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2007 SENATE NATURAL RESOURCES ·

SB 2229

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2229

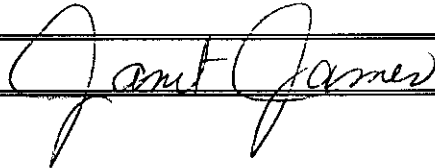
Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: # 2015

Committee Clerk Signature



Minutes:

**Senator Ben Tollefson**, Vice Chairman of the Senate Natural Resources Committee brought the committee to order.

Attendance was taken indicating all members of the committee were present except when the senators stepped out of the room to testify in another committee.

**Senator Tollefson** opened the hearing on SB 2229 relating to driving offroad for hunting purposes.

**Representative Michael Brandenburg** from District 28 co-sponsor of SB 2229 introduced the bill stating he agreed to do so because the prime sponsor **Senator Robert Erbele** was in Washington, DC on agricultural issues. He further stated Senator Erbele will have an amendment to the bill that will clarify his intend. This includes changes on line 6 "big game" and strike on line 16 language where a person cannot use a motor vehicle, because in their district as well as other places, people are driving across grain fields and as well as driving out game from the area. The bill states that permission from the landowner must be granted in order to drive on private property. This has turned into an issue where landowners are posting their land that was never posted before. He further stated Senator Erbele has asked the

committee to wait until his return so that he could present his amendments before they take action on the bill.

**Senator Joel Heitkamp** of District 26 stated he is co-sponsoring SB 2229 and **Senator Erbele** asked him to present his written testimony to the committee (See attachment #1). He further added he was unaware of amendments proposed by Senator Erbele and that he has personally received many e-mails from constituents who did not feel this bill would help with the issues and was an unnecessary burden for water fowl hunters.

**Gary Grosz** a farmer from southwest North Dakota testified in support of SB 2229. He clarified the intent of the bill is not to modify the law as it exists for big game hunting and is not in favor of driving off road even with the landowner's permission for big game. He is in support of hunters acquiring permission from land owners to hunt and do not want to limit hunter rights, he just wants the hunter vehicles back on the trails. Farming practices have changed and it may be difficult to know if fall crops are seeded. Driving on these young crops can kill them and he explained this by presenting scenarios and how 60-70% of land is posted. He further stated hunting is a privilege but there are reasonabilities to include planning for the hunt by exploring the area, learn its boundaries, the names of the landowners and then ask their permission far in advance. Landowners also have rights including who comes on their land and protecting it. In summary the goal is to keep vehicles on the road that will lead to a better hunting environment including better relationship between hunters and landowners by communicating, and the environment itself.

**Wade Moser** of the North Dakota Stockman's Association testified in support of the intent of SB 2229 and further stated although they are not sure of the content of coming amendment but assumes they will not change the statute to create more problems for all involved. He further stated they support the intent of the bill and landowner's rights.

**Jay Nissen** representing the North Dakota Corn Growers Association testified in support of the intent of SB 2229. They would never take away the sportsman's right to hunt but it is common courtesy to keep them on the trials.

**Glen Vogel** a farmer/rancher/sportsman from McIntosh County testified in support of SB 2229 stating stories of unethical and dangerous hunting scenarios. He further stated he is forced to post his land because he cannot keep hunters off his property otherwise. Allowing hunters to drive off trail to hunt certain species only escalates the hunting of other species off trail. As a rural landowner he would like the same respect as residential landowners receive. The passage of SB 2229 will not take any thing away from the hunter but will build better landowner/hunter relations. He added the PLOTS program adds to the issue of hunters not asking permission for access to land.

**Senator Tollefson** asked if it is more resident or nonresidents that are causing the problem.

**Glen Vogel** responded the problem was with the nonresident fur-bearers and equal with the waterfowl hunters.

**Senator Triplett** asked if there is a concern of spreading noxious weeds when hunters drive across land.

**Glen Vogel** responded there could be a concern of that happening.

**Senator Herbert Urlacher** asked for clarification if he had no objection to a landowner taking guests out to any portion of his land or giving permission to access his land.

**Glen Vogel** agreed.

**Senator Tollefson** asked for testimony in opposition to SB 2229.

**Mike McEnroe** representing the North Dakota Chapter of The Wildlife Society testified in opposition of SB 2229 (See attachment #2).

**Senator Layton Freborg** stated that in Mr. McEnroe's testimony there is a incorrect statement in paragraph 3 which says " ... and obtain written permission to hunt unposted land." He questioned if this was to obtain permission to drive on unposted land and not permission to hunt on unposted land.

