

1999 HOUSE AGRICULTURE

HB 1337

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

House Agriculture Committee

Conference Committee

Hearing Date 1-28-99

Tape Number	Side A	Side B	Meter #
One HBO 1337	x		3 to 22
Committee Clerk Signature <i>Arline Hanson</i>			

Minutes:

Summary of bill: Relating to the inclusion of farmed elk in other provisions regarding livestock.

Cal Rolfson: Attorney representing the ND Elk growers. (Testimony attached) some difficulty that are currently faced by elk growers and ranchers in ND. For example many of them can't get liability ins or there premiums are so high they can't afford it. If they were treated the same as livestock it would be much more feasible for them to grow elk as a profitable venture. Bill patterned after the Minn. St. law.

Commissioner Roger Johnson: supports the bill with some amendments. exempt red deer from this bill.

Rep Warner: Is this an identical animal to the one in the wild and if so is there sufficient regulations to insure disease's for wild elk doesn't come in?

Cal Rolfson: Absolutely, yes.

Rep Berg: Complimented Mr Rolfson on his presentation and good job.

Lyle McClain: Elk raiser near Mohall, ND. Making sure everyone knows what we are doing.

The elk industry has prospered the past 7 to 10 years primarily because of the vision of the Legislature 10 years ago or so and the pace program that they put into place then. I would like to commend the Legislature for this action so many years ago.

Kim _____: Cando elk raiser.. supports bill because it will enable the elk industry to grow. As it is now we don't qualify for emergency haying etc. This is a step forward for our industry.

Larry Schuller: St Veterinary, Supports the bill with amendments.

Rep Warner moved the amendments to HB 1337, seconded by Rep D Johnson, carried.

Motion for a DO PASS as amended by Rep Warner, Seconded by Rep Stefonowicz Carried

Vote total: YES 15 NO 0 ABSENT 0

Bill carrier: Rep Mueller

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: _____ Amendment to: HB 1337

Requested by Legislative Council _____ Date of Request: 2-10-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: The cost of establishing and maintaining a farmed elk advisory committee will be about \$1000 per year. Loss of license income will be \$700 per year. Maintaining inventories and a database will be ongoing. A farmed elk development program could be developed but would be minimal with no additional funding.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	0	0	(1,400)	0	(1,400)	0
Expenditures	0	0	2,000	0	2,000	0

- What, if any, is the effect of this measure on the budget for your agency or department:

a. For rest of 1997-99 biennium: 0
(Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: \$3,400
(Indicate the portion of this amount included in the 1999-2001 executive budget: 0)

c. For the 2001-03 biennium: \$3,400

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Department of Agriculture
 Phone Number: 328-2655
 Date Prepared: 2/11/99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1337 Amendment to: _____

Requested by Legislative Council Date of Request: 1-13-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

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0	0	0	0	0	0	0	0	0

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Department of Agriculture
 Phone Number: 328-2655
 Date Prepared: 1/26/99

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 2, line 8, after "elaphus" insert ", except red deer"

Page 2, line 13, remove "**- Promotion**" and remove "The commissioner shall promote the raising of"

Page 2, line 14, remove "farmed elk.", and remove "shall" and insert "may"

Page 2, line 16, after "elk." insert "The rules of the board existing on the effective date of this Act regarding non-traditional livestock and applicable to elk shall apply to farmed elk until modified by the board."

Page 3, line 8, remove "brand, marking, tag, collar, electronic implant, tattoo, or other"

Page 3, line 11, remove "At the time of the inspection, the"

Page 3, remove lines 12 through 15

Page 3, after line 15, insert:

Enforcement orders - Administrative hearing - Penalty. The enforcement and administrative hearing procedures and penalty provisions set out in sections 36-14-21 and 36-15-22 shall apply to this Act.

Page 3, remove lines 20 through 26

Re-number Accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 1, line 2, remove the first "and"

Page 1, line 3, remove "subsection 2 of section 36-04-01,"

Page 1, line 6, after "livestock" insert "; and to provide a penalty"

Page 2, line 3, replace "A" with "If House Bill No. 1276 does not become effective, a"

Page 2, line 8, after "(cervus elaphus)" insert ", except red deer,"

Page 2, line 13, remove "**Promotion -**", after "**Rules**" insert "**- Data base**", and remove "The commissioner shall promote the raising of"

Page 2, line 14, remove "farmed elk." and replace "shall" with "may"

Page 2, line 15, after the underscored period insert "Any rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board." and remove "also"

Page 3, line 8, remove "brand, marking, tag, collar, electronic implant, tattoo, or other"

Page 3, line 10, remove "**- Written results**"

Page 3, line 11, remove "At the time of the inspection, the"

Page 3, replace lines 12 through 15 with:

"Enforcement orders - Administrative hearing - Penalty. The board may order any elk brought into this state in violation of rules adopted by the board to be returned to the state of origin or to be slaughtered. If the board finds that a person has brought elk into this state, kept elk, or received elk in violation of rules adopted by the board, the board may assess that person a civil penalty in an amount up to two thousand five hundred dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor.

SECTION 3. If House Bill No. 1276 becomes effective, a new chapter to title 36 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Farmed elk" means mammals of the elk family (cervus elaphus), except red deer, confined in a manmade enclosure designed to prevent escape and:

- a. Raised for fiber, meat, or animal byproducts; or
 - b. Raised for breeding, exhibition, or harvest.
4. "Owner" means a person who owns or is responsible for the raising of farmed elk.

Farmed elk - Rules - Data base. The board may adopt rules relating to the raising of farmed elk, including matters concerning the health, safety, confinement, and identification of farmed elk. Any rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board. The board shall maintain a data base regarding farmed elk.

Farmed elk advisory committee. The commissioner may appoint a farmed elk advisory committee to provide advice to the commissioner regarding farmed elk.

Farmed elk development program. The commissioner may establish a farmed elk development program to support applied research and provide demonstrations, financing, marketing, promotion, breed development and registration, and other services related to the raising of farmed elk. The commissioner shall include information regarding farmed elk in reports on agriculture in this state.

Farmed elk - Confinement - Rules. Farmed elk must be confined in a manner designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner shall report the escape to the board within one business day of the discovery and shall notify the board upon recapture. The owner is liable for the expenses incurred by another person in capturing, caring for, and returning farmed elk that have escaped, provided the other person notifies the owner as soon as practicable after discovering the escape.

Farmed elk - Agricultural pursuit. Farmed elk are livestock, and the products of farmed elk are farm products for purposes of financial transactions and collateral. The raising of farmed elk is agricultural production and an agricultural pursuit.

Farmed elk - Sales of meat products. Unless otherwise provided, a person selling or buying farmed elk as livestock, for human consumption or for slaughter, must comply with this title and all applicable rules.

Farmed elk - Identification. The owner of farmed elk shall identify each animal by a means of identification approved by the board.

Farmed elk - Inspection. The commissioner and the board may inspect farmed elk and all records related to the farmed elk.

Enforcement orders - Administrative hearing - Penalty. The board may order any elk brought into this state in violation of rules adopted by the board to be returned to the state of origin or to be slaughtered. If the board finds that a person has brought elk into this state, kept elk, or received elk in violation of rules adopted by the board, the board may assess that person a civil penalty in an amount up to five thousand dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor."

Page 3, remove lines 20 through 26

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 3, after line 15, insert:

"Tuberculosis - Brucellosis - Compensation of owner. If the board determines an elk to be infected with tuberculosis or brucellosis, its owner is entitled to payment as specified in this section. If an elk herd is adjudged by the board to be so seriously infected with tuberculosis or brucellosis as to warrant disposal of the entire herd, its owner is entitled to indemnity payments for the herd whether reactors, suspects, or exposed, in accordance with the limits set forth in this section. The board may adopt rules governing the payment of compensation under this section of not to exceed twenty-five dollars for each grade elk nor fifty dollars for each registered purebred elk."

Renumber accordingly

Date: 1-11
 Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1337

House AGRICULTURE Committee _____

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 90546.0103 90546.0104

Action Taken Reconsidered
Do Pass as Amended

Motion Made By Warner Seconded By Stefonowicz

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman	✓	✓	Bob Stefonowicz	✓	✓
Dennis E. Johnson, Vice Chm	✓	✓			
Thomas T. Brusegaard	✓	✓			
Earl Rennerfeldt	✓	✓			
Chet Pollert	✓	✓			
Dennis J. Renner	✓				
Michael D. Brandenburg	✓	✓			
Gil Herbel	✓	✓			
Rick Berg	✓	✓			
Myron Koppang	✓	✓			
John M. Warner	✓	✓			
Rod Froelich	✓		✓		
Robert E. Nowatzki	✓	✓			
Phillip Mueller	✓	✓			

Total (Yes) 13 No 1

Absent 115 0

Floor Assignment D Johnson, Mueller

REPORT OF STANDING COMMITTEE

HB 1337: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1337 was placed on the Sixth order on the calendar.

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thousand dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor."

Page 3, remove lines 12 through 15

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Renumber accordingly

1999 SENATE AGRICULTURE

HB 1337

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

Senate Agriculture Committee

Conference Committee

Hearing Date 2/26/99

Tape Number	Side A	Side B	Meter #
1	X		0-4208
Committee Clerk Signature <i>Tricia Jorgensen</i>			

Minutes:

Senator Wanzek called the meeting to order, roll call was taken, all were present.

Senator Wanzek opened the hearing on HB 1337.

Representative Nicholas introduced the bill. Would bring elk folks under the state vet. and laws existing for other classes of livestock.

Cal Rolfson from the ND Elk Growers spoke in favor of the bill. Testimony enclosed.

Paul Thomas from the ND Ag Coalition stood in support of the bill.

Larry Schuller the state vet. spoke in support of the bill. Testimony enclosed.

Senator Mathern: What is brucellosis?

Larry Schuller: It causes abortion in cattle and elk, can cause a disease in humans.

Senator Klein: Is it very contagious?

Larry Schuller: Yes, found primarily in aborted fetuses.

Senator Urlacher: Do you see a need for more manpower.

Larry Schuller: No.

Senator Kinnoin: Are there any herds infected in ND?

Larry Schuller: No, I don't believe so.

Senator Wanzek: What happens if you find an infected herd.

Larry Schuller: They are quarantined and eventually depopulated.

Senator Wanzek: Aren't we still able to consume the meat?

Larry Schuller: Yes.

Senator Wanzek: Is that the same way other livestock are treated?

Larry Schuller: Yes.

Lyle McClain from the ND Elk Growers spoke in support of the bill. In event that there is a herd that needs to be depopulated the growers have agreed to help replenish the herd. Elk industry has been in ND for over 35 years.

Senator Klein: Tell me what you do with elk.

Lyle McClain: Up until now they have primarily been breeding stock. They have switched to harvesting the animals, there are 53 types of medicine made from the antlers.

