avid sportsman in North Dakota with a background in natural resources. I earned my bachelors degree in Fisheries and Wildlife biology from the University of North Dakota in 1989. I have been a proponent of darkhouse spearfishing in North Dakota for many years. I have provided testimony for darkhouse spearing during the last session of our states congress when the topic of fishhouse registration was being deliberated. I attended the ND Game and Fish district meetings and provided information and commented on the addition of gamefish, specifically Northern Pike, to be added to the list of fish that can be speared through the ice.

I have compiled data from the North Dakota Game and Fish Reports that clearly show the publics non-interest in harvesting Northern Pike. I intend to improve this interest not only by supporting this bill but also by promoting pike as an enjoyable recreational opportunity and as a very palatable entrée.

Creel survey data is a method used by game and fish agencies to research angler catch rates, angler personality and angler preferences. I have researched through the last decade of Angler Use and Sportfishing Catch surveys for various waterbodies across the state and have come up with some very interesting conclusions.

In the 1990 report for Lake Ashtabula it states that in the winter of 1988-89, 99% of fish caught were yellow perch. In the winter of 1989-90, 97% of the fish caught were yellow perch. Virtually no pike were harvested during this portion of the survey.

Angler use data for Lake Audubon show similar statistics. In 1996-97 boat anglers caught 143 pike that made up less than one percent of the total catch for Lake Audubon. Of these 143 fish, 84 were released. During the winter portion of the survey no northern pike were caught through the ice while 3271 walleye and 2573 yellow perch were caught. Northern pike simply were not targeted.

The angler use survey for Lake Sakakawea in 1997 show that northern pike was only 2.3% of boat harvest and walleye consisted of 89.9%. The angler use survey for Lake Oahe and the Missouri River show similar characteristics with walleye consisting of 91% of the total fish harvested by boat anglers. When questioned, 98% of boat anglers were targeting walleye. The report goes on to say "Pike are underutilized as a sportfish" and "Given the good walleye fishing throughout the Missouri River system in recent years it is not surprising the vast majority of anglers are targeting walleye. However populations of other species, especially northern pike has also been very good, yet the angler preference remains walleye". Lists and statistics go on and on about the limited use of pike in North Dakotas fisheries even though it is the most prevalent specie statewide found in 68% of the lakes sampled by the ND Game and Fish Department.

There have been some arguments against darkhouse spearfishing for pike and I want to help dispel some of these myths. One argument states that darkhouse spearfishing takes a large number of large pike. In the only study I have seen this is not true. The MN DNR studied this in a report by Klick, 1991, F-29-R(P)-10 study 5 Job 171 completion report, MN DNR, St Paul. This study entitled "The winter fishery of Grand and Pearl lakes, Stearns County" states "spearers took northerns averaging 2.0 pounds while anglers took northerns averaging 1.9 pounds.

Another myth is regarding safety issues. Currently ND regulations only allow for a 12 inch hole. Typically a larger hole is necessary for darkhouse spearfishing. Last year when these issues surfaced, Greg Pierce, who is the secretary/treasurer for the MN Darkhouse Spearing Association stated in a letter to me that there has been no fatalities or serious injury resulting from a spearhole in MN that he has heard of in over 15 years of following the sport.

The last fact I want to point out is that our neighboring states to the east, west and south currently have regulations allowing for the harvest of either pike, or a combination of pike, walleye, burbot (ling) and nongame fish. Allowing for the harvest of pike or other game fish for that matter will not affect the pike fishery of the state. This time honored tradition can only bolster recreational opportunities and enhance local economics.

Once again I want to convey my passion and love of the outdoors and that a do-pass ruling for HB 1356 is the right step in promoting the recreational opportunities for pike and darkhouse spearing. Please email (pearsoner@hotmail.com) or phone (701-223-6260) if you have any questions or concerns. I'm sure I have missed many small details but am willing to discuss anything that may come up. Thank you.

Sincerely
Eric Pearson

Representative Dwight Wrangham
Testimony on HB1356

Chairman Rennerfeldt and Natural Resources Committee members. Three months ago I did not know the sport "darkhouse spearfishing" existed. A constituent asked why ND does not have a season for darkhouse spearfishing. I did some research and then started asking people about the sport..

I was amazed at the number of people who said "OH YAH THATS A BLAST". It seems many North Dakotan's have participated in this sport in other states. For those who may not be familiar with the sport, inside a darkened house, you cut a hole in the ice and through that hole you attempt to spear fish. They say it is fun just watching the marine life.

My constituent happens to be from Minnesota and participated regularly in the sport when he lived in Minnesota. In fact, though it would involve a 250 mile trip, he would still go back to Minnesota to participate if he could. Minnesota does not allow non residents to darkhouse spearfish. I would welcome an amendment, if an amendment is necessary, to restrict our darkhouse spearfishing to residents only.

