

FISCAL NOTE
Requested by Legislative Council
02/09/2015

Amendment to: SB 2025

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2025 is the apriary law rewrite bill submitted by Legislative Management on behalf of the agriculture interim committee.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

N/A

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

Name: Junkert/Baumiller

Agency: Agriculture

Telephone: 328-4756/328-1960

Date Prepared: 02/12/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: SB 2025

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2025 is the apiary law rewrite bill submitted by Legislative Management on behalf of the agriculture interim committee.

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3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

Name: Junkert/Baumiller

Agency: Agriculture

Telephone: 328-4756/328-1960

Date Prepared: 12/30/2014

2015 SENATE AGRICULTURE

SB 2025

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2025
1/8/2015
Job # 21781

- Subcommittee
 Conference Committee

Committee Clerk Signature

Emmey Brotberg

Explanation or reason for introduction of bill/resolution:

Relating to beekeeping; and to the submission of assessments by beekeepers.

Minutes:

Attachments: #1-5

Anita Thomas, attorney with the legislative council, served on the interim committee:
(See attached #1)

Chairman Miller: (16:24) Can you give me an example of what a violation of this chapter looks like and what would qualify for criminal penalty?

Anita Thomas: Something as simple as taking up beekeeping without getting licensed.

Senator Warner: (23:54) I always understood a colony to be the assemblage of hives in one particular location. If I understand your definition, the inhabitants of each individual hive represent one colony?

Anita Thomas: What you are talking would be the apiary. The colony would be "those residents of the hive."

Senator Warner: I guess I understood the apiary to be the business itself. Is there an important distinction between the business which owns hives and colonies and the hives and colonies themselves?

Chairman Miller: Let's start at the top and work down: apiary, colony, and beekeeping.

Anita Thomas: Correct.

Chairman Miller: That will be our definition for the purposes of this committee.

Senator Lucik: Of these sections you went over, do you have a list of the sections that are troublesome? And which sections we still need to look at to add to or take away from?

Anita Thomas: The agriculture department will talk about a few sections they still have concerns about. Those would be the sections our office agrees need to be worked on.

Senator Oban: A couple times we state specifically December 31st, is there a reason why we don't do a full annual rather than just choosing December 31st and then sometimes saying a calendar year in others?

Anita Thomas: The only reason would be is that it is a clear demarcation. The beekeepers start coming in the spring, some a little later. The concept is that your old license expired on a date certain; get a new one when you start your operation in the new year.

Representative Chuck Damschen, District 10, served on the interim committee:
(27:30) Testified in support of SB 2025, qualifying that the bill needed more work. The bill does not address all the concerns expressed by the people in district 10 and other areas that have problems with bees.

Chairman Miller: If we can amend this bill before it leaves the senate, then you'll have less work to do in the House.

Representative Damschen: I worked with legislative council and I have a list of amendments. I don't have the amendments with me today, but I would ask to have the chance to go through these amendments with the committee.

Chairman Miller: We will be sitting on the bill for a while and probably create a subcommittee.

Representative Damschen: I do support the bill, but it does need some work to satisfy the landowners who are having problems. We're not trying to hamper bee industry. I didn't hear one person at a meeting with the group in Langdon who was opposed to the bee industry or operators, but they were frustrated with the limitation that it was putting on their operations that have been there for many years.

Samantha Brunner, ND State Apiary Inspector: (See attached #2)

Senator Warner: (31:25) I have some questions relative to the inspection of health of the colony; I assume you are taking samples of bees? Do you have to mail them off to somewhere or do the sample onsite? How timely can you get an accurate response and how long would the quarantine have to be?

Samantha Brunner: For the certificate of health, the inspection is more for the bees that are traveling to other states. For example, bees coming from North Dakota going to Texas need some sort of document declaring what sort of pests we have found in the hive. When we do these inspections, we are actually looking for things like Varroa Mites which you don't need to test for, you can see them. We can also see foul brood and if we see foul brood, we do send samples out. It's not a quick response for a beekeeper to take action and clear a hive, it's more so we can compile a list saying "we found these things in this hive or we didn't find anything in the hive," and issue a certificate stating what was and

wasn't found. We send it to the state where the bees are going. The state makes a determination based on their laws if the beekeeper can enter the state or not.

Senator Klein: During the rewrite, did you run out of time to get this corrected? Or is there just more information coming in all the time? What is the reason we didn't get it hammered out to begin with?

Samantha Brunner: It's a little of both. There's a lot of discussion with a lot of major changes and minor changes. Some were overlooked or added after the last interim meeting.

Will Nissen, President of The North Dakota Beekeepers Association: Testified in favor of SB 2025 with a few remarks. First, (40:14) Nissen requested that the definition of beekeeping as "agricultural" would be written back into the bill. Second, (41:08) he requested that a senator would continue the bill that raised the ND Beekeepers Association's promotion fees five cents and that that fee would be made continuous. Third, (42:15) Nissen asked that no distance laws would be added to the bill.

Senator Warner: (44:51) If we retained the definition of beekeeping as agricultural, does that eliminate the possibility of bees inside urban areas? Do zoning ordinances cover the placement of bees in urban areas or does extra territorial zoning affect their proximity to urban areas?

Will Nissen: It is against the law to have bees in city limits.

Chairman Miller: You can't place an apiary in, say, the city of Minot?

Will Nissen: It is against Minot's city ordinances, I do not believe it's an issue of state law.

Senator Klein: You heard the Agriculture Commissioner about the four issues they would like to address. Have you worked with them? Do you agree with these four issues?

Will Nissen: The Beekeepers Association supports everything I see in her testimony.

Chairman Miller: I have a question about the signage and identification of the apiary. What do you prefer for identification?

Will Nissen: Currently the sign is 8 x 11 and is what we have used for more than 30 years. If you staple the sign to the hive you can drive up to the bee yard and see the sign from a distance. It would be put on the front of the hive with contrasting colors. When the bee yard is moved that sign is with it.

Chairman Miller: Do you support the idea of a number and designation?

Will Nissen: No I don't. I'd rather see the beekeeper's name and number. Then the beekeeper can take care of the problem without having to call the Agriculture Department.

Chairman Miller: Do you think it would be a hindrance to say you need to have this sign and a number on it?

Will Nissen: No.

Chairman Miller: If you have a number, than I know you are properly license with the state.

Senator Warner: What about spray painting a number to the hive? Does that id number follow the business?

Will Nissen: The number stays the same for the beekeeper. I want my name, my contact information on the hive. Then I can fix the problem.

Opposing:

Dustin McGregor, Fairdale: (see attached #3a and #3b)

Jesse Gifford, Beekeeper: (1:05:15) Testified with a neutral opinion on SB 2025. First, Gifford testified that the beekeeper should be responsible for covering the costs of moving hives even if it is the landowner who changes his mind. Second, he expressed concern over the timeline to attach placards to hives. Third, he requested that since the license was due March 1st, the expiration would be February 28th.

Chairman Miller: So you're saying we need a date certain there to make sure that people are under license?

Jesse Gifford: I was under the impression that it operated kind of like a fishing license, expiring on a date. It should be a full calendar year.

Chairman Miller: In regards to home and farm owners, how many complaints do you get in a year?

Jesse Gifford: I had two complaints this year. Once I put the bees in the wrong place. Another time the landowner changed his mind so I removed the bees.

Senator Larsen: Are the laws and regulations in the other states worse, better or about the same as North Dakota?

Jesse Gifford: Louisiana wants a health certificate because they are concerned about foul brood. California wants fire ants cleaned off any hives coming from the southern states. The bees are heavily concentrated in California because they set bees on almond trees two and a half hives per acre. The laws are all pretty similar, but Louisiana has tougher licensing laws.

Chairman Miller: How do you determine how many hive boxes to place in a location?

Jesse Gifford: I look at the acres of flowers. I try to set 64 hives down; I go as high as 128. With sunflowers I've gone up to 256 hives. With that many hives, I made sure there was water and it was a good distance from a farm yard and as far off the road as possible.

Senator Larsen: What is the difference between the density here and California? We're gathering honey here, whereas the main idea there is pollination?

Jesse Gifford: Yes.

Senator Larsen: What if a hive flies off a piece of equipment or tips over? If you look at the pictures (attachment #3b) there is no phone number on the hive so no one can let the beekeeper know if something is wrong with the hive.

Jesse Gifford: Usually I'm around to my hives within two weeks, so that isn't a big deal.

Senator Klein: If you look at Dustin's pictures, you get the idea that someone isn't doing something properly. Our purpose for identification is to create communication.

Jesse Gifford: I'm not arguing that there shouldn't be a placard, just that there should be an extended timeline to attach the placard.

Senator Klein: How would you address the situation if someone asked you for advice on how to address the situation in the pictures?

Jesse Gifford: I would call the beekeeper and ask them to put water or sugar out to get the bees away from my house. If I were the beekeeper, I would move them.

Kristie Sundeen: (see attached #4)

Senator Klein: (1:32:16) Maybe we aren't applying the law currently? We are rewriting this but certainly even after the rewrite, unless we regulate, it won't change much.

Kristie Sundeen: That's true. I have been calling the agriculture department for 5 years, every year I turn in unregistered apiaries. We have complained continuously about unregistered apiaries and lack of identification that does not follow the state law. Often time there is no identification on the hives.

Senator Klein: Do you have bees on your land?

Kristie Sundeen: My husband and my father-in-law have bees on their property. We know who owns them.

Senator Klein: What do you recommend to land owners who have unregistered bees on their land?

Kristie Sundeen: I contact them and let them know but the problem is that we have a lot of absentee land owners. I know not every beekeeper is a problem and I know the whole state

doesn't have a problem but Cavalier County has a problem. There has to be a balance between bees and farmers.

Senator Klein: Beyond the law and the rewrite, we just have to look farther to the agriculture department.

Kristie Sundeen: They have made steps forward and things are starting to get addressed. We are impatient to the point that if we turn in an unregistered apiary, the agriculture department needs to have immediate fines and penalties. With enough penalties, they'll start following the laws. If the beekeeper is following the laws, they shouldn't care.

Vice Chairman Luick: Do you have the right to spray bees on your property?

Kristie Sundeen: No, you cannot because of federal and EPA laws. On most insecticide labels, there is a special advisory that says you cannot spray anything if you have bees in flight on that property.

Vice Chairman Luick: Even if it's in your own personal yard? You have to go to the department of agriculture if you have problems?

Kristie Sundeen: Yes. The problem is you have people who want to get around the law and take their own action. I tell them to call the Department of Agriculture. If you can't talk to the beekeeper and work things out between you, you have to take it to the Department of Agriculture. You cannot destroy their property even if it is on your property; it is against the law for you to do that.

Senator Larsen: These unregistered hives, have they been a problem in the five years you've been watching this? Are they the same people and where do they coming from?

Kristie Sundeen: It rotates. The ones that have been there for a long time are beginning to get cleaned up. There are still some that are violations and unregistered, but it's the ones that move in that are the worst. I found an apiary five years ago by following tracks. It was in the middle of a field between two tree rows and if you hadn't followed the tracks, you never would've known it was there. We called the landowner, the hives didn't have permission to be there. The landowner called the Department of Agriculture and turned it in. It was empty there for two years and now a new guy is dropping unregistered hives in that location.

Shauna Shneider, Cavalier County: (see attached #5) First, (1:44:05) if the Bee Association would like to keep bees listed as agricultural, but then they should be taxed agricultural. If they are going to be commercial, they need to be assessed commercially and taxed. Second, (1:44:56) there needs to be a two mile distance between apiaries and paved roadways (for road construction and oil road workers) or at least provisions should give the Agriculture Department power to limit apiaries on roadways that are getting work done.

Marcia Gifford, Fairdale: Testified in favor of SB 2025; imposing a timeline on how long the hives could remain would be unfeasible for bees because they are an agricultural product dependent on weather.

Don Faber, Motorcyclist from Abate: Testified in opposition to SB 2025; Requested that hives would be moved a quarter of a mile away from any state highways.

Josh Freeman, Beekeeper from Turtle Lake: (1:57:50) Requested that if putting the license numbers on the hives becomes mandatory, it should also be mandatory for the beekeepers name and phone number to be on the hives so the landowner can contact the beekeeper directly.

Tom Bodine, ND Department of Agriculture Deputy Commissioner: (1:59:44) Explained the Agriculture Department's process in addressing hive violations. He provided information. (2:01:50) In 2013, the beekeeper license registrations were 205. This last year, registration rose to 221 with an increase of 7.8%. Registered colonies have increased 8.4% statewide from 482,000 to 522,000 colonies. Registered locations are up 14.2%. Registered locations went from 11,050 to 12,620 locations. In 2013, the department had 59 bee complaints decreasing 40% to 24 complaints this year. Bodine also stated (2:03:36) that the department has limited regulatory power. All the department needs is landowner permission and registered location from the beekeeper. The department cannot deny or approve location on bias.

Senator Oban: Does the Agriculture Department have any opinion on stiffer penalties and fines for unregistered?

Tom Bodine: We have developed a penalty matrix when it comes to unregistered locations. This past year we sent out warning letters and also issued fines on beekeepers in that situation. This is an ongoing process. Once a letter warning has been issued, then it goes through a five year process. If they violate that chapter again, it's immediate fine. If it happens again, it is a stiffer penalty.

Chairman Miller: What is the current fine?

Tom Bodine: It can be up to \$5,000. We have it different for unregistered locations without landowner permission. We can provide further information to the committee on how we enforce penalties.

Senator Larsen: I'd like to see a five year window back on what fines have been paid and who has paid them.

Tom Bodine: In the past there have been warning letters, but this past year is the first year in the last five years that we have issued fines.

Chairman Miller: Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee

Roosevelt Park Room, State Capitol

Committee Work on SB 2025

1/15/2015

Job # 22083

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

(Committee Work)

Relating to beekeeping; and to the submission of assessments by beekeepers,

Minutes:

Attachments: # 1, 2a - 2h, 3

Chairman Miller: Distributed email from Shauna Schneider from Wales, ND to the senate committee members (see attachment #1). Also distributed material provided by the Department of Agriculture concerning bee complaint process (attachments #2a-2h).

Senator Klein: Looking at the County Summary of bee complaints (see attachment #2a), shouldn't there be a lot more? Only 4 people in Cavalier county have complained according to this. Most of what I heard, it looks like we have the law in place and we don't seem to be able to regulate to the degree that we should be. Maybe we need another bill specific to addressing the complaints; perhaps increasing fines?

Vice Chairman Luick: There seems to be complaints out there but there seems to be a question in whose colonies they are and difficulty getting those issues taken care of in a timely fashion. In my mind there should be a way to address the problems and get them taken care of through labeling. The number of cases here is dramatically down from 2013.

Chairman Miller: This is a list of people who called the Department of Agriculture. I don't think this is indicative of what is going on. Can we be certain of how the Agriculture Department has compiled this? They don't really have a system for doing that.

Senator Oban: I specifically remember one of them saying that there really isn't a process in place at the Agriculture Department to file the complaints. Maybe this is random recording of a few people who take calls and there really isn't a process in place.

Chairman Miller: I know people have said that they have been complaining a long time but that they have just quit calling the Agriculture Department. In regards to the bill, I have been talking to Tom Bodine. We are probably going to sit down the Anita Thomas and work this version and clean it up. For example, the signage issue, what kind of size, what kind of numbers are on it, etc. I actually had a bill I was going to introduce, but it would probably be better to put on this bill as an amendment (see attachment #3). What this would do is as a condition of licensure, the beekeepers would have to make themselves available to

farmers so that the farmers can spray. That way the people around the area can take care of their business too. Because of fed law you can get into a lot of trouble if you kill a beehive with your pesticides. This would make it that if the beekeeper isn't protecting their hives, they could lose their license. Senator Larsen has also introduced a bill concerning the honey check off; I was thinking we could put that on this bill too.

Senator Larsen: What about the example of the spacing of these hives? For example, one company comes in and talks to the landowner or whoever and the other company comes in and the 400 hives turns into 1200 hives. I'm not into the whole radius idea, but is there a way a person can address that concern?

Chairman Miller: I don't know. The folks that came here and testified from my area, they are going to ask for a lot more than we can give them. We can't hamstring the honey producers to a point where they can't do their jobs.

Senator Klein: If we regulate what we currently have in place, they would almost be satisfied. Is there a master list so we know where all these hives are? Is that list compiled after the hives are set out or when they are applying?

Chairman Miller: I think it is after the fact. I think the site needs to be marked and recorded before the bees are placed. We need to be lenient but the site still needs to be marked and reported.

Senator Larsen: Is the labeling new? If I understand 4-12 and 2-14, it's just making the label more legible?

Chairman Miller: We're changing the legibility size. The Agriculture Department wants to assign them a three digit number as well to go on the hive.

Senator Oban: Look at page 3, line 26. They're giving the choice of "or" right now. Can we just make it an "and?" Then there would be a three digit number and personal contact information.

Chairman Miller: I agree.

Senator Klein: Would there be an issue if we required both?

Chairman Miller: The only thing that was brought up was that one guy didn't like the idea of pounding a post at the entry way of the hive.

Senator Oban: There is no minimum requirement of where that sign is placed, correct?

Chairman Miller: Correct. This is affixing it to the hive and ensuring visibility.

Senator Klein: Line 30, page 3: "It is visible upon approach to the apiary's main entrance" I agree. I don't think people should have to drive up close to the hive so its identification.

Senator Oban: They include that language about the identification number too. I'm trying to recall reading the definitions of apiary. Is this where they are actually physically located? What do they consider the main entrance of the apiary.

Vice Chairman Luick: An apiary is processing area. A colony is the location in the fields. What we are looking at here is identifying the colonies with both a placard and a sign.

Chairman Miller: An apiary is the "Area where all the boxes are."

Senator Oban: It says on page 1, an "'Apiary' means the site at which one or more colonies of bees are kept."

Senator Warner: Is this going to be an issue as the hives move around having the number marked on the hive?

Senator Larsen: The president of the bee association said that the number is one number for everywhere.

Senator Klein: But if it is assigned by our Agriculture Commissioner, wouldn't the California commissioner want to assign one as well? Also, do we have a list of the issues the beekeepers had with this bill?

Chairman Miller: They did say they would rather have their name and number as opposed to the three digit number. But the Agriculture Department likes the three digit number. I kind of like both because then I know that they have been certified by the Agriculture Department because they have that number.

Senator Larsen: The Bee Association president said that he was ok with the (3-digit) number and his name and number on the hives. I don't think anybody was happy about putting a post at the end of the field. I agree with them. The boxes need to be identified.

Chairman Miller: I did get an email from a constituent. They have five boxes in their yard for their kids and they were worried that they were going to be lumped into being regulated now. I this is something we need to look at; no sense casting too broad of a net.

Senator Klein: I don't know how we could regulate every issue.

Chairman Miller: There are a lot of significant differences between this and the original law. We are taking out the clause that would require beekeepers to submit a contract with the landowner. Anita really feels like that is not something we should be doing, but we can look through it further into it. My constituents felt like that decision was going backwards and not improving the situation.

Senator Larsen: I just want to reiterate that posting a sign out on the edge of the road is not popular.

Senator Oban volunteered to work with **Chairman Miller** and the Agriculture Department to draft amendments.

