

2009 HOUSE NATURAL RESOURCES

HB 1125

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1125

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 01-15-2009

Recorder Job Number: 7109

Committee Clerk Signature

*Nancy S. Gerhardt*

Minutes:

Chairman Porter : Open the hearing on 1125.

Rep. DeKray: On 1125 if we could write a letter here we have active rodents, moose and elk – inaudible.

Chairman Porter : Rep. DeKray rather than move forward with this I wouldn't mind if you would do some further checking on why they aren't in there. And then on line 13 do background work on if there is any mention of the health of the livestock herd also.

Rep. DeKray: inaudible

Chairman Porter : In the past there has been numerous conversations with appropriations problems – this contract between in relationship the federal government and the state and the work performed, and all the money on the state side comes out of Game & Fish funds. There aren't any general funds – people buying the licenses across the state have a vested interest and they didn't have a very favorable performance on it. If you could look at that and make sure that agreement is meeting those requirements as you are looking into this one I would appreciate it. You could also talk to Game & Fish about the inclusion of these other species and why it doesn't mention the threat of an animal herd also.

Chairman Porter : We will stand at ease until 3:00 P.M.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1125

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 01-16-09

Recorder Job Number: 7106

Committee Clerk Signature

*Nancy L. Gerhardt*

Chairman Porter : Is someone from the Ag Dept. here?

Jeff Weispfenning – ND Dept. of Agriculture – We support HB 1125. See Attachment #1.

Chairman Porter : Any questions? In the agreement we are now adding deer as a potential destructive animal in the verbage, in the discussions with the party involved was there talk about elk & moose in those areas where they are heavily concentrated and doing damages?

Jeff – No, it is written broadly – it would not cover that if it were an issue. We weren't getting detailed enough information back from wild life services in terms of the work they do. Given the amount of money the state appropriates on a biannual it is really not a problem having a enough problems to deal with, money is always short on a state end to cover all the elegeble worker.

Chairman Porter : The language on line 13 for threatening human health is there someplace else where it addresses the threat of the cow herd or other animal species by having an outbreak of TB or chronic wasting that was found in a particular area in the future that it could be eradicated because it wasn't threatening human health it was threatening the health of the livestock.

Jeff – This language may be too restrictive.

Chairman Porter : Rep. Drovdal

Rep. Drovdal: Theodor National Park there is an Elk problem to ranchers. There is also a large growth of mountain lions in west ND if we go through this winter the way we are going through it we may have quite a decline in deer which could lead to mountain lion problems for our ranchers. What would happen if all of a sudden these problems would escalate?

Jeff – Mountain lion is covered – that would be a change made by this. There is still some areas that this may not cover.

Rep. Drovdal: So what would happen to the Elk?

Jeff – The agencies would still respond – we just wouldn't be able to pay them for that. There is still federal funds in wildlife services as a federal agency.

Chairman Porter : Any other questions? Further testimony in support of HB 1125?

Clarence Buina: United Sportsman of ND – This doesn't paint a pretty picture. It represents an agency as being out of control, missing it's mission & unaccountable. We looked at the language regarding wildlife service's activities from June through Dec. 2008 and we can't see There are any evidence that these recommendations - 11 of them – all of which were stipulated by the management of the Dept. of Agriculture as being true. It doesn't inspire confidence and the language in the performance measures I took out of the bill book are vague at best and really don't speak to the performance. If it can't be measured, weighed, or counted these benefits don't exist. We are neutral – we ask this committee to look at the wildlife services a little deeper than it may have.

Chairman Porter : Questions? Further questions in support of 1125? Opposition to 1125?

We will close the hearing to 1125.

## 2009 HOUSE STANDING COMMITTEE MINUTES

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House Natural Resources Committee

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Hearing Date: 01-16-09

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Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chairman Porter : Rep. DeKray

Rep. DeKray: On line 12 I move that the underscore deer be removed and be replaced withan underscored big game. On line 13 after the word help the period be removed and the words and domestic livestock period underscored be inserted.

Chairman Porter : We have a motion and 2<sup>nd</sup> any discussion on that?

