

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1058

2005 HOUSE NATURAL RESOURCES

HB 1058

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

House Natural Resources Committee

☐ Conference Committee

Hearing Date January 6, 2005

Tape Number

1

Side A

x

Side B

Meter #

2,845 --end of Side A

Committee Clerk Signature

Loren Bonnet

Minutes: Chairman Nelson opened the hearing on HB 1058. Roll taken, Rep. Drovdal absent.

Rep. DeKrey: Ask that HB 1058 be held, many people are supportive of the bill but it just came up too fast and they couldn't put their groups and people together to get here. There is a lot of anger among rural constituents regarding bills passed then reworded in favor of other interests when they leave the committee. I would ask that this bill be held until a later time when testimony can be taken from people. I realize the bill was drawn up quickly and needs to be amended to work on it.

Chr. Nelson: Any further support of HB 1058?

Brian Kramer, North Dakota Farm Bureau: We stand in support of HB 1058 for many of the same reasons that Rep. DeKrey alluded to. If you recall in the last session we were supportive of a bill that would give the advisory committee a little more power, strength and control over some of the Game & Fish Dept. activities. That bill was soundly defeated. We believe that some oversight of the Game & Fish Dept. is needed and desirable. Rep. DeKrey hit the nail on the

head when he said there was a lot of acrimony by the rural residents over the credibility of the Game & Fish Dept. This bill may not be the perfect answer but we certainly support the idea of some oversight of the Game & Fish Dept.

Rep. Nottestad: Going back two years that bill would have created a commission, correct?

Kramer: That is correct.

Rep. Nottestad: They would have had tremendous power which was what you evidently wanted. I don't think that rural ND would have gained the strength that you think from that. Wouldn't you expect it to have then gone to population? What would that have done to the influence of rural North Dakota?

Kramer: The bill I was referencing would have given the advisory committee that we now have more powers. That committee would have been comprised of the same people that are there now, selected under the same process. There are four rural folks and four sportsman on that committee to give it balance.

Chr. Nelson: Any further questions? Is there further support of HB 1058? Opposition?

Roger Rostvet, North Dakota Game & Fish: **WRITTEN TESTIMONY ATTACHED, please consider Do Not Pass on HB 1058.** In addition: Look at the schematic of the 2004 Proclamation and Lottery Schedule on the back of the testimony. It shows season setting, not just one or two seasons and multiple fowl or game. If you look at the flow chart, they are very time specific. A good example is pronghorn and how it might influence how we manage pronghorns, from the initial staff recommendations to draft, proclamations by the governor, applications, newspaper ads, news releases, guides, deadline and the final drawing, each with specific times to give people sufficient time to plan. The administrative rules process would

lengthen that process out to the point where we just have to wing it. We would not be able to use any of the biological information because the process would be drug out so that we would have to start writing the proclamation rules before we had any of the information. Not that it's bad, it's just a time consuming process. Most of these things are time sensitive.

Chr. Nelson: Are there any questions of Mr. Rostvet?

Rep. Keiser: From a department perspective where is the middle ground? As Rep. DeKrey said, we pass laws with clear legislative intent and the departments frequently interpret the laws the way they think it should be done regardless of what the intent was. How do we make rules that are appropriate to the intent of the law?

Mr. Rostvet: That is a difficult question when we talk about oversight of an agency. The process now has a safeguard in it. We don't make the proclamation and recommend it to the Governor. The Governor is an elected official and there is quite a bit of recourse of an elected official if they make wrong decisions or don't follow legislative intent. There is ongoing public input, the advisory board, and we hold public meetings quite regularly and ultimately if we do something wrong the legislative body holds the authority to take back that authority. This particular bill takes back all of the authority to set rules but there are provisions for times when the legislature has taken back the authority and put it into statute. Those are some of the safeguards.

Rep. Keiser: Walk through the early opener for duck season. Would that be in jeopardy as well? That decision is often delayed because the Central Flyway Commission has to give their approval. Would that take us out of the early season if we pass this bill?

Mr. Rostvet: The federal framework is received about the middle of August. Under current administrative rules if we are to follow the process, and I'm not an expert on the administrative rules, it requires public notice, a 30-day comment period plus a hearing. I believe that we take it back to the administrative rules committee and they make a decision on it. We're already talking into the middle of September with just the first 30-day period. The early season opens Sept. 22 so it would require everything to hit right to begin on Oct. 1.

Chr. Nelson: I'm sure you are aware that there is an emergency rule process as well that I would think could be used from a proclamation standpoint in certain situations, if not in totum. I don't know if that is the answer to this broader question. Have you considered the Emergency Rule process as an option and incorporating that into this bill from a timeliness standpoint?

Mr. Rostvet: I'm not all that familiar with the Emergency Rule portion of it but that would defeat the purpose of this bill to have it reviewed by the public and by the legislative committee. It would subvert the emergency clause and even take the Governor out of the loop for oversight.

Chr. Nelson: I'm sure that wasn't done by design. Are there further questions? Seeing none, is there further opposition to HB 1058?

Mike McEnroe, ND Chapter of the Wildlife Society: Oppose HB 1058: **WRITTEN TESTIMONY ATTACHED.** Urges Do Not Pass.

Chr. Nelson: Questions of Mr. McEnroe? Further testimony in opposition of HB 1058?

Harold Neameyer, Cass County Wildlife Club: Oppose HB 1058, **WRITTEN TESTIMONY ATTACHED.** Urges Do Not Pass.

Chr. Nelson: Any questions for Mr. Neameyer? Further testimony in opposition of HB 1058?

Bob Schaible: ND Outdoors Heritage Coalition: Opposes HB 1058. Don't see need for change. Have been through the administrative rules process in the Secretary of State's office, it takes a long time. Very seldom do you have public feedback when you propose rules. Feel the process works now, most people know it.

Chr. Nelson: Any questions of Mr. Schaible? Further testimony?

Mike Donohue, ND Wildlife Federation & Sportsmen of ND: We concur with the previous testimony in opposition to HB 1058, urge Do Not Pass.

Rep. DeKrey: We've never heard from any agency that we have ever put under the administrative rules that it wasn't going to be "a catastrophe," and it's working pretty good.

Mike Donohue: In the timeline of various species and seasons a lot of things haven't been mentioned. If someone didn't like the beginning date or a particular season, you could appeal them.

Chr. Nelson: Further testimony in opposition of HB 1058? Seeing none, we will hold this bill out of respect for the bill sponsor and will take testimony from the sponsors at a later date. All the bills of this week were signed by the speaker but adequate time was a problem. We will hold this bill for a time. Closed hearing on HB 1058.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

House Natural Resources Committee

☐ Conference Committee

Hearing Date: January 21, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-836

Committee Clerk Signature *Karen Bonnet*

Chr. Nelson: I will reopen the hearing on HB 1058 and ask for further testimony in favor. Roll taken, Charging absent at Senate hearing.

Bill Shalhoob ND Hospitality Assoc.: I have a member from Steele, ND who wanted to testify but was unable to because of the weather. She will fax her testimony to me within ½ hour and will distribute it then. We are in favor of anything that won't unduly restrict out of state hunters. It's strictly based on economic needs. Our members felt that there was less hunter traffic last year than in past years, and seek to ease the requirements for non-resident hunters.

Chr. Nelson: I understand due to today's weather. Are there questions of Mr. Shalloob?

Rep. Hanson: Why would this bill allow for more non resident hunters?

Shalhoob: As I understand the bill, it goes to the issue of zones and the legislative intent, the proclamation is different from what the Legislatures intended and what members & Game & Fish want. It seems to be a rule of interest rather than a process of government.

Rep. Hanson: This says the Rules Committee would make the decision, not the Game & Fish.

You don't know what the Rules Committee will act on.

Shalhoob: We do not.

Chr. Nelson: Are there further questions of Mr. Shalhoob?

Rep. Nottestad: As we look at this bill, a proclamation can make use of the latest data, by administrative rule, they could not use this information. How would that benefit in-state versus out-of-state hunters?

Shalhoob: I think the sponsor acknowledged in the original testimony that there were some problems in this bill that, if enacted, would have to be modified to be more workable.

Rep. DeKrey: Do you have any idea what it costs the Hospitality Assoc. members statewide last year in reduced numbers of hunters?