Senator Urlacher: You said there were 80 some producers, how many elk?

Lyle McClain: At about 2,000 head.

Senator Wanzek: If the growers are willing to self indemnify, what happens to the salvage money?

Lyle McClain: If the meat could be salvaged I would assume the producer would benefit.

Senator Sand: How do elk utilize the land, how many per acre?

Page 3

Senate Agriculture Committee
Bill/Resolution Number Hb 1337
Hearing Date 2/26/99

Lyle McClain: 1 ½ acres of pasture land per cow calf unit, in the badlands about 6 acres per cow calf unit.

Mickey Grenier, a farmer/rancher from Rollette asked a question. If there is government money involved.

Lyle McClain: No there is no government money.

Senator Wanzek: You use PACE rather than Ag PACE?

Lyle McClain: Yes.

Senator Urlacher: That includes the purchase of elk and fencing?

Lyle McClain: Yes.

Senator Sand: How long before they own economic merits?

Lyle McClain: Happening right now.

Senator Wanzek closed the hearing on HB 1337.

Senator Klein made the motion for a Do Pass.

Senator Mathern seconded.

ROLL CALL: 7 Yes, 0 No

CARRIER: Senator Mathern

Date: 2/26
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1337

Senate Agriculture Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Senator Mathern

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

REPORT OF STANDING COMMITTEE (410)
February 26, 1999 10:19 a.m.

Module No: SR-35-3644
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1337, as engrossed: **Agriculture Committee (Sen. Wanzek, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1337 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1337

TESTIMONY
OF
CALVIN N. ROLFSON
IN SUPPORT OF
HOUSE BILL 1337

MY NAME IS CAL ROLFSON. I AM AN ATTORNEY HERE IN BISMARCK AND I REPRESENT THE NORTH DAKOTA ELK GROWERS. I APPEAR IN SUPPORT OF HB 1337. I WOULD LIKE TO FIRST EXPLAIN THE DETAILS OF THE BILL FOLLOWED BY A SUMMARY OF THE BILL'S IMPORTANCE TO NORTH DAKOTA'S AGRICULTURAL ECONOMY. I WILL ALSO PROPOSE SOME AMENDMENTS AND EXPLAIN THOSE TO YOU AS WELL.

BACKGROUND

DOMESTICATED ELK HAVE BEEN RAISED IN NORTH DAKOTA FOR MORE THAN THE PAST 34 YEARS. ATTACHED TO MY TESTIMONY IS A MAP OF NORTH DAKOTA SHOWING THE APPROXIMATE LOCATIONS OF ELK FARMS THROUGHOUT THE STATE. THIS IS A GROWING AGRICULTURAL INDUSTRY FOR NORTH DAKOTA. THE ELK FARMERS AND RANCHERS OF NORTH DAKOTA BEGAN THIS INDUSTRY BECAUSE OF THE PROSPECT IT WOULD EVENTUALLY BECOME AN IMPORTANT SECTOR IN THE STATE'S AG ECONOMY. MANY OF THEM BEGAN THROUGH THE BLESSINGS OF THE AG PACE PROGRAM. AS THEY BECAME MORE EXPERIENCED, THEY ENCOUNTERED SOME HURTLES THAT HAVE ARBITRARILY EITHER

RESTRICTED THEIR GROWTH AND VIABILITY OR HAVE CREATED UNNECESSARY RISK TO THIS AG SECTOR.

AS AN EXAMPLE, MANY ELK PRODUCERS CANNOT OBTAIN ADEQUATE PROPERTY AND CASUALTY INSURANCE TO COVER THEIR HERDS SINCE MANY INSURANCE COMPANIES WILL NOT INSURE THEM BECAUSE ELK ARE STILL SEEN AS "WILD ANIMALS." THAT PROBLEM CREATES A SIGNIFICANT BUSINESS RISK TO ANY BUSINESS.

IN A NUTSHELL, WHAT THIS BILL DOES IS TREAT FARMED ELK, AS THAT TERM IS DEFINED, THE SAME AS LIVESTOCK ARE TREATED IN NORTH DAKOTA, WITH SEVERAL APPROPRIATE EXCEPTIONS.

A REVIEW OF HB 1337

THE THRUST OF THE NEW LEGISLATION PROPOSED BY THIS BILL IS FOUND IN SECTION 2. HOWEVER, IT WAS NECESSARY TO REVIEW ALL OTHER RELEVANT SECTIONS OF THE CENTURY CODE THAT DEALT WITH LIVESTOCK AND TO AMEND SOME OF THOSE SECTIONS. SECTION 1 OF THE BILL IS AN EXAMPLE.

SECTION 1 AMENDS THE PROVISIONS OF THE NORTH DAKOTA FOOD, DRUG AND COSMETIC ACT WHICH ESTABLISHES THE RIGHT OF THE STATE HEALTH DEPARTMENT TO INSPECT SLAUGHTER HOUSES AND MEAT-PACKING PLANTS. THE ELK GROWERS DID NOT WANT TO BE EXCLUDED FROM THE DEPARTMENT'S INSPECTION RESPONSIBILITY JUST AS CATTLE, SHEEP, HOGS AND HORSES ARE NOW INSEPECTED, SO SECTION 1 AMENDS SECTION 19-02.1-21 TO INCLUDE

FARMED ELK AS ONE OF THE CATEGORIES OF SLAUGHTERED LIVESTOCK FACILITIES THAT CAN BE INSPECTED BY THE STATE HEALTH DEPARTMENT.

SECTION 2 IS THE THRUST OF THE BILL. THE FIRST PARAGRAPH OF SECTION 2 SETS OUT DEFINITIONS. THE BOARD OF ANIMAL HEALTH IS DEFINED AS WELL AS THE COMMISSIONER OF AGRICULTURE. "FARMED ELK" IS DEFINED TO INCLUDE ALL MEMBERS OF THE ELK FAMILY EXCEPT RED DEER. THE BIOLOGICAL NAME FOR ELK IS "SERVUS ELAPHUS," HOWEVER, RED DEER ARE A SUB-SPECIES OF SERVUS ELAPHUS AND THE STATE VETERINARIAN AND THE BOARD OF ANIMAL HEALTH ASKED THAT RED DEER BE EXCLUDED FROM THE DEFINITION BECAUSE THERE ARE INSIGNIFICANT NUMBERS IN NORTH DAKOTA. WE HAVE AGREED WITH THAT. THE TERM "OWNER" IS DEFINED AND INCLUDES NOT ONLY THOSE WHO OWN THE ELK BUT ALSO THOSE WHO ARE RESPONSIBLE FOR RAISING THEM. THAT IS TO TAKE INTO ACCOUNT LEASED AND OTHER MANAGEMENT RELATIONSHIPS IN ORDER TO MAKE SURE THAT EVERYONE WHO IS RESPONSIBLE FOR THE RAISING OF THE ELK ARE COVERED BY THIS BILL.

THE NEXT PARAGRAPH OF THE BILL ESTABLISHES THE RIGHT OF THE BOARD OF ANIMAL HEALTH TO ADOPT RULES REGARDING FARMED ELK. THEY ALREADY HAVE THAT RIGHT UNDER CURRENT LAW. IN FACT, THE NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 48-12-01 SPECIFICALLY DEALS WITH NON-TRADITIONAL LIVESTOCK AND INCLUDES ELK UNDER CURRENT REGULATIONS.

THE PORTION OF THIS PARAGRAPH THAT WE ARE SEEKING TO AMEND WILL DELETE THE FIRST SENTENCE OF THAT PARAGRAPH THAT REQUIRES THE PROMOTION OF FARMED ELK THROUGHOUT NORTH DAKOTA BY THE AG COMMISSIONER. CERTAINLY THE AGRICULTURE COMMISSIONER OF NORTH DAKOTA WILL DO THAT. HOWEVER, HE DID NOT WANT THAT TO BE MANDATED AS IT IS IN MINNESOTA, AND WE AGREE WITH THAT POSITION. WE ARE SUGGESTING AN ADDITIONAL AMENDMENT FOLLOWING LINE 16 ON PAGE 2 THAT MAKES IT CLEAR THAT RULES OF THE BOARD REGARDING NON-TRADITIONAL LIVESTOCK THAT CURRENTLY APPLY TO ELK WILL CONTINUE TO APPLY TO FARMED ELK IF THIS BILL PASSES UNTIL THE BOARD HAS AN OPPORTUNITY TO ADOPT ADDITIONAL RULES THAT MAY BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS BILL. BECAUSE THIS BILL WOULD TAKE EFFECT ON AUGUST 1ST OF THIS YEAR, THAT MAY NOT ALLOW ENOUGH TIME FOR THE BOARD OF ANIMAL HEALTH TO REVIEW ITS RULES AND ADOPT OTHER NECESSARY RULES, AND THEY WANTED TO MAKE SURE THERE WAS NO GAP IN THE TRANSITION. WE AGREE WITH THAT CONCEPT AS WELL AND THE PROPOSED AMENDMENTS WILL ACCOMPLISH THAT.

THE NEXT PARAGRAPH ESTABLISHES A FARMED ELK ADVISORY COMMITTEE. IT PERMITS THE COMMISSIONER TO APPOINT SUCH A COMMITTEE. THERE ARE NO FUNDS SET ASIDE FOR THIS PURPOSE AND IT EXPECTED BY THE ELK GROWERS THAT IF A COMMITTEE IS APPOINTED BY THE COMMISSIONER, IT WILL LIKELY BE FUNDED BY THE ELK GROWERS THEMSELVES. THE PURPOSE

OF THIS IS TO HELP THE ELK GROWERS ADVISE THE COMMISSIONER AND THE BOARD OF ANIMAL HEALTH DIRECTLY ON THEIR INDUSTRY AND TO HAVE THAT ADVICE ALSO FLOW FROM THE STATE OFFICIALS TO ELK GROWERS AS WELL. COMMISSIONER JOHNSON'S OFFICE SUPPORTS THIS CONCEPT AS LONG AS NO FUNDING IS INVOLVED.

THE NEXT PARAGRAPH ALSO ESTABLISHES THE PERMISSIVE RIGHT OF THE COMMISSIONER TO ESTABLISH A FARMED ELK DEVELOPMENT PROGRAM TO SUPPORT RESEARCH, DEMONSTRATION, MARKETING, ETC. REGARDING FARMED ELK. THIS IS PATTERNED AFTER MINNESOTA LAW, AND IS PERMISSIVE. BOTH THE COMMISSIONER'S OFFICE AND THE ELK GROWERS OF NORTH DAKOTA WANT TO MAKE EVERY REASONABLE EFFORT TO PROMOTE AND ENHANCE THIS GROWING AGRICULTURAL INDUSTRY IN NORTH DAKOTA, FOR THE BENEFIT NOT ONLY OF THE ELK GROWERS BUT OF THE STATE'S AG ECONOMY AS WELL. THE LAST SENTENCE OF THIS PARAGRAPH REQUIRES THE COMMISSIONER TO INCLUDE INFORMATION REGARDING FARMED ELK IN HIS AGRICULTURAL REPORT TO THE STATE.