Rep. DeKray: This is the amendment I worked out with Game & Fish and I talked to them about the \$800,000.00 dollars it would cost them to be a part of this the animal people and they are happy with the service they are getting although it has got some problems they are not happy with the accountability part of it but they do a lot of work for Game & Fish and they are happy with it and they support the bill and they support these amendments.

Chairman Porter : Discussion -- All in favor of these amendments say eye -- opposed

Motion carried -- we have an amended bill in front of us.

Rep. DeKray: I move we do pass as amended

Chairman Porter : I have a motion from Rep. DeKray for a Do Pass As Amended -- do I have a 2<sup>nd</sup>? 2<sup>nd</sup> by Rep. Keiser any discussion? Clerk will call the roll:

Total: Yes 12 No 0 Absent 1 Assignment DeKrey

January 16, 2009

VR  
1/19/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1125

Page 1, line 12, replace "deer" with "big game"

Page 1, line 13, after "health" insert "and domestic livestock"

Renumber accordingly

Date: 1-15-2009  
 Roll Call Vote #: \_\_\_\_\_

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1125**

**House Natural Resources Committee**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By DEKREY Seconded By KEISER

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson	✓	
Vice Chairman Damschen	✓		Rep Hunsakor	✓	
Rep Clark	✓		Rep Kelsh	✓	
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal	✓		Rep Pinkerton		
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Nottestad	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment DEKREY

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

**REPORT OF STANDING COMMITTEE**

HB 1125: Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1125 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "deer" with "big game"

Page 1, line 13, after "health" insert "and domestic livestock"

Renumber accordingly



2009 SENATE NATURAL RESOURCES

HB 1125

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1125

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 27, 2009

Recorder Job Number: 9827

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the hearing on HB 1125, relating to control of predatory animals, destructive birds and injurious field rodents.

**Jeff Weispfenning**, Deputy Commissioner with the North Dakota Department of Agriculture, introduces the bill (see attached testimony #1).

**Greg Link**, Chief Director of the North Dakota Game and Fish Department, we support the amendment described by Mr. Weispfenning. (Handed out attachment #2).

**Senator Triplett** When it references birds and the ability to destroy them obviously this would not take priority over federal requirements to not kill eagle or other birds right?

**Greg Link** absolutely.

**Senator Hogue** Have you had complaints from livestock operators about wild turkeys feeding off their cattle feed?

**Greg Link** we do get those at times, but as Mr. Weispfenning mentioned the concern is to that feed supply and we have never utilized wildlife service's in dealing with livestock feed depredation. We handle those things ourselves. I would interpret it the same way that it isn't

directly impacting the livestock it is impacting the feed which is economic loss.

**Senator Lyson** closed the hearing on HB 1125.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1125

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 27, 2009

Recorder Job Number: 9830

Committee Clerk Signature



Minutes:

**Senator Lyson** Opens the discussion on HB 1125.

**Senator Triplett** moves a Do Pass on amendments.

**Senator Pomeroy** seconds the motion.

A voice vote was taken and the motion passed with a 7 to 0.

**Senator Schneider** moves Do Pass as amended.

**Senator Triplett** seconds the motion.

The bill received a Do Pass on a vote of 7 to 0.

**UNOFFICIAL PROPOSED AMENDMENT to Engrossed HB 1125**

Page 1, line 11, after "rodents" insert a semi colon and remove "and"

Page 1, line 12, after "game" insert "threatening human health or domestic livestock"

Page 1, line 14, remove "and domestic livestock"

Re-number Accordingly

Date: 2, 27, 2009

Roll Call Vote #: #1 1125

### 2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number 98214.0201

Action Taken  Do Pass  Do Not Pass  Amended  Amendment

Motion Made By Sen. Triplett Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	/		Senator Jim Pomeroy	/	
Senator David Hogue, Vice Chairman	/		Senator Mac Schneider	/	
Senator Robert S. Erbele	/		Senator Constance Triplett	/	
Senator Layton W. Freborg	/				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice vote on amendment only.