Shalhoob: I don't but if you'd like, we can try to pull that information together.

Chr. Nelson: Additional questions of Mr. Shalhoob? If not, thank you. Further testimony in favor of HB 1058?

Rep. Drovdal: As co-sponsor of this bill. The one area that I get the most complaints of is from constituents who have problems with rules made by agencies, regardless what that agency is. In the past, the Legislative body, in order to continue to have their say as the policy maker division of ND government, has extended their authority through the Administrative Rules process and have cut down. Agencies under the Administrative Rules committee have to take the bill in to the Administrative Rules committee to make sure that was the intent of the Legislature. It has cut down on the complaints of constituents. I thought it was a good idea to discuss this to see if it would help out both the Game & Fish and for the Legislative body to work together in

formulating policies when we're not in session, which is the majority of the time. I understand that there is some inherent problems that the Body has always tried to work out to make sure that Game & Fish is efficient and effective. We do recognize expertise and appreciate the hard work of the individuals and professionals that we have at the Game & Fish. It's just that we are the policy-making body and this is the way for us to continue to work throughout the year as such.

Chr. Nelson: Any questions of Rep. Drovdal? Is there further testimony in favor of HB 1058? Seeing none, is there anyone who has not testified in opposition of this bill and would like to at this time, or has additional new testimony. We will accept amendments or testimony until next Thursday. If there are amendments, we need it by Jan. 28 to complete the process in a timely manner.

Susie White, business owner from Steele, ND: (Attached written testimony was faxed in and provided to the committee)

With that, I will close the hearing on HB 1058.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058
House Natural Resources Committee

☐ Conference Committee

Hearing Date: January 27, 2005

Tape Number

2

Side A

Side B

x

Meter #

0-555

Committee Clerk Signature *Karen Bonnet*

Chr. Nelson: Let's open up HB 1058. I think Rep. DeKrey has distributed the proposed amendment.

Rep. DeKrey: Proposed amendment (**Written, attached**); takes 1058, hoghouses it and puts it into a study Game & Fish laws and what should be decided as policy by legislature and what should be decided by biologists. I make a motion for the amendment to HB 1058.

Rep. Drovdal: Second.

Chr. Nelson: A motion has been made and seconded. Is there any committee discussion on the amendment?

Rep. Nottestad: I realize this is a method to make a bill go away. I will resist the amendment; I'd rather see the bill go out with a do not pass right from here.

Chr. Nelson: Further comments?

Rep. DeKrey: This is a huge issue in rural ND, and I think Game & Fish needs something like this to clarify to people just exactly what they are doing. This will make them more friends.

Nottestad: This may be a big issue in rural Kidder Co., but I'm not sure it's a real issue in rural ND.

Rep. Drovdal: I do hear a lot of animosity toward the Game & Fish. I don't think it would hurt at all to ask for this study and visit some of these issues, because it's more than just Kidder Co. that has a problem.

Rep. Porter: We looked at this bill as a rural issue, and as we looked at all of the bills over the last couple sessions, the more discussion that we've had, even during the interim, the more it has helped the process move along as we get to this part of the process. I don't see any problem with studying any issue that have to do with Game & Fish and with how things are established. I think by being open and out in the middle of the process even during the interim, it helps bring everybody together in a way that we can pass meaningful legislation for future of outdoor sports in ND. I am going to support the amendment.

Chr. Nelson: Any further committee discussion. Hearing none, I'll ask for a voice vote on the amendment. Voice vote, 11-0-2; Motion carried. What's the committee's wishes?

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

Rep. Drovdal: Second

Chr. Nelson: Committee discussion? Hearing none, call the roll.

VOTE: 11-Yeas; 1-Nay; 2-Absent; Carrier: Porter

FISCAL NOTE
Requested by Legislative Council
02/07/2005

Amendment to: HB 1058

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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

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.*

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.*

Name: Paul Schadewald
Phone Number: 328-6328

Agency: ND Game and Fish Department
Date Prepared: 02/07/2005

FISCAL NOTE
Requested by Legislative Council
12/17/2004

Bill/Resolution No.: HB 1058

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$40,000		\$10,000
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

The change from the Governor's proclamation process to the administrative rule system would require a major rewrite and format adjustment for the new rules. An attorney from the ND Attorney General's staff would have to spend a significant amount of time on this project. There would also be some additional newspaper publication and related rule making costs that would be ongoing.

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.*

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.*

It is difficult to estimate the attorney fees that would be required to make this change. It would be a major effort to convert the fishing, small game, waterfowl, deer, pronghorn, moose, elk, bighorn and waterfowl rest area governor's proclamations to rules. It is estimated that \$30,000 would be needed for this initial conversion. An additional \$10,000 per biennium would be needed to cover ongoing rule making costs. Hunting season dates, number of licenses available, unit boundaries, bag limits and other items change each year and this would make rule amendments an annual activity.

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.

Name: Paul Schadewald
Phone Number: 328-6328

Agency: ND Game and Fish Department
Date 12/22/2004
Prepared:

VR
2/3/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1058

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of game and fish laws, rules, and proclamations."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2005-06 interim, the game and fish laws, rules, and proclamations, with the objective of establishing which laws, rules, and proclamations should most appropriately be addressed by the legislative assembly, administrative rulemaking, or gubernatorial proclamations and determining whether an abbreviated administrative rulemaking process could be developed for administrative rulemaking to fit the special circumstances of game and fish issues under the jurisdiction of the game and fish department. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

Ⓢ Hold / Amend

Date: 1/27/08
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1058

House

NATURAL RESOURCES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number : ~~50~~ 50236.0101 Title: 0200

Action Taken : No Pass as Amended

Motion Made By : Porter Seconded By : Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	✓		Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter	✓		Rep. Bob Hunsakor	✓	
Rep. Dawn Marie Charging	✓		Rep. Scot Kelsh	✓	
Rep. Donald L. Clark	✓		Rep. Dorvan Solberg	46	
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Dennis Johnson	✓				
Rep. George J. Keiser	46				
Rep. Mike Norland	✓				
Rep. Darrell D. Nottestad		✓			

Total (Yes) 11 No 1

Absent 2

Floor Assignment ~~DeKrey~~ Porter

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

REPORT OF STANDING COMMITTEE

HB 1058: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1058 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of game and fish laws, rules, and proclamations."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2005-06 interim, the game and fish laws, rules, and proclamations, with the objective of establishing which laws, rules, and proclamations should most appropriately be addressed by the legislative assembly, administrative rulemaking, or gubernatorial proclamations and determining whether an abbreviated administrative rulemaking process could be developed for administrative rulemaking to fit the special circumstances of game and fish issues under the jurisdiction of the game and fish department. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

2005 SENATE NATURAL RESOURCES

HB 1058

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

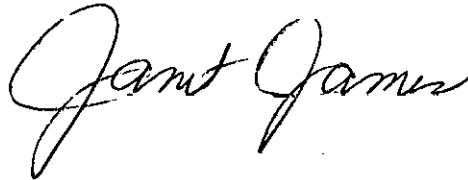
Senate Natural Resources Committee

☐ Conference Committee

Hearing Date February 24, 2005

Tape Number	Side A	Side B	Meter #
1		X	30.5 - end
2	X		0.0 -6.7

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1058 to provide for a legislative study of game and fish laws, rules, and proclamations.

All members of the committee were present.

Paul Overby, a farmer from Rolette County testified on his own behalf testified in support of HB 1058 stating his agrees there needs to be a study but the study process should be directed towards policy especially when rules and laws are involved. It is the underlining policy of wildlife management that need to be decided. Wildlife resources are available for both public gain and private gain and the tension between the two can be resolved if the definitions are agreed upon.

Senator Michael Every asked if he feels the biology of the department is unscientific or misused.

Paul Overby answered it is not the management of wildlife as being the issue but that managing people seems to be more of the issue.

Senator John Traynor stated he believed HB 1058 came about there was a bill in the house that would have changed the process from the governor's proclamation to the administrative rules making committee of the legislature. He asked if maybe the comment on policy making is a criticism of the present language and is too narrow.

Paul Overby agreed the study needs to have more to it than just rule making which is his point.

Senator Traynor asked if the bill should be expanded to include consideration of the policy of the state regarding resident and nonresident matters.

