

As an avid outdoorsman and conservationist, I oppose Senate Bill 2137 of the 69th legislative assembly. This bill would strip authority from the North Dakota Game and Fish to implement their CWD Management Plan by prohibiting the Game and Fish from banning baiting practices. Just like the 2023 baiting bill (HB1151) we view this as ballot box biology.

I do not believe we should restrict or control the ability of the wildlife professionals to fulfill their statutory and constitutional duties. Duties that require them to manage for sustainable populations of wildlife for current and future generations, and as stated in Article XI, Section 27 of the North Dakota Constitution, *“Hunting, trapping, and fishing and the taking of game and fish are a valued part of our heritage and will be forever preserved for the people and managed by law and regulation for the public good.”*

The public trust doctrine, supported by over a century of federal case law, makes it clear that all North Dakotans own the wildlife. This is codified in North Dakota Century code Section 20.1-03-03, *“The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided.”* and *“The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission.”*

Our fellow North Dakotans at the Game and Fish act as our trustees and it is their responsibility to manage the public’s trust assets (the wildlife), for the benefit of the trust corpus and all beneficiaries, both alive and unborn. With that in mind, this is not a private property rights issue, this is about publicly owned wildlife, making this a public property rights issue. And the hunting practices of a single user group does not outweigh what is beneficial for the entire public resource or the beneficiaries. Allowing baiting practices to continue in the face of a contagious and 100% fatal disease is not responsible care of our wildlife assets. We believe it is not only responsible, but necessary for the department to ban baiting practices where chronic wasting disease is found.

This bill would effectively undo over 15 years of management by the North Dakota Game and Fish to slow the spread of CWD. Since the first CWD positive deer was found in 2009, the department has spent 6 million dollars on 500 hay yard projects for landowners, to help keep animals from congregating on silage piles, hay yards, and other alternative food sources.

There is no doubt that baiting practices contribute to the spread of chronic wasting disease. Infectious prions can be found in man placed mineral licks, in the soil around those mineral licks, on feeders, and in bait piles. Research efforts have repeatedly

demonstrated horizontal and environmental transmission in animals who have prolonged and repeated contact with infectious materials. Research in Saskatchewan, Michigan, and Mississippi has found that man placed food sources represent by far, the largest aggregation of cervids and leads to the most focal contact with their environment. In other words, there is no activity that congregates deer more, putting them in direct contact with other deer and potentially contaminated environments, than artificial food sources. More than natural winter herding, natural food sources, bedding, and even breeding behaviors.

Additionally, there are no examples of high prevalence rates of CWD within a deer herd not having negative impacts to that population. Some are less significant, others more severe and dramatic, but all impacts are negative. This is backed up by multiple population studies GPS collaring thousands of deer.

While I sympathize with the hunters this change affects, and I understand changing long held practices can be difficult, the resource must come first. With over half the states in the nation having banned baiting and feeding of wildlife, we are confident that North Dakota hunters will adapt and overcome to be successful in the field just like the other states. We understand that baiting bans alone will not stop CWD, that deer do naturally congregate, and some of those natural occurrences will never be a variable managers can control in wild animals. But I also believe it is disingenuous to suggest that hundreds of bait piles and feeders on the landscape, being replenished repeatedly throughout the year, does not directly exacerbate the spread of CWD.

While I was disappointed to see the Department's concessions over the 2023 baiting bill, I understand their desire to try and work with hunters as best they can. While the ND Game and Fish department cannot ban feeding, unless for purposes of hunting, I agree that banning baiting where CWD is found removes the incentive to feed and will also lead to a reduction in feeding. It is our stance that the department does have the legal authority to ban feeding, and I would support joining a majority of the states in the nation and implementing a feeding ban in the units that are under baiting restrictions.

This bill is not in the best interest of the deer held in public trust, or the North Dakota public hunters who are beneficiaries of that trust. I find S.B. 2137 to be in direct violation of the North Dakota constitution, the North Dakota century code, the North American Model of Wildlife Conservation, the mission of the North Dakota Game and Fish, and a breach of the public trust doctrine.