THE NEXT PARAGRAPH ESTABLISHES SOME SPECIFIC RULES REGARDING FENCING AND LIABILITY FOR ESCAPED FARMED ELK. CURRENTLY, THERE ARE IDENTICAL ADMINISTRATIVE RULES IN PLACE ADMINISTERED BY THE BOARD OF ANIMAL HEALTH REGARDING THE TYPE OF FENCE THAT IS REQUIRED TO CONTAIN FARMED ELK. FOR EXAMPLE THE SAME "84" HEIGHT" PROVISIONS IN THIS LAW ARE NOW IN THE RULES ADMINISTERED BY THE BOARD OF ANIMAL

HEALTH. HOWEVER, IF THE BOARD SHOULD DECIDE TO MODIFY (UP OR DOWN) THESE FENCING REQUIREMENTS, THE LAW PERMITS THEM TO DO THAT SINCE THEY ARE IN THE BEST POSITION TO MAKE THOSE DECISIONS AND TO ADMINISTER THIS LAW. HOWEVER, FOR THE SAKE OF CONTINUITY, BOTH THE BOARD OF ANIMAL HEALTH AND THE ELK GROWERS WANTED THIS RESTRICTION IN PLACE. THE REMAINING PORTIONS OF THIS PARAGRAPH OUTLINE THE LIABILITY OF ESCAPED FARMED ELK AND IT REQUIRES THE OWNER TO NOTIFY THE BOARD WITHIN ONE BUSINESS DAY OF SUCH AN ESCAPE. THIS NOTIFICATION REQUIREMENT IS ALSO CURRENTLY CONTAINED IN THE BOARD'S RULES. THE PARAGRAPH GOES ON TO ESTABLISH LIABILITY FOR THE OWNER IF AN ESCAPED ELK CAUSES ANY DAMAGE AS A RESULT.

ONE OF THE MOST IMPORTANT SECTIONS OF THIS BILL IS THE NEXT ONE. THIS ESTABLISHES THAT FARMED ELK ARE LIVESTOCK AND ARE CONSIDERED FARM PRODUCTS FOR THE PURPOSES OF FINANCIAL TRANSACTIONS AND COLLATERAL. IT IS ALSO STATED SPECIFICALLY TO BE AN AGRICULTURAL PURSUIT. THIS WILL HELP THEM OBTAIN INSURANCE COVERAGE THAT YOU AND I TAKE FOR GRANTED, BUT THAT THEY CURRENTLY HAVE DIFFICULTY OBTAINING.

THE NEXT PARAGRAPH ESTABLISHES THE REQUIREMENT THAT SELLING OR BUYING FARMED ELK AS LIVESTOCK FOR HUMAN CONSUMPTION OR SLAUGHTER MUST COMPLY WITH ALL APPLICABLE PROVISIONS OF LAW AND RULES REGARDING THAT SUBJECT MATTER.

THE NEXT SECTION REQUIRES THAT THE OWNER OF FARMED ELK ARE TO FOLLOW THE BOARD'S MANDATES REGARDING THE MEANS FOR IDENTIFICATION OF FARMED ELK THAT IS CURRENTLY IN PLACE UNDER THE RULES OF THE BOARD. IT IS THE BOARD'S REQUEST THAT THE SPECIFIC IDENTIFICATION METHODS THAT ARE SET OUT ON LINE 8 OF PAGE 3 SHOULD BE DELETED IN ORDER TO LEAVE THAT DETAIL UP TO THE BOARD. THE ELK GROWERS HAVE NO PROBLEM WITH THAT AMENDMENT AND THAT IS INCLUDED IN OUR PROPOSED AMENDMENTS THAT ARE ATTACHED.

THE FINAL PARAGRAPH OF THE NEW PROPOSED LAW PERMITS THE AGRICULTURE COMMISSIONER AND THE BOARD TO INSPECT FARMED ELK AND FARMED ELK RECORDS. THE BILL CURRENTLY HAS ADDED TO THAT SEVERAL ADDITIONAL REQUIREMENTS REGARDING GIVING NOTICE OF INSPECTION AND REPORTS OF INSPECTION. THE BOARD WOULD PREFER THAT THE SENTENCE BEGINNING AT LINE 11 ON PAGE 3 OF THE BILL THROUGH THE REMAINDER OF THAT PARAGRAPH BE DELETED. THE ELK GROWERS HAVE NO OBJECTION TO DELETING THOSE PROVISIONS OF THE BILL EITHER, SINCE THE BOARD BY RULES NOW DEALS WITH THAT ISSUE OR WILL DO SO IN THE FUTURE.

A NEW PARAGRAPH IS PROPOSED TO BE AMENDED TO THE BILL REGARDING ADMINISTRATIVE PROCEDURES AND PENALTIES. THE NEW LANGUAGE THAT WE ARE PROPOSING TO ADD IS REQUESTED BY THE BOARD AND BY THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE BOARD AND THE STATE AG DEPARTMENT. THE BOARD OF ANIMAL HEALTH IS SEEKING

AMENDMENTS TO ITS LAWS IN THIS SESSION THAT INCLUDE ADMINISTRATIVE AND CIVIL PENALTY PROVISIONS. IT WAS THE BOARD'S BELIEF THAT THE ELK GROWERS SHOULD BE GOVERNED BY ANY ADMINISTRATIVE AND CIVIL PENALTY PROVISIONS THAT MAY BE ADDED TO THE AUTHORITY OF THE BOARD. CURRENTLY, THIS LEGISLATURE IS CONSIDERING HB 1276 WHICH ESTABLISHES CERTAIN PENALTY PROVISIONS FOR DOMESTIC AND NON-TRADITIONAL LIVESTOCK. ATTACHED TO THE PROPOSED AMENDMENTS IS A COPY OF THE PENALTY PROVISIONS FROM HB 1276 FOR YOUR EASY REFERENCE. IN OTHER WORDS, IF HOUSE BILL 1276 PASSES WITH SECTIONS 36-14-21 & 22 INTACT, THOSE TWO ADMINISTRATIVE HEARING AND PENALTY PROVISIONS WILL APPLY TO THIS BILL AS WELL. THAT IS THE POSITION OF THE BOARD AND AGAIN, THE ELK GROWERS AGREE WITH THAT.

SECTION 3 OF THE BILL AMENDS THE DEFINITION OF "DOMESTIC ANIMAL" TO INCLUDE FARMED ELK WITH ALL OTHER LIVESTOCK REGULATED BY THE BOARD OF ANIMAL HEALTH.

SECTION 4 OF THE BILL WE PROPOSE BE DELETED. CHAPTER 36-04 IS THE LIVESTOCK DEALER'S CHAPTER. THE BOARD WAS CONCERNED THAT ELK GROWERS MAY BE INTERPRETED AS BEING LIVESTOCK DEALERS, AND THEY WOULD PREFER THAT THIS PROVISION BE DELETED. THE ELK GROWERS HAVE NO OBJECTION TO THAT DELETION. THE AMENDMENTS I AM PROPOSING WILL DO THAT.

SECTION 5 OF THE BILL WOULD AMEND THE RESTRICTIONS APPLICABLE TO LIVESTOCK DEALERS IN ORDER TO INSURE THAT ELK RANCHERS AND FARMERS AGAIN ARE NOT SPECIFICALLY INCLUDED WITHIN THE LIVESTOCK DEALER PROVISIONS OF LAW. AS YOU CAN SEE, THE TERM "FARMED ELK" HAS BEEN INCLUDED IN THE PROVISIONS OF THIS SECTION THAT WOULD EXCLUDE THEM FROM LIVESTOCK DEALERSHIP REQUIREMENTS AS WITH ALL OTHER MENTIONED AGRICULTURAL PRODUCERS. AGAIN, ELK FARMERS MERELY WISH TO BE TREATED THE SAME AS THEIR TRADITIONAL LIVESTOCK FARMERS AND RANCHERS IN THE AGRICULTURAL COMMUNITY.

SECTION 6 OF THE BILL AMENDS THE DEFINITION OF "LIVESTOCK" TO INCLUDE FARMED ELK. THIS IS THE SECTION THAT DEALS WITH LIVESTOCK AUCTION MARKETS. WHAT THIS DOES IS MAKE SURE THAT AUCTIONEERS THAT WOULD TRADITIONALLY BE AUCTIONING CATTLE, HORSES, SWINE, ETC. ARE ALSO COVERED WHEN AUCTIONING FARMED ELK.

SECTION 7 OF THE BILL ALSO AMENDS THE DEFINITION OF LIVESTOCK TO INCLUDE THE TERM "FARMED ELK." CHAPTER 36-05.1 DEALS WITH SATELLITE VIDEO LIVESTOCK AUCTION MARKETS AND THE SAME REASONING APPLIES HERE AS WITH REGULAR AUCTION MARKETS I JUST DESCRIBED.

SECTION 8 OF THE BILL ADDS THE TERM "FARMED ELK" TO THE TERM "AGRICULTURAL PRODUCTION IN NDCC 38-11.1-03." THAT CHAPTER OF THE CENTURY CODE DEALS WITH OIL AND GAS PRODUCTION DAMAGE COMPENSATION. IN THE EVENT THAT ELK GROWERS' PRODUCTION IS DAMAGED

BY OIL AND GAS PRODUCTION, THEY WISH TO BE INCLUDED IN THE COMPENSATION PROVISIONS OF THAT CHAPTER ALONG WITH ALL OTHER "FARM ANIMALS." SINCE THERE MAY HAVE BEEN A QUESTION WHETHER FARMED ELK WERE CONSIDERED FARM ANIMALS, WE WANTED TO MAKE SURE THAT THEY WERE IN FACT INCLUDED.

FINALLY, SECTION 9 OF THE BILL ALSO ADDS THE TERM "FARMED ELK" TO THE DEFINITION OF AGRICULTURAL PRODUCTION AS FOUND IN CHAPTER 38-18. THAT CHAPTER OF LAW IS THE SURFACE OWNER PROTECTION ACT AND GIVES THE SAME RIGHTS TO ELK PRODUCERS AS OTHER PRODUCERS OF FARM ANIMALS REGARDING SURFACE OWNER PROTECTION RIGHTS.

CONCLUSION

THE ELK GROWERS OF NORTH DAKOTA PRODUCE AN ESTIMATED \$5 MILLION ANNUALLY IN AGRICULTURAL PRODUCTION FOR THE STATE OF NORTH DAKOTA. IN ADDITION, THEY SUPPORT THE BROAD AG ECONOMY BY PURCHASING FEEDS, FENCING MATERIALS, AG EQUIPMENT, FINANCIAL INSTITUTION BORROWING, ETC. THEIR INDUSTRY IS GROWING. I HAVE ATTACHED TO MY TESTIMONY A SERIES OF NEWSPAPER ARTICLES THAT DESCRIBE ELK FARMING IN NORTH DAKOTA AND AROUND THE UNITED STATES.