Paul Overby stated it made sense to him to expand it out and to ask the sponsors of the bill.

Senator Joel Heitkamp stated this bill was a big can of worms waiting to be opened and that in reality isn't that what is being done in the committee meetings.

Paul Overby stated that maybe a little bit at a time is the way things need to go to develop policy, but because there is not a clear statement policy as to how wildlife is managed in the state there will continue to be discussion in the legislature. It has to be decided if wildlife is a resource for everyone or is it still like as in the old days and have hunting any place - any time concept.

Senator Heitkamp stated that it won't matter how good a study might be, the issues will still need to be handled one at a time in the Natural Resources Committee.

Paul Overby did not disagree that the issues will be there, it is the policy that guides those decisions that need to be set.

Senator Every stated that the decisions of wildlife management needs to be left up to the experts, the North Dakota State Game and Fish Department and that depending on the makeup of the

interim study committee, this study could back fire. There needs to be the understanding that things could work both ways.

Paul Overby again stated that policy needs to be set so there is not that constant back and forth.

Senator Traynor asked that due to the time line necessary for a administrative rules committee, could an abbreviated version of the study be possible.

Senator Lyson asked for opposing testimony of HB 1058.

Mike Donahue representing the North Dakota Wildlife Federation and United Sportsmen of North Dakota testified in opposition to HB 1058. He stated HB 1058 came about to remove the governor's proclamation powers and replace it with rule making by the North Dakota State Game and Fish Department. He distributed to the committee a copy of time lining on proclamation writing (See attached).

Tape #2, Side A, 0.0 - 6.7

Senator Heitkamp had discussion with **Mike Donahue** about how last session the zoning issues were decided through legislative intend and of course things were latter changed by governor's proclamation. Although this was allowed by law or code to use zones for management of the resources, the question is why after it was decided in legislative hearings not to have the zones, it happened anyway.

Senator Traynor stated that although there was a lot of discussion about the zoning in the 2003 session, the law was not changed. He further stated there is no legislation that would repel present law that says zones may be created by proclamation. This was the root and the source of the proclamation establishing zones and the law itself says that it may be done. If changes were to be made, a bill should be adopted to eliminate zones.

Page 4

Senate Natural Resources Committee

Bill/Resolution Number HB 1058

Hearing Date 2-24-05

Mike Donahue agreed that if the idea is to eliminate zones that would be the route to go.

Harold Neameyer representing the Cass County Wildlife Club testified in opposition to HB

1058 (See attached testimony).

Senator Lyson asked for neutral testimony on HB 1058 and hearing non closed the hearing on

HB 1058.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1058

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date February 25, 2005

Tape Number
1

Side A
X

Side B

Meter #
14.5 - 17.8

Committee Clerk Signature



Minutes:

Senator Stanley Lyson opened the committee work on HB 1058 that provides for a legislative study of game and fish laws, proclamations.

All members of the committee were rules, and present.

Senator Joel Heitkamp stated he hoped whoever serves on this interim committee understands what they are getting into. He further stated this was a "big can of worms" and that the bill has already done what was intended for it to do. The bill was submitted to have the discussion as to why the zones were created.

Senator Lyson stated that there is already a bill to study out of state hunters and does not need to be added to this bill.

Senator Rich Wardner stated he serves on the interim administrative rules committee and does not see it being done. Even with an abbreviated form there is still nine months of hearings, public forums and appeal process, and just does not see it going there.

Page 2

Senate Natural Resources Committee

Bill/Resolution Number HB ~~1166~~ 1058

Hearing Date 2-25-05

Senator John Traynor agreed and said the question the bill raises has already been answered, so why have a study.

Senator Heitkamp stated the original bill was very long and was turned into a study, but the sponsor had made his point.

Senator Ben Tollefson made a motion for a Do Not Pass of HB ~~1166~~ ¹⁰⁵⁸.

Senator Wardner second the motion.

Roll call vote for a Do Not Pass of HB ~~1166~~ ¹⁰⁵⁸ was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Heitkamp will carry HB ~~1166~~.

1058

Date: 2-25
Roll Call Vote #: /

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1158

Senate Senate Natural Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Toll

Seconded By

Wardner

Senators
Senator Stanley Lyson, Chairman
Senator Ben Tollefson, Vice Chair
Senator Layton Freborg
Senator Rich Wardner
Senator John Traynor

Yes No
✓
✓
✓
✓
✓

Senators
Senator Joel Heitkamp
Senator Michael Every

Yes No
✓
✓

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Heitkamp

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

REPORT OF STANDING COMMITTEE (410)
February 25, 2005 9:50 a.m.

Module No: SR-35-3659
Carrier: Heltkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1058, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)
recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1058 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1058

**NORTH DAKOTA GAME AND FISH DEPARTMENT TESTIMONY
HB 1058
HOUSE NATURAL RESOURCES COMMITTEE
JANUARY 6, 2005**

This bill if enacted would be a major step backward in game management and the efficient operation of state government. Early on in statehood, the legislature recognized the need to delegate certain functions relating to game and fish management to the executive branch. The Governor was granted authority to create law by issuing hunting and fishing proclamations. The Governors ability to set law by proclamation is conditional to those areas that have been legislatively authorized. The legislature has retained the majority of policy making authority.

By delegating the rule making process to a proclamation declaration, the legislature created an atmosphere for efficient government and responsible and responsive game management. The proclamation process is a continual process. The fall turkey season will close on the 16th of January, but a draft of the spring turkey proclamation is to be prepared next week. (Please see attachment). The incorporation of real time data into the season setting process is vitally important to sound game management. Even under the current proclamation processes yearly population changes cannot always be properly incorporated into the process because of time constraint such as lotteries etc. Extending this process would make good management nearly impossible. Many seasons currently have to be set prior to when the best population information is available or yearly reproduction is known.

The ability of the Game and Fish Department to recommend changes in regulations on short notice that have allowed for progressive game management would become nearly impossible. Harvest quotas for the management of paddlefish or management scenarios such as extending the deer season when it appears that an adequate harvest has not occurred would be nearly impossible.

There are numerous safeguards and input opportunities afforded by the current system. As the management agency responsible for implementing the policies set by the legislature, we feel that the proclamation process is by far the preferred option. Please consider a **DO NOT PASS** recommendation for HB1058.

2004 PROCLAMATION AND LOTTERY SCHEDULE

	STAFF REC. TO DIV.CHFS	DRAFT PROC TO ADMIN.	PROCLAMATIONS TO ADV.BD/TRIBE GOVERNOR		APPLICATIONS		NEWSPAPER ADS	NEWS RELEASES	GUIDES		APPLICATION DEADLINE	DRAWING	SEASON OPENER		
			ADV.	GOVERNOR	DESIGN BY	PRINT BY			MAIL BY	DESIGN BY				PRINT BY	MAIL BY
SPRING TURKEY	9 JAN	13 JAN	14 JAN	15 JAN	20 JAN	22 JAN	23 JAN	27 JAN	30 JAN	26 FEB	2 MAR	3 MAR	11 FEB	3 MAR	10 APR
LIGHT GOOSE	7 JAN	12 JAN	16 JAN	21 JAN			3 FEB	6 FEB		30 JAN	5 FEB	6 FEB			21 FEB
MOOSE, ELK & BIGHORN SHEEP	6 FEB	13 FEB	18 FEB	23 FEB	25 FEB	3 MAR	4 MAR	2 MAR	5 MAR	23 MAR	29 MAR	31 MAR	17 MAR	31 MAR	
FISHING	15 DEC 2003	6 JAN	13 JAN	20 JAN			9 MAR	12 MAR		9 FEB	25 FEB	27 FEB			1 APR
DEER (1st Lottery) UNSUCC. DRAWING 3RD DRAW/1234 TAG REMAIN. LIC. (FC/FS)	7 APR	14 APR	20 APR	22 APR	26 APR	4 MAY	7 MAY	18 MAY	14 MAY	14 JUN	30 JUN	6 AUG	2 JUN	5-16 JUL 13-19 AUG BY 1 SEP	5 NOV
FALL TURKEY	3 MAY	10 MAY	18 MAY	25 MAY	1 JUN	4 JUN	8 JUN	15 JUN	18 JUN	12 JUL	16 JUL	19 JUL	30 JUN	16-22 JUL	9 OCT
FC/FS TURKEY*					2 workdays	4 workdays	5 workdays		7 workdays						
PRONGHORN	23 JUN	6 JUL	7 JUL	9 JUL	12 JUL	14 JUL	15 JUL	20 JUL	23 JUL	16 JUL	22 JUL	6 AUG	4 AUG	20-26 AUG	1 OCT
SMALL GAME	21 JUN	29 JUN	7 JUL	15 JUL				27 JUL	30 JUL	23 JUL	4 AUG	6 AUG			14 AUG (GROW)
SWAN	21 JUN	WITH SMALL GAME PROCLAMATION			19 JUL	22 JUL	23 JUL		23 JUL				18 AUG	27 AUG	2 OCT
WATERFOWL	30 JUL	6 AUG	10 AUG	12 AUG	12 MAY	20 MAY	21 MAY	31 AUG	27 AUG	20 AUG	30 AUG	1 SEP			WATERFOWL 25 SEP RES
WATERFOWL - REST AREA	30 JUL	6 AUG	10 AUG	12 AUG				31 AUG							2 OCT NONRES
RESPONSIBILITY	ALL STAFF	DIV.CHIIEFS	ADMIN.	ADMIN.	LEE	LEE	WHITNEY	LEE	FREEMAN	LEE	LEE	LEE		WHITNEY	