Date: 02,27,2009

Roll Call Vote #: # 1125

# 2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended  Amendment

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	/		Senator Jim Pomeroy	/	
Senator David Hogue, Vice Chairman	/		Senator Mac Schneider	/	
Senator Robert S. Erbele	/		Senator Constance Triplett	/	
Senator Layton W. Freborg	/				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Sen. Schneider

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

**REPORT OF STANDING COMMITTEE**

HB 1125, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1125 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "and" with an underscored semicolon

Page 1, line 12, after "game" insert "threatening human health or domestic livestock"

Page 1, line 13, remove "and domestic livestock"

Renumber accordingly

2009 TESTIMONY

HB 1125



Roger Johnson  
Agriculture Commissioner  
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**Testimony of Jeff Weispfenning  
Deputy Commissioner  
House Bill 1125  
House Natural Resources Committee  
Pioneer Room  
January 15, 2009**

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Chairman Porter and members of the Natural Resources Committee, I am Jeff Weispfenning, Deputy with the North Dakota Department of Agriculture. I am here today in support of HB 1125 which amends NDCC § 4-01-17.1 relating to cooperation with Wildlife Services.

The State of North Dakota has had a working arrangement with the federal agency Wildlife Services for many years to conduct work related to wildlife species. Unlike most such agreements between the federal government and state government, state government provides financial support to the federal agency. These state dollars have been used by Wildlife Services to respond especially to coyote depredation on livestock, but also other types of wildlife damage including depredation of crops by waterfowl, beaver damage with the wet cycle of the 1990's, mountain lion damage in the current decade, goose and deer threats to aircraft at airports and many more types of human wildlife conflicts.

Historically, the department has reimbursed Wildlife Services for salaries but not the fringe benefits of the ten field specialists and one pilot who do the ground work. The department has also reimbursed Wildlife Services for operational expenses of the specialists including gas and repairs. This arrangement pre-dated my time in my current position, which I assumed in 1989.

We introduced this bill based upon recommendations in a performance audit conducted by the State Auditor. I have attached the recommendations of the audit as part of my testimony.

The State Auditor provided eleven recommendations regarding the relationship between the State and Wildlife Services. We worked with Wildlife Services and North Dakota Game and Fish to respond to most of the recommendations in a new annual operating agreement developed in consultation with the State Auditor's Office. This new agreement is attached as a part of my testimony. The most significant changes in the new agreement are limiting reimbursement to eligible salary costs for state reimbursement, identification of blackbird work as eligible for reimbursement with state general funds, and approval of the agreement by North Dakota Game and Fish. Ten of the recommendations are addressed by the new agreement. This bill, also developed in cooperation with ND Game and Fish and Wildlife Services, will address the remaining recommendation.

The current language of the law did not reflect the broad array of the control activities that have evolved as times changed. For instance, the current language does not include damage by mountain lions or beaver or threats to aircraft by geese and deer near airports.

We have written the new language broadly. However, given funding limitations and priorities, which may change over time, the annual operating agreement ultimately determines the focus of the work by Wildlife Services.

Chairman Porter and committee members, I urge a "do pass" on HB 1125. I would be happy to answer any questions you may have.

*Same number given to senate.*

## List of Recommendations

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- Recommendation 1-1** We recommend the Department of Agriculture pay salaries of the Wildlife Services' Field Specialists and other cost(s) which can be verified in a timely and efficient manner.
- Recommendation 1-2** We recommend the Department of Agriculture review the time of the pilot charged to the Wildlife Services Program and determine what percentage of the pilot's salary will be paid by the state.
- Recommendation 1-3** We recommend the Department of Agriculture require travel time of the Wildlife Services' Field Specialists be adequately documented.
- Recommendation 1-4** We recommend the Department of Agriculture monitor Field Specialists' time charged to office, bad weather, miscellaneous, or similar categories. Appropriate action should be taken if time charged to these categories is excessive.
- Recommendation 1-5** We recommend the Department of Agriculture periodically verify the Wildlife Services Program billed amounts are adequately supported and reasonable.
- Recommendation 1-6** We recommend the Department of Agriculture require the Wildlife Services' field specialists dedicate a certain amount of time in the fall to the state blackbird problem.
- Recommendation 1-7** We recommend the Department of Agriculture improve monitoring of Cooperative Service Agreements to ensure requirements are complied with.
- Recommendation 1-8** We recommend the Department of Agriculture ensure appropriate changes are made to the Cooperative Service Agreements to address recommendations included in this audit report as well as to:
- a) Approve or require information be provided for salary increases of Field Specialists prior to being effective;
  - b) Establish performance measures to evaluate the program;
  - c) Require only necessary reports or information regarding the program; and
  - d) Identify if, when, and where state funds are to be used for issues arising in urban areas.
- Recommendation 1-9** We recommend the Department of Agriculture, with assistance from the Office of the Attorney General, review North Dakota Century Code requirements related to the Wildlife Services Program. Appropriate action should be taken to modify or clarify sections to make requirements clear and up-to-date.