HB1356 clarifies that the governor shall provide by proclamation for the taking of fish by spearing from darkhouses. Within the proclamation the governor and game and fish department will specify the species of fish which may be taken, and which waters would be open to darkhouse spearfishing. Currently underwater spearfishing is allowed and provided for in the proclamation. Again, the game and fish department will have complete control over what fish, how many fish, and where fish may be taken.

In other states only Northern pike and other non game fish are allowed to be taken by darkhouse spearfishing. There may be some opposition to this bill from traditional line fisherman. However, I would suggest to them that they trust the ND game and fish department to regulate this sport in a way which assure no negative effect on our fishery. Northern pike are abundant in many lakes and are not generally harvested by traditional line fisherman.

Darkhouse spearfishing will not have a negative effect on our fishery. It will merely allow our citizens an activity, besides watching the boob tube, on those cold winter days.

.....

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 HB 1356.

We ask for a do pass.

Thank you,

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

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February 2, 2001

**NORTH DAKOTA GAME AND FISH DEPARTMENT
NEUTRAL ON HB 1356**

TESTIMONY FOR HB 1356- HOUSE NATURAL RESOURCES COMMITTEE

This bill would amend NDCC 20.1-06-08 to mandate the taking of fish by spearing through the ice from dark houses. This activity is currently allowable under current law but the North Dakota Game and Fish Department has chosen not to implement such activity in the history of North Dakota. Dark house spearing is currently allowed but only for non-game fish and only through a maximum hole size of 12 inches. In reality, this does not allow for dark house spearing. In the past six years this issue has been reviewed and addressed three separate times.

Some background on our rationale for the decision to not allow dark house spearing in the past is required. Biological impact and safety issues were researched. Information from surrounding states that allow dark house spearing were reviewed for any biological impact associated with the activity. South Dakota allows the activity only on select lakes. No information was available on impact to fish populations but it was felt that no negative biological impacts could be attributed to dark house spearing. No safety issues could be documented. Montana allows it in a fashion similar to South Dakota, that is, on very few lakes in the eastern part of the state to include Fort Peck Dam. Biologists from

Montana could find no real or perceived biological problems but limited information was available. They also had no documentation on safety issues. Both states, however, were quick to point out that limited participation and information was available.

Minnesota has allowed dark house spearing since 1905 and has the majority of experience and information on the subject in the upper midwest. There is a plethora of information that we will condense to summary form. Spearing is undoubtedly selective for the larger northern pike, normally targeting fish larger than 24 inches in Minnesota. However, no statistical differences in size of pike harvested can be attributed solely to dark house spearing when compared to conventional angling. Some anecdotal evidence exists that in those lakes where spearing was originally allowed but has been discontinued, there is a better size structure after closing it but, again, the difference is not statistically valid. Some safety issues can be attributed to dark house spearing with the large chunks of ice cut for the activity (2 foot by 3 foot). There have been fatalities associated with people hitting chunks of ice left on the surface, particularly night time snowmobilers. This issue is a large perception of those opposing dark house spearing. A larger issue in Minnesota is the conflict between user groups; the conventional anglers and dark house spear users.

With the relative lack of information suggesting biological impact the North Dakota Game and Fish Department gathered sociological information to assess public opinion. In a recent angler questionnaire the question was asked on whether or not they would like to see dark house spearing implemented. Less than 25% of the respondents indicated they would favor dark house spearing for game

fish species. As a result of the survey results, perception of safety, potential conflict between user groups and anecdotal information on the biological impact it was decided to not implement a dark house spearing season.

If HB 1356 is passed, the Game and Fish Department will implement a dark house spear fishing season similar to surrounding states. It would be for northern pike and non-game fish as defined by the fish proclamation. It will likely coincide with the season set by Minnesota being legal from December through mid-February of the following year. The lakes where dark house spearing would be allowed would be select 'lakes of opportunity' where populations of northern pike exist and water clarity is sufficient to effectively enjoy in the activity. The number of lakes has not yet been determined but the North Dakota Game and Fish Department would collect information to assess safety risk and possible impact to fish populations in those select areas.

In summary, passage of HB 1356 would mandate a season for dark house spearing on select species of fish, which would be implemented as previously described. The North Dakota Game and Fish Department has taken a neutral position on this bill.

Dear Mr. Chairman, Senate Natural Resource Committee members and other interested persons,

My name is Eric Pearson, from Bismarck ND. I am here to discuss HB 1356 concerning darkhouse spearing. I am in favor of a do-pass ruling from the committee and would like to affirm my interest in adding game fish species, specifically Northern Pike, to the proclamation for the ice fishing season. There are many supporters for the sport of darkhouse spearfishing and in the next few days I will be contacting them again to show our support of HB 1356.