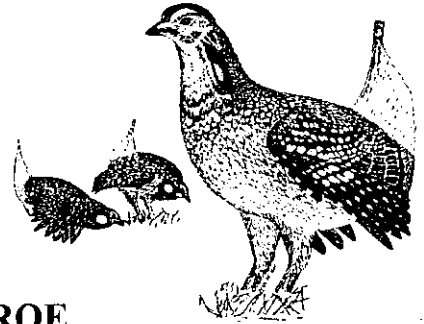
* Number of workdays after drawing if sufficient number of licenses remain.
 Chronic Wasting Disease Declaration (proclamation/news release) due in late August.
 2005 Season Opening Dates - Coordinate with Kreil and Wilson after 15 OCT, 2004.



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



TESTIMONY OF MICHAEL McENROE NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY ON HB 1058, JANUARY 6, 2005

Mr. Chairman and Members of the Natural Resources Committee:

My name is Mike McEnroe and I am speaking on behalf of the North Dakota Chapter of The Wildlife Society, a professional organization made up of over 300 wildlife biologists, land managers, natural resource administrators, educators and students. The Wildlife Society opposes HB 1058.

HB 1058 replaces the North Dakota Game and Fish Department's current process for promulgating hunting and fishing regulations and setting seasons through proclamation approved by the Governor with the administrative rules process.

The Chapter opposes HB 1058 for three reasons.

First! The proposed change would make it physically impossible for the GFD to incorporate harvest data and wildlife survey results into the next season's application, licensing, and season setting process. For example, the Department is currently collecting harvest data for the deer season that ended 4 days ago. Winter deer surveys are scheduled for February and March, and license applications have to be at the printers in April in order to be available in May for the first week of June lottery.

Second. While an administrative rule process may work very well for an agency that develops rules and regulations only occasionally; the GFD continuously staggers hunting season applications, lottery dates, and regulations setting throughout the year. Spring snow goose seasons and regulations are set in January, spring turkey applications are out in February, the moose, elk, and bighorn lotteries are in March, fishing season starts in April, the firearm and muzzleloader deer lotteries are in June, second and succeeding lotteries follow that, antelope applications come out in August,

and the waterfowl seasons are set in September after the federal framework is set in August. Season dates certainly change every year, as do license and permit numbers. Limits and other regulations may also change annually.

Third. There is no need for the continuous public meetings and hearings of an administrative rules process because the GFD currently has sixteen Advisory Board meetings annually; in the spring and the fall in each of the eight districts. The GFD Director and staff have always been accessible to the public via telephone, email, letter, or in person. Department staff frequently meet with wildlife and sportsmens' clubs and with guide and outfitter groups.

HB 1058 would replace the current season and regulation setting process in which seasons and regulations are proposed by trained wildlife managers and biologists, based on scientific data, with public input, and approval by the Governor; with a long, cumbersome process based on anecdotes, emotion, and individuals seeking personal and financial gain.

Lastly, the current system works. If it is not broken, it doesn't need fixing!

The Wildlife Society urges a "Do not Pass" recommendation on HB 1058.



Cass County **WILDLIFE CLUB**

Box 336
Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE HOUSE NATURAL RESOURCE COMMITTEE

ON

HB 1058

JANUARY 6, 2005

Mr. Chairman and Members of the Committee:

I am Harold Neameyer speaking on behalf of the Cass County Wildlife Club. The Cass County Wildlife Club opposes HB 1058 which proposes to place the proclamation into the control of the administrative rules committee. We think the changes will, in many cases, cause delays in getting information to the public. The use of surveys that are critical in decision making, and the final results would be slowed.

The Club supports change when it is beneficial, but we do not see the benefit of this proposed change. If it isn't broke, don't fix it.

We urge a "DO NOT PASS" on HB 1058.



ADMINISTRATIVE RULES REVIEW - BACKGROUND MEMORANDUM

NORTH DAKOTA ADMINISTRATIVE CODE

The North Dakota Administrative Code, published by the Legislative Council office pursuant to North Dakota Century Code (NDCC) Section 28-32-19, contains all rules adopted by administrative agencies subject to NDCC Chapter 28-32 (the Administrative Agencies Practice Act). The North Dakota Administrative Code consists of 119 titles. Ninety-two titles contain rules of administrative agencies. The Dairy Promotion Commission and the Parks and Recreation Department voluntarily publish their rules in the Administrative Code, although these agencies are excluded from the definition of administrative agency.

Before 1977, agencies were authorized to adopt administrative rules, but there was no compilation or central source for administrative rules. In 1977 the Legislative Assembly enacted NDCC Section 28-32-19 (originally Section 28-32-03.1), which requires the Legislative Council to compile and publish the North Dakota Administrative Code. Administrative Code supplements are published the month after rules are filed with the Legislative Council for publication. Except for May 1979; March 1981; August 1982; April 1983; November 1984; May, August, and October 1985; February 1987; February 1989; July 1999; and August 2001, a supplement has been published every month since the initial publication of the Administrative Code on July 1, 1978.

Although rules differ in length and complexity, comparison of the number of administrative rules sections affected during biennial periods is one method of comparing the volume of administrative rules reviewed by the Administrative Rules Committee since its creation in 1979. The following table shows the number of sections of the North Dakota Administrative Code amended, repealed, created, superseded, reserved, or redesignated during each identified time period:

Time Period	Number of Sections
July 1979 - October 1980	1,440
November 1980 - August 1982	916
September 1982 - November 1984	1,856
December 1984 - October 1986	1,280
November 1986 - October 1988	2,681
November 1988 - October 1990	2,325
November 1990 - October 1992	3,079
November 1992 - October 1994	3,235
November 1994 - October 1996	2,762
November 1996 - October 1998	2,789
November 1998 - November 2000	2,074
December 2000 - November 2002	1,417

For committee review of rules, the Legislative Council staff prepares an Administrative Rules Committee (ARC) supplement containing all rules changes submitted for publication since the previous

committee meeting. The supplement is prepared in a style similar to bill drafts--changes are indicated by overstrike and underscore. Comparison of the number of pages of rules amended, created, or repealed is another method of comparing the volume of administrative rules reviewed by the committee. The following table shows the number of pages in administrative rules supplements during each designated time period:

Time Period	Supplement Pages
November 1992 - October 1994	3,809
November 1994 - October 1996	3,140
November 1996 - October 1998	4,123
November 1998 - November 2000	1,947
December 2000 - November 2002	2,016

Under NDCC Section 28-32-20, the North Dakota Administrative Code is distributed free to each county auditor, Supreme Court justice, district court judge, and to certain state agencies. The Legislative Council is required by Section 28-32-20 to establish prices for paid subscriptions to the Administrative Code. Since July 1, 1999, prices for paid subscriptions are \$440 for the initial code set and \$250 per year for supplements. Since 1994 the number of paid subscribers to the North Dakota Administrative Code has declined from 104 to 52. The Legislative Council has refrained from increasing prices which might further reduce the number of paid subscribers.