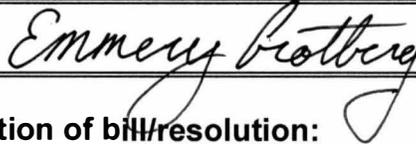
2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

Committee Work on SB 2025
2/6/2015
Job # 23380

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:
(Committee Work)

Relating to beekeeping; and to the submission of assessments by beekeepers,

Minutes:

Attachments: # 1

Chairman Miller distributed the amendments Senator Oban, Anita Thomas, and himself had worked on to address problems (see attachment #1). He stated that some of the amendments drafted were based on SB 2228 (killed in committee) regarding pesticide application. They took out the references to pesticides and gave the agriculture commissioner stronger enforcement ability for beekeepers who were not abiding by the law.

Senator Klein: In number 1 on page 4 (see attachment #1 page 1) in identifying the hives, we need a three digit number and then would we still need a placard by the entrance?

Chairman Miller: No they would both be affixed to the hive. The three digit number, name, and phone number of the beekeeper.

Senator Larsen: Hopefully when they are putting their hives in this location, the names will be on both sides of the box so someone can see the information when they drive up.

Chairman Miller: 99% of the hives go on the trail, not an intersection per se.

Senator Oban: We had also discussed adding "height" on page 4 part 1.b (see attachment #1, page 1) "Displaying the beekeeper's name and phone number in a location 'and height' that is visible." I see that the discussion we had had never got inserted into the final amendment.

Chairman Miller: In part a it says uppermost box.

Senator Oban: So we put it in a and not in b?

Chairman Miller: I guess it didn't make it into the b part, but I imagine they will follow each other.

Senator Klein: If it's visible upon approach, it would have to be higher up anyway, correct?

Senator Oban: Our discussion was that sometimes when you affix the information to the hive it is visible at approach but then the grass grows over it.

Senator Warner: What is the order in which the boxes are added to a hive; do they just keep adding boxes to the top or do they add them on the bottom and move them up?

Senator Larsen: The bee boxes are about a foot high. It's just a square box; there is nothing different about either section. So they put the queen bee in one section and the bees in the lower section and as they start making the cone, they keep stacking sections on. So these sections will all have an individual label on them. Each little section they make is going to be labeled with the address on it.

Chairman Miller invited John Miller to speak.

John Miller, Miller Honey Farms Inc., Gackle ND: (5:45) Testified in support of 2025, stating that ND has had a light policy approach to agriculture and all of agriculture, including beekeeping, has benefited from that. He said that the stewardship issues like water would be better solved with the agriculture department and beekeepers.

Chairman Miller: (8:11) Do you feel comfortable with the amendments we proposed?

John Miller: We are uncomfortable with language that would require the provision of water when water is unavailable. This is broadly ambiguous knowing that the honeybee alighting from the hive may forage 2 miles from the hive. I believe the commissioner could find the rule making remedy without legislative edict

Chairman Miller: We have to have some sort of teeth to the people who aren't being responsible, and the constituents will be unhappy if we don't address some of their problems. Most bees are beside some sort of water supply but my concern is when there are drought conditions and bees move into farmsteads and I think this "sufficient water" part is addressing that.

John Miller: We strive to cultivate good relationships with our landowners, over the years I first witnessed and now participate in removing bee colonies in draught conditions if the bees are really bothering residences. I prefer the idea of the commissioner having advanced authority to act.

Chairman Miller: This addition of condition of licensure gives the agriculture department discretion. I think "sufficient water" is broad enough where it won't be a burden on you to put water by each one of your hives.

Senator Klein: I know it's under the licensure portion but I think there's too much one can read into what "sufficient water" means. I don't know if there's another way of stating that, but don't bees need water to make honey?

John Miller: Yes, bees are a livestock and they need water. I'm not aware of any empirical studies stating how much water a colony needs during the day dependent on conditions.

Senator Klein: So overall, the amendments are acceptable to you? That water one creates the most concern?

John Miller: Philosophically, I'm not sure it's good governance to insert minutia into the legislation. I trust the commissioner and the department to work in collaboration with the beekeepers to find a remedy.

Senator Larsen: For clarification, I thought the problem was in the fall of the year when their forage might be over. I thought the issue was that they were looking to find sugars and not just water.

Chairman Miller: I would think that there is water nearby most of the time, but perhaps the water is in a place that creates a nuisance. If we don't put something in the law, the agriculture department does necessarily have authority to make a rule in this manner.

Senator Warner: I'm not entirely sure what the definition of public nuisance would be, if it can be established that the bees are creating a nuisance by looking for water or forage in someone's yard, would that be sufficient authority? I understand your concern about the water as minutia; the restrictions here have more to do with public health. Maybe we could say that if it does endanger to public health, the bees need to be relocated.

Chairman Miller: c.1 addresses (see attachment #1 page 2, section 4, part c.1) that and maybe it's broad enough that we don't need b.

Senator Warner: I would be open to taking out b about the sufficient water.

Senator Klein moved the amendments with the exception of b, under section 4 (see attachment #1)

Vice Chairman Luick seconded the motion.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.

Senator Klein moved for a Do Pass As Amended.

Vice Chairman Luick seconded the motion.

Senator Larsen: It's been a while since I worked with bees, but I remember putting out sugars and nutrients to feed the bees and keep them healthy before we moved out the hive. So I'm glad we took food and water out of the bill so the agriculture department and the beekeepers can work through it.

Senator Klein: You're still going to need to provide food and water; people want their bees to do well.

Senator Warner agreed that the legislation should be light to provide appropriate flexibility for the agriculture department and beekeepers to work together.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0.

Do Pass carries.

Senator Oban will carry the bill.

February 4, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 2, line 4, replace "**required**" with "**- Application - Declaration**"

Page 2, after line 13, insert:

- "4. As a condition of licensure, the applicant shall declare that:
- a. An apiary will not be placed at a location without first obtaining the consent of the property owner;
 - b. Bees at each location will be provided with sufficient water; and
 - c. An apiary will be relocated at the request of the agriculture commissioner if:
 - (1) The commissioner, after examining documentary evidence, has determined that the health or welfare of an individual is endangered as a result of the apiary's location;
 - (2) The individual referenced in paragraph 1 resides on land contiguous to that on which the apiary has been placed;
 - (3) The commissioner has identified another acceptable location for placement of the apiary; and
 - (4) There are no other contractual or other legal impediments to the relocation."

Page 3, remove lines 18 through 30

Page 4, replace lines 1 through 3 with:

- "1. A beekeeper shall identify each apiary for which the beekeeper is responsible by:
- a. Affixing a three-digit identification number, assigned by the agriculture commissioner, to the uppermost box of a hive that is visible upon approach to the apiary's main entrance, provided each digit is at least three inches [7.62 centimeters] high, one-half inch [1.27 centimeters] wide, and weather-resistant; and
 - b. Displaying the beekeeper's name and phone number in a location that is visible upon approach to the apiary's main entrance, provided the numbers and letters used are at least one and one-half inches [3.81 centimeters] high and weather-resistant."

Page 4, line 4, replace the second "is" with "may be"

Page 4, line 27, replace ", provided" with ". Except when conducting an inspection in accordance with section 4.1-16-13,"

Page 4, line 27, after "commissioner" insert "shall"

Page 4, line 27, replace "makes" with "make"

Page 4, line 31, after the underscored period insert "The commissioner may charge a fee to cover the costs of inspecting an apiary under this section."

Page 6, line 4, after "chapter" insert "or rules adopted under this chapter"

Page 6, after line 9, insert:

"4. The violation of any condition of licensure, as set forth in section 4.1-16-02, is deemed to be a violation of this chapter."

Page 6, line 10, replace "**Relocation of apiary - Petition - Hearing**" with "**Beekeeping - Agricultural practice**"

Page 6, remove lines 11 through 31

Page 7, replace lines 1 through 12 with "Beekeeping is deemed to be an agricultural practice."

Renumber accordingly

February 6, 2015

2/6/15
1/2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 1, line 3, remove "and"

Page 1, line 4, after the semicolon insert "and to provide a penalty"

Page 2, line 4, replace "**required**" with "**- Application - Declaration**"

Page 2, after line 13, insert:

- "4. As a condition of licensure, the applicant shall declare that:
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Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2025: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2025 was placed on the Sixth order on the calendar.

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2015 HOUSE AGRICULTURE

SB 2025

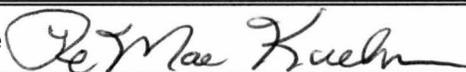
2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

SB 2025
3/19/2015
Job #25132

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the submission of assessments by beekeepers; and to provide a penalty

Minutes:

Attachments #1-9

Anita Thomas, Legislative Council: (Attachment #1)

(15:39)

Representative Diane Larson: On page 5 in several places it talks about the Agriculture Commissioner charging a fee? It doesn't say how much?

Anita Thomas: The statute just references the authority. They are just looking to recover their costs. The Agriculture Department can also address that.

Representative Jessica Haak: On page 2, the application of a minor. It just says the word "parent." Does that also cover legal guardian as well?

Anita Thomas: Yes. When we say parent we mean the actual parent plus anybody who has legal authority. But an aunt for the summer would not be eligible.

Representative Jessica Haak: On page 5 at the top "good faith effort." What does that mean?

Anita Thomas: Whatever a jury thinks it is.

Representative Damschen: In support of the bill. Suggested to have a date to have the bees removed. If there are no flowers they get restless. There are a few beekeepers that are causing problems.

Carrie Larson, Plant Industries Director, ND Agriculture Department:
(Attachment #2a & 2b)

(24:12)

Representative Craig Headland: Do you think we are to the point where we need to have consent of the property owner in writing?

Carrie Larson: That section was removed by Legislative Council. Since it is a contract between the beekeeper and the landowner, the Agriculture Department is just enforcing the law. As long as we had the name and the number we would be able to license beekeepers without having it written.

Representative Craig Headland: Has the Agriculture Department fined a beekeeper that has illegally put hives on property without permission?

Carrie Larson: The apiary program changed in 2013. We did a lot of education and outreach to let the industry know that there was going to be some changes as far as enforcement. In 2013 we issued just warning letters. In 2014 some enforcement was taken. We issued warning letters to 45 beekeepers for 106 unregistered locations. We took regulatory action against 21 beekeepers. Fines were given against 10 beekeepers and 9 of those were for unregistered locations at \$150 each and one fine for \$250 for no landowner permission. This is the first enforcement and penalties in the apiary program.

Representative Craig Headland: Can you give an idea if these are from in state or out of state apiaries?

Carrie Larson: I don't have that information in front of me. We had a big decrease in complaints from 2013 to 2014. We had 59 complaints in 2013 and only 24 complaints in 2014. That is a 40% drop. It is a variety of complaints from in state and out of state.

Representative Craig Headland: I have a concern as a farmer that does a lot of spraying. If I am not aware of a hive that is located on my property illegally and I accidentally kill the bees, I am liable. That scares me and we need to do something. Requiring the location with some type of written contract would give us some grounds. You said Legislative Council advised that language be taken out of the bill?

Carrie Larson: We discussed with them that the forms have become problematic over the years because they are not up to date. When we worked with the council, we put the language in that just stated consent was needed and not written consent.

Representative Craig Headland: Why would the agriculture department even have to have knowledge of a written agreement between a landowner and an apiary? If trouble arose, the landowner would have something in writing.

Tom Bodine, ND Agriculture Department: Through the authority given in the conditions and licensing, it gives us the ability to penalize a beekeeper who just dumps hives. The Agriculture Department hasn't been enforcing this area. In 2013 we stepped up communication between all parties involved. Our obligation is to make sure all people are obeying the law.

Representative Diane Larson: You could have bees placed on your property without your knowledge. Then if you destroy them you are liable?

Tom Bodine: It is a trespass situation. It doesn't give that landowner the ability to damage that property. The landowner should notify us and then we can address that. Spraying is one of those issues when bees are harvesting in the area. Language on the pesticide label says you cannot spray when bees are in the area. We are updating our mapping system. Registered locations show up on the map but it doesn't show which locations are active with bees present. That is why communication between the applicator and beekeeper is needed.

Representative Jessica Haak: How long does it take the Agriculture Department to deal with a trespass situation?

Tom Bodine: We try to be as quick as possible. We have one staff person for the apiary program and two part-time inspectors.

Representative Jessica Haak: How much time?

Tom Bodine: 1-2 days.

Representative Alan Fehr: Back to the issue of signing forms--farmers are leery of signing forms. Do you have any other thoughts on how to handle this?

Tom Bodine: This change just says consent--verbal or written.

Chairman Dennis Johnson: What about an absentee landowner where the lessee has given permission?

Tom Bodine: The old law did give the ability for the lessee to make an agreement with a beekeeper. It is up to the landowner to decide so this language has landowner consent not the lessee. To improve communication we have developed a pollinator plan to communicate between the landowner and the lessee for the best location.

Marcia Gifford, Beekeeper: We talk to the renter and the landowner to get permission. We have the landowner take us out and show us the new locations.

The issue of having the bees out of state by a certain date would be difficult because there are so many variables such as weather, etc. If it is a good year, the bees may still be making honey in September.

Chairman Dennis Johnson: Some of the concerns we hear is they don't have water. Then they move to the farmyards.

Marcia Gifford: In the fall we will set feed out for the bees with sugar and water. We have feeders inside the hives. We want them to be fed to make the two days shipping.

Representative Craig Headland: Have you ever had bees killed by an applicator?

Marcia Gifford: No.

As for landowners signing, we have a lot of landowners that don't want to sign but will give us permission. We still register the yards.

Chairman Dennis Johnson: Why?

Marcia Gifford: They want to keep their business to themselves. In Louisiana the landowner will draw up a contract between us but it is not a state issued form. They have it notarized and then it is a legal document.

Representative Craig Headland: Have you ever been reported to the Agriculture Commissioner's office?

Marcia Gifford: We unloaded at night and put the bees on the wrong side of the section line. A day later we got a call from the landowner. We moved them the next night.

Representative Craig Headland: What about a call from the Agriculture Department?

Marcia Gifford: No. We want to keep the landowner happy.

Representative Jessica Haak: What do other states require of landowners for permission?

Marcia Gifford: In Louisiana we don't sign a form to register the yard. The yard has to be state issue approved. The reason is fire ants. We have to spray the loading yard for fire ants so we are not transporting them. We get a beekeeper's license just like in North Dakota.

Representative Diane Larson: You use the same landowners regularly. Has someone else puts hives on the same land without permission? Are there a certain number of bees per property that seems to be ideal?

Marcia Gifford: You go by the crop and water source. Others move across the road from us. A bee will travel up to three miles for its flower source to make honey.

Representative Diane Larson: Have you had to complain against another beekeeper?

Marcia Gifford: We call them and ask if they saw our bees.

Representative Dwight Kiefert: What is the process when a farmer is going to spray? Should the hives be moved?

Marcia Gifford: The time frame of the call is important. We move bees at night. We ask that they spray early in the morning so the bees are not flying. We need 24 hours to move the bees.

Terry Weckerly, ND Grain Growers Association: (Attachment #3)

Chairman Dennis Johnson: You want written permission on your land. If you are renting land, it is between the landlord and the beekeeper.

(54)

Terry Weckerly: My rental contracts are going to state to my landlords that I have control of the bees going on their land. I am assuming liability. Written permission is a double check of the system.

Representative Craig Headland: How many crops do you grow that you need bees for pollination?

Terry Weckerly: We don't need bees. They are all self-pollinating crops. With canola and sunflowers they claim you get better yields. There are studies being done that they are all self-pollinating crops.

Representative Craig Headland: That is the point that beekeepers need to hear.

Terry Weckerly: We allow the beekeepers to be there at no charge. They give honey for a gesture of payment. Yet we have to be liable for them and spray around them.

Vice Chair Wayne Trottier: When you get bees without permission, do you call the Agriculture Department?

Terry Weckerly: I called them directly. I don't think I will keep doing that. The friendliness is wearing off.

Vice Chair Wayne Trottier: The Agriculture Department will get on it in a day or two.

Terry Weckerly: I will try the Agriculture Department the next time. There has to be teeth and accountability. That is why we want written permission on a yearly basis.

Representative Alan Fehr: We have talked about the fact that they don't know whose hives they are. Under this bill they will have large letters and identification. Has one of the issues been they don't know who they are?

Terry Weckerly: It has been an issue in the past. You drive up to a colony. Some had a name stamped on the box with no phone number or address. Every third box had a different name. What is in this bill with the signage will be a great help. Back in the 80s the bee people were a lot more respectful. We would call the beekeeper and they would net them at night. Now I have been told of people calling the beekeepers and they say just spray anyway.

(1:03)

Gary Knutson: ND Agriculture Association: Two key components of this bill:

1. We need better communication. We don't want to be a hindrance to the bee population or the soybean crop.
2. There needs to be verifiable consent.

Kristie Jo Sundeen, Northland Crop Consulting Service: (Attachment #4)

In support with changes to the bill.

I think it has to be written permission. Technology allows us to get this done. If every year is too hard in terms of paperwork, then do it every three years.

The placard should be placed at the entrance to an apiary especially if they are hidden between tree rows. There are many complaints in northeastern North Dakota due to the large concentration of bees. That is because of a large amount of canola grown. The honey industry claims that their bees are providing a service to the canola growers. The canola grown in ND is a hybrid which is self-pollinating. Increase in yields also has not been proven.

(1:13:14)

Chairman Dennis Johnson: Has it gotten better in the last years?

Kristie Sundeen: It has gotten better since 2013. They sent out warnings. I don't get a warning if I spray something wrong. The fine for \$150 for an unregistered apiary, \$250 for not having permission--I go to Minnesota and I pay that for speeding. You need to have a dollar value fine that will deter what is happening.

According to EPA labeling I cannot spray when a bee is out there. I have to follow rules. It needs to be the same both ways. Enforcement has to be harsh so they will start paying attention. They are not following the rules.

Representative Cynthia Schreiber Beck: Years ago there was rule in place that apiaries couldn't be within two miles of each other. Would that be effective?

Kristie Sundeen: I would like it, but a beekeeper wouldn't. I am allergic to bees. I have changed how I do business. If I know an apiary is there, I work there in the morning. Just enforce what we currently have. We have new out-of-state beekeepers moving into our area because of the canola. They get great honey off of canola.

Bonnie Woodworth: (Attachment #5)

Testimony provided--not in attendance

Dustin McGregor, Farmer from Walsh, Cavalier, Ramsey Counties area:

(Attachment #6)

(1:25)

Representative Jessica Haak: What do you think is a reasonable fine for an unregistered apiary?

Dustin McGregor: Several thousand dollars. They should know the law.

Shauna Schneider, Farmer from Wales, ND: (Attachment #7)

The reason for the reduction in complaints is that people have given up complaining. In our area they are moving bees in the daytime and leaving bees behind with nowhere to go. In the law for SB2025 it is a 14-day process before the hives will be removed.

Landowners don't want to sign for permission because there is no end date. They don't want to be held forever to the permission sheet.

(1:34)

Opposition:

Kevin Herrmann, Beulah, ND: (Attachment #8)

(1:40)

Neutral:

Tom Bodine, ND Agriculture Department: We brought our penalty matrix. (Attachment #9) Under current law this is our guide.

Representative Craig Headland: Is a \$10,000 fine a fair number to start with penalizing an apiary for not having the proper paperwork?

Tom Bodine: It is up to the committee to decide the fee. Testimony today has said the Agriculture Department wasn't responsive. We are changing how we are enforcing this section. In 2013 we addressed a letter to township officers, county commissioners, and to every beekeeper.

We did give warnings the first year because enforcement was lacking in the past. Every violation a beekeeper has is retained. Our records retention is five years. Every violation gets a stepped up mark. There are many transactions for a beekeeper so the fine could add up to the \$10,000 range.

I do agree it is our job and responsibility to enforce the law.

Chairman Dennis Johnson: We have a hot spot in northeastern North Dakota. Are you short of staff to enforce the situation? Can you handle it if we are more aggressive?

