

1999 SENATE NATURAL RESOURCES

SB 2090

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2090

Senate Natural Resources Committee

Conference Committee

Hearing Date January 7, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-3099
Committee Clerk Signature <i>Lyla A. Zagen</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on SB 2090: A BILL FOR AN ACT TO REPEAL SECTION 20.1-04-10 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE SHELL-HOLDING CAPACITY OF SHOTGUNS USED IN TAKING GAME BIRDS.

SENATOR TRAYNOR asked for an explanation of the bill.

ROGER ROSTVET, representing the ND Game and Fish Department explained and acknowledged support of the repeal. (See attached testimony).

ROGER ROSTVET stated that the white geese population needs to be reduced so an emergency clause is necessary to accomplish this. Because upland game and waterfowl hunting have a different shell-holding capacity, this needs to be addressed.

SENATOR HEITKAMP asked if the wardens would keep an open mind before writing out a ticket regarding not having the plug in the gun.

SENATOR TRAYNOR asked if pheasants are hunted on a federal reserve, if this passes, would we be able to use five shells instead of three?

ROGER ROSTVET stated if you are hunting upland game, you could have five shells, but hunters would have to be aware of how many shells are allowed while hunting waterfowl or upland game.

SENATOR TRAYNOR asked if the Legislature passed this, would it be a trap for some hunters?

ROGER ROSTVET stated this would give the hunters an opportunity in the spring hunt to make use of a larger shell-holding capacity. This will be discussed with sportsmen this spring and through our advising board across the state.

SENATOR CHRISTMANN asked if there are plans in place for a spring hunting season in 1999?

ROGER ROSTVET stated that Fish and Wildlife Service has proposed regulations to allow states to make that choice and have published them in the federal register and are open for comment. The final decision on that will be made up after the comment period closes around late January or February.

SENATOR TRAYNOR asked if the bill passes, is the department prepared to go ahead with the rules so the public can be advised in time.

ROGER ROSTVET stated they are drafting proposed rules and the earliest the season could start would be March 10, 1999. A series of news releases and the Governor's proclamation would be the process. This would have to be printed in all newspapers across the state.

SENATOR FREBORG stated that an emergency clause would have to be attached or this cannot be used in the spring of 1999 because it would not go into effect in time.

SENATOR TRAYNOR asked when the ND Game and Fish Department had their advisory committee meetings, was this subject brought up that you were going to propose a repeal of this section?

ROGER ROSTVET stated uncertainty if this was done on a statewide basis.

SENATOR TRAYNOR asked when it was brought up, was it welcomed by the hunters.

ROGER ROSTVET stated the hunters asked at that time if they could take their plugs out of shotguns, but under certain statutes they would not be able to do that.

SENATOR TRAYNOR called on Mr. Hildebrand representing the ND Game and Fish Department.

MR. HILDEBRAND asked that an emergency clause be attached.

BILL PFEIFER representing the North Dakota Chapter of the Wildlife Society encouraged passage of SB 2090. (See attached testimony).

SENATOR TRAYNOR closed the hearing and asked if the committee desired to take any action.

Senator Freborg moved to attach emergency clause. Senator Heitkamp seconded the motion.

ROLL CALL - 6 AYES, 0 NAYS AND 0 ABSENT

Senator Freborg moved for a DO PASS. Senator Fischer seconded the motion.

ROLL CALL - 6 AYES, 0 NAYES, 0 ABSENT

FLOOR ASSIGNMENT: SENATOR FREBORG

SENATOR TRAYNOR closed hearing on SB 2090.

Date 1-7-99

Roll call vote # 1

Please type or use black pen to complete

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2090

Senate Natural Resources Committee

Subcommittee on _____ (Identify or

Conference Committee _____ (check where appropriate)

Legislative Council Amendment Number _____

Action Taken Amendment - Emergency Clause

Motion Made By Freborg

Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
SENATOR TRAYNOR, CHR	✓	_____	_____	_____	_____
SENATOR FISCHER, VCHR	✓	_____	_____	_____	_____
SENATOR CHRISTMANN	✓	_____	_____	_____	_____
SENATOR FREBORG	✓	_____	_____	_____	_____
SENATOR HEITKAMP	✓	_____	_____	_____	_____
SENATOR REDLIN	✓	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total 6 0
(Yes) (No)