**Mike McEnroe** responded that permission would be required to drive on the unposted land in order to set up decoys on unposted land and that the bill would require written permission to do that.

**Senator Stanley Lyson** commented that when he hunts he is not always sure if land has been fall seeded and are the members of the society able to differentiate whether a field has been seeded or not and can therefore possibly damage a crop.

**Mike McEnroe** stated he felt he could but that an average person might not be able to tell so that might cause problems. But if a landowner does not want somebody driving on their seeded land, they can post the land.

**Mike Donahue** representing the North Dakota Wildlife Federation and the United Sportsman's of North Dakota testified in opposition to SB 2229 stating the currant code has the proper necessities for recourse and if the landowners does not want the property to be driven on, it can be posted. The current ability to keep hunters off the property is in code and SB 2229 is not needed, but they agree with the need for communication between hunters and landowners. The society's membership is encouraged to seek permission if land is posted.

**Senator Herbert Urlacher** if the society has looked at the enforcement of the posting rules when someone violates those rules and if they have arrived at solution for a better enforcement mechanism.

**Mike Donahue** responded they are in favor of better enforcement but that enforcement is difficult as it varies from district to district.

**Senator Urlacher** commented it is difficult to reach officials in time to enforce the law so the violator goes free and nothing happens.

**Foster Hager** representing the Cass County Wildlife Club testified in opposition to SB 2229 stating the bill is poorly written with many open ends to it. The second concern is that the average farm consists of 1000 acres and there are many absentee landowners which makes it difficult to acquire permission. He further stated the bill appears to be against the goose hunter because of the bill passed last session allows upland hunters to drive all over. It is difficult for the game and fish department to enforce because it is presumed the hunter has permission.

**Dennis Daniel** testified he did not have much problem with SB 2229 but commented the landowner should still have the right to drive his guests out on his land. He further told the committee of a personal story and the unfairness or unethical hunting practices he experienced.

**Senator Triplett** asked if he would prefer to have the bill even stronger.

**Dennis Daniel** stated he would prefer to see if nobody drives than nobody drives to make it fair.

**Senator Urlacher** asked if he is implying that a landowner should not have the right to give permission to an individual to drive on his land.

**Dennis Daniel** answered that if the sole purpose is for hunting than yes, if it is not sportsman like, creating crop damage and unethical but the farmer wants to drive a hunter onto his land that is fine but not to inconsistently give permission for hunters to drive on the land.

**Senator Tollefson** asked for neutral testimony of SB 2229.

**Roger Rostvet**, Deputy Director of the North Dakota Game and Fish Department testified in a neutral position of SB 2229 stating there seems to be some confusion of what the bill actually says. The department would like to see the amendments the sponsor of the bill is proposing to

better portray their intent. The way the bill is written presently, it would allow offroad hunting during the big game season and be totally legal but that does not appear to be the intent of the sponsors or those who requested the bill. He further encouraged the committee to wait for the amendments before taking action on SB 2229.

**Senator Tollefson** closed the hearing on SB 2229.



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2229

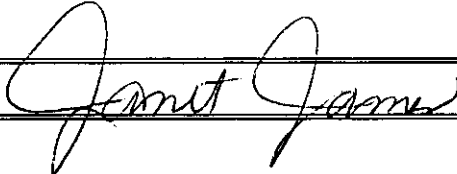
Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2007

Recorder Job Number: # 3254

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson**, Chairman of the Senate Natural Resources Committee opened discussion on SB 2229.

All members of the committee were present except Senator Constance Triplett.

**Senator Lyson** stated SB 2229 has been held because the co-sponsor Representative Michael Brandenburg was working on a bill in the house and there has been no response from him, so therefore the committee needs to take action on the bill.

**Senator Joel Heitkamp** commented that SB 2229 was a tough bill or a bad bill.

**Senator Lyson** agreed it was also a bad bill for his area.

**Senator Layton Freborg** asked why it is so bad for goose and duck hunters to acquire a one time a year permission to drive and do what they need to do for setting up decoys, etc.

**Senator Heitkamp** stated this is for land not posted.

**Senator Lyson** stated there is already a law stating no driving on seeded cropland.

**Senator Heitkamp** stated it is a good point that it is difficult to tell on no-till land if it is seeded or not.

**Senator Herbert Urlacher** stated a land owner can give permission to drive on seed land.

**Senator Lyson** clarified that once the seeded crop is up, by law a landowner cannot grant permission to drive on the land.