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**Appendix A**  
**List of Recommendations**

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**Recommendation 1-10**

We recommend the Department of Agriculture and the Game and Fish Department formally identify advantages and disadvantages for the current monitoring and funding of the Wildlife Services Program. A determination should be made as to whether the primary monitoring and/or primary funding of the program need changing.

**Recommendation 1-11**

We recommend the Department of Agriculture obtain necessary federal budget and expenditure data for monitoring and budgeting purposes.

**WORK/FINANCIAL PLAN**

**Between**

**NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
NORTH DAKOTA GAME AND FISH DEPARTMENT**

**And**

**U.S. DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES**

*Same numbers  
given to  
Senate.*

STATE ADDRESS	North Dakota Department of Agriculture 600 E. Boulevard Ave. Dept. 602 Bismarck, ND 58505-0020
COOPERATIVE CONTACT	Roger Johnson, Commissioner Phone: 701-328-4754 Fax: 701-328-4567
AGREEMENT NUMBER	07-26A
ACCOUNTING CODE NUMBER	1400
AGREEMENT AMOUNT	\$348,902
LOCATION	Throughout North Dakota
AGREEMENT PERIOD	October 1, 2008 – June 30, 2009

This Work/Financial Plan is developed pursuant to a cooperative agreement between the North Dakota Department of Agriculture and the North Dakota Game and Fish Department (STATE) and the United State Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, hereinafter referred to as CONTRACTOR. It outlines the project objectives, project benefits, plan of action, reporting requirements, stipulations and restrictions, and the costs estimates for the management of human/wildlife conflicts in North Dakota.

**I. Objectives and Need for Assistance**

Specific goals are to: design and implement an integrated wildlife damage management program in North Dakota to mitigate wildlife conflicts and associated economic impacts to agriculture, natural resources, property, and human health and safety. Work activities will be directed to the management of wildlife conflicts caused by furbearers, waterfowl, other state-managed wildlife and blackbirds. Wildlife damage management activities may include the use of all legal and authorized equipment, including EPA-registered pesticides.

**II. Benefits Expected**

A professionally managed wildlife damage management program will help alleviate the economic impacts associated with human/wildlife conflicts to agriculture and natural resources; will protect human health and safety; and public and privately-owned property. Eligible activities for this agreement include work related to coyotes, beaver, other state-managed wildlife and blackbirds. Any activities for which fees are charged and any work in urban areas by the CONTRACTOR are ineligible activities. Up to \$50,000 of eligible blackbird work may be accomplished under this agreement.

**III. Plan of Action**

The STATE agrees to reimburse CONTRACTOR for salaries and benefits of 9 Wildlife Specialists, 1 pilot, and other necessary personnel performing duties under this agreement. CONTRACTOR agrees to supply and replace as needed vehicles used in the operation of the wildlife damage management programs. CONTRACTOR will submit an invoice of all reimbursable items as agreed upon in this financial plan. Invoices will clearly indicate time spent by each individual on blackbirds, other eligible activities, and non-eligible activities. CONTRACTOR will maintain all original bills or invoices for 3 years or until the STATE's records have been audited. All invoices will be billed quarterly and the STATE will periodically verify that billed amounts are adequately supported and reasonable.

Nothing in this Work/Financial Plan shall preclude CONTRACTOR from entering into other agreements to assist other entities to manage human/wildlife conflicts, specifically wildlife conflicts at airports or conflicts within the urban confines of Bismarck/Mandan, Devils Lake, Dickinson, Fargo/West Fargo, Grand Forks, Jamestown, Minot, Valley City, Wahpeton, and Williston.