I am an avid sportsman in North Dakota with a background in natural resources. I earned my bachelors degree in Fisheries and Wildlife biology from the University of North Dakota in 1989. I have been a proponent of darkhouse spearfishing in North Dakota for many years. I have provided testimony for darkhouse spearing during the last session of our states congress when the topic of fishhouse registration was being deliberated. I attended the ND Game and Fish district meetings and provided information and commented on the addition of gamefish, specifically Northern Pike, to be added to the list of fish that can be speared through the ice.

I have compiled data from the North Dakota Game and Fish Reports that clearly show the publics non-interest in harvesting Northern Pike. I intend to improve this interest not only by supporting this bill but also by promoting pike as an enjoyable recreational opportunity and as a very palatable entrée.

Creel survey data is a method used by game and fish agencies to research angler catch rates, angler personality and angler preferences. I have researched through the last decade of Angler Use and Sportfishing Catch surveys for various waterbodies across the state and have come up with some very interesting conclusions.

In the 1990 report for Lake Ashtabula it states that in the winter of 1988-89, 99% of fish caught were yellow perch. In the winter of 1989-90, 97% of the fish caught were yellow perch. Virtually no pike were harvested during this portion of the survey.

Angler use data for Lake Audubon show similar statistics. In 1996-97 boat anglers caught 143 pike that made up less than one percent of the total catch for Lake Audubon. Of these 143 fish, 84 were released (nearly 60 %). During the winter portion of the survey no northern pike were caught through the ice while 3271 walleye and 2573 yellow perch were caught. Northern pike simply were not targeted.

The angler use survey for Lake Sakakawea in 1997 show that northern pike was only 2.3% of boat harvest and walleye consisted of 89.9%. The angler use survey for Lake Oahe and the Missouri River show similar characteristics with walleye consisting of 91% of the total fish harvested by boat anglers. When questioned, 98% of boat anglers were targeting walleye. The report goes on to say "Pike are underutilized as a sportfish" and "Given the good walleye fishing throughout the Missouri River system in recent years it is not surprising the vast majority of anglers are targeting walleye. However populations

of other species, especially northern pike has also been very good, yet the angler preference remains walleye". Lists and statistics go on and on about the limited use of pike in North Dakotas fisheries even though it is the most prevalent game specie statewide found in 68% of the lakes sampled by the ND Game and Fish Department.

The North Dakota Game and Fish Department weekly television information program "North Dakota Outdoors" recently aired an episode in which Game and Fish employees Michelle and Wilmer Pich are shown catching Northern Pike through the ice. This was great publicity for Northern Pike. They also went on to say that Northern Pike are an underutilized resource. This would be a great avenue to inform the public of Darkhouse Spearfishing and again show fillet techniques to "debone" northerns.

There have been some arguments against darkhouse spearfishing for pike and I want to help dispel some of these myths. One argument states that darkhouse spearfishing takes a large number of large pike. In the one study I have seen this is not true. The MN DNR studied this in a report by Klick, 1991, F-29-R(P)-10 study 5 Job 171 completion report, MN DNR, St Paul. This study entitled "The winter fishery of Grand and Pearl lakes, Stearns County" states "spearers took northerns averaging 2.0 pounds while anglers took northerns averaging 1.9 pounds.

Another myth is regarding safety issues. Currently ND regulations only allow for a 12 inch hole. Typically a larger hole is necessary for darkhouse spearfishing. Last year when these issues surfaced, Greg Pierce, who is the secretary/treasurer for the MN Darkhouse Spearing Association stated in a letter to me that there has been no fatalities or serious injury resulting from a spearhole in MN that he has heard of in over 15 years of following the sport. The concerns over blocks of ice could be eliminated by crushing these blocks or pushing them under the ice. Also holes could be marked to prevent the possibility of driving into one of these holes.

The last fact I want to point out is that our neighboring states to the east, west and south currently have regulations allowing for the harvest of either pike, or a combination of pike, walleye, burbot (ling) and nongame fish. Allowing for the harvest of pike or other game fish for that matter will not affect the pike fishery of the state. This time honored tradition can only bolster recreational opportunities and enhance local economics.

Once again I want to convey my passion and love of the outdoors and that a do-pass ruling for HB 1356 is the right step in promoting additional recreational opportunities for pike and darkhouse spearing. Please email (pearsonej@hotmail.com) or phone (701-223-6260) if you have any questions or concerns. I'm sure I have missed many small details but am willing to discuss anything that may come up. Thank you.