Tom Bodine: We have asked for enhancement in our budget to add more surveillance. I have been in Cavalier County twice with our bee inspector. Our temporary staff has also been in the area.

The biggest thing is communication. We need to look at having a meeting when the beekeepers come back in the area. If there is a lack of agreement, then we step in and hold people accountable.

Chairman Dennis Johnson: Will the beekeepers attend the meeting? Or are there a group of beekeepers that don't come to the meeting that are the outlaws?

Tom Bodine: They are willing to come in. The standardization of the placard will help us with enforcement. In the past when we got a nuisance report, we immediately contacted the Attorney General. It is a drawn out process. This bill gives a lot more authority to the department to act quicker and more responsive.

Representative Diane Larson: For hunting, landowners post their land. What if landowners were to place signs for no hunting, trespassing, or apiaries? It is an extra burden on a landowner. Would that help?

Tom Bodine: Even without the trespass sign, they are breaking the law.

The registration mapping will be updated. Every location has to be renewed every year. We start over every year. We are not grandfathering locations.

Representative Joshua Boschee: In response to Representative Larson, it is very clear that this is about the bad actors. It comes down to the department. There are bad actors that are taking advantage of our people, our land, and our laws. We raise the fines but it comes back to the department whether you are going to respond and enforce it. We don't need to put more burden on the landowners. We need to put more burden on the bad actors.

Tom Bodine: I agree. It is our responsibility.

Chairman Dennis Johnson: Closed the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

SB 2025
3/20/2015
Job #25197

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the submission of assessments by beekeepers (apiary law rewrite bill)
(Committee Work)

Minutes:

Chairman Dennis Johnson: We visited with the Agriculture Department on past history and the lack of laws enforced. They have new people on staff. They have been up in Cavalier County several times. They have a meeting scheduled in April at the experiment station. They will enforce the fines. If a farmer goes out in the morning to spray and there are hives there without permission, they can be fined and removed.

The department would like this bill to stay the way it is without amendments. That would give them the opportunity to exercise the provisions they have in law now that haven't been utilized. If it doesn't work in two years, then make the changes.

Vice Chair Wayne Trottier: They were asking for another chance to work hard on it and communicate.

Representative Joshua Boschee: We can fine people who have the contact information. What about those with no identification? Does the department have the ability to destroy the hives?

Chairman Dennis Johnson: We talked about written or oral permission. If they have no permission, they have to go.

Vice Chair Wayne Trottier: They will dispose of them. Communication needs to be on both sides. If you have a cow running on your crops, there is someone to contact. If it is a deer hunter, you contact Game and Fish. It needs to get out there that if there is a problem with bees, you call the Agriculture Department.

Representative Alan Fehr: On page 4, line 12, Unidentified apiary, under subsection #2 on line 22 it says "Seizure under this section may not occur until after the 6th day of the published notice." So this is not going to happen quickly. When we were talking about spraying when there are bees present, they cannot spray under federal law. In order to comply with federal law, the farmer is going have to wait before they can spray? Correct?

Carrie Larson, ND Agriculture Department: If hives are unidentified, not registered, or not marked, our two inspectors are good at detective work. The good beekeepers will help us move them.

Representative Fehr's question about spraying is correct. There are federal pesticide labels that have to be followed. That is a problem. That is why we try to get out there as soon as we can.

Representative Diane Larson: If you own land and someone puts something on the land and is trespassing, the landowner is limited by what they can do. They need to be able to work on their farm for their livelihood.

Carrie Larson: It is a definite concern. When an applicator wants to spray, they contact the beekeeper. There was a bill that was killed where the beekeeper would have to move the hives within 24 hours if an applicator asked them. That would have been against federal label laws.

Representative Joshua Boschee: Would netting the hives be an option? We know how important a week can be when it comes to spraying. A week is the minimum, it could be longer.

Carrie Larson: That is an option. Our pollinator plan does say for the beekeeper to move, net, or plug the hives.

Representative Joshua Boschee: In the case of unidentified or unregistered, they have to wait seven days. Is there something our regulators can do to allow application of pesticides?

Carrie Larson: That would work also. We would have to get a beekeeper to assist us in borrowing equipment to move the hives or netting them.

Representative Alan Fehr: The other option has to do with having the penalty so high that it is a deterrent from having unmarked colonies. Page 6, line 9 under the penalties. There are two possible penalties. One is a Class A misdemeanor and the second is a civil penalty up to \$5,000 per violation. Is that enough of a penalty? \$5,000 seems like a minimal slap on the wrist compared to the inconvenience for the producer.

Carrie Larson: To this day we haven't heard of anyone that had to wait to spray. If we can't find them, how can we fine them?

Representative Alan Fehr: The deterrent for the few bad actors is perhaps they wouldn't even come to North Dakota.

Carrie Larson: Do they even know about our laws in North Dakota?

Chairman Dennis Johnson: You have a good relationship with the good actors?

Carrie Larson: Yes. They are the ones that help us.

A meeting has been scheduled in Cavalier County in early April.

Representative Craig Headland: The \$5 fee for licensing. It costs more to get a driver's license. Would the department object to increasing the fee?

Carrie Larson: That would be a question for our deputy. There are other fees also that have not been increased. We are the second least expensive in the county for many programs.

Representative Craig Headland: What is the penalty for not paying the five dollars?

Carrie Larson: It is on the penalty guidelines handed out yesterday. They pay the \$5 license fee plus 15 cents per colony and they also pay into the honey assessment. Depending on the size of the beekeeper it does add up.

Vice Chair Wayne Trottier: Moved Do Pass.

Representative Alex Looyen: Seconded the motion

Representative Jessica Haak: Was written consent discussed when talking to the department?

Chairman Dennis Johnson: It can be an issue with the landlord and the renter. It is something the department doesn't require. It is between the farmer and the honey producer. If there is no consent, written or oral, the bees have to go.

Representative Alan Fehr: I am going to resist the motion. I don't think this bill is in the place where it needs to be. The maximum civil penalty for \$1,000 is not enough for not being licensed.

A Roll Call vote was taken: Yes 9 , No 2 , Absent 2 .

Do Pass carries.

Representative Bert Anderson will carry the bill.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2025**

House **Agriculture** Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Trottier Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman Wayne Trottier	X		Rep. Jessica Haak		X
Rep. Bert Anderson	X		Rep. Alisa Mitskog	AB	
Rep. Alan Fehr		X			
Rep. Craig Headland	X				
Rep. Tom Kading	AB				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. Alex Looyen	X				
Rep. Cynthia Schreiber Beck	X				

Total (Yes) 9 No 2

Absent 2

Floor Assignment Rep. Bert Anderson

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

REPORT OF STANDING COMMITTEE

SB 2025, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)
recommends **DO PASS** (9 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2025 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2025

SENATE BILL NO. 2025
Presentation to the
SENATE AGRICULTURE COMMITTEE
January 8, 2015

Although the interim committee worked extensively with the ag department staff to address many of the issues in this chapter, there are a few issues that still remain and will require some additional consideration from this committee. There are also a few bee related issues that have come up in recent weeks and those too will certainly impact various provisions in this chapter.

Section 1 is a cross-reference reconciliation. Because this bill is proposing the repeal of the current bee chapter and the adoption of a new bee chapter, section numbers are being changed and we need to ensure that other chapters of the code, which currently reference the old law, would actually be referencing the new law.

Toward the bottom of the first page, you will see the definitions. We removed a number of definitions because if the terms aren't used in the chapter, they do not need to be defined.

One of the things that the interim committee did do is to define a colony and a hive properly. Those terms seem to be used interchangeably and sometimes incorrectly. A colony is a familial group of adult bees consisting of drones, workers, and a queen. A hive is the structure that houses a colony.

On Page 2, beginning on line 4, the bill addresses beekeeper licenses. Current law has a provision that states the person must be licensed by March first. Current law does not, however, indicate what happens on March second.

The interim committee treated this like fishing licenses. You do not need one before opening day, but you do need one before you start to fish. The same thing was done last interim when your colleagues dealt with livestock dealer licenses.

Page 2, Line 14 -- The rewrite maintains the requirement that if a minor elects to be a beekeeper, the minor's parent must sign the application. Current law references the minor's mother, father, or legal guardian. By referencing a "parent," the bill does not preclude a legal guardian from signing the application. A legal guardian is recognized as functioning "in loco parentis" - in the place of a parent. Both designations (parents and legal guardians) are not needed. However, if Junior goes to live with Aunt Mary for the summer, and she does not have a legal guardianship status, she cannot sign the application for Junior's beekeeping license.

Page 2, line 20 -- Like current law, a beekeeper's license is not transferable.

As for subsection 2 -- on line 22 -- This is new. Current law does not indicate exactly when beekeeping licenses expire. This clarifies that it is December 31st.

In other words, a new license is needed each year.

Page 2, Line 23 -- Under current law, a license can be denied if the applicant is found guilty of repeated violations of the chapter or rules, or if the person has failed to pay an adjudicated civil penalty. Those concepts remain.

Under current law, if a person provides false or misleading information in connection with any application or notification required by the chapter, that person is subject to the penalties provided for in the chapter -- i.e. a Class A misdemeanor (1 yr/\$3000) and/or a \$5000 civil penalty.

The committee opted to include the provision of false or misleading information on an application, or a required report, as a ground for license denial.

Page 2, Line 30 -- License fees continue as they are currently -- i.e. at \$5

Page 3, Line 1 -- Colony assessments continue as they are currently -- i.e. at 15 cents per colony

Page 3, Line 5 -- This is the apiary notification section. Under current law, a beekeeper is required to "register" all apiaries with the commissioner. However, under current law, there is no minimum distance -- no "*do not compete*" provisions.

So, in effect, all that the beekeepers are statutorily doing is telling the commissioner where their apiaries will be placed. i.e. They are "notifying" the commissioner. In the interest of modernizing this section, beekeepers can provide the commissioner with GPS coordinates and they can provide the notification electronically.

This section does not include the current requirement that a beekeeper provide a copy of a written lease or other document from the property owner granting the beekeeper permission to maintain an apiary at that location. Current law also provides that once such a document is submitted, it is effective for subsequent registrations.

The interim committee determined that the ag department staff are in no position to determine the validity of such documents, whether the signatories actually have the proper authority, or whether the ownership of the land has changed since a document was first filed.

Very simply, if a beekeeper wants to put an apiary on certain land, that is a private matter between the beekeeper and the owner or occupier of the land.

Page 3, line 17 -- Apiary identification. This section is a work in progress. The interim conversation began with the articulation of a problem. Not all beekeepers were identifying their apiaries as required - which is by means of a board or weather proof placard at or near the main entrance to an apiary or on a hive. Placards would blow away or grass would grow up and the placards were not visible. In addition, the requirement that the letters be at least ½ an inch required people to get uncomfortably close to the business end of an apiary before being able to discern a phone number.

So, it was suggested that the beekeepers literally spray paint their three digit license number on a hive. The number must be in a color that contrasts with that of the hive and it must be at least three inches high.

At the last interim committee meeting some beekeepers testified that they thought everybody should identify their apiaries by means of the current placard. So, that was reinserted in the bill as option B.

If an apiary is not identified, and if after making reasonable efforts to identify the responsible beekeeper, no name pops up, the commissioner can publish a notice in the official newspaper indicating that if the responsible party does not appear to claim their property and pay costs, the property will be seized and destroyed or sold at auction. This concept is included on page 4, Line 6.

The problem is, of course, if bees are on your land, and they should not be there, you do not want to wait for at least a week after publication, and then however long thereafter it takes for arrangements to be made so that someone will actually come and get the bees.

The ensuing section, on Page 4, line 17 is the confiscation section. If bees are being transported or maintained in violation of this chapter, they can be confiscated. The Ag Commissioner or the law enforcement officer then has to get a court order or an administrative order regarding the disposition of the property. Again, there are some practical issues with this as well. (*Seizure involves the act of taking. Confiscation involves the act of not returning property as a form of punishment.*)

On Page 4, line 23, you will see various powers and duties referencing the Ag Commissioner. Under the current statute, those are given to the state bee inspector. Under current law, there are several references to the Ag Commissioner having to do certain things at the direction of the bee inspector. So, it was suggested that this would be a good time to clarify the chapter.

The commissioner is in charge of and responsible for the administration of this chapter. He can delegate those duties, just as he does other duties that he has been assigned.

In this particular section, the Ag Commissioner is given two powers. The first involves assisting farmers in identifying beekeepers who provide pollination services. Current law words that rather awkwardly, but this is the intent.

Subsection 2 is a change. Current law provides that if the bee inspector or a deputy inspector receives a complaint from a beekeeper, an aerial sprayer, or a farmer, the inspector may enter private property during reasonable hours to make an external inspection for the purpose of identifying a colony. The problem was twofold:

What if the complaint is filed by someone other than one of the 3 listed parties?

What if the commissioner needs to enter the property in order to enforce this chapter?

In the rewrite, the interim committee authorized the AG Commissioner to enter upon private land during daylight hours for the purpose of enforcing the chapter - regardless of who complained.

The bill, however, requires the Commissioner to first make a good faith effort to notify the owner of the land or a lessee regarding the entry.

Page 4, Line 29 This is an inspection section. At the request of a beekeeper, the commissioner shall inspect an apiary for the purpose of issuing a certificate of inspection or providing other official documentation or validation. No charge is made for this inspection.

The next section, at the top of page 5, is an unofficial inspection section. If a beekeeper would like to have someone come out for any reason other than an official inspection - such as perhaps for a "consultation," the commissioner may provide the inspection and may charge a fee to cover any attendant costs.

Page 5, line 7 -- Current law has a rather discombobulated section on what ought to happen in the event that Africanized bees are identified. It addresses migration and periods within which colonies can and cannot be moved.

What Ag Department personnel said they really needed was the ability to impose a quarantine, whether that be for Africanized bees or to control the spread of disease, etc.

Under normal circumstances, in order for a quarantine to be issued, there must be a notice and a hearing and if there is an order, it must state the date by which or the circumstances under which the quarantine will be lifted. If there is an emergency, the Commissioner may order a quarantine and then within 14 days, he must go through the standard notice, hearing, and order procedure that I just described.

At the bottom of Page 5, you'll see a section entitled service of process. This too is in current law and allows the commissioner to accept service of process in the event that neither a beekeeper nor his registered agent can be found.

At the top of Page 6, there is the penalty section. The penalties are the same as current law, which is a class A misdemeanor (1 yr/\$3000) or a \$5000 civil fine. These are maximum amounts.

There is one change, however. Current law provides that a person may be guilty of a class A misdemeanor for violation this chapter *or rules* adopted under the chapter. The Legislative Assembly has been very reluctant to allow the imposition of a criminal penalty for a rules violation.

In this case, the apiary division has only minimal rules and rules have not been issued or amended since 1992. But, one does not know what future rules might address.

So, rather than commit the Legislative Assembly to a criminal penalty for a yet to be defined act or omission, the language was crafted to provide that there may be a criminal penalty for violating the chapter, but not for violating a rule. If an activity is worthy of a criminal penalty, it is suggested that the commissioner should place a bill before the Legislative Assembly.

Page 6, Line 10 -- Current law contains a simple little sentence that has a lot of potential repercussions. It states: "The agriculture commissioner may cancel a registration . . . when the bees located on the apiary site are causing a nuisance, as defined in chapter 42-01."

First of all, when the rewrite on page 3 referenced a notification rather than registration, this section lost its application, because we don't have a registration.

Let me make a few comments about the current language, in light of ongoing discussions about bees and apiary placements.

For those who are concerned about bees being a nuisance, a simple sentence authorizing the Ag Commissioner to cancel a registration looks like it might be the answer. However, there is no reference to a hearing - or any form of due process for the beekeeper. The definition of a nuisance in and of itself has room for debate and disagreement.

Go back to that original sentence: "The commissioner may cancel a registration . . . when the bees located on the apiary site are causing a nuisance."

What if the beekeeper owns the property on which he has placed his hives? What if he has a pollination contract? What if the person from whom he rents won't let him re-situate the apiary? The questions go on and on.

This section is now drafted in a fashion that addresses some of those concerns. Whether or not it should be maintained in the statute will be a decision for this committee.

If someone has an issue with the location of an apiary, that individual can petition the commissioner for an order requiring a relocation. However, that individual has to reside on land contiguous to that on which the beekeeper has placed an apiary. This is not to be a venue for people who live far away and just don't like bees or beekeeping.

Secondly, that individual's health or welfare must be endangered by the apiary's location. This is not to be a venue for people who don't like bees on their windshields.

If the commissioner receives a petition, he may provide notice and schedule a hearing. This provides everyone with an opportunity to bring forth testimony and documentary evidence.

Here are the parameters for the commissioner. He has to determine that any threat to the individual's health or welfare would be eliminated or significantly mitigated through the relocation of the apiary. A relocation is not to be ordered on a whim - but only if it could truly make a difference to the individual's health or welfare.

The commissioner may order a relocation. However, he cannot entirely prohibit the beekeeper from having bees on land that the beekeeper owns, that the beekeeper leases, or that the beekeeper uses with permission. This last category includes the informal arrangements e.g. You can keep bees on my land -- just give me so much honey at the end of the season.

Since we are talking about people's livelihoods, the commissioner cannot require that the beekeeper remove the apiary from its current location, if the removal would negatively affect the level of honey production reasonably anticipated from the current location.

The commissioner cannot require that the beekeeper remove the apiary from its current location, if the land's owner or lessee does not agree to a relocation of the apiary. The agreement between a beekeeper and a landowner might specify a particular area. The landowner might not want bees elsewhere on his property.

If all these pieces fall into place, and if there is a cost to moving the apiary, the commissioner can direct that the petitioner pay some or all of those costs. We inserted this provision because the beekeeper wasn't doing anything wrong when he first situated the apiary.

Once the commissioner issues an order under this section, that order is not appealable. An order under this section expires on December thirty-first. This is seasonal. It is not a prohibition that goes with the land.

Finally, if a beekeeper relocates an apiary in accordance with this section, the commissioner may not, during that same calendar year, consider any additional petition regarding the relocated apiary. The original petitioner can't say - Well, I don't like that second spot either. Someone living on the other side of the apiary can't then file another petition.

Just to make things even more complicated, current law states that the agriculture commissioner may cancel a registration . . . when the bees located on the apiary site are causing a nuisance, as defined in chapter 42-01. Chapter 42-01 has been around since World War I.

However, later passed legislation provides that an agricultural operation is not, nor shall it become, a private or public nuisance by any changed conditions in or about the locality of such operation after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began. That's been on the books since 1981.

Bee keeping is included in the definition of an agricultural operation under that provision.

Then, there is the Constitutional Measure - Section 29 of Article XI, which forever guarantees the right of farmers to engage in modern farming and ranching practices. We are still not sure what that means or if it would have any impact here.

Again, allowing the commissioner to cancel a registration . . . when the bees located on the apiary site are causing a nuisance is a simple little concept that may sound fine initially. However, when one starts to look at what the words really mean, and how this would operate, one bumps up against property rights, economic rights, matters of due process, etc.

That brings us to one other little provision that is currently in the law, but was not carried forward in this bill.

Current section 4-12.2-25 states that beekeeping is an "agricultural enterprise for all purposes under the laws of this state." That provision was inserted in 1983 as part of an interim effort, and we could not find one word indicating why. The concern with the verbiage is that we don't know what it means. We don't know what rights, duties, or obligations it triggers.

One person may want to use the verbiage to assure a county zoning board that beekeeping is agriculture and needs to be treated specially. Another may find that his son's 4H hive has suddenly turned residential property into an agricultural use and thereby created a violation. We don't know if there are tax implications, environmental implications, loan implications, liability and insurance issues. We just don't know.