The numbering for the North Dakota Administrative Code is similar to the numbering used for the North Dakota Century Code. However, while Century Code sections are designated by numbers having three parts separated by hyphens, Administrative Code section numbers consist of four parts--the first part designates the agency (title); the second part designates the major activity or division within the agency (article); the third part designates the subject within the major activity (chapter); and the fourth part designates the rule (section).

STATUTORY PROVISIONS FOR RULES REVIEW

In 1979 the Legislative Assembly enacted the statutes providing for legislative review of administrative rules. In 1995 the Legislative Assembly enacted statutory authority for the Administrative Rules Committee to void administrative rules on specific grounds. In 2001 the Legislative Assembly enacted a bill recommended by the Administrative Rules Committee which reorganized the provisions of NDCC Chapter 28-32 without substantive change.

North Dakota Century Code Section 54-35-02.5 directs the Legislative Council to appoint biennially an

Administrative Rules Committee and to designate the chairman of the committee. The committee is to operate according to the statutes and procedures governing the operation of Legislative Council interim committees. However, because the committee is established by statute, it is not discharged upon making its report to the Legislative Council at the end of the interim, and the committee could be called to meet at any time, including during a legislative session.

North Dakota Century Code Section 54-35-02.5 provides that it is the standing duty of the committee to review administrative rules adopted under Chapter 28-32. Section 54-35-02.5 requires the committee membership to include at least one member from each standing committee of the House of Representatives or Senate in the most recently completed regular legislative session.

In 1981 the Legislative Assembly enacted NDCC Section 28-32-17 (originally Section 28-32-03.3) authorizing the Administrative Rules Committee to make formal objections to agency rules. If the committee objects to a rule because the committee determines the rule to be unreasonable, arbitrary, capricious, or beyond the authority delegated to the adopting agency, the committee may file that objection in certified form in the Legislative Council office. The objection must contain a concise statement of the committee's reasons for its action. The Legislative Council office is to transmit a copy of the objection to the agency adopting the rule in question. The Legislative Council office is also to publish the objection in the next issue of the North Dakota Administrative Code supplement. Within 14 days after the filing of an objection, the adopting agency is to respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection. After the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the rule is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court is to declare the rule invalid, and judgment is to be rendered against the agency for court costs, including a reasonable attorney's fee.

In 1995 legislation was enacted to expand the authority of the Administrative Rules Committee in reviewing rules. North Dakota Century Code Section 28-32-18 allows the committee to find that all or any portion of a rule is void if the committee makes the specific finding that there is:

1. An absence of statutory authority.
2. An emergency relating to public health, safety, or welfare.
3. A failure to comply with express legislative intent or to substantially meet the procedural requirements of Chapter 28-32 regarding adoption of the rule.

4. A conflict with state law.
5. Arbitrariness and capriciousness.
6. A failure to make a written record of its consideration or written and oral submissions respecting the rule during the hearing process and comment period.

North Dakota Century Code Section 28-32-18 allows the committee to find a rule void if the rule is initially considered by the committee within 90 days after the date of the North Dakota Administrative Code supplement in which the rule change appears. An exception provides that for rules appearing in the Administrative Code supplement during the period from November 1 through May 1 encompassing a regular session of the Legislative Assembly, the committee is not limited to 90 days to initially consider a rule but may initially consider the rule at the first meeting of the committee following the regular session of the Legislative Assembly. The committee may carry consideration of a rule to one subsequent committee meeting for purposes of the decision on whether to void a rule.

If the Administrative Rules Committee finds a rule to be void, the office of the Legislative Council is to provide written notice of the finding to the adopting agency and to the chairman of the Legislative Council. Within 14 days after receipt of the notice, the adopting agency may file a petition with the chairman of the Legislative Council for review by the Legislative Council of the decision of the committee. If the adopting agency does not file a petition for review, the rule becomes void on the 15th day after the adopting agency received the notice from the office of the Legislative Council. If within 60 days after receipt of the petition from the adopting agency the Legislative Council has not disapproved the finding of the Administrative Rules Committee, the rule is void.

North Dakota Century Code Section 28-32-18 allows a rule change to be made after consideration of rules by the Administrative Rules Committee if the agency and committee agree that the rule change is necessary to address any of the considerations for which the committee may find a rule to be void. This allows an agency to change an administrative rule when the committee expresses concerns and the agency is not required to commence a new rule-making proceeding. If a rule change is agreed to by the Administrative Rules Committee and the agency, it must be reconsidered at a subsequent Administrative Rules Committee meeting and public comment on the agreed rule change must be allowed.

Because the Legislative Assembly recognized there are constitutional questions about the Administrative Rules Committee voiding rules, an alternative amendment to NDCC Section 28-32-18 will take effect if the North Dakota Supreme Court rules that the authority to void rules is unconstitutional. The alternative amendment is the same in all respects as the amendment allowing the committee to find rules

void except that under the alternative amendment the committee may not find a rule to be void but may suspend a rule or portion of a rule. The effect of a suspension is that the rule becomes ineffective temporarily and will become permanently ineffective unless it is ratified by both houses of the Legislative Assembly during the next legislative session. The amendment requires the agency seeking ratification of a suspended rule to introduce a bill for that purpose. The authority of the Legislative Council to reverse the decision of the committee also applies in the case of a suspension of a rule.

The Legislative Council has assigned the Administrative Rules Committee the responsibility under NDCC Sections 28-32-07, 28-32-10, and 28-32-42 to approve extensions of time for administrative agencies to adopt rules, establish a procedure to distribute copies of administrative agency filings of notice of proposed rulemaking, and receive notice of appeal of an administrative agency's rulemaking action.

RULEMAKING PROCEDURES

North Dakota Century Code Section 28-32-01(2) defines administrative agency as:

[E]ach board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency must be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:

- a. The office of management and budget except with respect to rules made under section 32-12.2-14, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.
- b. The adjutant general with respect to the division of emergency management.
- c. The council on the arts.
- d. The state auditor.
- e. The department of commerce with respect to the division of economic development and finance.
- f. The dairy promotion commission.
- g. The education factfinding commission.
- h. The educational technology council.

- i. The board of equalization.
- j. The board of higher education.
- k. The Indian affairs commission.
- l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, North Dakota municipal bond bank, North Dakota mill and elevator association, and North Dakota farm finance agency.
- m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.
- n. The pardon advisory board.
- o. The parks and recreation department.
- p. The parole board.
- q. The state fair association.
- r. The attorney general with respect to the state toxicologist.
- s. The board of university and school lands except with respect to activities under chapter 47-30.1.
- t. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.
- u. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.
- v. The attorney general with respect to guidelines adopted under section 12.1-32-15 for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under section 12.1-32-15.

North Dakota Century Code Section 28-32-01(11) defines a rule as:

[T]he whole or a part of an agency statement of general applicability which implements or prescribes law or policy or the organization, procedure, or practice requirements of the agency. The term includes the adoption of new rules and the amendment, repeal, or suspension of an existing rule. The term does not include:

- a. A rule concerning only the internal management of an agency which does not directly or substantially affect the substantive or procedural rights or duties of any segment of the public.
- b. A rule that sets forth criteria or guidelines to be used by the staff of an agency in the performance of audits, investigations, inspections, and settling commercial disputes or negotiating commercial arrangements, or in the

defense, prosecution, or settlement of cases, if the disclosure of the statement would:

- (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the state.
- c. A rule establishing specific prices to be charged for particular goods or services sold by an agency.
 - d. A rule concerning only the physical servicing, maintenance, or care of agency-owned or agency-operated facilities or property.
 - e. A rule relating only to the use of a particular facility or property owned, operated, or maintained by the state or any of its subdivisions, if the substance of the rule is adequately indicated by means of signs or signals to persons who use the facility or property.
 - f. A rule concerning only inmates of a correctional or detention facility, students enrolled in an educational institution, or patients admitted to a hospital, if adopted by that facility, institution, or hospital.
 - g. A form whose contents or substantive requirements are prescribed by rule or statute or are instructions for the execution or use of the form.
 - h. An agency budget.
 - i. An opinion of the attorney general.
 - j. A rule adopted by an agency selection committee under section 54-44.7-03.
 - k. Any material, including a guideline, interpretive statement, statement of general policy, manual, brochure, or pamphlet, which is explanatory and not intended to have the force and effect of law.