Sincerely

Eric Pearson

March 8, 2001

**NORTH DAKOTA GAME AND FISH DEPARTMENT
NEUTRAL ON HB 1356**

**TESTIMONY FOR HB 1356- SENATE NATURAL RESOURCES
COMMITTEE**

This bill would amend NDCC 20.1-06-08 to mandate the taking of game fish by spearing through the ice from dark houses. This activity is allowable under current law but the North Dakota Game and Fish Department has chosen not to implement such activity based primarily on public input. Dark house spearing is currently allowed but only for non-game fish and only through a maximum hole size of 12 inches. In reality, this does not allow for dark house spearing. This issue has been reviewed and addressed three separate times in the past six years.

Some explanation is required on our decision to not allow dark house spearing in the past. Biological impact and safety issues were researched using information from surrounding states that allow dark house spearing. South Dakota allows the activity on select lakes. No information was available on impact to fish populations but in discussing the issue with their staff they felt that no negative biological impacts could be attributed to dark house spearing. No safety issues could be documented. Montana allows it in a fashion similar to South Dakota, that is, on very few lakes in the eastern part of the state to include Fort Peck Dam. Biologists from Montana could find no real or perceived biological problems but

limited information was available. They also had no documentation on safety issues. Both states, however, were quick to point out that limited participation and information was available.

Minnesota has allowed dark house spearing since 1905 and has the majority of experience and information on the subject in the upper midwest. A Minnesota report states that spearing is undoubtedly selective for the larger northern pike, normally targeting fish larger than 24 inches. However, no statistical differences in size of pike harvested can be attributed solely to dark house spearing when compared to conventional angling. Some anecdotal evidence exists that in those lakes where spearing was originally allowed, but has been discontinued, there is a better size structure after no longer allowing spearing but the difference is not statistically significant. Some safety issues can be attributed to dark house spearing with the large chunks of ice cut for the activity (2 foot by 3 foot). There have been fatalities associated with people hitting chunks of ice left on the surface, particularly night time snowmobilers. A larger issue in Minnesota is the conflict between user groups; the conventional anglers and dark house spear users.

With the relative lack of information documenting biological impact the North Dakota Game and Fish Department gathered sociological information to assess public opinion. In a recent angler questionnaire it was asked whether or not they would like to see dark house spearing implemented. Less than 25% of the respondents indicated they would favor dark house spearing for game fish species. As a result of the survey results, perception of safety, potential conflict between user groups and anecdotal information on the biological impact it was decided to not implement a dark house spearing season.

If HB 1356 is passed, the Game and Fish Department will implement a dark house spear fishing season with regulations similar to surrounding states. It would be for northern pike and non-game fish as defined by the fish proclamation. It will likely coincide with the season set by Minnesota being legal from December through mid-February of the following year. Initially, lakes where dark house spearing would be allowed would likely be select 'lakes of opportunity' where populations of northern pike exist and water clarity is sufficient to effectively enjoy in the activity. The number of lakes has not yet been determined but the North Dakota Game and Fish Department would collect information and evaluate the activity to assess safety risk and possible impact to fish populations in those select areas.

The North Dakota Game and Fish Department has taken a neutral position on this bill.

TESTIMONY SUPPORTING HB 1356

By Mike Donahue

March 8, 2001

Senate Natural Resources

The United Sportsmen of North Dakota and the N.D. Wildlife Federation support HB 1356 and ask for a **Do Pass**.

Thank you.



Mike Donahue
Lobbyist #258

Representative Dwight Wrangham
Testimony on HB1356

Chairman Fischer and Senate Natural Resources Committee members. Three months ago I did not know the sport "darkhouse spearfishing" existed. A constituent asked why ND does not have a season for darkhouse spearfishing. I did some research and then started asking people about the sport..

I was amazed at the number of people who said "OH YAH THATS A BLAST". It seems many North Dakotan's have participated in this sport in other states. For those who may not be familiar with the sport, inside a darkened house, you cut a hole in the ice and through that hole you attempt to spear fish. They say it is great fun just watching the marine life.

My constituent happens to be from Minnesota and participated regularly in the sport when he lived in Minnesota. In fact, though it would involve a 250 mile trip, he would still go back to Minnesota to participate if he could. Minnesota does not allow non residents to darkhouse spearfish.

HB1356 states that the governor shall provide by proclamation for the taking of fish by spearing from darkhouses. Within the proclamation the governor and game and fish department will specify the species of fish which may be taken, and which waters would be open to darkhouse spearfishing. Currently underwater spearfishing is allowed and provided for in the proclamation. Again, the game and fish department will have complete control over what fish, how many fish, and where fish may be taken.

In other states only Northern pike and other non game fish are allowed to be taken by darkhouse spearfishing. Northern pike are abundant in many lakes and are not generally harvested by traditional line fisherman.

Darkhouse spearfishing will not have a negative effect on our fishery. It will merely allow our citizens an activity, besides watching the boob tube, on those cold winter days.