The hope during the interim was that if people could articulate why this verbiage is necessary, perhaps one could have a more precise statement inserted.

With that Mr. Chairman, I'm happy to present this bill to you, on behalf of the interim committee, and to continue working with you in order to address any remaining issues.

#2

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.nd.gov/ndda

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

Testimony of Samantha Brunner
State Apiary Inspector
Senate Bill 2025
Senate Agriculture Committee
Roosevelt Park Room
January 8, 2015

Chairman Miller and members of the Senate Agriculture Committee, I am Samantha Brunner, State Apiary Inspector for the North Dakota Department of Agriculture (NDDA) here representing Agriculture Commissioner Doug Goehring. I am here today in support of SB 2025, which will update and bring clarification to the beekeeping law.

The NDDA regulates all beekeepers in the state through licensing and registration of beekeepers and apiary (hive) locations.

Currently under NDCC §4-12.2-07 in order to register an apiary location the beekeeper must submit a document with NDDA signed by both the beekeeper and the landowner or lessee. In 2014 over 12,000 locations were registered in the state. The proposed language in SB 2025 removes the requirement of signed landowner forms, but still requires the beekeeper to provide the name of the landowner or lessee to the department when notifying us of locations. Removing the landowner forms will allow the department to have a more current, accurate list of registered locations. This change will allow the department to create a more accurate map that may be used by pesticide applicators to locate apiaries. Furthermore, the updated information will allow

beekeepers to communicate back to the department and provides NDDA with updated landowner and lessee information to help improve communication between beekeepers, applicators, and citizens.

The proposed language of adding a North Dakota beekeeper number as part of the identification on the hives would standardize identification across the state. The department receives many calls each summer from people trying to identify hives. This number will be printed much larger than they are able to print their contact information in, and it would stand out against all of the other information that can be found on hives.

Currently, inspections are conducted at the request of the beekeeper for the purpose of issuing a certificate of health to aid in interstate movement of bees. Under proposed legislation this certificate of inspection would still be issued. However, if a beekeeper requests an inspection for purposes other than interstate movement of bees, the law would allow us to charge that beekeeper a fee for the inspection.

Africanized bees were a big topic the last time the beekeeping law underwent major changes, resulting in an extensive section on Africanized bees; however there was no way to protect the industry from any other potential threat. Legislative Council added a quarantine section to SB 2025. This quarantine will allow the Department to establish restrictions that best fit the pest of concern whether it is Africanized bees, a parasite, or other threat.

Under NDCC §4-12.2 beekeepers were required to obtain an entrance permit prior to March 1st. If a beekeeper did not obtain one prior to that date, they would not be allowed to bring bees into

the state for 60 days after receiving a permit. NDDA asked to have this section removed because there doesn't seem to be a realistic, feasible way to enforce this requirement.

NDDA worked extensively with the Interim Agriculture Committee and with Legislative Council on this bill and thanks the committee for their hard work and attention to this rewrite.

There are still areas of the bill that we feel need further discussion.

- §4.1-16-07 Apiary Location-Notification
- §4.1-16-09 Identification of an apiary
- §4.1-16-13 Agriculture commissioner-Inspection of an Apiary –Issuance of certificate
- §4.1-16-18 Relocation of an apiary-Petition-Hearing

Chairman Miller, NDDA has visited with Legislative Council to discuss proposed amendments to ensure the apiary law meets the industry's needs. Commissioner Goehring looks forward to working with Legislative Council and the committee to address areas of concern with this bill while defining and carrying out the commissioner's authority.

Chairman Miller and committee members, thank you for your time, I urge a do pass on SB 2025.

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

January 8th, 2015 #3a

Testimony Before the Senate Agriculture Committee

On

SB 2025 Related to Apiaries and Beekeeping

Dustin McGregor, Fairdale

Good morning Committee Members. Thank you for allowing us to speak to you today. My name is Dustin McGregor from Fairdale, ND and my parents and I operate a fourth generation farm located where the corners of Walsh, Cavalier, and Ramsey counties meet. I am here representing a group of farmers from that area regarding the lack of enforcement of laws currently on the books in North Dakota regarding honey bee farming and the overpopulation of bees in many areas. If you are not from a major canola growing area, you may be unaware of the safety issues some individuals are facing. From the outset I want you to understand we are not here to try to eliminate or reduce the production of honey in our state, but to encourage your committee to redefine laws regulating honey bees in order that we may all coexist in harmony.

We realize that staff members of the Dept. of Agriculture can only enforce laws and regulations that are passed by the North Dakota Legislature. The Dept. of Ag tells us they do not have the funds to hire the manpower to do so. We strongly recommend that the Dept. of Ag be appropriated funds to hire at least one, preferably two, additional seasonal workers per year.

As a voting citizen of North Dakota it feels as if the beekeeper and his/her business has more rights than a person who is trying to protect the safety of himself/herself, his/her family and neighbors. An example being: If a beekeeper places an apiary on a piece of land without permission and an individual wants/needs to obtain that beekeeper's information, that individual now has to trespass onto that property to find the information on the hives because there is not a law stating the signage should be at the point of entry of the property. Now if the person looking for the information gets stung and has an allergic reaction and dies, the

property owner is liable not the beekeeper even though the beekeeper broke the law by not having permission to have the bees on that property.

This summer a group of us from the area had a meeting with a Dept. of Ag representative showing him/her the amount of bees being placed at apiaries. Most apiaries contained an unreasonable amount of bees. We also showed this employee that 40-50% of the apiaries in our area were unregistered - breaking the state law. Beings there are many violators, I do think that an increase in fines or harsher penalties are within reason for those violators.

Revisions of the current law drafted in October 2014, eliminate the requirement for honey bee farmers to get signed leases from farmers who own the land where they place their hives. We strongly oppose the elimination of this requirement. We strongly recommend that leases be obtained, signed and filed not only for the landowner, but also for the renter of the land if the owner and individual farming said land is not the same person. We as landowners are paying taxes on our land. Therefore, we should have the right to deny or allow other individuals on our land. Without this written permission, where is the proof? This only makes sense as we as farmers/renters are required to do so and present copies of our leases to the FSA. This not only makes sense, but should be used as a method for overseeing and regulating.

Also the October 2014 draft states that if a honey bee farmer is required to move his hive to another location for whatever reason, the owner/renter of the land at the original location should be liable for expenses and time used as a result of this move. We strongly object to this requirement. The majority of the time for this required move is the result of the hives having been placed where they should not have been in the first place.

Many times during the past two summers my wife and I were not able to be in our yard because of the concentration of bees present due to all the nearby apiaries. It's sad to tell a child he/she cannot go outside to play. Two miles in different directions from my house you can find seven apiaries! Years ago I did not have much of a problem but the number of sites has risen and the number of bees at each site is out of control to the point where it's not safe. The overpopulation of bees and the issue of location of bees too close to farmsteads and roads

has resulted in farmers being unable to work in their yards. In the fields farmers are constantly stung when they get out of their equipment cabs to work on equipment or put grain in or take grain out of their bins. There have been instances when service repair personnel have refused to continue working on equipment in the fields because they are getting stung while doing so.

I checked with the Cavalier County Memorial Hospital and a local pharmacy to see if they've seen an increase in bee stings. Between 2012 and 2014 CCMH's number of patients because of bees stings (includes people who came to the hospital 24-72 hours post sting with concerns about swelling or infection and those arriving the day of the sting with concerns about allergic reactions) has doubled. The pharmacy has seen a 4% increase in the number of EpiPens issued over the last two years.

Regarding the overpopulation of honey bees, I want to offer this example. Farmer #1 places hives in four separate locations, probably at corners of a three mile square. That is good. Then Farmer #2 comes along and places four separate groups of hives interspersed with Farmer #1's hives. Lastly Farmer #3 shows up and places four groups of hives intermingled in between Farmer #1 and #2's hives. We now have 12 sets of hives clustered within that three mile square. If each group of hives is a flat bed of 400 hives, we now have 4800 hives in that small area. We propose that a plan be devised whereby the Dept. of Ag has a GPS computer system that will be used to pinpoint the legal description when the bee farmer registers his bees and that no more hives be allowed to be located within at least a 2 ½ mile area of a previously registered hive. Bees usually fly within a radius of three miles. This would eliminate the overflying of bees over the same areas and help eliminate the serious overpopulation of bees that our area currently has. There is a lot of land around. With some planning this should not adversely impact honey production.

I feel that many issues could be policed by the beekeepers themselves and the Dept. of Ag, but from the feedback I have received, the complaint process at the Dept. of Ag is broken. After discussion at one of our meetings, the Dept. of Ag does not have a proper procedure in place for documenting complaints, resolving issues, and providing feedback. How can there be

a record of a complaint when the person you call does not record the complaint? I am looking forward to hearing about a new and improved process from the Dept. of Ag.

Another law that seems unjust is if person A gives permission to a beekeeper to place bees on his/her property. This permission is a lifetime approval so if person A later decides to not have bees on his/her property, he/she isn't able to get them removed. Also, this permission should not pass on to a new landowner.

We also have an issue with the placarding of some hives and the location of the placards and the hives. Placards should be located on the entry of the road accessing the hive and not right adjacent to the colony. Current letter sizing appears to be adequate, but location is an issue. Also hives should have a certain setback from all roads, not just paved county and state highways. Another concern is unregistered hives. How does a person find the beekeeper's information when hives have no placard period?

Rights of a resident versus rights of a beekeeper. I have been told by local politicians that a beekeeper has the right to do what he/she wants on property he/she owns. As a landowner or resident near this land with apiaries on it, now I lose some of my rights because he/she decided to have bees? For example, this beekeeper can have bees on this property near my residence which in turn not only affects my quality of life but restricts a farmer from spraying at certain times. The actions of one person negatively affect the other and currently there's nothing the one individual can do to remedy the situation.

Trying to resolve the issue of apiaries too close to residences is difficult. There is a proposal for a two mile setback. The proposed two mile apiary setback from residences is maybe not the right way to go? If a person has a complaint about the bees affecting his/her residence there should be a system of steps the Agricultural Commissioner must implement. It is important to keep everyone safe. On the first complaint the Dept. of Ag should respond to the issue within 48 hours. The beekeeper must prove he/she is maintaining the site with water for the bees and that the number of bees is not out of line. Second complaint, the beekeeper must cut the number of bees down at the location to hopefully remedy the issue. If there are still problems, with the third complaint, the beekeeper should be responsible for moving the

bees whether he/she has permission for the bees to be there or if he/she owns that property. They must be removed no matter what. An individual's safety should take precedence.

If the Ag Commissioner determines there isn't an issue, but the people living near the apiaries do feel it is still a safety concern, there should be an appeal process. This process could include getting the local representatives' opinions because these individuals live in the area, represent the locals, and may have more insight into the problem.

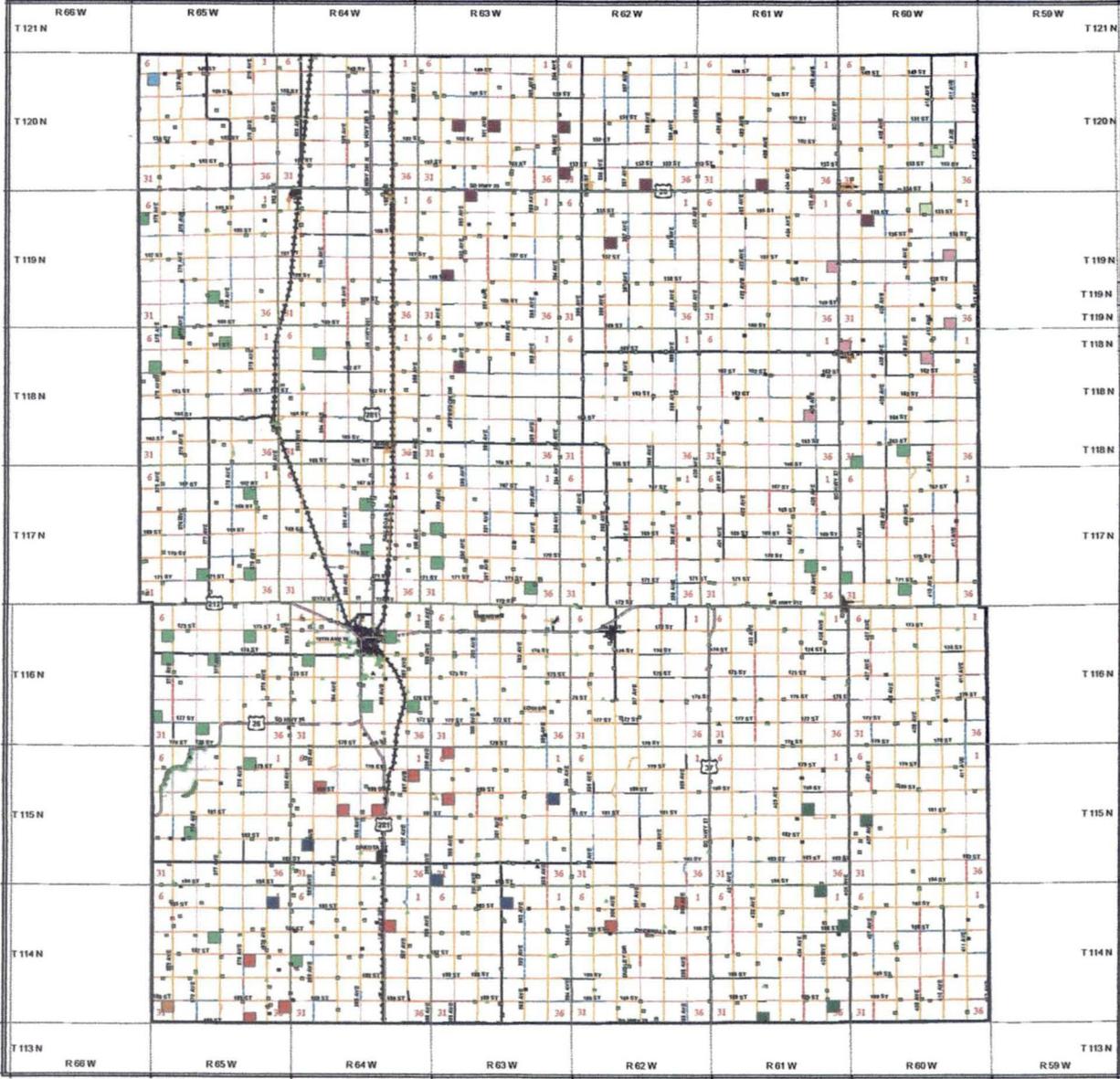
I also attended a meeting with the Dept. of Ag early this winter in Langdon, ND. I shared a map of western Walsh County, Cavalier County, and northern Ramsey County showing all the registered bee apiaries printed from the Dept. of Ag's website. Please keep in mind that there were people stating nearly 50% of apiaries in their area are unregistered.

Spink County in South Dakota is roughly the same size as Cavalier County in North Dakota- 1,510 square miles. Spink County has 76 registered apiaries according to SD website. In Cavalier County I counted 284 registered apiaries. If you double the number (because possibly only half are registered) it's more like 568. That is 7.5 times more than in the same size county in South Dakota. Then if you take 1,510 square miles divided by 568 that averages out to be one apiary every 2.7 square miles. That's a lot of bees! If more beekeepers want to come to the canola growing areas of North Dakota, there will be major issues. I feel beekeepers should be cutting back their numbers in this area... not increasing them. If South Dakota is able to regulate its number of bees, I'm sure North Dakota can figure out a beneficial system also.

Overall I feel with every issue both parties are supposed to have equal rights. With the issues I have brought to your attention it sure doesn't seem that the citizens, taxpayers, and voters have the same rights as the beekeepers. I'm asking that you please take the time to look into these issues and put yourself in the shoes of an individual dealing with overpopulations of honey bees every summer.

With all this information being addressed today, please contact me if you have any questions. I was given short notice of this meeting so I'm very thankful I was able to make it and I thank you for your time and support.

Dustin McGregor



Apiary Locations Spink County South Dakota

- Rural Residence**
- Abandoned
 - Occupied
 - Seasonal
 - Unoccupied
- Farmsteads**
- Abandoned
 - Occupied
 - Seasonal
 - Unoccupied
- US and State Highway**
- Bituminous
 - Concrete
 - Graded
 - Gravel
 - Primitive
 - Unimproved
 - Railroads

- Apiary (Spink)**
- BERNARD CASAVAN
 - BILL RHODES
 - BRUCE HANSON
 - FARRIS HOMAN
 - JACK BACHMANN
 - JASEN WENDELL ALBRECHT
 - MIKE BARIBEAU
 - PAUL TAYLOR
 - STEVEN SWIFT

Prepared Feb 14, 2012 by:
South Dakota Department of Agriculture, Office of Agronomy Services
(605) 773-3796



Map Projection: Universal Transverse Mercator Zone 14 NAD83

South Dakota Department of Agriculture
Office of Agronomy Services
Joe Foss Building
523 East Capitol
Pierre SD 57501
(605) 773-4432

NOTE: THIS MAP IS FOR REFERENCE ONLY
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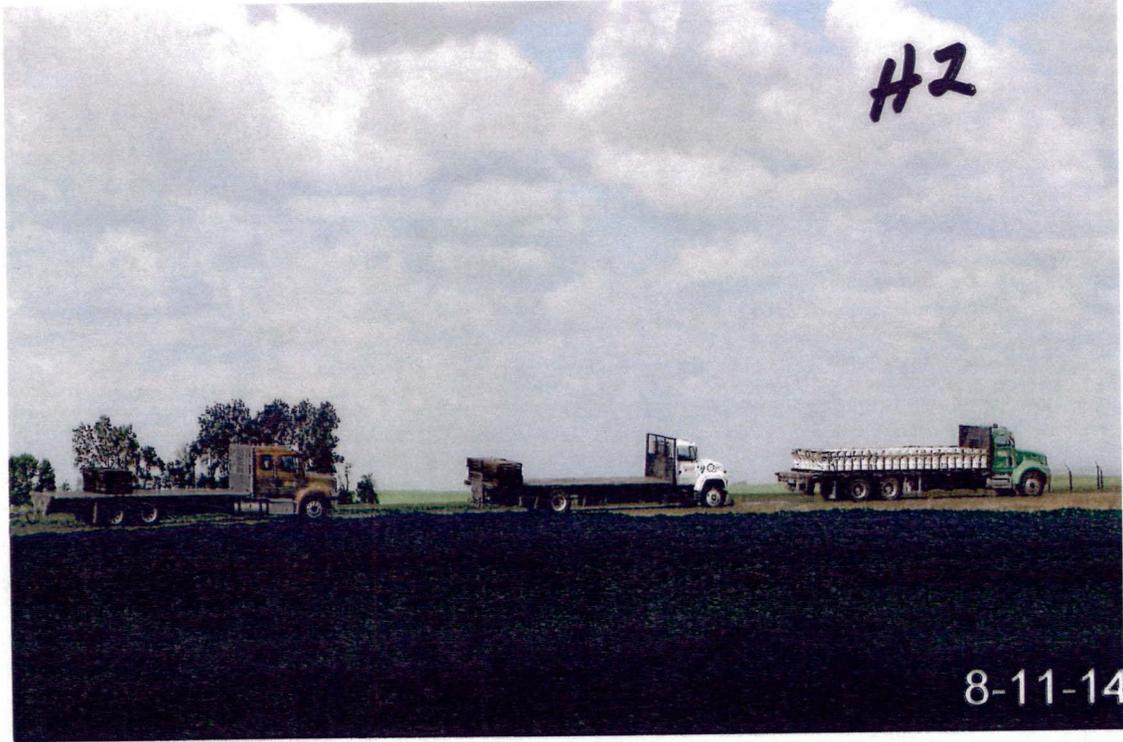
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Beasley 8-11-14



#2

8-11-14

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H2



Meberg

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H2

Meberg

H2



Meberg 8-11-14



E Hamner
Wilson Aptary 8/11/14

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© Hammer 6-11-14





Lake 8-11-14

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K3



Loraas/lake

H2



Meberg 8-11-14



H2





A2



Meberg 8-11-14











Thomas Apiary
McDonald 8-11-14

H1



McDonald 8-11-14
Thomas Apiary



SB 2025
January 8th, 2015

#4
Kristie Sundeen
page 1

It has come to my attention that the Interim Ag Committee and the Legislature are reviewing and possibly changing the Century Code regarding Apiaries/Beekeeping. After reading and reviewing several of the proposed changes, I have compiled a list of comments or opinions that I would like to share. Before I share these comments I would like to tell you a little about myself. I am a crop consultant, mother, and a farmer's wife. I own and operate my own business, Northland Crop Consulting Service; in Northeastern North Dakota and I also farm with my husband. In the following letter I hope I explain where my concerns lie and possible compromises.