CURRENTLY, 11 STATES HAVE LAWS SIMILAR TO THIS, INCLUDING THE STATES OF COLORADO, CONNECTICUT, IDAHO, IOWA, KANSAS, MINNESOTA, MISSOURI, NEBRASKA, NEVADA, SOUTH DAKOTA AND WISCONSIN. OTHERS ARE PENDING IN LEGISLATURES AS WE SPEAK. THOSE WHO FOLLOW ME IN

TESTIMONY WILL EXPLAIN THE VALUE OF ELK RANCHING AND FARMING IN NORTH DAKOTA, INCLUDING THE USE OF ELK BI-PRODUCTS SUCH AS THE ANTLERS, THE HIDE, AS WELL AS THE MEAT.

THE ELK GROWERS OF NORTH DAKOTA HAVE WORKED CONSCIENTIOUSLY WITH THE NORTH DAKOTA AG DEPARTMENT AND AGRICULTURE COMMISSIONER JOHNSON HAS ASKED ME TO INFORM YOU THAT HE SUPPORTS THIS BILL IN ITS AMENDED FORM. WE HAVE WORKED DIRECTLY WITH THE BOARD OF ANIMAL HEALTH AND THE STATE VETERINARIAN'S OFFICE AND THEY SUPPORT THE BILL AS WELL. DRS. SCHULER AND KELLER, THE STATE VETERINARIAN AND DEPUTY VETERINARIAN, HAVE BEEN WORKING DILIGENTLY WITH THE ELK GROWERS TO CRAFT THIS LEGISLATION THAT WILL BOTH PROVIDE APPROPRIATE REGULATION OF DOMESTICATED ELK AND WILL ENHANCE NORTH DAKOTA'S AGRICULTURAL ECONOMY. I COMMEND THE AGRICULTURE COMMISSIONER'S OFFICE, THE BOARD OF ANIMAL HEALTH AND THE STATE VETERINARIAN'S OFFICE FOR THEIR FORESIGHT IN ENHANCING OUR STATE'S AGRICULTURAL ECONOMY.

I URGE YOUR SUPPORT OF THIS IMPORTANT LEGISLATION FOR NORTH DAKOTA.

From HB 1276

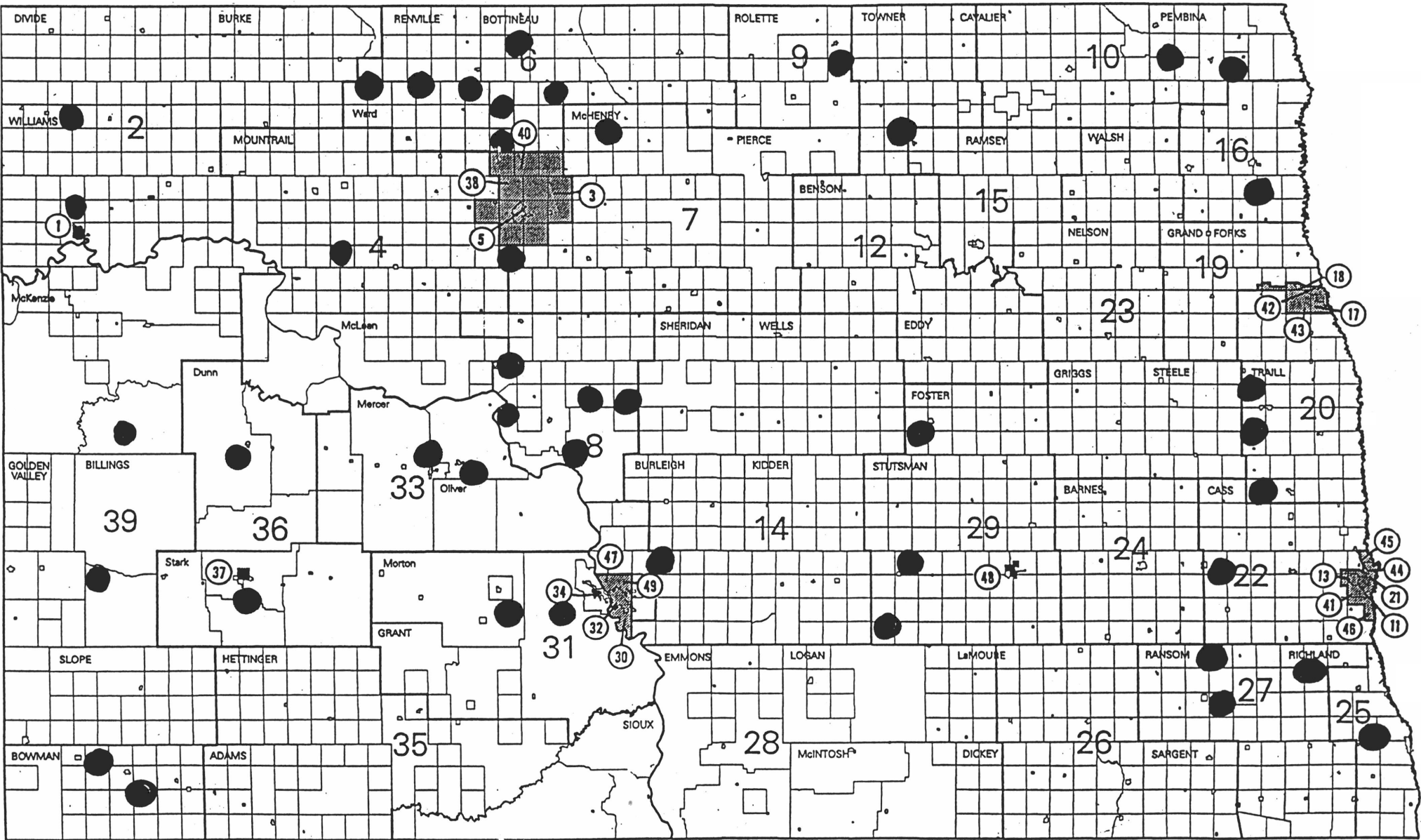
36-14-21. Enforcement orders - Administrative hearing - Penalty.

1. The board may order any domestic animal or nontraditional livestock brought into this state which is not in compliance with the provisions of this chapter to be returned to the state of origin, or in the alternative, the board may order the animal slaughtered or destroyed.
2. If, after a hearing, the board finds that a person has brought, kept, or received any domestic animal or nontraditional livestock in this state and the animals or livestock are not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed five thousand dollars per violation may be assessed against that person.
3. Any person who knowingly violates any rule of the state board of animal health, or who violates any provision of this chapter for which another penalty is not provided, is guilty of a class A misdemeanor.

36-15-22. Enforcement orders - Administrative hearing - Penalty.

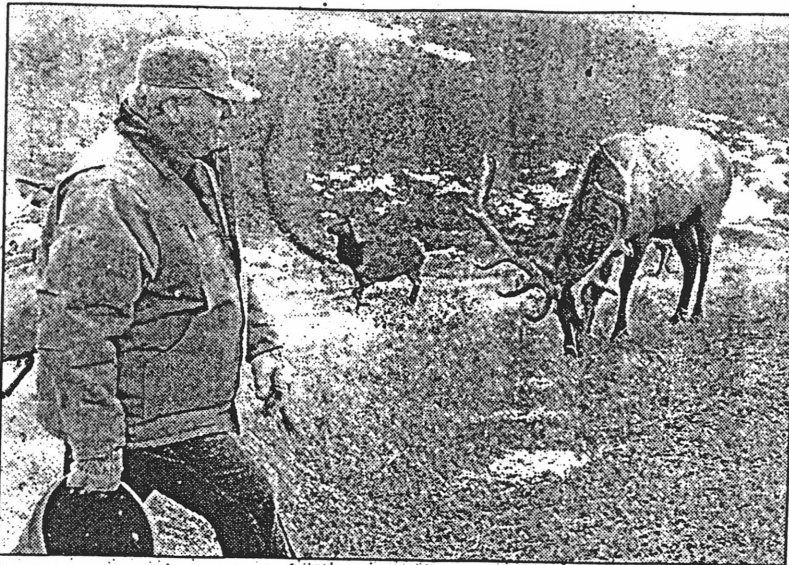
1. The board may order ~~eattle~~ animals brought into the state which are not in compliance with the provisions of this chapter to be returned to their state of origin, or in the alternative, the board may order the ~~eattle~~ animals to be slaughtered or destroyed.
2. If, after a hearing, the board finds that a person has brought, kept, or received ~~eattle~~ animals in this state and the ~~eattle~~ animals are not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed ~~two~~ five thousand five hundred dollars per violation may be assessed against that person.

NORTH DAKOTA ELK GROWERS RANCH LOCATIONS



Legislative Districts Effective August 1, 1995

12-13-98



ASSOCIATED PRESS

John Stip goes to get another bucket of feed for his elk herd that he raises south of Minot.

Elk less expensive to raise than cattle

■ North Dakota has 68 elk breeders in business

MINOT (AP) — Elk that once roamed freely over nearly all of the United States and Canada can now be seen grazing behind tall fences on ranches in most areas of North Dakota.

Elk have been raised in the state for about 20 years, and 68 elk breeders are in the business statewide. Raising elk has become an increasingly popular alternative to raising cattle.

"Raising elk is easy," said Lyle McLain, Mohall, president of the North Dakota Elk Growers Association. "Anyone with a tall, sturdy fence can do it."

Orlyn Ballantyne started with a pair of elk in 1991 as a hobby. Raising the animals has become so important to his farming operation, he now runs the Dakota Plains Elk Ranch near Westhope with 145 head, he said.

"Raising elk has been good therapy after the struggles of grain farming," Ballantyne said. "It's great to watch such beautiful animals grow and become profitable for us."

Elk are less expensive to raise and require less cleanup than cattle, McLain said. Their systems require less feed to keep going. While beef cattle usually require about 12 acres of pasture to support a cow-calf pair for six months, elk require only about 1 to 2 acres per cow-calf pair.

The main velvet market has been Korea, where the horns are used the way Americans use aspirin, Stip said. It is also used as an aphrodisiac, he said.

"They have been using horn for hundreds of years, and they look pretty healthy to me so they must know what they are doing," Stip said.

Elk are designated as alternative livestock by the state Legislature, McLain said.

"The association will be asking the state Legislature to change the status of elk to just another livestock," he said. "Then producers can buy herd insurance just as cattle producers do to protect their investment from loss."

Feed costs for elk run about \$100 a head a year compared to about \$250 a year per head of cattle, McLain said. The animals live from 20 to 30 years.