North Dakota Century Code Section 28-32-07 provides that any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the Legislative Council within nine months of the effective date of the statutory change. If an agency needs additional time for the rule change, a request for additional time must be made to the Legislative Council. The Legislative Council may extend the time within which the agency must adopt the rule change if the request by the agency is supported by evidence that the agency needs more time through no deliberate fault of its own.

Subsections 1 and 2 of NDCC Section 28-32-10 provide:

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rule-making is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with the office of the legislative council, and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the office of the legislative council must be accompanied by a copy of the proposed rules.
 - b. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.
2. The agency shall mail a copy of the agency's full notice to each person who has made a timely request to the agency for a mailed copy of the notice.

The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. The agency shall mail or deliver a copy of the rules to any person requesting a copy. The agency may charge for the actual cost of providing copies of the proposed rule.

North Dakota Century Code Sections 28-32-11 and 28-32-12 provide:

28-32-11. Conduct of hearings - Notice of administrative rules committee consideration - Consideration and written record of comments. The agency shall adopt a procedure whereby all interested persons are afforded reasonable opportunity to submit data, views, or arguments, orally or in writing, concerning the proposed rule, including data respecting the impact of the proposed rule. The agency shall adopt a procedure to allow interested parties to request and receive notice from the agency of the date and place the rule will be reviewed by the administrative rules committee. In case of substantive rules, the agency shall conduct an oral hearing. The agency shall consider fully all written and oral submissions respecting a proposed rule prior to the adoption, amendment, or repeal of any rule not of an emergency nature. The agency shall make a written record of its consideration of all written and oral submissions contained in the rulemaking record respecting a proposed rule.

28-32-12. Comment period. The agency shall allow, after the conclusion of any rulemaking hearing, a comment period of at least thirty days during which data, views, or arguments concerning the proposed rulemaking will be received by the agency and made a part of the rulemaking record to be considered by the agency.

In addition to other notice requirements, the Superintendent of Public Instruction is required by NDCC Section 28-32-10 to provide notice of any proposed rulemaking to each statewide association with a focus on education issues which has requested to receive notice and to the superintendent of each public school district, or the president of the school board if the district has no superintendent. Notice under this provision must be by first-class mail or by electronic mail if requested by the recipient.

North Dakota Century Code Section 28-32-10 requires the Legislative Council to establish guidelines for agencies to comply with notice requirements of Chapter 28-32. Attached as an appendix is a copy of the guidelines updated by the committee in July 2001.

North Dakota Century Code Section 28-32-03 allows an agency, with approval of the Governor, to adopt rules on an emergency basis because of imminent peril to the public health, safety, or welfare; because a delay is likely to cause a loss of revenues appropriated to support a duty imposed by law upon the agency; when reasonably necessary to avoid a delay in implementing an appropriations measure; or when necessary to meet a mandate of federal law. An emergency rule may be declared effective no earlier than the date of filing notice of rulemaking with the Legislative Council. An emergency rule becomes ineffective if it is not adopted as a final rule within 180 days after its declared effective date.

North Dakota Century Code Section 28-32-14 requires review by the Attorney General of all administrative rules and provides that the Attorney General may not approve a rule as to legality when the rule exceeds the statutory authority of the agency, the rule is written in a manner that is not concise or easily understandable, or procedural requirements for adopting the rule are not substantially met.

Under NDCC Section 28-32-10 the Legislative Council is to establish a procedure to allow any interested person to receive mailed copies of every rulemaking notice filed with the Legislative Council, and the Administrative Rules Committee may establish a fee to receive these notices. The notices must be mailed to subscribers on the first business day of each month, and the mailing must include each notice received during the previous month. The Administrative Rules Committee has set the annual charge for providing copies of the filings of notice of proposed rulemaking at \$50. As of June 1, 1997, there were 31 paid subscribers to this service. As of June 1, 2003, there were 25 paid subscribers to this service. Some of the reduction in paid subscriptions may be attributable to the fact that notices have been made available on the legislative branch web page since 1998.

North Dakota Century Code Section 28-32-09 requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of real property. The assessment must:

1. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
2. Clearly and specifically identify the purpose of the proposed rule.
3. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
4. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.

5. Identify the source of payment within the agency's budget for any compensation that may be ordered.
6. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

Under NDCC Section 28-32-09 any private landowner affected by a rule that limits the use of the landowner's private real property may file a written request for reconsideration of the application or need for the rule. Within 30 days of receiving the request, the agency must consider the request and provide a written response to the landowner of whether the agency intends to keep the rule in place, modify the rule, or repeal the rule.

North Dakota Century Code Section 23-25-03.3 prohibits the State Department of Health from adopting air quality rules or standards affecting coal conversion and associated facilities, petroleum refineries, or oil and gas production and processing facilities which are more strict than federal rules or standards under the Clean Air Act. The statute also prohibits the department from adopting air quality rules or standards affecting such facilities when there are no corresponding federal rules or standards unless the rules or standards are based on a risk assessment that demonstrates a substantial probability of significant impacts to public health or property, a cost-benefit analysis that affirmatively demonstrates that the benefits of the more stringent or additional state rules and standards will exceed the anticipated costs, and the risk assessment and the cost-benefit analysis is independently peer reviewed by qualified experts selected by the Air Pollution Control Advisory Council.

North Dakota Century Code Section 28-32-04 prohibits agencies from adopting rules from federal guidelines that are not relevant to state regulatory programs. The section also provides that an agency is required to repeal or amend any existing rule adopted from federal guidelines which is not relevant to state regulatory programs.

North Dakota Century Code Section 28-32-06 provides that administrative rules have the force and effect of law until amended or repealed by the agency, declared invalid by a final court decision, suspended or found to be void by the Administrative Rules Committee, or determined repealed by the office of the Legislative Council because the authority for adoption of the rules is repealed or transferred to another agency. The fact that administrative rules have the "force and effect of law" is significant. The North Dakota Supreme Court has held that administrative practice or policy of an agency subject to the North Dakota Administrative Agencies Practice Act is invalid unless it has been adopted as an administrative rule in compliance with the Act. *Little v. Spaeth*, 394 N.W.2d 700 (1986). A more difficult question arises in considering the force and effect of rules adopted by an agency excluded from coverage under

the Administrative Agencies Practice Act. In *Jensen v. Little*, 459 N.W.2d 237 (1990), a State Penitentiary inmate challenged the validity of the Penitentiary drug testing program and penalties as being adopted in violation of the Administrative Agencies Practice Act. The Supreme Court observed that the Department of Corrections and Rehabilitation was at that time a part of the office of the Director of Institutions and that the Director of Institutions was excluded from the definition of administrative agency and not subject to the Administrative Agencies Practice Act. Although the court did not directly address the effect of rules adopted by an agency outside the Administrative Agencies Practice Act, and in a footnote urged the director and warden to adopt more formal approval procedures for Penitentiary rules to diminish future challenges to the rules, the court tacitly upheld the Penitentiary rules by allowing the penalty to stand.

2003 LEGISLATION

Senate Bill No. 2092 changed statutory references to the Central Personnel Division and the Central Personnel System and made a corresponding change in the definition of "administrative agency" under NDCC Section 28-32-01 to change the reference to rulemaking authority from the Central Personnel System to the "classified service." This does not appear to have any substantive impact.

Senate Bill No. 2151 changed the governing authority over the State Toxicologist from the State Department of Health to the Attorney General. This bill made a corresponding change in NDCC Section 28-32-01 with regard to the exclusion of the State Toxicologist from the definition of "administrative agency." The bill transferred from the State Department of Health to the Attorney General the authority for rulemaking regarding the DNA data base identification system. The existing rules adopted by the State Department of Health are contained in North Dakota Administrative Code Chapter 33-40-01. The bill also creates a State Crime Laboratory Division in the Attorney General's office and provides for transfer of related rules designated by the Attorney General.

Senate Bill No. 2288 replaced the presidential preference contest with presidential preference caucuses conducted by political parties. The bill removed the exclusion in NDCC Section 28-32-01 for rules of the Secretary of State relating to the presidential preference contest.