In the legislation in regards to the Beekeeper's license there needs to be a start date for obtaining the license to minimize paperwork in season. Current legislation states that the beekeeper must have their license on or before the first day of March in each year. The beekeepers license is obtained in one year increments. Some proposals had plans to remove a deadline date which leaves things open to interpretation. The deadline keeps beekeepers up to date on their paperwork prior to the start of their honey season in the state of North Dakota. A statement should also be added that the license expires on December 31st. There was some mention of removing the deadline of March 1st because it was not addressed what would happen if they had not obtained their license by this date. I believe that if they don't have their license by March 1st then they can't practice beekeeping in the state of North Dakota for that year. Current legislation has the beekeepers license fee at \$5. I believe that the cost of doing business warrants an increase of this dollar amount. An increase to \$25 would be reasonable. An example would be a Commercial pesticide license which costs over \$80 every three years which would be equivalent to around \$25 per year. When submitting their application for license, beekeepers are required to submit the number of colonies that will be maintained in this state. A fee of fifteen cents per colony is also assessed at that time. I do have to wonder about the fee of fifteen cents per colony in that it could be higher. The Department of Agriculture should be looking at the cost of implementing the current regulations and determine if this number of fifteen cents per colony is adequate. If the reason for lack of oversight in the apiary program is cost, then these fees need to be considered for an increase.

One of my biggest concerns with the possible rewrite to Century Code Chapter 4-12.2 Beekeeping is the proposed changes to the 4-12.2-07. This section relates to the Registration of an Apiary with the Department of Agriculture. Current legislation states that each beekeeper shall register all apiaries that are or will be maintained by the beekeeper within the state at the same time an application for a license is made. The beekeeper has to provide the location of each apiary to the nearest section, quarter section, township, and range. A possible change that would be good is to also allow location of apiaries to be made by using satellite navigation system coordinates. The beekeeper is also required to supply the name of the property owner on whose property the apiary is located and a copy of the written lease or other document from the property owner granting the applicant permission. A proposed change has a change in wording from Registration of an Apiary to Apiary location – Notification. It opens this up to the interpretation that this is a voluntary program and not a requirement. Registration of apiaries is vital to keeping the balance between beekeepers and growers. The apiary program, when followed, allows farmers to use the program to notify beekeepers when they are spraying insecticides and follow state/federal pesticide laws.

Another proposed change was the removal of the requirement that the beekeeper supply a copy of the written lease or other document from the property owner granting the applicant permission to maintain

an apiary at that location. The removal of this requirement would create more problems and exasperate current problems that already exist in the apiary program. When taking into consideration the number of apiaries that have been placed on private property without landowners consent in the past I cannot see how the Department of Agriculture can't just take a beekeeper's word at having permission to place an apiary on another landowner's property. The reasoning given for the proposed removal of this requirement is that the role of the commissioner is not to make a determination regarding the legal sufficiency of a contractual arrangement involving the beekeeper and owner or lessee of land. This is a cop-out. Current issues in the state definitely show that there is already an issue of placement of apiaries on land without said landowner's or lessees' permission. By removing this requirement you are basically saying that you don't care about landowner's rights and that a beekeeper can place apiaries without a lease as long as they notify the state of the apiaries location. However, if on the application for the registration of apiaries in the state of North Dakota we require the land owner's notarized signature we mitigate the need for a copy of a contract between the land owner and beekeeper but maintain the knowledge that the beekeeper has permission to place apiaries on these locations. These landowners' are often times unknowingly incurring a liability when apiaries are placed on their land. On the apiary registration form, would it possible to insert a statement that the Beekeeper can certify to that they assume all the risk and liability for the bees?

A big complaint that we have is unregistered apiaries. This creates problems for farmers when they are on a deadline to spray an insecticide but either doesn't know about an apiary nearby and spray or they found an unregistered apiary but don't know who the bees belong to. The Department of Agriculture needs to have oversight so that landowner's/farmers/rural residents have recourse when an issue arises. The Department of Ag needs to have the ability to take action to correct the issues that arise between beekeepers and farmers.

In the past some apiary registrations were filed with the state with incorrect landowner names. The Department of Agriculture needs to have a system of checks and balances to address possible fraud situations.

Beekeepers are currently required to have a placard at or near the entrance of each apiary that contains the beekeeper's name, address, and telephone number. Many beekeepers, if they are identifying the apiary at all, are using spray paint on the hive to give the necessary information. Having the placard at the entrance of each apiary makes it easy to read for identification purposes and alleviates the need for anyone to trespass on private property to obtain the needed contact information. This requirement shouldn't be considered a hardship for the beekeeper. If they want to use spray paint on the hive as a secondary identification then by all means I agree. However, if it is a location that the beekeeper has a long standing agreement and has placed an apiary there 2 out of the last 3 years then I believe that a placard is needed. This keeps people from driving on or accessing property to find out information that could cause liability to the landowner.

There are many complaints in Northeastern North Dakota due to the large concentration of bees. The beekeepers are placing a large number of apiaries in this part of the state because of amount of canola grown in that area. Bees can produce more honey off an acre of canola than they can off any other crop grown in this state. The honey industry claims that their bees are providing a service to the canola growers by pollinating the canola. This claim does not have any merit as the only canola grown that is open pollinating is canola

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January 8th, 2015

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Shauna
Shneider

Bee Issues in North Dakota

1. Bee locations regarding work zones and rural residents
2. Lack of support from ND Dept of Ag
3. Unregistered Hives/Registered Hives not following NDCC
4. Landowner permission
5. Restriction of numbers
6. Signage at entrance
7. Liability prescribed to bee owner not landowner
8. Cost of be hive removal
9. Licensure period
10. Trespassing and refusing to answer calls

1. Bee locations regarding work zones and rural residents. Hives should be required to be 2 miles from any paved highway regarding safety for highway road construction workers and highway maintenance crews. Rural residents should have the same respect with a 2 mile setback. Beekeepers are not the ones paying for medical attention, the people dealing with the bees are whether its emergency hospital visits or constant epi-pen refills. Rural residents and farmers have the right to use their private property without nuisance issues.

2. The NDDA needs to be more supportive of the residents of ND and follow NDCC instead of passing the buck and disregarding ND law.

3. Cavalier County's unregistered hives is upwards of 60%. The majority of the hives that are registered are still illegal with regards to NDCC and violation of NDCC. There needs to be a monetary fine (\$2500) as well as a 2 year ban for illegal (and with illegal, I mean unregistered hives or beekeepers refusal to follow NDCC requirements) beekeeper for the first violation. Should the NDCC be violated a second time, there should be a monetary fine (\$5,000) and a 5 year ban of the beekeeper in ND. If there is a third violation, there needs to be a monetary fine (\$10,000) and banishment of the beekeeper from the state. The monetary fines need to be high and increase dramatically with each incident.

4. Landowner permission. The state needs a written agreement or copy of an agreement or lease with the landowner the beekeepers are working with. We have many residents that own land in ND and don't necessarily live in ND and thats where the problem lies. This is public information. Anyone can find out if a particular piece of land has an owner out state and with that information illegally drop hives and no one is the wiser. The agreement between landowner/beekeeper helps the Ag Dept. when investigating a location in an efficient manner. The agreement requirement is in the current law, but was taken out of the rewrite. I feel it needs to stay in the law and part of the licensure process.

5. Restriction of numbers. Every beekeeper should be allowed a certain number of hives annually. It also needs to be decided how many hives can be allowed per county

for a maximum. Should a county reach a maximum, beekeepers cannot place anymore hives in that county and that should be part of the licensure process. Beekeepers apply to have a specific number of hives for their locations, the state decides whats allowed.

6. Signage at entrance. This is very important as sometimes hives are set back behind trees or in shelter belts where people aren't able to see or know of. Also if there is issue with the bees, it doesn't make sense for people to have to drive on private property to get the bee information. The sign needs to be big enough to read from a vehicle with the Beekeeper's name, address and phone number as well as the phone number of the local contact that is in charge of the hives. It also needs to have its registration number from the state of ND located on it.

7. Liability prescribed to bee owner not landowner. All liability with the bees should be the sole liability of the beekeeper not the landowner.

8. Cost of bee hive removal. The cost of any bee hive removal for any reason should be the sole cost of the beekeeper. This is the cost of doing business. Bee hives should only be moved when all the bees are back in the hives.

9. Licensure period. Honey production is complete on average by the end of July first part of August. A lot of the issues begin when beekeepers aren't getting the hives out of their locations after production, rather they are using North Dakota and our area as a "holding" location. During this time there is little rain fall so no fresh water, nothing to pollinate and millions of bees ticked off that their honey is missing making it miserable for everyone as the bees become very aggressive. The licensure needs to expire August 15th annually, with hives to be removed in a timely manner after honey production is done.

10. Trespassing hives and refusal to answer phone calls. There needs to be a quicker response to beekeepers trespassing with NDDA. These hives need to be removed by the state within 48 hours. Beekeepers need to be held accountable when they do not answer phone calls or return calls or the party responsible is not answering or returning calls. Should there be no answer or no reply by either within 24 hours, the NDDA needs to become the responsible party for the hives.

Please keep in mind that it is not the farmer's in ND that need the bees, it is the beekeepers that need our crops for their production. North Dakota loves to brag they are the highest in the nation for honey production. At what cost? What taxpayer freedoms are we sacrificing? What does ND get out of \$97 million in honey production?

Attachment #1

January 15th, 2015

Shauna Schneider

10217 98th Ave

Wales, ND 58281

701-370-0398

schnid@utma.com

SB2025

January 14, 2015

Chairman Senator Miller and Senate Committee Members,

I attended the Legislative Committee hearing in Bismarck on January 8, 2015. My testimony was cut short due to time constraints and my handout was labeled Bee Issues in ND. After hearing a few people speak after myself, I had some concerns and or possible solutions to add to your already complex job.

We heard from a beekeeper and his wife on how she runs a daycare out of their yard with no issues with bees and that bees only attack or become aggressive when they feel threatened. Here's my comments with that. The bees aren't aggressive because there is honey in the yard. The fact that they want to have that situation is fine, but the fact that they expect farmers to be okay with having to deal with the same situation is not. That is their livelihood and their choice, it is not my choice. My livelihood is farming and I can't do my job because I'm not given the same respect to be able to do my job as the beekeepers are. I have very few options as federal laws prohibit me from being able to farm my land, of which I pay taxes on, properly. The bees that we are dealing with are not like the bees we heard about in testimony. The bees we are dealing with have no honey therefore no food. Bees in Cavalier County are starving to death because there is nothing to pollinate, no fresh water and now no food because their honey has been taken. Bees don't only become aggressive when they are threatened, they also become aggressive when they are dying. I have thousands of bees dead in my yard every year. They fill any water source we have including pet water, cattle water tanks, rain barrels and are in my garden constantly looking for something to pollinate. The bees attack my husband and hired man who are allergic to bees. The bees attack myself and my children, our cattle and our pets. We can't get John Deere, Farmer's Union, Dubois Oil, or Case IH to come into our yard in the fall to deliver fuel or help with repairs on equipment because our yard is filled with aggressive bees. There is an apiary 1/2 mile from our rural farmyard. We have no issues with the bees until after honey production, and only then are there issues because THERE IS NOTHING LEFT FOR THE BEES. If this was a cattle, horse or pig farm and they didn't take care of their animals it would be considered negligence and animal cruelty. Where are the same laws when beekeepers are starving and dehydrating their bees to death?

Here's a scenario to think about: Say I have cattle and I'm allowed to let my cattle roam all over the county in a 3 mile radius eating off the farmer's crops and now because there are no more crops, I'm allowed to roam into farmer's yards and bin sites eating their yards and gardens. I'm allowed to do this because I'm producing beef, also a

much needed commodity, but I don't have to follow any rules, respect private property or pay anyone for the use of their commodity, my nuisance and destruction. And to top off all the fun, the federal government not only pays me to be able to do this but protects me to be able to do this. You change out the word bee to any other "agricultural" mass raised animal product and the story has a different feel. It shouldn't and that is where the problem lies.

It was also brought up that the Beekeepers Association would like beekeeping in ND to stay as agricultural. If this is the case, then it would be in the state of ND's best interest to tax beekeepers with an agricultural tax for the areas the bees are "farming." The farmer's are taxed through the teeth to be able to farm our commodities and we receive no benefits from bees or beekeepers with them using our commodities to create theirs. In fact, beekeepers receive more federal funding than farmer's. So beekeepers come into ND with very little fees to "farm", pay nothing to use our farmer's commodities to create theirs, and leave with \$97 million and that's only the money calculated from REGISTERED hives, double that \$97 million to include the UNREGISTERED hives and the reality of the money walking out of ND is \$194 million annually and on top of that, beekeepers receive huge subsidies from the federal government to do it!

Should you decide to not go with an agricultural tax, in all reality the hives should be centrally assessed a tax. The wind farms in Cavalier County are all centrally assessed as they are "farming" a different type of commodity, energy. They pay taxes to do so.

Tom Bodine also brought up the fact that the complaint calls have dropped. This isn't a success by any means, this shows that the people of ND have given up on the system as it isn't working and hasn't been working for a long time. You can't have increased numbers of hives and beekeepers coming into the state and have a drop in complaints, because with the registered there is also double the unregistered coming in. Kristi Sundeen has been complaining for five years and nothing has changed. Fines have only gone out this year. WHY? With the amount of money that the state would bring in, in fines, the state would be able to fund the apiary program and run it properly with the proper amount of employees.

Chairman Joe Miller had brought up jokingly a "bee season." In all reality I believe that to be a great idea! The state has so many different things going on across it, that it would be impossible to come up with a "date" of expiration for a license or season. However, I think it would solve everyone's problems if the wording in the state law referred to "flowering." Jesse the beekeeper stated that when "flowering" is done or frost has hit, he pulls his hives from alfalfa. Cavalier County doesn't have much alfalfa and the bees aren't here for alfalfa, they are here for the canola. The "flowering" wording in the law and the removal of hives within two weeks after crops are finished "flowering" would eliminate a lot of problems in a lot of areas of ND, not just ours.

I myself have spoken with the Ag. Commissioner personally. Doug himself could not explain why hives were still in Cavalier County in September with nothing here for the bees. He couldn't understand it. He also stated that he didn't have the means to

remove any hives in violation as he didn't have the staff or equipment to be able to do so. The reason the hives are still here is because there is nothing in the law that states they are to be removed once flowering or honey production is complete. They need to be removed. They need to be taken care of.

Another issue is when bees are being dropped off and picked up. The transporting of bees needs to be addressed. Bees are being moved during daylight hours leaving bees behind, these bees are left to die. Bees should only be transported with all bees in hives. Secure the hives in the early mornings or in the evenings. Hives loaded onto trucks need to be netted to keep the bees in transit from being left behind. Every other commodity that is traveling our highway systems are required to be secured, why not bees?

Should there be an investigation regarding the impact of these invasive species bees that are brought in by the millions and their impact on our local honey bees? Are local honey bees now an endangered species in our over hived counties? I haven't seen a local hive or a local honey bee in over 5 years.

You will be receiving information from a gentleman by the name of Sherwood Haakenson from Rolette County. He is on the water board there and was attacked by a hive while mowing ditches. Almost died. Sherwood has been researching the bees coming into the state of ND and his area after his near death experience and has found that the bees that are being brought into our state are AGGRESSIVE. The reason they are aggressive is because they are being BRED to be aggressive. Why? I'll let Sherwood explain to you in great detail what he has learned.

South Dakota has several levels of permits which is why I believe them to be successful. The permanent hives are to be 3 miles from each other; however, you are allowed temporary hives within that 3 miles, but that is a 40 day permit. South Dakota isn't number one in honey production, but they also don't have the crops North Dakota has for honey production. We are the jackpot, but we also need to monitor and supervise this commodity area much more efficiently and productively to create a happy balance between beekeepers and taxpaying residents. I don't feel that it is fair to abuse the taxpaying residents, landowners and farmers to keep our number 1 honey production status. There are some things in life more important than status.

I still feel strongly about the previous issues I brought to you on January 8th:

- 1) Bee locations regarding work zones and rural resident's yards.
- 2) Lack of support from ND Dept. of Ag.
- 3) Unregistered hives and registered hives not following NDCC. Need stiffer penalties.
- 4) Landowner permission verification needed as landowners don't always live in ND.
- 5) Restriction of numbers of hives and bees in counties. NDDA has final say of location.
- 6) Signage at entrance is needed.
- 7) Liability is beekeepers only.
- 8) Cost of hive removal to be the beekeepers, it is a cost of doing business.
- 9) Licensure period regarding removal of hives needed after "flowering."

10) Trespassing issues and beekeepers refusal to answer calls.

Thank you so much for your time. I'd also like to thank you all for working so hard to get this bee law rewrite as good as it can possibly get to eliminate loopholes and issues we have. If you have any questions or would like to contact me, please don't hesitate in doing so.

Sincerely,
Shauna Schneider
Cavalier County Resident

County Summary of Bee Complaints

January 15th #2a
2015

SB 2025

Ag Department

2013	
Barnes	1
Bottineau	3
Burleigh	10
Cavalier	10
Divide	1
Dunn	1
Emmons	1
Hettinger	2
Kidder	1
McLean	6
Mercer	7
Mountrail	1
Pembina	1
Ramsey	2
Renville	1
Rolette	1
Sheridan	1
Slope	3
Stark	1
Towner	1
Walsh	3

2014	
Bottineau	6
Burleigh	1
Cavalier	4
McKenzie	1
McLean	5
Nelson	1
Rolette	2
Sioux	1
Towner	1

COMMISSIONER
DOUG GOEHRING



NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

#2b
ndda@nd.gov
www.nd.gov/ndda

Jan. 15th, 2013

SB 2025

June 28, 2013

Dear Township Board:

As the North Dakota Department of Agriculture, we develop a balanced approach to the multiple facets of agriculture when advocating and regulating for the agriculture industry. One of the areas we have oversight on is the Apiary "Bee" industry. The Apiary program regulates beekeepers and enforces beekeeping law. We are becoming increasingly aware of certain problems and are working to resolve those issues, such as; hives being placed without landowner permission and too close to section lines or roads. If you have a concern with beehives or beekeepers in an area you can go to our website: <http://www.nd.gov/ndda/program/apiarybees>. On the site you will find a list of licensed beekeepers, registered locations, the beekeeping law, and a map of all registered locations. The locations on the map are registered to the nearest quarter section and the dot may not represent actual hive placement. If you have additional questions or are unable to access the website please contact our new State Apiary Inspector Samantha Brunner at (701) 328-4765 or by email sbrunner@nd.gov.