Absent 0

Floor Assignment _____

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

Date 1-7-99

Roll call vote # 2

Please type or use black pen to complete

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2090

Senate Natural Resources Committee

Subcommittee on _____ (Identify or

Conference Committee _____ (check where appropriate)

Legislative Council Amendment Number _____

Action Taken Moved Do pass as amended

Motion Made By Freborg Seconded By Fischer

Senators	Yes	No	Senators	Yes	No
SENATOR TRAYNOR, CHR	✓	_____	_____	_____	_____
SENATOR FISCHER, VCHR	✓	_____	_____	_____	_____
SENATOR CHRISTMANN	✓	_____	_____	_____	_____
SENATOR FREBORG	✓	_____	_____	_____	_____
SENATOR HEITKAMP	✓	_____	_____	_____	_____
SENATOR REDLIN	✓	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total 6 0
(Yes) (No)

Absent 0

Floor Assignment Freborg

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

SB 2090: Natural Resources Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Sixth order on the calendar.

Page 1, line 2, after "birds" insert "; and to declare an emergency"

Page 1, after line 5, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

1999 HOUSE NATURAL RESOURCES

SB 2090

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2090

House Natural Resources Committee

Conference Committee

Hearing Date 2/11/99

Tape Number	Side A	Side B	Meter #
1	x		0.0-4.0
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

The meeting was called to order by REP. GROSZ.

Testifying in support of the bill

ROGER ROSSVEDT with the ND GAME and FISH DEPARTMENT. SEE HANDOUT.

REP. NOTTESTAD asks about the stipulation if one is hunting waterfowl without a plug and shoots a pheasant, could that person get arrested? ROSSVEDT replies that theoretically yes they could be.

Let the record show that PAUL CRARY, CASS COUNTY WILDLIFE CLUB, is in support of this bill.

Being there was no opposition REP. GROSZ asks the committee what they would like to do with this bill. REP. HANSON moves for a DO PASS, seconded by REP. DEKREY. The roll call was

Page 2

House Natural Resources Committee

Bill/Resolution Number 2090.lwp

Hearing Date 2/11/99

taken with 12 YES, 0 NO, ABSENT. The CARRIER of the bill on the floor will be REP.

NOTTESTAD.

Date: 2.11.99
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House House Natural Resources Committee

Subcommittee on SB 2090
 or
 Conference Committee

Legislative Council Amendment Number Do Pass

Action Taken _____

Motion Made By Hanson Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz	✓				
Vice-Chairman Dale Henegar	✓				
Representative David Drovdal	✓				
Representative Pat Galvin	✓				
Representative Duane DeKrey	✓				
Rep. Darrell D. Nottestad	✓				
Representative Jon O. Nelson	✓				
Representative Byron Clark	✓				
Representative Todd Porter	✓				
Representative Jon Martinson	✓				
Reperesentative Lyle Hanson	✓				
Representative Scot Kelsh					
Representative Deb Lundgren					
Representative Sally M. Sandvig	✓				
Representative Dorvan Solberg					

Total (Yes) 12 No 0

Absent 3

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

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 12:23 p.m.

Module No: HR-28-2582
Carrier: Nottestad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2090, as engrossed: Natural Resources Committee (Rep. Grosz, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).
Engrossed SB 2090 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

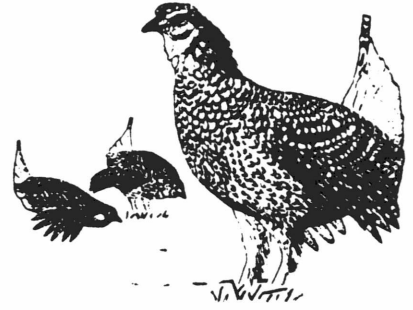
SB 2090



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 RESOURCES COMMITTEE
ON SB 2090, JANUARY 7, 1999**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I'm Bill Pfeifer representing the North Dakota Chapter of The Wildlife Society, an organization of nearly 400 professional natural resource managers, scientists, and educators.

The Wildlife Society supports SB 2090, a Bill which repeals Section 20.1-04-10 as it relates to the shell holding capacity of shotguns. Repeal of this section will remove the restrictions of automatic or repeating shotguns of holding more than three shells.

A weapon, when used for legal hunting, is a wildlife population management tool. The North Dakota Game and Fish Department is the state agency responsible for management of wildlife populations. As such, the Wildlife Society believes determination of the shotgun shell holding capacity should be the responsibility of the North Dakota Game and Fish Department. Repeal of Section 20.1-04-10 would allow the Department to make that determination.