Senate Bill No. 2418 established a Legislative Council No Child Left Behind Committee to investigate the federal Act and its impact in this state. The bill provides that when an agency files a notice of proposed rulemaking on any matter governed by the No Child Left Behind Act of 2001, the agency shall provide a copy of the notice to the chairman of the No Child Left Behind Committee. The chairman shall convene the committee within 60 days of receiving the notice, or as soon thereafter as practicable, to receive

an agency presentation on the nature and scope of the proposed rules and receive public comments on that topic. The committee is not given any authority to take action regarding proposed rules but is to report to the 59th Legislative Assembly if it determines the state is not in compliance with any requirement of the No Child Left Behind Act of 2001.

House Bill No. 1178 made changes in the required contents of agency notice of rulemaking. The bill requires the agency's full notice of rulemaking to contain the deadline for submission of written comments. The bill requires the agency's abbreviated newspaper notice to contain the address and deadline for submission of written comments.

House Bill No. 1212 created NDCC Section 28-32-08.1 which provides as follows:

**Rules affecting small entities -
Analysis - Economic impact
statements - Judicial review.**

1. As used in this section:

a. "Small business" means a business entity, including its affiliates, which:

(1) Is independently owned and operated; and

(2) Employs fewer than twenty-five full-time employees or has gross annual sales of less than two million five hundred thousand dollars;

b. "Small entity" includes small business, small organization, and small political subdivision;

c. "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; and

d. "Small political subdivision" means a political subdivision with a population of less than five thousand.

2. Before adoption of any proposed rule, the adopting agency shall prepare a regulatory analysis in which, consistent with public health, safety, and welfare, the agency considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities;
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
- c. Consolidation or simplification of compliance or reporting requirements for small entities;
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

3. Before adoption of any proposed rule that may have an adverse impact on small entities, the adopting agency shall prepare an economic impact statement that includes consideration of:

- a. The small entities subject to the proposed rule;
- b. The administrative and other costs required for compliance with the proposed rule;
- c. The probable cost and benefit to private persons and consumers who are affected by the proposed rule;
- d. The probable effect of the proposed rule on state revenues; and
- e. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

4. For any rule subject to this section, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this section. A small entity seeking judicial review under this section must file a petition for judicial review within one year from the date of final agency action.

5. This section does not apply to any agency that is an occupational or professional licensing authority, nor does this section apply to the following agencies:

- a. Council on the arts.
- b. Beef commission.

- c. Dairy promotion commission.
 - d. Dry bean council.
 - e. Highway patrolmen's retirement board.
 - f. Indian affairs commission.
 - g. Board for Indian scholarships.
 - h. State personnel board.
 - i. Potato council.
 - j. Board of public school education.
 - k. Real estate trust account committee.
 - l. Seed commission.
 - m. Soil conservation committee.
 - n. Oilseed council.
 - o. Wheat commission.
 - p. State seed arbitration board.
- 6. This section does not apply to rules mandated by federal law.
 - 7. The adopting agency shall provide the administrative rules committee copies of any regulatory analysis or economic impact statement, or both, prepared under this section when the committee is considering the associated rules.

House Bill No. 1212 also contained a provision, given priority by the Legislative Council and assigned to the Administrative Rules Committee, to study the effects and operation of requiring agency consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions.

GUIDELINES

As pointed out earlier in this memorandum, attached as an appendix, is a copy of guidelines for agencies to follow in publishing notice of rulemaking. The committee may wish to consider whether to recommend legislation to incorporate the guidelines in statute.

POSSIBLE RULE REVIEW

During the 2001-02 interim, as rules were scheduled for review, each adopting agency was requested to provide the committee with written information in this format:

- 1. Whether the rules resulted from statutory changes made by the Legislative Assembly.
- 2. Whether the rules are related to any federal statute or regulation.

- 3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.
- 4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.
- 5. Whether a regulatory analysis was required by NDCC Section 28-32-08 and whether a regulatory analysis was issued. Please provide a copy if one was prepared.
- 6. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff) of developing and adopting the rules.
- 7. An explanation of the subject matter of the rules and the reasons for adopting the rules.
- 8. Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09. Please provide a copy if one was prepared.
- 9. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules.

It is suggested that an additional issue be added to this list regarding impact of rules on small entities under NDCC Section 28-32-08.1. Suggested language for inclusion is as follows:

Whether a regulatory analysis of impact of the rule on small entities was required by NDCC Section 28-32-08.1 and whether a regulatory analysis was issued. Please provide a copy if one was prepared.

It is also suggested that item 5 from the above list be distinguished by adding the phrase "of impact to the regulated community" after the word "analysis."

ATTACH:1

July 2001

GUIDELINES UNDER NORTH DAKOTA CENTURY CODE SECTION 28-32-10

North Dakota Century Code (NDCC) Section 28-32-10(4) directs the Legislative Council to establish standard procedures for all agencies to follow in complying with the provisions of NDCC Section 28-32-10 and a procedure whereby any person may request and receive mailed copies of all filings made by agencies pursuant to Section 28-32-10. A copy of Section 28-32-10 is attached as an appendix. These guidelines are adopted under that directive.

CONTENTS OF NOTICE

The notices provided by the agency with regard to proposed rulemaking must contain the information required by NDCC Section 28-32-10(1).

In determining whether the rule is expected to have an impact on the regulated community in excess of \$50,000, this standard means a reasonable expectation of a reasonably foreseeable cumulative negative fiscal impact to an identifiable regulated community in excess of \$50,000 in any 12-month period, which would not occur if the rule is not adopted. Any doubt about issuance of a regulatory analysis should be resolved in favor of issuance.

The address for submission of written data, views, or arguments should include the name of the person responsible for receiving this information. The notice should state the beginning and ending dates of the period during which written comments on the proposed rules will be accepted.

MAILING OF NOTICE

Each agency shall maintain a mailing list of persons who will be provided notice of the agency's

rulemaking activity. A person desiring inclusion on the agency's mailing list must be included, but the agency may periodically update the list by contacting those on the list to determine whether they remain interested in being included. The mailing list may be subdivided according to subject matter if it is likely that persons on the list would be interested in receiving notice only in regard to rules within a discrete area of the agency's jurisdiction. An agency may charge the actual cost of providing copies of the notice and regulatory analysis and may require that the cost be paid before delivery of the copies.

COMMENTS TO PROPOSED RULEMAKING

Submissions received during the comment period for rulemaking must be made part of the written rulemaking record of the agency.

NOTICE OF PROPOSED RULEMAKING SERVICE

The Legislative Council will mail copies of all notices of proposed rulemaking filed by agencies pursuant to NDCC Section 28-32-10(1)(a) to a subscriber to the notice of proposed rulemaking service. Any person may subscribe to this service upon payment of an annual subscription fee of \$50.

ATTACH:1

By: Susie White
HB 1058
1/21/05

MR. CHAIRMAN AND COMMITTEE MEMBERS

I AM SUSIE WHITE. MY HUSBAND, CHILDREN AND I OWN AND OPERATE THE LONE STEER IN STEELE, ND.

WE WORKED HARD DURING THE LAST SESSION AND THE SESSION BEFORE THAT TO SHARE OUR EXPERIENCES IN BUSINESS, OUR CLIENTS TESTIMONIES AND ESPECIALLY THE FACTS FROM FARMERS IN KIDDER COUNTY. WE SPENT MANY HOURS RUNNING TO THE GAME AND FISH MEETINGS, TO TESTIFY AT HEARINGS AND MANY HOURS ON THE PHONE. WE CALLED BOTH PARTIES ON THE HUNTER PRESSURE CONCEPT BILL INCLUDING DEAN HILDEBRANDT AND OTHERS TRYING TO COME TO A COMPROMISE OF SOME SORT AND UNDERSTAND THEIR REASONING.

I ALSO REALIZE THAT GAME AND FISH SPENT MANY HOURS AND A LOT OF MONEY COMING UP WITH THE HUNTER PRESSURE CONCEPT AND HAVE VISITED WITH THEM ABOUT THIS, AND UNDERSTAND THEIR FEELINGS. I RESPECT THEM AND THEIR POSITIONS.

OUR RESPECTED SENATORS AND REPRESENTATIVES ALSO SPENT MANY EXTRA HOURS ON THIS BILL FOR THE LAST 2 SESSIONS-ALONG WITH THE MEDIA AND YOUR EXTRA STAFF AT THE CAPITAL IN REARRANGING MEETING AREAS AND EXTENDING TIME FOR TESTIMONY AND MUCH MORE. ALL OF YOU VOTED AND REPRESENTED YOUR PEOPLE TO THE BEST OF YOUR KNOWLEDGE AND THE BILL WAS DEFEATED.