The goal is to implement and enforce current beekeeping law by registering all locations and placing their name and contact information at the entrance of all apiary locations. If you are aware of unregistered locations please feel free to send us the legal description, including the quarter section of the property that the hives are located on (NE, NW, SE or SW corner).

North Dakota ranks #1 for honey production in the Nation. I believe that the cooperation between honey producers and compliance with state law will benefit everyone. On July 31, we are hosting a pollinator summit, where stakeholders can provide feedback that helps us identify "Best Management Practices" (BMP's) assisting us in developing a pollinator protection plan. Our rural, apiary and ag community is encouraged to participate, it will serve all of our best interests to avoid a national policy or law on pollinators that supersedes our rules and regulations with a one-size-fits-all approach. We are attempting to develop a plan that could serve as a model for other states as USDA and EPA work to develop a similar document that addresses apiary issues on a national level.

Please don't hesitate to contact our office if you have any questions.

Sincerely,

Doug Goehring
Agriculture Commissioner

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.agdepartment.com

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

July 12, 2013

Beekeeper
Address
Address

Dear Beekeeper:

The Apiary program will be undergoing some changes over the next few years. As stated in the Beekeeping law (NDCC 4-12.2) all beekeepers are required to obtain a beekeeper's license every year, register all apiary locations, post identification at the entrance of all apiary locations, and obtain entrance permits before bringing bees into the state of North Dakota.

To register apiary locations you must submit signed **Landowner/Lessee Location Authorization** forms along with an **Application for Registration of Apiary Locations**. To request forms please contact our new State Apiary Inspector, Samantha Brunner, at (701) 328-4765 or at sbrunner@nd.gov.

The entrance of every apiary must be identified with a placard containing the beekeepers name, address and telephone number. The placard must be at least 8 inches high by 11 inches long. The writing on the placard must be at least 1/2 inch high and legible.

Beekeeper licenses are good for one year. An application must be submitted every year along with the required fees.

Entrance permits are required before any bees or beekeeping equipment can be brought into North Dakota. To obtain an entrance permit fill out the **Request for an Entrance Permit** portion of your application packet or call our office.

The Department of Agriculture is aware of the issues beekeepers are facing. We are hosting a Pollinator Summit on July 31, 2013 where stakeholders can provide feedback to assist in the development of a Pollinator Protection Plan. We are optimistic that this plan will serve as a model for other states as the USDA and the EPA work to develop a similar document that addresses apiary issues on a national level.

Sincerely,

Doug Goehring
Agriculture Commissioner

#2c

Jan 15th, 2013
SB 2025

Jan. 15th, 2015 #2d

Beekeeping
NDCC 4-12.2
NDAC 7-02

SB 2025
Ag Department

Civil Penalty Authority*:

N.D.C.C. 4-12.2-22 authorizes a civil penalty not to exceed \$5,000 for each violation of associated statutes or rules.

Civil Penalty Guidelines (Matrix) for Violations of N.D.C.C. 4-12.2:

Statute	Violation	Civil Penalty
4-12.2-04	License. Maintaining bees without a valid beekeeper's license.	No warning 100 to 1000
4-12.2-07	Registration. Failure to register an apiary.	Landowner permission: Warning -1000 No landowner permission: 250-1000
4-12.2-08.1	Nuisance. Commissioner may cancel a registration if the apiary is causing a nuisance as defined in Chapter 42-01.	Cancel registration
4-12.2-14	Identification of Colonies. Failure to identify colonies per the statute.	Warning to 500 or Deemed abandoned and subject to seizure.
4-12.2-18.1	Africanized Honey Bees. Use a swarm of honey bees positively identified as being Africanized in a beekeeping operation.	1000 to 5000
4-12.2-20	Shipment. Failure to obtain an entrance permit.	Warning

*Violations of this chapter are also guilty of a class A misdemeanor.

COMMISSIONER
DOUG GOEHRING



Jan. 15th, 2015 #2e

ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

SB 2025

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

North Dakota Department of Agriculture process on implementing requirements of the Beekeeping Law

As part of the changes to the Apiary Program, starting in 2013, the department reached out to beekeepers across the state to educate them about the changes that were happening in the department and what their responsibilities were. So in 2013 only warning letters were issued for unregistered locations. Each beekeeper received a letter explaining these changes. In 2014 we started over with warning letters for the first violation.

Warning and Fine letters 2014

- Warning letters to 45 beekeepers for 106 unregistered locations
- Regulatory action taken against 21 beekeepers
- Fines to beekeepers: 10
 - 9 fines for \$150 for unregistered locations
 - 1 fine for \$250 for no landowner permission

Process for handling unregistered locations:

- Office receives location information from inspector
- Warning letter is issued for the 1st offense, beekeeper is given 15 days, from the letter date, to register the location or move the hives.
- If beekeeper does not register the location or move the hives a fine is issued but suspended giving them 15 days to register the location or sign a document testifying that the hives were moved by the given deadline.
- If still unregistered or moved they get another letter with the fine amount listed and requirements to either register or move the hives AND pay the penalty.
- The original warning letter is a warning for that beekeeper to register all apiary locations, not just the ones that were listed in the original letter. If after a suspended fine is issued, we find additional unregistered yards belonging to the same beekeeper they move straight on to the fine letter with no suspended fine
- If any penalty is not paid the beekeeper will not be able to obtain a beekeeper's license the following year until that penalty is paid. Currently we have 3 beekeepers that will not be able to obtain a 2015 beekeepers license due to unpaid fines.
- A beekeeper will only receive 1 warning letter in 5 years. If after 5 years they have had no other violations they will then receive a warning letter. Suspended fines will only be issued for the first 2 violations, after that they will receive increasingly higher penalties and no suspended fines or warnings.

Process for handling locations with no landowner permission

- A landowner needs to call to report a location on their own property that has been placed with no landowner permission. The process is explained to the landowner so they know what action we will be taking and a timeline.
- If we don't know who the beekeeper is an apiary inspector is sent to the location, we typically get to the location within 2 days
- Once the beekeeper is identified the inspector calls the office with the location and information
- A letter is sent to the beekeeper immediately with a suspended fine giving them 10 days to move the hives or register the location (they are unlikely to get landowner permission)
- After 10 days, assuming we have not heard from the landowner that the hives have been moved, the inspector goes back to the location. If the hives are still at the location the beekeeper is called and another certified letter is sent describing the penalty that they are responsible for paying. For no landowner permission the beekeeper is responsible for a penalty for each location that is found with no landowner permission.
- If additional locations are found with no landowner permission, resulting in a second violation, the beekeeper immediately receives a fine and is given 10 days to move the hives. Subsequent violations would result in increasingly higher penalties.

Additional statistics for the Apiary Program

- 7.8% increase in Registered Beekeepers
 - 205 in 2013
 - 221 in 2014
- 8.4% increase in Registered Colonies
 - 482,560 in 2013
 - 522,941 in 2014
- 14.2% increase in Registered Locations
 - 11,050 in 2013
 - 12,620 in 2014
- 40% decrease in complaints
 - 59 complaints in 2013
 - 24 complaints in 2014

If you have any questions please feel free to contact Samantha Brunner at 328-4765 or email sbrunner@nd.gov.

COMMISSIONER
DOUG GOEHRING



Jan 15th 2015 #24
SB 2025 ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

_____, 2014

(BEEKEEPER)
(ADDRESS 1)
(ADDRESS 2)

RE: VIOLATION OF STATE LAW

Dear (BEEKEEPER),

The Department has received complaints from landowners for your hives located at the following locations:

County QTR S-T-R
County QTR S-T-R

You did not acquire permission from the landowners to use the locations and you did not register the locations as required by state law.

Regulatory Response

The Department's response to beekeeping violations may vary from issuing a warning to a maximum \$5,000 civil penalty per violation.

Because you failed to obtain landowner permission, you are being assessed an administrative penalty of \$250, for failure to register all apiary locations and failure to obtain landowner permission.

The Department offers you four options to resolve this matter:

1. Sign the attached Administrative Consent Agreement and enclose the penalty of \$250 with a check made payable to the North Dakota Department of Agriculture AND sign the agreement stating that you moved the hives at the above locations.
2. Sign the attached Administrative Consent Agreement and enclose the penalty of \$250 with a check made payable to the North Dakota Department of Agriculture AND submit all paperwork to register the location.

3. Request an informal conference with the Department. The purpose of an informal conference would be only to either discuss the factual basis of the case or to discuss a payment schedule, not to negotiate the administrative penalty.
4. Request an administrative hearing with the Office of Administrative Hearings. If you request a hearing and the judge rules in the Department's favor, the Department will also seek reimbursement for its hearing costs.

You may want to seek an attorney to advise you in this matter. If you choose to resolve this matter with the Agreement, sign it and return to the Department of Agriculture. The signed Administrative Consent Agreement and check must be returned to this office by 10days, 2014.

If you do not agree to (1) the Administrative Consent Agreement and (2) do not request an informal conference, we will begin (3) the administrative hearing process by serving a written complaint. If you do not submit a timely response to the complaint, the allegations in it will be deemed admitted and an order will be entered based on those allegations. If you submit a response contesting the complaint, a hearing on the matter will be scheduled.

This settlement offer is made under N.D.R.Ev. 408 and is not admissible as evidence. This settlement offer, if not accepted by you, is withdrawn on 15days, 2014.

Thank you for your cooperation in this matter. Contact Samantha Brunner, the State Apiary Inspector, at 1-800-242-7535 or sbrunner@nd.gov with any questions or concerns.

Sincerely,

Tom Bodine
Deputy Commissioner

Enclosures

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:

BEEKEEPER
ADDRESS
ADDRESS

**ADMINISTRATIVE CONSENT
AGREEMENT**

.....

I, BEEKEEPER ("Beekeeper"), admit and agree to the following:

1. The Agriculture Commissioner ("Commissioner") has jurisdiction to fully adjudicate this matter under N.D.C.C. chapters 4-12.2 and 28-32.
2. BEEKEEPER waives his/her right to an administrative hearing only as to those matters specifically stipulated to and admitted herein.
3. BEEKEEPER admits that he/she violated N.D.C.C. § 4-12.2-07 by failing to register his/her apiary/apiaries located at: County QTR S-T-R.
4. BEEKEEPER agrees to settle this matter and pay a civil penalty to the Commissioner in the amount of \$250 for the violation admitted herein.

AND

- a. _____ submit an Apiary Location Authorization form signed by the landowner by 15days, 2014.
- b. _____ submit a signed statement agreeing to move the hives off this location by 15days, 2014.

Failure to remit a payment along with this fully-executed Agreement may result in the Commissioner's rejection of the Agreement, in which case the Commissioner may seek all legal remedies provided by law.

STATE OF NORTH DAKOTA
NORTH DAKOTA DEPARTMENT OF AGRICULTURE
ADMINISTRATIVE CONSENT AGREEMENT

Printed name

Signed

Title

Accepted By:

Tom Bodine
Deputy Agriculture Commissioner

COMMISSIONER
DOUG GOEHRING



**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

Jan 15th, 2015 #29
SB 2025
ndda@nd.gov
www.nd.gov/ndda

_____, 2014

(BEEKEEPER)
(ADDRESS 1)
(ADDRESS 2)

RE: VIOLATION OF STATE LAW

Dear (BEEKEEPER),

The Department inspected your hives located at the following locations:

County QTR S-T-R
County QTR S-T-R

The inspection showed that the location(s) were not registered as required by state law.

N.D.C.C. § 4-12.2-07 requires each beekeeper to register all apiaries that are or will be maintained by the beekeeper when applying for a license.

Regulatory Response

The Department's response to beekeeping violations may vary from issuing a warning to a maximum \$5,000 civil penalty per violation.

Because you have previously been warned for having unregistered yards, you are assessed an administrative penalty of \$150 for failure to register all apiary locations.

The Department offers you three options to resolve this matter:

1. Sign the Agreement and enclose the penalty of \$150 with a check made payable to the North Dakota Department of Agriculture OR sign the agreement stating that you moved the hives at the above location OR sign the agreement and submit all paperwork to register the location. The \$150 penalty will be suspended pending a future violation.

2. Request an informal conference with the Department. The purpose of an informal conference would be to discuss the factual basis of the case or to discuss a payment schedule, not to negotiate the penalty.
3. Request an administrative hearing with the Office of Administrative Hearings. If you request a hearing and the judge rules in the Department's favor, the Department will also seek reimbursement for its costs.

You may want to seek an attorney to advise you in this matter. If you choose to resolve this matter with the Agreement, sign it and return to the Department of Agriculture. The signed Administrative Consent Agreement and check must be returned to this office by (15 days), 2014.

If you do not agree to (1) the Administrative Consent Agreement and (2) do not request an informal conference, we will begin (3) the administrative hearing process by serving a written complaint. If you do not submit a timely response to the complaint, the allegations in it will be deemed admitted and an order will be entered based on those allegations. If you submit a response contesting the complaint, a hearing on the matter will be scheduled.

This settlement offer is made under N.D.R.Ev. 408 and is not admissible as evidence. This settlement offer, if not accepted by you, is withdrawn on (20 days), 2014.

Thank you for your cooperation in this matter. Contact Samantha Brunner, the State Apiary Inspector, at 1-800-242-7535 or sbrunner@nd.gov with any questions or concerns.

Sincerely,

Tom Bodine
Deputy Commissioner

Enclosures

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:

BEEKEEPER
ADDRESS
ADDRESS

**ADMINISTRATIVE CONSENT
AGREEMENT**

.....

I, BEEKEEPER ("Beekeeper"), admit and agree to the following:

1. The Agriculture Commissioner ("Commissioner") has jurisdiction to fully adjudicate this matter under N.D.C.C. chapters 4-12.2 and 28-32.
2. BEEKEEPER waives his/her right to an administrative hearing only as to those matters specifically stipulated to and admitted herein.
3. BEEKEEPER admits that he/she violated N.D.C.C. § 4-12.2-07 by failing to register his/her apiary/apiaries located at: County QTR S-T-R.
4. BEEKEEPER agrees to:
 - a. _____ settle this matter and pay a civil penalty to the Commissioner in the amount of **\$150** for the violation admitted herein.
 - b. _____ submit a signed statement agreeing to move the hives off this location by 15 days, 2014.
 - c. _____ submit an Apiary Location Authorization form signed by the landowner.

The Department will suspend the **\$150** civil penalty pending future violations if Beekeeper moves the hives off the locations or if Beekeeper submits Apiary

Location Authorization forms along with the signed Agreement to the North Dakota Department of Agriculture. Failure to remit a payment, a signed Apiary Location Authorization form or removal of the hives along with this fully-executed Agreement may result in the Commissioner's rejection of the Agreement, in which case the Commissioner may seek all legal remedies provided by law.

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE CONSENT AGREEMENT

Printed name

Signed

Title

Accepted By:

**Tom Bodine
Deputy Agriculture Commissioner**

**Agriculture Commissioner**

Doug Goehring

Deputy Ag Commissioner

Thomas H. Bodine

Plant Industries Director

Carrie Larson

cllarson@nd.gov

701.328.4723

State Apiary Inspector

Samantha Brunner

701.328.4765

sbrunner@nd.gov

Administrative Assistant

Elaine Saylor

esaylor@nd.gov

701.328.2391

Fax: 701.328.2240

www.nd.gov/ndda

APIARY NEWSLETTER



2014 Warning and Fine Letters

The North Dakota Department of Agriculture (NDDA) began sending out new warning and fine letters this year. If you received a fine letter and failed to register the location by the given deadline and pay the fine, you will be unable to get a 2015 beekeeper's license until the penalty has been paid. If you think you may have an outstanding penalty, please contact our office.

If you received a warning letter in 2014 you will not receive another warning in 2015, you will receive a penalty.

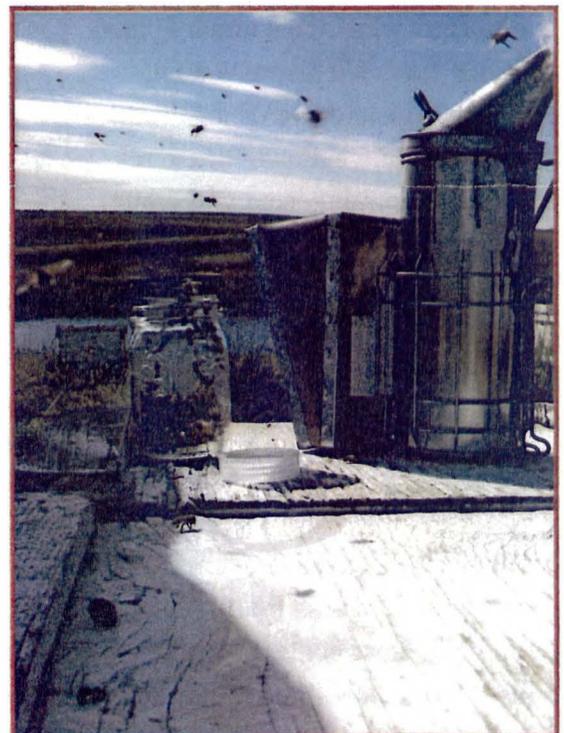
2015 Legislative Session

The North Dakota Legislative Council has rewritten the state's beekeeping law which will be considered by the Legislature beginning in January.

You can comment on the proposed bill by contacting your legislators or by testifying during the committee hearings. This bill will be heard by the agriculture committees of both houses before final action. NDDA will attend the hearings to provide testimony and to answer questions.

It is very likely that other entities will put in bills to regulate beekeeping in the state. We are not aware of any details at this time but encourage you to pay attention and make sure your opinion is heard. As with the rewrite bill, NDDA will be present to answer questions and to offer testimony on these bills.

Any changes to the beekeeping law will not take effect until Aug. 1, 2015 unless an emergency clause is enacted.

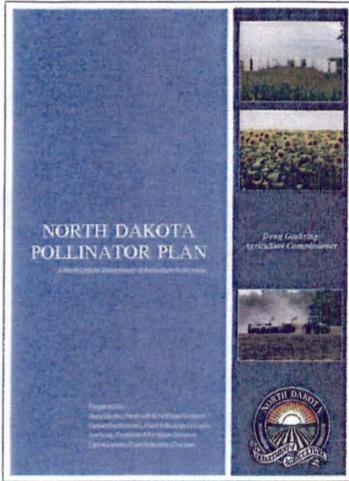
**Mailing Address**

600 E. Boulevard Ave, Dept. 602

Plant Industries Office

1221 W. Divide Ave, Suite 201





North Dakota Pollinator Plan

The North Dakota Pollinator Plan was launched about a year ago. We want to hear how things might have changed in respect to pesticide applications and bees. Were you contacted more by applicators about pending pesticide applications? Do you think that the plan has increased awareness for bee/pesticide issues? Please contact us with any information or ideas about the pollinator plan. To see the plan, visit NDDA's website -www.nd.gov/ndda/.

2014 Statistics

522,940 Colonies
228 Beekeepers
12,521 Apiaries

2013 Statistics

482,560 Colonies
205 Beekeepers
11,050 Apiaries

2012 Statistics

484,398 Colonies
201 Beekeepers
10,618 Apiaries

2011 Statistics

478,027 Colonies
197 Beekeepers
10,618 Apiaries

2010 Statistics

440,473 Colonies
182 Beekeepers
10,136 Apiaries

Message from the State Apiary Inspector

Greetings! It has been quite a year. Thanks to the many of you who put proper signs up on all of your locations and those of you who had all of your locations registered and up to date.