Ballantyne's whole family has gotten into the act. His wife, Louise, and their sons all have their own animals and share in the family business.

"All I knew about livestock was running the neighbor's stock out of my fields before I started raising elk," he said.

Fences are necessary to keep wild deer out of elk herds. The wild animals often carry diseases such as tuberculosis that could infect the elk herd, McLain said. The state requires fences for elk to be at least seven feet tall, because deer are natural fence jumpers.

Tom Mau of Tolley started raising elk on the Silver Wing Ranch in 1988. His interest in the business led to his branching out into Knife River Fencing, a business that specializes in building elk fences.

Elk ranchers have several sources of income from elk. Selling breeding stock brings in the most money, McLain said. Elk horns, known as velvet, are harvested, cured and sold for use in traditional Chinese medicines and remedies. The recent soft Asian economy has reduced prices to about \$30 a pound and spurred the North American Elk Breeders Association to develop domestic markets for elk products, he said. Private hunting refuges in other states buy elk.

The meat sells for about \$4 a pound, so butchering an elk is not economical.

John Stip, who raises elk a few miles south of Minot, switched from raising bison in 1982.

"Elk are much gentler animals to handle than bison are," he said. "A bull elk in the rut can do a pretty good job on a fence, though."

Velvet, which consists of the whole growing horn covered with the velvet-like substance before the horn starts calcifying, is harvested the first part of June. Mature hard horns that have been shed are not worth nearly as much as velvet.

Playful elk also turn nice profit

■ More North Dakotans raising them for meat, velvet

MARK HANSON, *Bismarck Tribune*

A February afternoon at the Dakota Elk Ranch northwest of Mandan is like a day at a petting zoo. The elk are docile and friendly.

Oh, and quite playful, too.

A number of Ron Schlosser's herd of 66 elk usually play a game of "push the plastic barrel around the pasture" this time of year.

'A good bull will produce about \$2,000 a year in velvet, depending on the market.'

Ron Schlosser

home base.

He's not joking.

Elk are playful and tidy, but, more importantly, profitable. And the number of people raising elk in North Dakota is growing each year.

"We were member No. 19 three years ago," Schlosser said.

Today, the North Dakota Elk Growers has 66 members.

"The group formed about five years ago with six members," said the group's president, Lyle McLain of Mohall. "I was the 11th member to join. Since that time the interest in growing elk is phenomenal. We have 66 growers and another dozen or 15 interested members who are planning to purchase some elk."

There are about 1,500 elk under ranch management in North Dakota and it appears the number will grow considerably over the next few years.

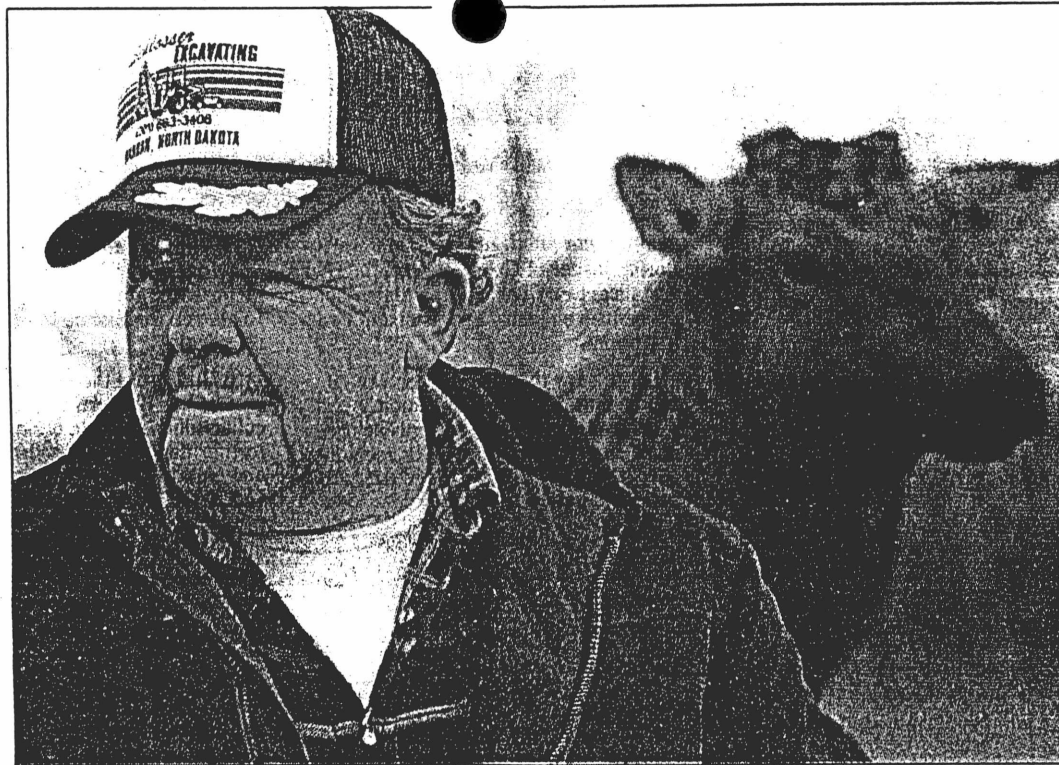
Why? Because growers can make money.

Schlosser, who owns Schlosser Excavating in

"It gives them something to do," said Schlosser, who started raising elk three years ago with his son Nathan.

The elk are also tidy. After they're done playing with the barrel, one of the animals will put it away.

"By the end of each night, the barrel is back in its spot on that rock pile," Schlosser said, pointing to the barrel's



By MIKE MCCLEARY of the Tribune

Ron Schlosser in his pasture with a bull elk behind him.

Mandan, decided to get out of the cattle business and was looking for another venture.

"I didn't want to raise emus," he said. "Three years ago I took a vacation and traveled around looking at elk."

Schlosser started with about 20 head and the herd has grown by about 20 each year since.

The elk industry is unusual in that there's more than one way to make money. One is similar to raising cattle: Selling the elk for meat or breeding. The other is selling the antlers, or velvet, produced by bulls each year.

Schlosser's herd is strictly bulls and he sells the velvet produced each year. The antlers start growing around the beginning of March and are removed around May. In removing the antlers, the elk rancher is basically doing what nature does, just earlier in the year.

"A good bull will produce about \$2,000 a year in velvet, depending on the market," said Schlosser, who would like to see his herd grow to 100 head. "We take ours to Canada to a drying plant."

The velvet is sold mainly on the Asian market where it's used as the primary ingredient in holistic medicines. Velvet prices have ranged from \$35 to \$100 per pound and each bull produces anywhere from 20 to 40 pounds per year.

"In the U.S. we only hear about velvet being used as an aphrodisiac, but in Asia they claim there are 53

different illnesses that they believe is addressed by the velvet," McLain said. "They've used this stuff for 2,000 years and they strongly believe in it."

Removing the antlers is a simple process. Schlosser said they herd the animals into a pen, give them a shot similar to Novocain, and saw the antlers off, turn them upside down and seal the ends, and then freeze them until the product is shipped.

Not everyone raises the animal for velvet, though. A big market today is breeding the animal to increase herd numbers.

"I've got standing orders here on our ranch from fellows who want to get into the business," said McLain, who has 70 head. "If we had 30 bred elk cows for sale, I've got guys who are waiting for them."

The main reason the industry is growing at such a slow pace is because the reproduction process is slow.

"It takes about two years for an elk to be reproductive," McLain said. "And a rule of thumb is, if a 2-year-old has a calf, there's a good chance she'll skip the next year. It takes a long time to build a herd."

And that's a big reason why the elk meat market hasn't grown. The meat is lean, low in fat and cholesterol and brings a good price, ranging from \$4 a pound for burger to \$15 per pound for steaks.

"Right now there's not enough elk raised under a

(More on ELK, Page 14A)

Bismarck
Tribune
2-15-98



By MIKE MCCLEARY of the Tribune

Nathan and Melanie Schlosser watch their daughter, Jenna, 5, feed one of the bull elk an apple.

Elk: Animals are in demand

FROM PAGE 1A
 ranch-type condition to supply a meat market," McLain said. "There's a guy in Montana connected to health stores across the country and he could utilize 2,000 head of elk a year. But there are only 1,500 head in North Dakota, 600 in South Dakota and 1,800 in Minnesota. At 2,000 head a year it could literally wipe out the industry.

"It was estimated that the meat market is at least 10 years away, provided the number of elk ranchers doubled each year and the number of elk on each ranch doubled each year. They said that about three years ago."

That leaves the velvet and breeding markets, both of which are profitable. For Schlosser, the main

expense, other than buying the elk, was putting up fencing. State law requires at least a seven-foot fence for elk ranches to keep wild elk and deer — and possible disease — away from the herd. Fencing runs about \$4 a foot.

Feeding the animals, though, is cheap. The elk's appetite slows in the winter, meaning little feed is needed. Schlosser said he puts out five round bales per week for his 66 elk. If he were feeding cattle, he'd need about 20 bales a week for the same number of animals.

The low maintenance means Schlosser's velveting business is more profitable.

Others who raise the animals are making money in the breeding business. Because the demand easily outweighs the supply, ranchers are busy selling to other ranchers.

Another reason the herds are growing slowly is because the animals can be expensive. Depending on blood lines, bred cows can average about \$12,000 per head, McLain said. Calves can run between \$3,500 and \$5,500 and bulls are around \$2,000 to \$3,000.

"Demand is greater than supply and I think it will probably be that way for another 10 years," McLain said. "Then, if there's enough for the meat market, then high breeding stock will always be in demand.

"Unfortunately, most fellows in the industry are older. I'm 65. If a young fellow is going to farm he needs thousands of acres. He could take one quarter of land, land not even good for farming, and could make \$100,000 a year raising elk and he could easily have an off-the-farm job as well."

The downside of elk ranching — disease

Raising elk can be a profitable business, but there is one area that can be devastating to an elk rancher — disease.

While elk are generally healthy animals, they are susceptible to tuberculosis and brucellosis. If one of the herd is infected, the entire herd must be destroyed, which leaves the rancher with no return on his investment.

North Dakota Elk Growers, a group of 66 ranchers, is looking for a way to provide some security in

raising the animals.

Lyle McLain, president of the state group, said the members will ask the Legislature to classify elk as another form of livestock.

"Right now it's almost impossible to insure them because they're considered a rare animal," McLain said. "If it's designated as another form of livestock, then each ranch could take out a blanket policy."

Another option would be a self-indemnity program in which producers contribute to a trust fund. If

a rancher is ordered by the state veterinarian to destroy his herd, then the fund would pay the rancher 50 percent of the market value for the elk.

"The rancher would suffer a loss, but not put him out of business," McLain said.

North Dakota elk growers also work closely with the state vet, McLain said.