The North Dakota Chapter of The Wildlife Society encourages passage of SB 2090.

TESTIMONY OF THE NORTH DAKOTA GAME AND FISH DEPARTMENT
SB 2090: REPEAL OF 20.1-04-10
SENATE NATURAL RESOURCES COMMITTEE
JANUARY 7, 1999

The North Dakota Game and Fish Department supports the repeal of section 20.1-04-10 of the North Dakota Century Code. Section 20.1-04-10 requires by statute that all shotguns authorized to take game birds be limited to a maximum shell holding capacity of three. This section of law should be repealed for the following reasons:

- Where necessary, this type of regulation can be implemented by Governors proclamation.

- This change would allow sportsmen the opportunity to use an unplugged shotgun if proposed changes in federal rules allow North Dakota to have a spring snow goose season.

- Neighboring states do not have this restriction to hunt upland game. North Dakota may consider dropping this requirement for all bird hunting except fall waterfowl seasons which is a Federal requirement.

- In most cases shell holding capacity is an unnecessary regulation since daily and possession limits regulate harvest.

The Department encourages the committee to give SB 2090 a **DO PASS** recommendation.

Source: S.L. 1973, ch. 202, § 11; 1991, ch. 231, § 51.

20.1-04-05. Golden eagle, bald eagle protected. No person may take, kill, hunt, possess, sell, purchase, pursue, shoot at, disturb, capture, or destroy any golden eagle, bald eagle, or any nest or egg thereof, within North Dakota.

Source: S.L. 1973, ch. 202, § 11.

20.1-04-06. Possession limit of game birds. No person may possess, control, ship, transport, or store, can, or otherwise preserve, more than the number authorized in the governor's proclamation of any species of game bird mentioned in this chapter. However, properly tagged game birds legally taken out of state may be possessed, transported, or shipped in state.

Source: S.L. 1973, ch. 202, § 11.

Cross-References.

Governor's proclamations and orders, see chapter 20.1-08.

20.1-04-07. Governor's proclamation concerning the taking of wild turkeys. The governor may, by proclamation, provide for a permit season to take wild turkeys in manner, number, places, and times deemed in the state's best interests.

Source: S.L. 1973, ch. 202, § 11; 1981, ch. 263, § 1.

20.1-04-08. Red, yellow, or orange color to be displayed by hunters of wild turkeys — Exception. Repealed by S.L. 1983, ch. 276, § 1.

20.1-04-09. Guns lawfully usable in pursuing or taking game birds — Penalty. Repealed by S.L. 1991, ch. 246, § 1.

20.1-04-10. Shell-holding capacity of shotguns used in taking game birds restricted — Plugs authorized — Penalty. Any automatic or repeating shotgun authorized for the taking of game birds may not be capable of holding more than three shells. A one-piece metal or wooden plug may be used to reduce the shell-holding capacity if the plug is incapable of being removed through the loading end of the shotgun. Any person who violates this section is guilty of a class 2 noncriminal offense.

Source: S.L. 1973, ch. 202, § 11; 1985, ch. 272, § 14.

**NORTH DAKOTA GAME AND FISH TESTIMONY
SB 2090 SHOTGUN SHELL CAPACITY
HOUSE NATURAL RESOURCES COMMITTEE
FEBRUARY 11, 1999**

The North Dakota Game and Fish Department requested that SB 2090 be introduced. This bill is in response to the proposed rule by the United States Fish and Wildlife Service which would allow states to harvest white geese outside the normal hunting season framework, federal regulations and restrictions imposed by the Migratory Bird Treaty Act.

One of the exemptions would be the use of shotguns with a shell holding capacity in excess of the current regulation which limits the maximum shell holding capacity to three. Our current law NDCC 20.1-04-10 requires that any automatic or repeating shotgun authorized for the taking of game birds may not be capable of holding more than three shells. Surrounding states only require this regulation for migratory waterfowl which is a federal regulation.

Surrounding states allow unplugged shotguns for hunting upland game and have not experienced any negative impact. If this bill were to pass this restriction would be retained for regular waterfowl hunting seasons through proclamation order as require by federal law. Our intention would be to keep this regulation in place by proclamation order for the hunting of upland game until a public assessment could be made to determine wether it has merit as a useful regulation.

The North Dakota Game and Fish Department urges an **DO PASS** recommendation on SB 2090.