Complaints were down about 40 percent this year. We also saw an increase in registered yards, beekeepers and registered locations. Please remember to communicate with your landowners. While many of you have worked very hard to comply with the law, I encourage those of you who are a little behind to start working on those landowner forms now and get signs made to place in your yards right away this spring.



I will be on maternity leave most of February through April. During my absence, Carrie Larson, Plant Industries Division Director, will assume my duties. I will be in close contact with her and will be able to answer any difficult questions. My phone will be forwarded so someone will still be able to help you if you call my number. You can still email me, but you may not get a quick response. Elaine Saylor will still be processing applications, so there should not be a delay in the registration process.

Sincerely,

Samantha Brunner



Mailing Address

600 E. Boulevard Ave, Dept. 602

Plant Industries Office

1221 W. Divide Ave, Suite 201



Sixty-fourth
Legislative Assembly
of North Dakota

BILL NO.

*January 15th 3
2015*

Introduced by

Senator Miller

SB 2025

1 A BILL for an Act to create and enact a new section to chapter 4-12.1 of the North Dakota
2 Century Code or in the alternative to create and enact section 4.1-16-08.1 of the North Dakota
3 Century Code, relating to the required movement or confinement of bees if pesticide is being
4 applied in the area; and to provide for the applicability of a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** If Senate Bill No. 2025 does not become effective, a new section to chapter
7 4-12.2 of the North Dakota Century Code is created and enacted as follows:

8 **Confinement or relocation of bees - Applicator - Notice.**

- 9 1. As a condition of licensure, a beekeeper must sign a statement agreeing to confine or
10 relocate bees within twenty-four hours, if notified by a pesticide applicator that
11 spraying will occur within two miles of the apiary.
- 12 2. If an applicator is unable to contact a beekeeper or if the beekeeper is unable or
13 unwilling to confine or relocate bees, as required by this section, the applicator shall
14 notify the agriculture commissioner.
- 15 3. The agriculture commissioner may contract for the relocation or confinement of the
16 bees. The beekeeper shall reimburse the commissioner for any costs incurred by the
17 commissioner in contracting for the relocation or confinement of the bees under this
18 subsection.

19 **SECTION 2.** If Senate Bill No. 2025 becomes effective, section 4.1-16-08.1 of the North
20 Dakota Century Code is created and enacted as follows:

21 **4.1-16-08.1. Confinement or relocation of bees - Applicator - Notice.**

- 22 1. As a condition of licensure, a beekeeper must sign a statement agreeing to confine or
23 relocate bees within twenty-four hours, if notified by a pesticide applicator that
24 spraying will occur within two miles of the apiary.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 2, line 4, replace "**required**" with "**- Application - Declaration**"

Page 2, after line 13, insert:

- "4. As a condition of licensure, the applicant shall declare that:
- a. An apiary will not be placed at a location without first obtaining the consent of the property owner;
 - b. Bees at each location will be provided with sufficient water; and
 - c. An apiary will be relocated at the request of the agriculture commissioner if:
 - (1) The commissioner, after examining documentary evidence, has determined that the health or welfare of an individual is endangered as a result of the apiary's location;
 - (2) The individual referenced in paragraph 1 resides on land contiguous to that on which the apiary has been placed;
 - (3) The commissioner has identified another acceptable location for placement of the apiary; and
 - (4) There are no other contractual or other legal impediments to the relocation."

Page 3, remove lines 18 through 30

Page 4, replace lines 1 through 3 with:

- "1. A beekeeper shall identify each apiary for which the beekeeper is responsible by:
- a. Affixing a three-digit identification number, assigned by the agriculture commissioner, to the uppermost box of a hive that is visible upon approach to the apiary's main entrance, provided each digit is at least three inches [7.62 centimeters] high, one-half inch [1.27 centimeters] wide, and weather-resistant; and
 - b. Displaying the beekeeper's name and phone number in a location that is visible upon approach to the apiary's main entrance, provided the numbers and letters used are at least one and one-half inches [3.81 centimeters] high and weather-resistant."

Page 4, line 4, replace the second "is" with "may be"

Page 4, line 27, replace "provided" with "Except when conducting an inspection in accordance with section 4.1-16-13,"

Page 4, line 27, after "commissioner" insert "shall"

Page 4, line 27, replace "makes" with "make"

Page 4, line 31, after the underscored period insert "The commissioner may charge a fee to cover the costs of inspecting an apiary under this section."

Page 6, line 4, after "chapter" insert "or rules adopted under this chapter"

Page 6, after line 9, insert:

"4. The violation of any condition of licensure, as set forth in section 4.1-16-02, is deemed to be a violation of this chapter."

Page 6, line 10, replace "**Relocation of apiary - Petition - Hearing**" with "**Beekeeping - Agricultural practice**"

Page 6, remove lines 11 through 31

Page 7, replace lines 1 through 12 with "Beekeeping is deemed to be an agricultural practice."

Renumber accordingly

ENGROSSED SENATE BILL NO. 2025
Presentation to the
HOUSE AGRICULTURE COMMITTEE
March 19, 2015
L. Anita Thomas, J.D., LL.M.
Senior Counsel
North Dakota Legislative Council

Senate Bill 2025 is the last of the interim agriculture bills for this session.

There is not a lot of interim background that I can provide you. The interim discussion was really focused on the individual sections in the bill and how best to clean up and improve the current law. That discussion continued on the Senate side and resulted in some additional amendments.

Section 1 of the bill is a cross-reference reconciliation. Because this bill is proposing the repeal of the current bee chapter and the adoption of a new bee chapter, section numbers are being changed and we need to ensure that other chapters of the code, which currently reference the old law, would actually be referencing the new law.

Page 1, line 15. This is the definition section. The interim committee removed a number of definitions because, as the chapter was rewritten, it no longer used some of the references and as you know by now, if the terms are not used in the chapter, they do not need to be defined. Likewise, if terms are fairly well understood, like "property owner," they do not need to be defined.

One of the things that the interim committee did do is to define a colony and a hive - properly. Those terms seem to be used interchangeably and often, incorrectly.

A "colony" is a familial group of adult bees consisting of drones, workers, and a queen.

A "hive" is the structure that houses a colony.

Page 2, line 4. The bill addresses beekeeper licenses. Current law has a provision that states the person must be licensed by March first. Current law does not, however, indicate what happens on March second.

The interim committee treated beekeeping licenses like fishing licenses. You do not need one before opening day, but you do need one before you start to fish. The same thing was done last interim when your colleagues dealt with livestock dealer licenses.

Page 2, lines 14 - 25. This was a Senate addition. The first part states that as a condition of licensure, the applicant declares that an apiary will not be placed at a location without first obtaining the consent of the property owner.

Current law requires a beekeeper to provide to the Agriculture Commissioner the name of the person on whose property the apiary is located. If the beekeeper is not the property owner, the beekeeper must provide a copy of the written lease or some other document from the property owner granting the applicant permission to maintain an apiary at that location. The written lease or document is adequate for multiple years if the parties to the agreement remain the same.

The interim committee was told that this requirement was somewhat problematic in that there are absentee property owners who are hard to contact and lessees theoretically should not be authorizing permitted property uses, but they are often the ones who are available. Agriculture department personnel were not in a position to examine all of the paperwork and determine whether it was appropriate or not.

So, as the discussions ensued, it was decided that a clean way to administer this would be to have the beekeeper literally state that he or she has the permission of the landowner to place an apiary at a specific location.

In order to connect the dots, you have to turn to the penalty section on page 6. At line 18, it states that the violation of any condition of licensure is deemed to be a violation of the chapter.

Page 2, line 17. Under current law, the Agriculture Commissioner can literally cancel the registration of an apiary if the bees are causing a nuisance. If you are on the receiving end of some problematic bees, that sounds like a great provision to have. However, that concept has a few legal problems, starting with some "due process" issues. We are dealing someone's livelihood. One cannot simply say "get your bees out of here," without so much as a hearing.

If the beekeeper owns the land, one would be precluding him from conducting a lawful activity on that land. What if he has a pollination contract? What if the landlord will not allow the beekeeper to relocate to another portion of the farm?

During the interim, we drafted a version of what this concept would look like if it were legally appropriate. It was lengthy and it was complex. The Senate opted for a simpler way of reaching the desired goal, without all of the legal baggage. Again, it involved licensure.

As a condition of licensure, the beekeeper would have to agree to relocate an apiary at the request of the Agriculture Commissioner, provided:

- (1) The commissioner, after examining documentary evidence, determines that the health or welfare of an individual is endangered as a result of the apiary's location;
- (2) The individual referenced in paragraph 1 resides on land contiguous to that on which the apiary has been placed;
- (3) The commissioner has identified another acceptable location for placement of the apiary;
- and
- (4) There are no other contractual or other legal impediments to the relocation.

Page 2, line 26. Like current law, a minor is permitted to obtain a beekeeping license, provided the minor's parent is willing to sign the application.

Page 3, Line 1. Like current law, a beekeeper's license is not transferable. It expires on December 31st. This latter provision is new. It clarifies that a new license is needed each calendar year.

Page 3, Line 4. Under current law, a license can be denied if the applicant is found guilty of repeated violations of the chapter, or if the person has failed to pay an adjudicated civil penalty. Those concepts remain.

Under current law, if a person provides false or misleading information in connection with any application or notification required by the chapter, that person is subject to the penalties provided for in the chapter -- i.e. a Class A misdemeanor (1 yr/\$3000) and/or a \$5000 civil penalty.

The interim committee opted to include the provision of false or misleading information on an application, or a required report, as a ground for license denial.

Page 3, Line 11. License fees continue as they are currently -- i.e. at \$5

Page 3, Line 13. Colony assessments continue as they are currently -- i.e. at 15 cents per colony

Page 3, Line 17. This is the apiary location section. Under current law, a beekeeper is required to "register" all apiaries with the commissioner. However, under current law, there is no minimum distance -- no "*do not compete*" provisions.

So, in effect, all that the beekeepers are statutorily doing is telling the commissioner where their apiaries will be placed. i.e. They are "notifying" the commissioner. In the interest of modernizing this section, beekeepers can provide the commissioner with GPS coordinates and they can provide the notification electronically.

Page 3, line 29. This is the apiary identification section. This section has been a work in progress since the interim. There are obviously different ways in which one can identify an apiary. The challenge has been trying to find one that meets everyone's needs.

Under current law, a beekeeper is to use a weather proof placard at least 8x11 in size. The writing must be at least ½ inch high and legible. It must contain the beekeeper's name, address, and phone number and be positioned at or near the apiary's main entrance or on a hive.

[Problem: blow away; lettering too small to read at a comfortable distance; grass would hide it]

As the bill came from the Senate, it would require a three digit identification number assigned by the Agriculture Commissioner. This is the beekeeper's license number. The number would have to be at least 3 inches high and ½ inch wide. The number would have to be weather resistant. The number would have to be placed on the uppermost box of a hive that is visible upon approach to the apiary's main entrance.

In addition, the bill requires that a beekeeper display the beekeeper's name and phone number in a location that is visible upon approach to the apiary's main entrance, using letters that are at least ½ inch high and weather - resistant .

If an apiary is not identified as required, and if after making reasonable efforts to determine who is the beekeeper, no name comes up, the Agriculture Commissioner may seize the apiary.

Because we want to ensure that there is due process, a seizure involves having the Agriculture Commissioner publish a notice in the official newspaper of the county, indicating that, at a time certain, all of the colonies, together with all of the paraphernalia on the site will be seized and sold at auction or destroyed, unless the beekeeper or other responsible person appears to claim the property and pay for any costs incurred by the commissioner.

Page 4, line 23. This section addresses confiscation and disposal. If bees are being transported or maintained in violation of this chapter, they can be confiscated. The Ag Commissioner or the law enforcement officer then has to get a court order or an administrative order regarding the disposition of the property.

(Seizure involves the act of taking. Confiscation involves the act of not returning property as a form of punishment.) It's sometimes a fine distinction. There are some practical issues with this as well. Bees are not like other goods that can be placed in a locked warehouse. You need appropriate equipment, someone who knows what they are doing, and appropriate places to park the bees.

Page 4, line 29. This section references various powers given to the Agriculture Commissioner. Under the current statute, those are given to the "state bee inspector." Under current law, there are actually several references to the Agriculture Commissioner having to do certain things at the direction of the bee inspector. The interim committee suggested that this would be a good time to clarify that the legislative directive needs to be given to the Agriculture Commissioner and that the commissioner can in turn delegate duties to his staff, as appropriate.

In this particular section, the Agriculture Commissioner is given two powers. The first involves assisting farmers in identifying beekeepers who provide pollination services. Current law words that rather awkwardly, but this is the intent.

Subsection 2 is a change. This is located at the top of page 5. Current law provides that if the bee inspector or a deputy inspector receives a complaint from a beekeeper, an aerial sprayer, or a farmer, the inspector may enter private property during reasonable hours to make an external inspection for the purpose of identifying a colony. The problem was twofold: hat if the complaint is filed by someone other than one of the 3 listed parties? What if the commissioner needs to enter the property in order to enforce this chapter?

In the rewrite, the interim committee authorized the Agriculture Commissioner to enter upon private land during daylight hours for the purpose of enforcing the chapter - regardless of who complained, provided that the commissioner first make a good faith effort to notify the owner of the land or a lessee, regarding the entry. This was done so that people know who is wandering around their property.

The Senate changed this slightly to state that the landowner notification is not required if the Agriculture Commissioner, i.e. if the state bee inspector, is there at the request of a beekeeper for the purpose of issuing a certificate of inspection or some other official document.

Page 5, line 5. When the beekeeper requests this type of an inspection, the section would allow the commissioner to charge a fee in order to cover the cost of providing the inspection. My understanding is that fees have not been charged in the past but may need to be, depending on the budget, the weather, and the number of inspection requests that might be forthcoming.

Page 5, line 9. This is an unofficial inspection section. If a beekeeper would like to have someone come out for any reason other than an official inspection - such as perhaps for a "consultation," the commissioner may provide the inspection and may charge a fee to cover any attendant costs.

(Fees are currently permitted for "additional" health inspections, but the law is vague about fees in other instances.)

Page 5, line 15. This is a quarantine section. Current law has a rather perplexing section on what ought to happen in the event that Africanized bees are identified. It addresses migration and periods within which colonies can and cannot be moved. It talks about marking or clipping queens and requeening with certified breeder queens, production queens, or queen cells.

What Agriculture Department personnel said they really needed was the ability to impose a quarantine, whether that be for Africanized bees or to control the spread of disease, etc.

Under normal circumstances, in order for a quarantine to be issued, there must be a notice and a hearing and if there is an order, it must state the date by which or the circumstances under which the quarantine will be lifted.

If there is an emergency, the Agriculture Commissioner may order a quarantine and then within 14 days, he must go through the standard notice, hearing, and order procedure that I just described.

Page 6, line 4. This is a section entitled "Service of Process." This too is in current law and allows the Agriculture Commissioner to accept service of process in the event that neither a beekeeper nor his registered agent can be found.

Thereafter, beginning on line 9, there is the "Penalty" section. The penalties are the same as current law -- i.e. a class A misdemeanor (1 yr/\$3000) and a \$5000 civil fine. These are maximum amounts.

There is one change, however. Current law provides that a person may be guilty of a class A misdemeanor for violating this chapter or rules adopted under the chapter. The Legislative Assembly has been very reluctant to allow the imposition of a criminal penalty for a rules violation.

In this case, the apiary division has only minimal rules and rules have not been issued or amended since 1992. But, one does not know what future rules might address.

So, rather than commit the Legislative Assembly to a criminal penalty for a yet to be defined act or omission, the language was crafted to provide that there may be a criminal penalty for violating the chapter, but not for violating a rule. If an activity is worthy of a criminal penalty, the interim committee suggested that the Agriculture Commissioner should place a bill before the Legislative Assembly.

A rules violation is, however, grounds for a civil penalty.

Page 6, line 21. This is the continuation of a current concept -- i.e. That beekeeping is deemed to be an agricultural practice and finally, there is the section repealing the current beekeeping chapter.

This bill was part of the rewrite effort and as we have done all along, we created a new chapter to accommodate the changes being made.

COMMISSIONER
DOUG GOEHRING



#2a
ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

Testimony of Carrie Larson
Plant Industries Director
Engrossed Senate Bill 2025
House Agriculture Committee
Peace Garden Room
March 19, 2015, 9:00 am

Chairman Johnson and members of the House Agriculture Committee, I am Carrie Larson, Plant Industries Director for the North Dakota Department of Agriculture (NDDA) here representing Agriculture Commissioner Doug Goehring. I am here today in support of SB 2025, which will update and bring clarification to the beekeeping law.

NDDA regulates all beekeepers in the state through licensing and registration of beekeepers and apiary (hive) locations. The apiary program is part of the plant industries division.

Currently under NDCC §4-12.2-07 in order to register an apiary location the beekeeper must submit a document with NDDA signed by both the beekeeper and the landowner or lessee. In 2014 over 12,000 locations were registered in the state. The proposed language in SB 2025 removes the requirement of signed landowner forms, but still requires the beekeeper to provide the name of the landowner or lessee to the department when notifying us of locations.

Beekeepers are also required to obtain permission from that landowner before placing any hives. Removing the landowner forms will allow the department to have a more current, accurate list of registered locations. This change will allow the department to create a more accurate map that may be used by pesticide applicators to locate apiaries. Furthermore, the updated information

will allow beekeepers to communicate to the department and provides NDDA with updated landowner and lessee information to improve communication between beekeepers, applicators, and citizens.

The current bill stipulates that an apiary can be moved at the request of the agriculture commissioner if there is evidence of a threat to an individual's health or welfare. This section would not interfere with any contractual obligations the beekeeper has entered into, nor would it interfere with the desire of the landowner to have hives on their property. The movement of a location to the other side of a property might be a reasonable solution for all parties involved.

The proposed language of adding a North Dakota beekeeper number as part of the identification on the hives would standardize identification across the state. The department receives many calls each summer from people trying to identify hives. This number will be much larger than they are able to print their contact information, and it would stand out against all of the other information that can be found on hives. This number will be placed at the top of the hive, to avoid grass from growing up over it throughout the course of the summer. Beekeepers will also be required to print their name and phone number in larger lettering than is required under current law (from 1/2" lettering to 1.5" lettering). These changes were added to increase visibility and ease identification of apiaries.

Currently, inspections are conducted at the request of the beekeeper for the purpose of issuing a certificate of health to aid in interstate movement of bees. Under proposed legislation the department would have the ability to offset some of the costs incurred by the inspection for a certificate of inspection or for any other inspection as requested by a beekeeper.

Africanized bees were a big topic the last time the beekeeping law underwent major changes, resulting in an extensive section on Africanized bees; however there was no way to protect the industry from any other potential threat. Legislative Council added a quarantine section to the bill which will allow the Department to establish restrictions that best fit the pest of concern; (Africanized bees, a parasite, or other threat).

Under NDCC §4-12.2 beekeepers were required to obtain an entrance permit prior to March 1st. If a beekeeper did not obtain one prior to that date, they would not be allowed to bring bees into the state for 60 days after receiving a permit. NDDA asked to have this section removed because there doesn't seem to be a realistic, feasible way to enforce this requirement.

Chairman Johnson and committee members, thank you for your time, I urge a do pass on engrossed SB 2025. I would be happy to answer any questions you may have.