"We're probably one of the tougher states in managing an elk ranch as far as disease control."

HOUSE BILL NO. 1337

Introduced by

Representatives Nicholas, Meyer, Belter

Senators Freborg, Tomac, Wanzek

1 A BILL for an Act to create and enact a new chapter to title 36 of the North Dakota Century
 2 Code, relating to farmed elk; ~~and to amend and reenact section 19-02.1-21, subsection 3 of~~
 3 ~~section 36-01-00.1, subsection 2 of section 36-04-01,~~ section 36-04-02, subsection 2 of section
 4 36-05-01, subsection 2 of section 36-05.1-01, subsection 1 of section 38-11.1-03, and
 5 subsection 1 of section 38-18-05 of the North Dakota Century Code, relating to the inclusion of
 6 farmed elk in other provisions regarding livestock ^{and to provide a penalty}

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Section 19-02.1-21 of the North Dakota Century Code is
 9 amended and reenacted as follows:

10 **19-02.1-21. Inspections - Examinations.** The department has free access at all
 11 reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices,
 12 or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or
 13 to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in
 14 commerce, for the purpose of inspecting such factory, warehouse, establishment, or vehicle to
 15 determine if this chapter is being violated and to secure samples or specimens of any food,
 16 drug, device, or cosmetic after paying or offering to pay for such sample.

17 The department shall make or cause to be made examinations of samples secured
 18 under this section to determine whether or not this chapter is being violated.

19 Inspections of slaughterhouses, meatpacking, and meat processing plants where cattle,
 20 swine, sheep, goats, farmed elk, horses, or other equines are slaughtered for human food or
 21 where the carcass or the parts thereof, meat, or meat food products are salted, canned,
 22 packed, smoked, cured, rendered, or otherwise processed or prepared for human food, may not
 23 be performed under this chapter if the slaughterhouses, meatpacking, or meat processing

1 plants are inspected under the North Dakota Meat Inspection Act, or the Federal Meat
2 Inspection Act, as amended [34 Stat. 1260-65; 21 U.S.C. 71-91].

3 ~~SECTION 2.~~ ^{If House Bill No. 1276 does not become effective, a} new chapter to title 36 of the North Dakota Century Code is created and
4 enacted as follows:

5 **Definitions.** In this chapter, unless the context otherwise requires:

- 6 1. "Board" means the state board of animal health.
- 7 2. "Commissioner" means the commissioner of agriculture.
- 8 3. "Farmed elk" means mammals of the elk family (cervus elaphus), ^{except red deer,} confined in a
9 manmade enclosure designed to prevent escape and:
 - 10 a. Raised for fiber, meat, or animal byproducts; or
 - 11 b. Raised for breeding, exhibition or harvest.
- 12 4. "Owner" means a person who owns or is responsible for the raising of farmed elk.

13 ~~**Farmed elk - Promotion - Rules.** ^{- Database} The commissioner shall promote the raising of~~
14 ~~farmed elk. The board ^{may} shall adopt rules relating to the raising of farmed elk, including matters~~
15 ~~concerning the health, safety, confinement, and identification of farmed elk. The board ^{also} shall~~
16 maintain a database regarding farmed elk.

17 **Farmed elk advisory committee.** The commissioner may appoint a farmed elk
18 advisory committee to provide advice to the commissioner regarding farmed elk.

19 **Farmed elk development program.** The commissioner may establish a farmed elk
20 development program to support applied research and provide demonstrations, financing,
21 marketing, promotion, breed development and registration, and other services related to the
22 raising of farmed elk. The commissioner shall include information regarding farmed elk in
23 reports on agriculture in this state.

24 **Farmed elk - Confinement - Rules.** Farmed elk must be confined in a manner
25 designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be
26 at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner
27 shall report the escape to the board within one business day of the discovery and shall notify
28 the board upon recapture. The owner is liable for the expenses incurred by another person in
29 capturing, caring for, and returning farmed elk that have escaped, provided the other person
30 notifies the owner as soon as practicable after discovering the escape.

Any rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board.

1 Farmed elk - Agricultural pursuit. Farmed elk are livestock, and the products of
2 farmed elk are farm products for purposes of financial transactions and collateral. The raising
3 of farmed elk is agricultural production and an agricultural pursuit.

4 Farmed elk - Sales of meat products. Unless otherwise provided, a person selling or
5 buying farmed elk as livestock, for human consumption or for slaughter, must comply with this
6 title and all applicable rules.

7 Farmed elk - Identification. The owner of farmed elk shall identify each animal by a
8 brand, marking, tag, collar, electronic implant, tattoo, or other means of identification approved
9 by the board.

10 Farmed elk - Inspection ~~Written results.~~ The commissioner and the board may
11 inspect farmed elk and all records related to the farmed elk. ~~At the time of the inspection, the~~
12 ~~owner of the farmed elk must be given a written reason for the inspection. Upon completion of~~
13 ~~the inspection, the owner must be given a document indicating whether the inspection was~~
14 ~~founded or unfounded, and whether the owner will be subject to an ongoing investigation or a~~
15 ~~continuing evaluation.~~

"Enforcement orders - Administrative hearing - Penalty. The board may
order any elk brought into this state in violation of rules adopted by the board to be
returned to the state of origin or to be slaughtered. If the board finds that a person has
brought elk into this state, kept elk, or received elk in violation of rules adopted by the
board, the board may assess that person a civil penalty in an amount up to two
thousand five hundred dollars. Any person who knowingly violates this chapter or any
rule of the board is guilty of a class A misdemeanor.

SECTION 3. If House Bill No. 1276 becomes effective, a new chapter to title 36
of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Farmed elk" means mammals of the elk family (cervus elaphus), except
red deer, confined in a manmade enclosure designed to prevent escape
and:

- a. Raised for fiber, meat, or animal byproducts, or
 - b. Raised for breeding, exhibition, or harvest.
4. "Owner" means a person who owns or is responsible for the raising of farmed elk.

Farmed elk - Rules - Data base. The board may adopt rules relating to the raising of farmed elk, including matters concerning the health, safety, confinement, and identification of farmed elk. Any rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board. The board shall maintain a data base regarding farmed elk.

Farmed elk advisory committee. The commissioner may appoint a farmed elk advisory committee to provide advice to the commissioner regarding farmed elk.

Farmed elk development program. The commissioner may establish a farmed elk development program to support applied research and provide demonstrations, financing, marketing, promotion, breed development and registration, and other services related to the raising of farmed elk. The commissioner shall include information regarding farmed elk in reports on agriculture in this state.

Farmed elk - Confinement - Rules. Farmed elk must be confined in a manner designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner shall report the escape to the board within one business day of the discovery and shall notify the board upon recapture. The owner is liable for the expenses incurred by another person in capturing, caring for, and returning farmed elk that have escaped, provided the other person notifies the owner as soon as practicable after discovering the escape.

Farmed elk - Agricultural pursuit. Farmed elk are livestock, and the products of farmed elk are farm products for purposes of financial transactions and collateral. The raising of farmed elk is agricultural production and an agricultural pursuit.

Farmed elk - Sales of meat products. Unless otherwise provided, a person selling or buying farmed elk as livestock, for human consumption or for slaughter, must comply with this title and all applicable rules.

Farmed elk - Identification. The owner of farmed elk shall identify each animal by a means of identification approved by the board.

Farmed elk - Inspection. The commissioner and the board may inspect farmed elk and all records related to the farmed elk.

Enforcement orders - Administrative hearing - Penalty. The board may order any elk brought into this state in violation of rules adopted by the board to be returned to the state of origin or to be slaughtered. If the board finds that a person has brought elk into this state, kept elk, or received elk in violation of rules adopted by the board, the board may assess that person a civil penalty in an amount up to five thousand dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor."

16 **SECTION 3, AMENDMENT.** Subsection 3 of section 36-01-00.1 of the 1997
17 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18 3. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison,
19 farmed elk, llama, alpaca, or swine.

20 ~~**SECTION 4. AMENDMENT.** Subsection 2 of section 36-04-01 of the 1997 Supplement~~
21 ~~to the North Dakota Century Code is amended and reenacted as follows:~~

22 ~~2. "Dealer" means any person, copartnership, association, corporation, or limited~~
23 ~~liability company engaged in the business of buying or dealing in horses, mules,~~
24 ~~cattle, hogs, goats, sheep, farmed elk and their products, or wool from the~~
25 ~~producer, terminal market, or livestock auction market for resale, slaughter, or~~
26 ~~shipment within or without the state, and also resale in the local market.~~

27 **SECTION 5. AMENDMENT.** Section 36-04-02 of the 1997 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **36-04-02. Restrictions on application of provisions of chapter.** The provisions of
30 this chapter do not apply to:

1. Farmers who or farm associations which buy and sell farmed elk, livestock, poultry, or wool among themselves as producers.
2. Farmers who or farm associations which purchase farmed elk, livestock, or wool to complete a load of their own farmed elk, livestock, or wool for shipment to market if the amount so purchased does not exceed twenty-five percent of a truckload.
3. Cooperative farmed elk, livestock, or wool marketing associations of producers of farmed elk, livestock, or wool in their dealings with their members.
4. Livestock including farmed elk, purchased by local butchers for slaughter or processing in their business for local home consumption.

SECTION 6. AMENDMENT. Subsection 2 of section 36-05-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.

SECTION 7. AMENDMENT. Subsection 2 of section 36-05.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.

SECTION 8. AMENDMENT. Subsection 1 of section 38-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not the animals are to be sold commercially.

SECTION 9. AMENDMENT. Subsection 1 of section 38-18-05 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not ~~such~~ the animals are to be sold commercially.

Testimony of Larry A. Schuler, DVM
State Veterinarian
Executive Officer of the State Board of Animal Health
House Bill 1337
February 26, 1999
8:30 A.M. CST
Senate Agriculture Committee
Roosevelt Room

Chairman Wanzek and Committee members, my name is Larry Schuler. I am the state veterinarian and executive officer of the State Board of Animal Health. I am here to testify in support of HB 1337.

The State Board of Animal Health at a recent meeting voted to support HB1337. The farmed elk industry in North Dakota has worked very closely with the State Board of Animal Health to establish an industry in the state that is free of disease concerns. The industry has submitted to inventory reporting, frequent TB and brucellosis testing, mandatory surveillance for chronic wasting disease, and stringent import requirements in an effort to develop a credible industry that presents a minimal amount risk to existing industries. Most of the elk herds in North Dakota are working toward the "Accredited Tuberculosis Free" status, which requires three consecutive whole herd tests for tuberculosis. The State Board of Animal Health feels that these efforts should be rewarded by allowing farmed elk to be considered domestic animals.