Discussion was held as to how times have changed in acquiring permission to hunt.

**Senator Freborg** commented that the language proposed for removal was put into the code just a two sessions ago.

Discussion was held that the bill will not make it through the house as there is a similar one there, although the committee members were not sure of its status.

**Senator Ben Tollefson** made a motion for a Do Not Pass.

**Senator Urlacher** second the motion.

A roll call for a Do Not Pass of SB 2229 was made indicating 4 Yeas, 2 Nays and 1 absent or not voting.

**Senator Lyson** will carry SB 2229.

Roll Call Vote #: 1

**BILL/RESOLUTION NO.** 2229

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Action Taken Do Not Pass

Motion Made By Tollefson Seconded By Wolach

[illegible]

Total (Yes) 4 No 2

Absent \_\_\_\_\_

Floor Assignment Lyson

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

**REPORT OF STANDING COMMITTEE**

**SB 2229: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2229 was placed on the Eleventh order on the calendar.**

2007 TESTIMONY

SB 2229

Chairman Lyson and members of the Senate Natural Resources committee. I am Robert Erbele Senator from District 28 covering 5 counties in south central ND. I am unable to attend the committee in person but have other sponsors and also the constituents who requested SB 2229 here to provide testimony on the bill.

I would like to share a few comments on the bill.

First of all it is not a posting bill and is not intended to diminish waterfowl hunting in the state in any way. The constituents who requested this bill are avid hunters and sportsmen who are also landowners and are very receptive to having others hunt on their land.

The crux of the issue is that in our area ,as well as in many other areas of the state, crop farming has moved into No Til farming , which simply means that crops are seeded into the stubble of the previous years crop. The problem comes from fall seeded crops which are planted for the following year's harvest. It is necessary for those fall seeded crops to germinate and show a little growth in the fall prior to "freeze up". This new growing crop is not readily recognizable because it is hidden in the residue of the old crop. However, vehicle traffic can destroy these plants especially in wet conditions or even on frosty mornings when dirt is more likely to adhere to the tires.

My constituent's request is simple and fair, they welcome hunters, but just seek the opportunity to direct them where to drive if there is a need to go off trail to place decoys. It may not be necessary to have it writing if you can figure out another way of doing it, perhaps some today can offer suggestions.

There are some who would want to see all kinds of "boogie men" in this legislation. I assure you that from my constituent's view point that it is an honest attempt to bridge the gap and even provide some healing in hunter/landowner relationships.

Hunters spend hours and dollars shopping for and purchasing their equipment. Spending a couple of dollars on a platt book to plan their hunt, and 25cents for a phone call to find out the safe places to drive should not be too great of an effort to honor the one who makes his living on the land is directly resposible for the stewardship of his environment.

Chairman Lyson and committee members I would ask that you would move this SB229 forward with an amicable solution for all involved.

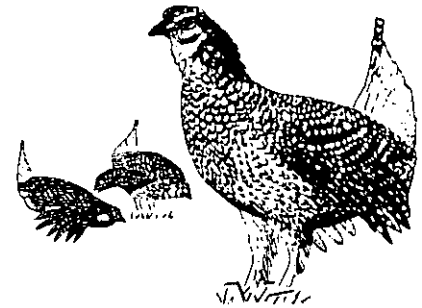
Senator Erbele  
District 28



North Dakota Chapter

## THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE**  
**NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY**  
**PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE**  
**ON SB 2229, JANUARY 26, 2007**

CHAIRMAN LYSON AND MEMBERS OF THE COMMITTEE:

I am Mike McEnroe speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Chapter opposes SB 2229 which among other things would require written permission to drive off-road to launch a duck boat or set decoys while waterfowl or crane hunting.

First, the concept of written permission is largely overlooked by both landowners and hunters. Permission is permission, and most hunters and landowners don't give or request written permission slips.

Second, this bill requires hunters to find landowners and obtain written permission to hunt unposted land. Without being posted with the owner's name, it is difficult to find the owner.

Next, SB 2229 removes the deer gun season restriction on off-road driving for upland game hunting. This restriction was put in last session's legislation to restrict off-road deer hunting or off-road driving during the deer gun season.

SB 2229 does two bad things. It restricts off-road driving where it is necessary for waterfowl hunting, and it loosens the restrictions where it is not needed, for upland game and deer hunting.

I ask that you give SB 2229 a "Do Not Pass" recommendation. Thank you.