**IV. Performance Measures**

Performance measures are established for this agreement to ensure the successful resolution of specific human/wildlife conflicts. These performance measures include:

<b>Performance Measures</b>	
Number of landowners assisted	550
Number of work tasks:	
beaver	240
coyote	350
raccoon	20
badger	5
red fox	5

**V. Reports**

All CONTRACTOR activities will be documented through the CONTRACTOR management information system and fiscal report system. All necessary reports will be provided to the STATE, which will include:

- all federal funds available and spent for FFY07 and FFY08, including federal funds available for the cooperative wildlife damage management program for North Dakota
- the salaries of the employees mentioned in the work plan of this contract at the beginning and at the end of the contract
- the amount of monies received for the disposition of furs, skins, and specimens taken during official work activities used by CONTRACTOR to fund its program activities as stated in Section 4-01-17.3 of the North Dakota Century Code
- the Pilot's flight time versus time spent on other endeavors
- full documentation of the Specialists' time directed toward eligible activities including travel, bad weather, miscellaneous, or similar categories
- the results of established performance measures, specifically trends in delivery of program services

**VI. Stipulations and Restrictions**

All operations shall be under the direct supervision of CONTRACTOR. CONTRACTOR will conduct program activities in accordance with its established operating policies and all applicable state and federal and WS regulations. An agreement for Control of Animal Damage on Private Property (ADC Form 12A) will be executed between CONTRACTOR and the landowner, lessee, or administrator before any work is conducted. Only CONTRACTOR employees and WS Volunteer Program participants will conduct wildlife damage management activities.

**VII. Effectiveness of Agreement:**

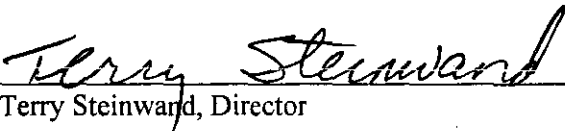
This agreement is not effective until fully executed by all parties.

NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
Bismarck, ND  
Tax Identification Number: 45-0309764

  
\_\_\_\_\_  
Roger Johnson, Commissioner

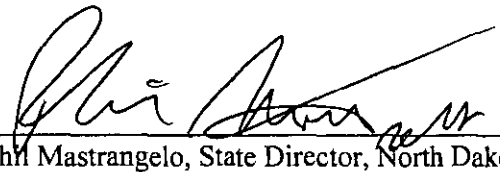
Sept. 30, 2008  
Date

NORTH DAKOTA GAME AND FISH DEPARTMENT  
Bismarck, ND  
Tax Identification Number: 45-6002467

  
\_\_\_\_\_  
Terry Steinward, Director

9/30/07 → sl608  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES  
Bismarck, ND  
Tax Identification Number: 41-0696271

  
\_\_\_\_\_  
Phil Mastrangelo, State Director, North Dakota

9-30-08  
Date

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**Testimony of Jeff Weispfenning  
Deputy Commissioner  
House Bill 1125  
Senate Natural Resources Committee  
Ft. Lincoln Room  
February, 2009**

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We have written the new language broadly. However, given funding limitations and priorities, which may change over time, the annual operating agreement ultimately determines the focus of the work by Wildlife Services.

The House added language relative to big game threatening domestic livestock in the context of a bovine tuberculosis outbreak. Our assistant attorney general reviewed the engrossed version and suggested that the language before you does not address the issue. In addition, Wildlife Services also does work in taking deer posing threats near airports. The proposed language that I am handing out, I think, states what the House intended.

Chairman Lyson and committee members, I urge a "do pass" on HB 1125. I would be happy to answer any questions you may have.

Proposed changes to First Engrossment HB 1125

**4-01-17.1. State to cooperate with the animal and plant health inspection service and other agencies in destruction of predatory animals, destructive birds, and injurious field rodents.** The agriculture commissioner may cooperate with the United States department of agriculture, animal and plant health inspection service, or other appropriate federal agency, in the control and destruction of ~~coyotes, wolves, bobcats, and foxes~~ fur-bearers that are injurious to livestock, poultry, and big and small game; injurious field rodents; ~~in rural areas and big game threatening human health or domestic livestock~~; and ~~certain nongame species of birds causing crop damage or substantial economic loss or threatening human health and domestic livestock.~~