It is the Board's understanding that the current regulatory policies that apply to the farmed elk industry will continue to apply until the State Board of Animal Health promulgates rules relating to the raising of farmed elk, including matters concerning the health, safety, confinement, and identification of farmed elk. The Board expects that the administrative rules that are promulgated will be very similar to the existing rules that relate to nontraditional livestock .

I would be happy to answer any questions that you may have.

TESTIMONY
OF
CALVIN N. ROLFSON
IN SUPPORT OF
HOUSE BILL 1337

MY NAME IS CAL ROLFSON. I AM AN ATTORNEY HERE IN BISMARCK AND I REPRESENT THE NORTH DAKOTA ELK GROWERS. I APPEAR IN SUPPORT OF HB 1337. I WOULD LIKE TO FIRST EXPLAIN THE DETAILS OF THE BILL FOLLOWED BY A SUMMARY OF THE BILL'S IMPORTANCE TO NORTH DAKOTA'S AGRICULTURAL ECONOMY.

BACKGROUND

DOMESTICATED ELK HAVE BEEN RAISED IN NORTH DAKOTA FOR THE PAST 30+ YEARS. ATTACHED TO MY TESTIMONY IS A MAP OF NORTH DAKOTA SHOWING THE APPROXIMATE LOCATIONS OF ELK FARMS AND RANCHES THROUGHOUT THE STATE.

THIS IS A GROWING AGRICULTURAL INDUSTRY FOR NORTH DAKOTA. THE ELK FARMERS AND RANCHERS OF NORTH DAKOTA BEGAN THIS INDUSTRY BECAUSE OF THE PROSPECT IT WOULD EVENTUALLY BECOME AN IMPORTANT SECTOR IN THE STATE'S AG ECONOMY. MANY OF THEM BEGAN THROUGH THE SUPPORT OF THE AG PACE PROGRAM. AS THEY BECAME MORE EXPERIENCED, THEY ENCOUNTERED SOME HURTLES THAT HAVE ARBITRARILY EITHER

RESTRICTED THEIR GROWTH AND VIABILITY OR HAVE CREATED UNNECESSARY RISKS TO THIS AG SECTOR.

AS AN EXAMPLE, MANY ELK PRODUCERS CANNOT OBTAIN ADEQUATE PROPERTY AND CASUALTY INSURANCE TO COVER THEIR HERDS SINCE MANY INSURANCE COMPANIES WILL NOT INSURE THEM BECAUSE ELK ARE STILL SEEN BY MANY INSURERS AS "WILD ANIMALS." THAT PROBLEM CREATES A SIGNIFICANT BUSINESS RISK TO ANY BUSINESS. MANY CANNOT EVEN GET LOANS FOR THEIR OPERATIONS.

IN A NUTSHELL, WHAT THIS BILL DOES IS TREAT FARMED ELK, AS THAT TERM IS DEFINED, THE SAME AS LIVESTOCK ARE TREATED IN NORTH DAKOTA, WITH SEVERAL APPROPRIATE EXCEPTIONS.

A REVIEW OF HB 1337

THE THRUST OF THE NEW LEGISLATION PROPOSED BY THIS BILL IS FOUND IN SECTION 2. HOWEVER, IT WAS NECESSARY TO REVIEW ALL OTHER APPLICABLE SECTIONS OF THE CENTURY CODE THAT DEALT WITH LIVESTOCK AND TO AMEND SOME OF THOSE SECTIONS. SECTION 1 OF THE BILL IS AN EXAMPLE.

SECTION 1 AMENDS THE PROVISIONS OF THE NORTH DAKOTA FOOD, DRUG AND COSMETIC ACT WHICH ESTABLISHES THE RIGHT OF THE STATE HEALTH DEPARTMENT TO INSPECT SLAUGHTER HOUSES AND MEAT-PACKING PLANTS. THE ELK GROWERS DID NOT WANT TO BE EXCLUDED FROM THE DEPARTMENT'S INSPECTION RESPONSIBILITY JUST AS CATTLE, SHEEP, HOGS AND HORSES ARE

NOW INSPECTED, SO SECTION 1 AMENDS SECTION 19-02.1-21 TO INCLUDE FARMED ELK AS ONE OF THE CATEGORIES OF SLAUGHTERED LIVESTOCK FACILITIES THAT CAN BE INSPECTED BY THE STATE HEALTH DEPARTMENT.

SECTION 2 IS THE THRUST OF THE BILL. THE FIRST PARAGRAPH OF SECTION 2 SETS OUT DEFINITIONS. THE BOARD OF ANIMAL HEALTH IS DEFINED AS WELL AS THE COMMISSIONER OF AGRICULTURE. "FARMED ELK" IS DEFINED TO INCLUDE ALL MEMBERS OF THE ELK FAMILY EXCEPT RED DEER. THE BIOLOGICAL NAME FOR ELK IS "SERVUS ELAPHUS," HOWEVER, RED DEER ARE A SUB-SPECIES OF "SERVUS ELAPHUS" AND THE STATE VETERINARIAN AND THE BOARD OF ANIMAL HEALTH ASKED THAT RED DEER BE EXCLUDED FROM THE DEFINITION BECAUSE THERE ARE INSIGNIFICANT NUMBERS IN NORTH DAKOTA. WE HAVE AGREED WITH THAT. THE TERM "OWNER" IS DEFINED AND INCLUDES NOT ONLY THOSE WHO OWN THE ELK BUT ALSO THOSE WHO ARE RESPONSIBLE FOR RAISING THEM. THAT IS TO TAKE INTO ACCOUNT LEASED AND OTHER MANAGEMENT RELATIONSHIPS IN ORDER TO MAKE SURE THAT EVERYONE WHO IS RESPONSIBLE FOR THE RAISING OF THE ELK ARE COVERED BY THIS BILL.

THE NEXT PARAGRAPH OF THE BILL ESTABLISHES THE RIGHT OF THE BOARD OF ANIMAL HEALTH TO ADOPT RULES REGARDING FARMED ELK. THEY ALREADY HAVE THAT RIGHT UNDER CURRENT LAW. IN FACT, THE NORTH DAKOTA ADMINISTRATIVE CODE CHAPTER 48-12-01 SPECIFICALLY DEALS WITH NON-TRADITIONAL LIVESTOCK AND INCLUDES ELK UNDER CURRENT REGULATIONS. RULES OF THE BOARD REGARDING NON-TRADITIONAL

LIVESTOCK THAT CURRENTLY APPLY TO ELK WILL CONTINUE TO APPLY TO FARMED ELK IF THIS BILL PASSES UNTIL THE BOARD HAS AN OPPORTUNITY TO ADOPT ADDITIONAL RULES THAT MAY BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS BILL. BECAUSE THIS BILL WOULD TAKE EFFECT ON AUGUST 1ST OF THIS YEAR, THAT MAY NOT ALLOW ENOUGH TIME FOR THE BOARD OF ANIMAL HEALTH TO REVIEW ITS RULES AND ADOPT OTHER NECESSARY RULES, AND THE BOARD WANTED TO MAKE SURE THERE WAS NO GAP IN THE TRANSITION. WE AGREE WITH THAT CONCEPT AS WELL AND THE PROPOSED AMENDMENTS WILL ACCOMPLISH THAT.

THE NEXT PARAGRAPH ESTABLISHES A FARMED ELK ADVISORY COMMITTEE. IT PERMITS THE COMMISSIONER TO APPOINT SUCH A COMMITTEE. THERE ARE NO FUNDS SET ASIDE FOR THIS PURPOSE AND IT EXPECTED BY THE ELK GROWERS THAT IF A COMMITTEE IS APPOINTED BY THE COMMISSIONER, IT WILL LIKELY BE FUNDED BY THE ELK GROWERS THEMSELVES. THE PURPOSE OF THIS IS TO HELP THE ELK GROWERS ADVISE THE COMMISSIONER AND THE BOARD OF ANIMAL HEALTH DIRECTLY ON THEIR INDUSTRY AND TO HAVE THAT ADVICE ALSO FLOW FROM THE STATE OFFICIALS TO ELK GROWERS AS WELL. COMMISSIONER JOHNSON'S OFFICE SUPPORTS THIS CONCEPT AS LONG AS NO FUNDING IS INVOLVED.

THE NEXT PARAGRAPH ALSO ESTABLISHES THE PERMISSIVE RIGHT OF THE COMMISSIONER TO ESTABLISH A FARMED ELK DEVELOPMENT PROGRAM TO SUPPORT RESEARCH, DEMONSTRATION, MARKETING, ETC. REGARDING FARMED

ELK. THIS IS PATTERNED AFTER MINNESOTA LAW, AND IS PERMISSIVE. BOTH THE COMMISSIONER'S OFFICE AND THE ELK GROWERS OF NORTH DAKOTA WANT TO MAKE EVERY REASONABLE EFFORT TO PROMOTE AND ENHANCE THIS GROWING AGRICULTURAL INDUSTRY IN NORTH DAKOTA, FOR THE BENEFIT NOT ONLY OF THE ELK GROWERS BUT OF THE STATE'S AG ECONOMY AS WELL. THE LAST SENTENCE OF THIS PARAGRAPH REQUIRES THE COMMISSIONER TO INCLUDE INFORMATION REGARDING FARMED ELK IN HIS AGRICULTURAL REPORT TO THE STATE.

THE NEXT PARAGRAPH ESTABLISHES SOME SPECIFIC RULES REGARDING FENCING AND LIABILITY FOR ESCAPED FARMED ELK. CURRENTLY, THERE ARE IDENTICAL ADMINISTRATIVE RULES IN PLACE ADMINISTERED BY THE BOARD OF ANIMAL HEALTH REGARDING THE TYPE OF FENCE THAT IS REQUIRED TO CONTAIN FARMED ELK. FOR EXAMPLE THE SAME "84" HEIGHT" PROVISIONS IN THIS LAW ARE NOW IN THE RULES ADMINISTERED BY THE BOARD OF ANIMAL HEALTH. HOWEVER, IF THE BOARD SHOULD DECIDE TO MODIFY (UP OR DOWN) THESE FENCING REQUIREMENTS, THE LAW PERMITS THEM TO DO THAT SINCE THEY ARE IN THE BEST POSITION TO MAKE THOSE DECISIONS AND TO ADMINISTER THIS LAW. HOWEVER, FOR THE SAKE OF CONTINUITY, BOTH THE BOARD OF ANIMAL HEALTH AND THE ELK GROWERS WANTED THIS RESTRICTION IN PLACE. THE REMAINING PORTIONS OF THIS PARAGRAPH OUTLINE THE LIABILITY OF ESCAPED FARMED ELK AND IT REQUIRES THE OWNER TO NOTIFY THE BOARD WITHIN ONE BUSINESS DAY OF SUCH AN ESCAPE. THIS

NOTIFICATION REQUIREMENT IS ALSO CURRENTLY CONTAINED IN THE BOARD'S RULES. THE PARAGRAPH GOES ON TO ESTABLISH LIABILITY FOR THE OWNER IF AN ESCAPED ELK CAUSES ANY DAMAGE AS A RESULT.