END OF STORY-NO I DON'T THINK SO. I AM NOT SURE IF I UNDERSTAND WHAT HAPPENED. I BELIEVE A PROCLAMATION WAS WRITTEN BY GAME AND FISH AND SIGNED BY GOV. HOEVEN AND EVERY THING THAT YOU REPRESENTED WAS DELETED WITH THE STROKE OF A PEN.

WHY DID WE ALL WASTE THE TIME AND THOUSANDS OF DOLLARS AND HURT FEELINGS AND TONGUE WAGGING TO HAVE WHAT THE PEOPLE WANTED TERMINATED INSTANTLY? I WOULD HOPE THAT YOU WOULD NOT WANT THIS REPEATED IN THE FUTURE.

IN THE FISCAL NOTES ON THE INTERNET I SEE IT MAY COST \$50,000. TO CHANGE THIS WAY OF GOVERNMENT. SOME BUSINESS'S LOST THAT MUCH MONEY IN ONE HUNTING SEASON BECAUSE OF THIS PROCESS. THAT IS SMALL CHANGE IN COMPARISON TO THE BLACK EYE OUR STATE HAS BEEN GIVEN AND THE DOLLARS IN REVENUE AND TAXES WE HAVE LOST-AND.....THE HUNTERS THAT DID COME, COMPLAINED THAT WE DON'T HAVE ENOUGH ACTIVITY IN OUR ZONED AREA TO EVEN MOVE THE BIRDS AROUND.

I HAVE TALKED TO MY REP'S AND SENATORS ABOUT THE ADMINISTRATIVE

RULES COMMITTEE AND I BELIEVE WE ALL NEED TO FOLLOW THAT PROCESS.
I WOULD LOVE TO HAVE THE HOSP. ASSOC. BE ABLE TO WRITE A
PROCLAMATION IN REGARDS TO SMOKING-DRINKING AND CLEANLINESS IN OUR
ESTABLISHMENTS AFTER THIS SESSION . WE WOULD HAVE A FIELD DAY!

IN ENDING, THIS PROCLAMATION WAS REALLY A DOUBLE WAMMY FOR US. I
HAD SEEN THE MAP OF THE ZONES AND SOME OF THE VERBIAGE 4 YEARS
BEFORE THE GOVERNOR EVER SIGNED THE PROCLAMATION FROM A GROUP OF
HUNTERS THAT I AM FRIENDS WITH.....

WE ALL NEED TO BE ACCOUNTABLE FOR OUR ACTIONS. YOU CAN DECIDE TO
MAKE THAT HAPPEN TODAY.

I RECEIVED PHONE CALLS AS PEOPLE REALIZED THAT THIS HEARING WAS AT 8:30 THIS MORNING- THAT WOULD BE THE NEXT ISSUE. A BILL NEEDS TO BE SCHEDULED AT LEAST A WEEK OR MORE IN ADVANCE SO THAT ALL PEOPLE WANTING TO TESTIFY HAVE TIME TO MAKE ARRANGEMENTS.

THESE PEOPLE WANTED TO REITERATE ABOUT OUR GOVERNMENT SPENDING THOUSANDS OF DOLLARS TO STOP OUR MIGRATION AND YET WE ARE CLOSING RURAL BUSINESS'S WITH YOUR DECISIONS,

ANOTHER ASKED ME TO REMIND YOU THAT ALTHOUGH FARGO AND BISMARCK HAVE A LARGER POPULATION-RURAL ND DOES EXIST AND SOMEONE NEEDS TO GROW FOOD.

AND FINALLY PERHAPS IF WE ALLOWED NON-RESIDENTS TO HUNT AS WE DO- THEY WOULDN'T BUY UP LAND THAT WE BELIEVE BELONGS TO US. PERSONALLY I DISAGREE WITH THAT. WHAT I SAW LAST YEAR WAS RICH PEOPLE BUYING LAND IN ALL THREE ZONES-BECAUSE THEY DON'T KNOW WHAT IS COMING NEXT. LIKE I TOLD DEAN HILDEBRAND-WE HAVE CREATED A MONSTER-WE REALLY NEED A CAGE. I BELIEVE-YOU ARE THE CAGE.

Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON

HB 1058
February 24, 2005

Mr. Chairman and Members of the Committee:



The CCWC opposes this engrossed bill which authorizes a study of Game & Fish laws, rules and regulations. The Club opposed the original bill, which would have turned the hunting proclamation over to an administrative rules committee. That bill was not needed. We feel that to spend time and money to study the issue is not warranted.

Please **oppose**.



MB/058

2005 PROCLAMATION AND LOTTERY SCHEDULE

STAFF REC. TO DIV/CHFS	DRAFT PROC TO ADMIN.	PROCLAMATIONS TO ADV/BD/TRIBE	GOVERNOR	APPLICATIONS		NEWSPAPER		NEWS		GUIDES		APPLICATION DEADLINE	DRAWING	SEASON OPENER
				DESIGN BY	PRINT BY	MAIL BY	ADS	RELEASES	DESIGN BY	PRINT BY	MAIL BY			
LIGHT GOOSE	5 JAN	10 JAN	14 JAN	19 JAN				1 FEB	2 FEB	28 JAN	3 FEB	4 FEB		19 FEB
SPRING TURKEY	14 JAN	18 JAN	19 JAN	20 JAN				1 FEB	2 FEB	3 MAR	8 MAR	9 MAR	9 MAR	9 APR
MOOSE, ELK & BIGHORN SHEEP	11 FEB	18 FEB	23 FEB	28 FEB				9 MAR	9 MAR	29 MAR	4 APR	6 APR	6 APR	1 APR
FISHING	BEGIN 2ND YEAR OF TWO YEAR PROCLAMATION													
DEER (1st Lottery)	13 APR	20 APR	26 APR	28 APR				16 MAR	16 MAR	1 MAR	6 JUL	12 AUG	11-22 JUL	4 NOV
UNSUCC. DRAWING								18 MAY	18 MAY	20 JUN	6 JUL	12 AUG	11-22 JUL	4 NOV
3RD DRAW/1234 TAG								20 JUL	20 JUL	20 JUL	14 SEP	14 SEP	19-25 AUG	
REMAIN. LIC. (FC/FS)								14 SEP	14 SEP	14 SEP	14 SEP	14 SEP	BY 7 SEP	
FALL TURKEY	9 MAY	16 MAY	24 MAY	31 MAY				22 JUN	22 JUN	18 JUL	22 JUL	25 JUL	22-28 JUL	8 OCT
FC/FS TURKEY*								7 workdays	7 workdays	5 workdays	5 workdays	5 workdays		
PRONGHORN	29 JUN	12 JUL	13 JUL	15 JUL				27 JUL	27 JUL	22 JUL	28 JUL	12 AUG	26-31 AUG	30 SEP
SMALL GAME	27 JUN	5 JUL	13 JUL	21 JUL				3 AUG	3 AUG	29 JUL	10 AUG	12 AUG		13 AUG (CROW)
FURBEARER	27 JUN	WITH SMALL GAME PROCLAMATION												
SWAN	27 JUN	WITH SMALL GAME PROCLAMATION												
WATERFOWL	5 AUG	12 AUG	16 AUG	18 AUG				31 AUG	31 AUG	26 AUG	6 SEP	7 SEP		1 OCT
WATERFOWL - REST AREA	5 AUG	12 AUG	16 AUG	18 AUG				6 SEP	6 SEP	26 AUG	6 SEP	7 SEP		1 OCT
RESPONSIBILITY	ALL STAFF	DIV.CHIEFS	ADMIN.	ADMIN.	LEE	LEE	LEE	WHITNEY	LEE	LEE	LEE	LEE	WHITNEY	WATERFOWL 1 OCT RES 8 OCT NONRES

* Number of workdays after drawing if sufficient number of licenses remain.
Chronic Wasting Disease Declaration (proclamation/newspaper ad/news release) due in late August.
2006 Season Opening Dates - Coordinate with Kreil and Wilson after 15 OCT, 2005.