ONE OF THE MOST IMPORTANT SECTIONS OF THIS BILL IS THE NEXT ONE. THIS ESTABLISHES THAT FARMED ELK ARE LIVESTOCK AND ARE CONSIDERED FARM PRODUCTS FOR THE PURPOSES OF FINANCIAL TRANSACTIONS AND COLLATERAL. IT IS ALSO STATED SPECIFICALLY TO BE AN AGRICULTURAL PURSUIT. THIS WILL HELP THEM OBTAIN INSURANCE COVERAGE THAT YOU AND I TAKE FOR GRANTED, BUT THAT THEY CURRENTLY HAVE DIFFICULTY OBTAINING.

THE NEXT PARAGRAPH ESTABLISHES THE REQUIREMENT THAT SELLING OR BUYING FARMED ELK AS LIVESTOCK FOR HUMAN CONSUMPTION OR SLAUGHTER MUST COMPLY WITH ALL APPLICABLE PROVISIONS OF LAW AND RULES REGARDING THAT SUBJECT MATTER.

THE NEXT SECTION REQUIRES THAT THE OWNER OF FARMED ELK ARE TO FOLLOW THE BOARD'S MANDATES REGARDING THE MEANS FOR IDENTIFICATION OF FARMED ELK THAT IS CURRENTLY IN PLACE UNDER THE RULES OF THE BOARD. THOSE MEANS INCLUDE SPECIAL TAGS AND IDENTIFICATION PROCEDURES.

THE NEXT PARAGRAPH OF THE BILL PERMITS THE AGRICULTURE COMMISSIONER AND THE BOARD TO INSPECT FARMED ELK AND FARMED ELK

RECORDS. THE BOARD, BY RULE, NOW DEALS WITH THAT ISSUE AND WILL CONTINUE TO DO SO IN THE FUTURE.

THE NEXT PARAGRAPH CONCERNS ADMINISTRATIVE PROCEDURES AND PENALTIES. THE ENGROSSED BILL CONTAINS THIS NEW LANGUAGE THAT WAS REQUESTED BY THE BOARD, BY THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE BOARD AND THE STATE AG DEPARTMENT. THE N.D. ELK GROWERS SUPPORTS THIS PROVISION THAT WAS AMENDED IN THE HOUSE. IT INCLUDES ADMINISTRATIVE AND CIVIL PENALTY PROVISIONS. IT WAS THE BOARD'S BELIEF THAT THE ELK GROWERS SHOULD BE GOVERNED BY ANY ADMINISTRATIVE AND CIVIL PENALTY PROVISIONS THAT MAY BE ADDED TO THE AUTHORITY OF THE BOARD IN COMPANION LEGISLATION NOW PENDING. CURRENTLY, THIS LEGISLATURE IS CONSIDERING HB 1276 WHICH ESTABLISHES CERTAIN PENALTY PROVISIONS FOR DOMESTIC AND NON-TRADITIONAL LIVESTOCK. ATTACHED IS A COPY OF THE PENALTY PROVISIONS FROM HB 1276 FOR YOUR EASY REFERENCE. IN OTHER WORDS, IF HOUSE BILL 1276 PASSES WITH SECTIONS 36-14-21 & 22 INTACT, THOSE TWO ADMINISTRATIVE HEARING AND PENALTY PROVISIONS WILL APPLY TO THIS BILL AS WELL. THE ELK GROWERS AGREE WITH THAT.

THE BOARD ALSO WANTED THE PROVISIONS OF THE NEXT PARAGRAPH INSERTED IN THE BILL REGARDING T.B. AND BRUCellosIS TESTING. THE HOUSE ADDED THIS PARAGRAPH AND WE AGREE WITH THAT ADDITION. IT PROVIDES

IMPORTANT STATE COMPENSATION PROVISIONS FOR ELK OWNERS JUST AS IS IN PLACE FOR OTHER LIVESTOCK.

SECTION 3 OF THE BILL IS THE ALTERNATIVE PROVISIONS IF HB 1276 BECOMES LAW AND ESSENTIALLY REPEATS THE PREVIOUS BILL LANGUAGE.

SECTION 4 OF THE BILL AMENDS THE DEFINITION OF "DOMESTIC ANIMAL" TO INCLUDE FARMED ELK WITH ALL OTHER LIVESTOCK REGULATED BY THE BOARD OF ANIMAL HEALTH.

SECTION 5 OF THE BILL WOULD AMEND THE RESTRICTIONS APPLICABLE TO LIVESTOCK DEALERS IN ORDER TO INSURE THAT ELK RANCHERS AND FARMERS AGAIN ARE NOT SPECIFICALLY INCLUDED WITHIN THE LIVESTOCK DEALER PROVISIONS OF LAW. AS YOU CAN SEE, THE TERM "FARMED ELK" HAS BEEN INCLUDED IN THE PROVISIONS OF THIS SECTION THAT WOULD EXCLUDE THEM FROM LIVESTOCK DEALERSHIP REQUIREMENTS AS WITH ALL OTHER MENTIONED AGRICULTURAL PRODUCERS. AGAIN, ELK FARMERS MERELY WISH TO BE TREATED THE SAME AS THEIR TRADITIONAL LIVESTOCK FARMERS AND RANCHERS IN THE AGRICULTURAL COMMUNITY.

SECTION 6 OF THE BILL AMENDS THE DEFINITION OF "LIVESTOCK" TO INCLUDE FARMED ELK. THIS IS THE SECTION THAT DEALS WITH LIVESTOCK AUCTION MARKETS. WHAT THIS DOES IS MAKE SURE THAT AUCTIONEERS THAT WOULD TRADITIONALLY BE AUCTIONING CATTLE, HORSES, SWINE, ETC. ARE ALSO COVERED WHEN AUCTIONING FARMED ELK.

SECTION 7 OF THE BILL ALSO AMENDS THE DEFINITION OF LIVESTOCK TO INCLUDE THE TERM "FARMED ELK." CHAPTER 36-05.1 DEALS WITH SATELLITE VIDEO LIVESTOCK AUCTION MARKETS AND THE SAME REASONING APPLIES HERE AS WITH REGULAR AUCTION MARKETS I JUST DESCRIBED.

SECTION 8 OF THE BILL ADDS THE TERM "FARMED ELK" TO THE TERM "AGRICULTURAL PRODUCTION IN NDCC 38-11.1-03." THAT CHAPTER OF THE CENTURY CODE DEALS WITH OIL AND GAS PRODUCTION DAMAGE COMPENSATION. IN THE EVENT THAT ELK GROWERS' PRODUCTION IS DAMAGED BY OIL AND GAS PRODUCTION, THEY WISH TO BE INCLUDED IN THE COMPENSATION PROVISIONS OF THAT CHAPTER ALONG WITH ALL OTHER "FARM ANIMALS." SINCE THERE MAY HAVE BEEN A QUESTION WHETHER FARMED ELK WERE CONSIDERED FARM ANIMALS, WE WANTED TO MAKE SURE THAT THEY WERE IN FACT INCLUDED.

FINALLY, SECTION 9 OF THE BILL ALSO ADDS THE TERM "FARMED ELK" TO THE DEFINITION OF AGRICULTURAL PRODUCTION AS FOUND IN CHAPTER 38-18. THAT CHAPTER OF LAW IS THE SURFACE OWNER PROTECTION ACT AND GIVES THE SAME RIGHTS TO ELK PRODUCERS AS OTHER PRODUCERS OF FARM ANIMALS REGARDING SURFACE OWNER PROTECTION RIGHTS.

CONCLUSION

THE ELK GROWERS OF NORTH DAKOTA PRODUCE AN ESTIMATED \$5 MILLION ANNUALLY IN AGRICULTURAL PRODUCTION FOR THE STATE OF NORTH DAKOTA. IN ADDITION, THEY SUPPORT THE BROAD AG ECONOMY BY

PURCHASING FEEDS, FENCING MATERIALS, AG EQUIPMENT, FINANCIAL INSTITUTION BORROWING, ETC. THEIR INDUSTRY IS GROWING. I HAVE ATTACHED TO MY TESTIMONY A SERIES OF NEWSPAPER ARTICLES THAT DESCRIBE ELK FARMING IN NORTH DAKOTA AND AROUND THE UNITED STATES.

CURRENTLY, 11 STATES HAVE LAWS SIMILAR TO THIS, INCLUDING THE STATES OF COLORADO, CONNECTICUT, IDAHO, IOWA, KANSAS, MINNESOTA, MISSOURI, NEBRASKA, NEVADA, SOUTH DAKOTA AND WISCONSIN. OTHERS ARE PENDING IN LEGISLATURES AS WE SPEAK. THOSE WHO FOLLOW ME IN TESTIMONY WILL EXPLAIN THE VALUE OF ELK RANCHING AND FARMING IN NORTH DAKOTA, INCLUDING THE USE OF ELK BI-PRODUCTS SUCH AS THE ANTLERS, THE HIDE, AS WELL AS THE MEAT.

THE ELK GROWERS OF NORTH DAKOTA HAVE WORKED CONSCIENTIOUSLY WITH THE NORTH DAKOTA AG DEPARTMENT AND AGRICULTURE COMMISSIONER JOHNSON HAS ASKED ME TO INFORM YOU THAT HE SUPPORTS THIS BILL IN ITS AMENDED FORM. WE HAVE WORKED DIRECTLY WITH THE BOARD OF ANIMAL HEALTH AND THE STATE VETERINARIAN'S OFFICE AND THEY SUPPORT THE BILL AS WELL. DRS. SCHULER AND KELLER, THE STATE VETERINARIAN AND DEPUTY VETERINARIAN, HAVE BEEN WORKING DILIGENTLY WITH THE ELK GROWERS TO CRAFT THIS LEGISLATION THAT WILL BOTH PROVIDE APPROPRIATE REGULATION OF DOMESTICATED ELK AND WILL ENHANCE NORTH DAKOTA'S AGRICULTURAL ECONOMY. WE HAVE ALSO COLLABORATED WITH THE ASSISTANT ATTORNEY GENERAL FOR THE AG DEPARTMENT IN SUPPORTING SOME LANGUAGE

CHANGES TO THE BILL. THIS HAS TRULY BEEN A COLLABORATIVE EFFORT BY MANY.

I COMMEND THE AGRICULTURE COMMISSIONER'S OFFICE, THE BOARD OF ANIMAL HEALTH, THE STATE VETERINARIAN'S OFFICE AND THE A.G.'S OFFICE FOR THEIR FORESIGHT IN ENHANCING OUR STATE'S AGRICULTURAL ECONOMY.

I URGE YOUR SUPPORT OF THIS IMPORTANT LEGISLATION FOR NORTH DAKOTA.