COMMISSIONER
DOUG GOEHRING



NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

#26
SB 2025
ndda@nd.gov
www.nd.gov/ndda

3/19/15
Carrie Larson

North Dakota Department of Agriculture process on implementing requirements of the Beekeeping Law

As part of the changes to the Apiary Program, starting in 2013, the department reached out to beekeepers across the state to educate them about the changes that were happening in the department and what their responsibilities were. In 2013, only warning letters were issued for unregistered locations. Each beekeeper received a letter explaining these changes. In 2014 we started over with warning letters for the first violation.

Warning and Fine letters 2014

- Warning letters to 45 beekeepers for 106 unregistered locations
- Regulatory action taken against 21 beekeepers
- Fines to beekeepers: 10
 - 9 fines for \$150 for unregistered locations
 - 1 fine for \$250 for no landowner permission

Process for handling unregistered locations:

- Office receives location information from inspector.
- Warning letter is issued for the 1st offense, beekeeper is given 15 days, from the letter date, to register the location or move the hives.
- If beekeeper does not register the location or move the hives, a fine is issued but suspended, giving them 15 days to register the location or sign a document testifying that the hives were moved by the given deadline.
- If still unregistered or moved they get another letter with the fine amount listed and requirements to either register or move the hives AND pay the penalty.
- The original warning letter is a warning for that beekeeper to register all apiary locations, not just the ones that were listed in the original letter. If after a suspended fine is issued, we find additional unregistered yards belonging to the same beekeeper they move straight on to the fine letter with no suspended fine.
- If any penalty is not paid, the beekeeper will not be able to obtain a beekeeper's license the following year until that penalty is paid. Currently, we have 3 beekeepers that will not be able to obtain a 2015 beekeepers license due to unpaid fines.
- A beekeeper will only receive 1 warning letter in 5 years. If after 5 years they have had no other violations, they will then receive a warning letter. Suspended fines will only be issued for the first 2 violations; after that they will receive increasingly higher penalties and no suspended fines or warnings.

Process for handling locations with no landowner permission

- A landowner needs to call to report a location on their own property that has been placed with no landowner permission. The process is explained to the landowner so they know what action we will be taking and a timeline.
- If we don't know who the beekeeper is an apiary inspector is sent to the location; we typically get to the location within 2 days
- Once the beekeeper is identified, the inspector calls the office with the location and information.
- A letter is sent to the beekeeper immediately with a suspended fine, giving them 10 days to move the hives or register the location (they are unlikely to get landowner permission)
- After 10 days, assuming we have not heard from the landowner that the hives have been moved, the inspector goes back to the location. If the hives are still at the location the beekeeper is called and another certified letter is sent describing the penalty that they are responsible for paying. For no landowner permission the beekeeper is responsible for a penalty for each location that is found with no landowner permission.
- If additional locations are found with no landowner permission, resulting in a second violation, the beekeeper immediately receives a fine and is given 10 days to move the hives. Subsequent violations would result in increasingly higher penalties.

Additional statistics for the Apiary Program

- 7.8% increase in Registered Beekeepers
 - 205 in 2013
 - 221 in 2014
- 8.4% increase in Registered Colonies
 - 482,560 in 2013
 - 522,941 in 2014
- 14.2% increase in Registered Locations
 - 11,050 in 2013
 - 12,620 in 2014
- 40% decrease in complaints
 - 59 complaints in 2013
 - 24 complaints in 2014

If you have any questions please feel free to contact Samantha Brunner, State Apiary Inspector, at 328-4765 or email sbrunner@nd.gov or contact Carrie Larson, Plant Industries Division Director, at 328-4723 or cllarson@nd.gov.



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#3

Terry Weckerly

North Dakota Grain Growers Association
Testimony on SB 2025
House Agriculture Committee
March 19, 2015

Chairman Johnson, members of the House Agriculture Committee, for the record my name is Terry Weckerly; I am a farmer and agribusiness owner from Hurdsfield, North Dakota and I am also Past President of the North Dakota Grain Growers Association. I appear here today on behalf of myself and the North Dakota Grain Growers Association in support of SB 2025 with amendments.

There is one area of this bill that we feel could use a little strengthening; I would like to refer the Committee to page 2 lines 15 and 16 of the bill. NDGGA feels strongly that on Page 2 line 15 the Committee should add the word written before the word consent and on Page 2 line 16 after the words "property owner" insert the words on a yearly basis. I appear before you today to express why these changes are needed for myself and NDGGA to support the legislation.

In the past, beekeepers have really had free rein with this permission issue. They call and get verbal permission and go about their business as if the permission were permanent. In my own operation I have acquired land and had beekeepers show up with no permission at all. I've heard this story too many times from friends and acquaintances. When contacted, beekeepers claim they had permission from land owner. The reality of it is they don't keep up with the permission grantors, written or verbal. The fact is that in agriculture, as in anything, things change; land ownership changes, land control changes, agriculture is a dynamic industry. We as farmers and landowners are asked daily to keep up with the changes in government paperwork; beekeepers in North Dakota should be asked to do the same.

I've been told by beekeepers that they have too many people to deal with; that is not a reason it's an excuse. Obtaining written permission from landowners on a yearly basis not only would keep beekeepers up-to-date with land owner/operator fluctuations it would also help landowner/beekeeper public relations. It would also allow for better access to beekeepers by landowners and operators.

Making sure that both farmers and beekeepers follow the rules is the purpose of SB 2025. Having beekeepers obtain written permission from landowners on a yearly basis will give everyone a better degree of accountability in the understanding of landowner/beekeeper rules and regulations.

Therefore Chairman Johnson, members of the House Agriculture Committee, I come before you today on behalf of myself and the North Dakota Grain Growers Association to support SB 2025 with the amendments that I have suggested and with those amendments we support passage of the legislation.

#4
3/19/15
SB 2025

Good Morning! Thank you for giving me the opportunity to share my thoughts and concerns on Senate Bill 2025. My name is Kristie Jo Sundeen and I am a crop consultant, mother, and a farmer's wife. I own and operate my own business, Northland Crop Consulting Service; in Northeastern North Dakota and I also farm with my husband. In the following testimony I hope I explain where my concerns lie with some of the changes proposed in Senate Bill 2025 and potential compromises to improve the bill.

Senate Bill 2025 is a step in the right direction but is still missing the mark on issues that are currently plaguing the state's apiary program. Current legislation has the beekeepers license fee at \$5. I believe that the cost of doing business warrants an increase of this dollar amount. An increase to \$25 would be reasonable. An example would be the Commercial pesticide license which costs over \$80 every three years which would be equivalent to over \$25 per year. If the reason for lack of oversight in the apiary program is cost, then these fees need to be considered for an increase.

Many of my concerns are related to the section that addresses the Registration of an Apiary with the Department of Agriculture or as written in Senate Bill 2025, Apiary location - Notification. Current legislation states that each beekeeper shall register all apiaries that are or will be maintained by the beekeeper within the state at the same time an application for a license is made. The beekeeper has to provide the location of each apiary to the nearest section, quarter section, township, and range. I do agree with the change that allows the location of apiaries to be made by using satellite navigation system coordinates. The beekeeper is also required under current law to supply the name of the property owner on whose property the apiary is located and a copy of the written lease or other document from the property owner granting the applicant permission. This requirement has been removed in the current proposal. The removal of this requirement would create more problems and exasperate current problems that already exist in the apiary program. Senate bill 2025 makes an attempt to address this concern by having a condition of licensure; the applicant shall declare that an apiary will not be placed at a location without first obtaining the consent of the property owner. When taking into consideration the number of apiaries that have been placed on private property without landowners consent in the past I cannot see how the Department of Agriculture can just take a beekeeper's word at having permission to place an apiary on another landowner's property. Current issues in the state definitely show that there is already an issue with the placement of apiaries on land without said landowner's or lessees' permission. However, if on the application for the registration of apiaries in the state of North Dakota we require the land owner's notarized signature we mitigate the need for a copy of a contract between the land owner and beekeeper but maintain the knowledge that the beekeeper has permission to place apiaries on these locations. These landowners are often times unknowingly incurring a liability when apiaries are placed on their land. On the apiary registration form, would it be possible to insert a statement that the Beekeeper will assume all the risk and liability for the bees? The Registration of apiaries is vital to keeping the balance between beekeepers and growers. The apiary program, when followed, allows farmers to use the program to notify beekeepers when they are spraying insecticides and follow state/federal pesticide laws.

Beekeepers are currently required to have a placard at or near the entrance of each apiary that contains the beekeeper's name, address, and telephone number. Many beekeepers, if they are identifying the apiary at all, are using spray paint on the hive to give the necessary information. Having the placard at the entrance of each apiary makes it easy to read for identification purposes and alleviates the need for anyone to

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trespass on private property to obtain the needed contact information. When I say near the entrance of each apiary it needs to be clarified that not all apiaries can be seen from roads or property lines. This placard should be placed at the entrance point that beekeepers utilize to access their apiary. This requirement shouldn't be considered a hardship for the beekeeper. This requirement has been part of our current law for over 10 years. If they want to place identification on the hive as a secondary identification then by all means I agree. However, if it is a location that the beekeeper has a long standing agreement and has placed an apiary there 2 out of the last 3 years then I believe that a placard is needed. This keeps people from driving on or accessing property to find out information that could cause a liability to the landowner.

There are many complaints in Northeastern North Dakota due to the large concentration of bees. The beekeepers are placing a large number of apiaries in this part of the state because of the large amount of canola grown in that area. Bees can produce more honey off an acre of canola than they can off most other crops grown in this state. The honey industry claims that their bees are providing a service to the canola growers by pollinating the canola. This claim does not have any merit as the canola grown in North Dakota is a hybrid which is self-pollinating. The only canola grown that is open pollinating is canola grown for seed and there is no seed canola grown in North Dakota to my knowledge. Another claim is the increase in yield to canola because of the bees, however; this is not proven with hybrid canola and many producers that live and work in the area would rather have a reduction in the number of bees because of the concerns for the health and welfare of our residents. There has been a drastic increase over the last 8 years in the number of apiaries in Cavalier County alone which is the largest canola producing area in the state. This over concentration of bees is causing problems for both farmers and rural residents alike. There have been complaints from bees swarming a farmer's water trailer during the spraying season and swarms in rural resident's yards. There are many possible solutions to these problems. Some problems of over concentration arise from unregistered apiaries that wouldn't be there if stiff fines and penalties were in place because most of the time they do not have land owners permission to be there. A high percentage of complaints from rural residents and farmer's arise in August thru October when bees are still out on apiary locations even when there is no or little food and water for them. Pollination usually is done for most crops by the end of July or early August so having bees out on apiaries into late fall causes the bees to search out water and food. Often times this leads them to yards. Placing a requirement that bees be removed from Apiary locations by August 31st would eliminate these complaints. We shouldn't be a holding ground for the bees especially if it is causing a nuisance to our rural residents.

I have contacted the Department of Agriculture many times in the last 5 years to complain about unregistered and unidentified apiaries. Most often the unregistered and unidentified apiaries are placed on property without the landowner or lessee's permission. This creates problems for farmers when they are on a deadline to spray an insecticide but the farmer either doesn't know about an apiary that is nearby and sprays or they found an unregistered apiary but don't know who the bees belong to. The Department of Agriculture needs to have oversight through the apiary program so that landowner's/farmers/rural residents have recourse when an issue arises, but part of this oversight means enforcement. The lack of enforcement and penalties towards beekeepers that aren't following current state law has exasperated problems in our area. I believe immediate fines and penalties should be given to beekeepers not following current state laws. The

Department of Agriculture also needs to have a system of checks and balances to address possible fraud situations. In the past some apiary registrations were filed with the state using incorrect or false information.

Senate bill 2025 makes an effort to implement a step by step process for nuisance complaints that allows rural residents to have a prescribed course of action to follow when problems arise. However this process is vague and should be a little more specific. A nuisance complaint that is filed with the Department of Agriculture should be addressed within 5 to 10 days. First a physical inspection of the location should occur in a timely manner to make sure adequate food and water is there for the bees and if a possible reduction in size of the apiary could mitigate or lessen the problem. Relying primarily on documentary evidence only, doesn't necessarily describe the problem accurately. Second if the problem persists then the apiary should be removed to a location as far away from the residence while still on the property that the beekeeper has permission to be on. Then if after all measures are taken to make the cohabitation work and the nuisance hasn't decreased; the apiary should be moved completely. Updating our current legislation while maintaining specific points from current law along with enforcing that law would go a long ways towards mitigating the conflict that has arisen between beekeepers and farmers.

Lessening the responsibility of the Department of Agriculture and relaxing our current laws and regulations will only create more problems and conflict. The Department of Agriculture's responsibility is to run the apiary program to benefit both beekeepers and farmers. Beekeeping is considered an agricultural enterprise and as such should be treated with the same care as the state's pesticide program in safety, welfare, and compliance. Enforcement of our laws will benefit both sides in keeping honey production a top producer in our state.

Kristie Sundeen
10555 55th ST NE
Brocket, ND 58321
(701) 655-3566 – home **(701) 256-0964 – cell** **schill2@hotmail.com**

Testimony of Bonnie Woodworth

In Support of SB 2025

March 19, 2015

Chairman Johnson and members of the House Agriculture Committee, my name is Bonnie Woodworth. My husband and I manage 3600 colonies of honey bees in the Halliday, North Dakota area.

Most beekeepers, including myself, would like to be at the hearing in person today, however this time of year is a crucial time of moving bees out of almond orchards in California; building and splitting colonies; and raising queen bees in the south and west. So unfortunately, almost all the beekeepers are out of state and busy with their bees and unable to attend.

I have worked with the Department of Agriculture during my many years of involvement with the North Dakota Beekeeper's Association and Honey Promotion activities. We have had a good working relationship and try to be receptive to change and helpful in resolving issues that arise.

I would ask for your support of SB 2025 without further amendments. It has been revised many times and I feel the changes that have been made are beneficial to beekeepers, landowners and the Department of Agriculture.

Thank you for your tireless work in helping make North Dakota a great place to do business.

Testimony before the House Agriculture Committee on

#6

3/19/15

SB 2025 Related to Apiaries and Beekeeping

Good morning Committee Members. Thank you for allowing us to speak to you today. My name is Dustin McGregor. My wife and I operate a fourth generation farm located where the corners of Walsh, Cavalier, and Ramsey counties meet. I am here representing a group of farmers from the area regarding the lack of enforcement of current ND laws regarding honey bee farming and the overpopulation of bees. If you are not from a major canola growing area, you may be unaware of the safety issues some individuals are facing. From the outset I want you to understand we are not here to try to eliminate the bee industry as some may have read or heard. We are here because we feel that the current laws are one sided and that the proposed bill is a step in the right direction for equal representation.

We realize that staff members of the Dept. of Agriculture can only enforce laws and regulations that are passed by the North Dakota Legislature. The Dept. of Ag tells us they do not have the funds to hire the manpower to do so. We strongly recommend that the Dept. of Ag be appropriated funds to hire at least one, preferably two, additional seasonal workers per year. They should be stationed where the higher concentration of bees are located.

As a voting citizen of ND it feels as if the beekeeper and his/her business has more rights than a person who is trying to protect the safety of himself/herself, his/her family and neighbors. An example being: If a beekeeper places an apiary on a piece of land without permission and an individual wants/needs to obtain that beekeeper's information, that individual now has to trespass onto that property to find the information. Now if the person looking for the information gets stung and has an allergic reaction and dies, the property owner is liable not the beekeeper even though the beekeeper broke the law by not having permission to have the bees on that property.

This summer a group of us from the area had a meeting with a Dept. of Ag representative showing him/her the amount of bees being placed at apiaries. Most apiaries contained an unreasonable amount of bees. We also showed this employee that 40-50% of the apiaries in our

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area were unregistered with no contact information - breaking the state law. Beings there are many violators, I do think that an increase in fines or harsher penalties are within reason for those violators.

This proposed law 2025 has fallen under much scrutiny, and how it would be devastating to the bee industry. Let me ask you this. How would placing a sign with the beekeepers contact information at the point of entry of the property, (I have to put up multiple no hunting signs on a single piece of land for deer hunting) getting a written lease with the property owner, and giving someone with a permanent residence a process to have an apiary removed if it is threatening the person or persons family's safety going to destroy the industry in this state? This proposed bill will enforce the laws that are already in place. Therefore, if you as a business owner are currently following the law, how would this be devastating to your business? The majority of the time that an apiary would have to be moved is the result of the hives being placed where they should not be in the first place.

Many times during the past two summers my wife and I were not able to be in our yard because of the concentration of bees present due to all the nearby apiaries. My wife and I recently had a baby. I hope that I won't have to tell my son that he can't go outside to play because of the bees. What's worse is to fear that he may get stung so many times that he develops an allergic reaction which is happening to me. Within two miles in different directions from my house you can find seven apiaries! Years ago I did not have much of a problem but the number of sites has risen and the number of bees at each site is out of control to the point where it's not safe. The overpopulation of bees and the issue of location of bees too close to farmsteads and roads has resulted in farmers being unable to work in their yards. In the fields farmers are constantly stung when they get out of their equipment cabs to work on equipment or put grain in or take grain out of their bins. There have been instances when service repair personnel have refused to continue working on equipment in the fields because they are getting stung.

I checked with the Cavalier County Memorial Hospital and a local pharmacy to see if they've seen an increase in bee stings. Between 2012 and 2014 CCMH's number of patients because of bee stings (includes people who came to the hospital 24-72 hours post sting with concerns

about swelling or infection and those arriving the day of the sting with concerns about allergic reactions) has doubled. The pharmacy has seen a 4% increase in the number of EpiPens issued over the last two years.

Regarding the overpopulation of honey bees, I want to offer this example. Farmer #1 places hives in four separate locations, probably at corners of a three mile square. That is good. Then Farmer #2 comes along and places four separate groups of hives interspersed with Farmer #1's hives. Lastly Farmer #3 shows up and places four groups of hives intermingled in between Farmer #1 and #2's hives. We now have 12 sets of hives clustered within that three mile square. If each group of hives is a flat bed of 400 hives, we now have 4800 hives in that small area. I do believe that there should be a way to have the concentration of bees spread out more than they currently are. This would eliminate the overflying of bees over the same areas and help eliminate the serious overpopulation of bees that our area currently has. There is a lot of land around. With some planning this should not adversely impact honey production. In my area it seems that a lot of the problem comes from beekeepers that aren't usually from ND. I know that some may suffer from the bad decisions of others but that is part of doing business. One bad apple can ruin the bunch.

I feel that many issues could have been policed by the beekeepers themselves and the Dept. of Ag, but from the feedback that I and others have received, the complaint process at the Dept. of Ag is broken, virtually nonexistent. After discussion at one of our meetings, the Dept. of Ag does not have a proper procedure in place for documenting complaints, resolving issues, and providing feedback. How can there be a record of a complaint when the person you call does not record the complaint? I am looking forward to hearing about a new and improved process from the Dept. of Ag. The department is also stating that they are stepping up enforcement but why not until now? There have been more complaints in the Walsh and Cavalier County areas than the Dept. of Ag. is letting on. There have been meetings where the Dept. of Ag. has been shown in person and on maps where the illegal apiaries were located and at the Senate hearing Deputy Commissioner Bodine stated they have only given one fine and yet they have had numerous complaints over the years. Someone is not doing their job! Bonnie Woodworth in

the AgWeek newspaper was quoted stating that most issues are resolved involving apiaries. How do you resolve an issue with an unregistered apiary when there is no contact information?!

Rights of a resident versus rights of a beekeeper. I have been told by local politicians that a beekeeper has the right to do what he/she wants on property he/she owns. As a landowner or resident near this land with apiaries on it, now I lose some of my rights because he/she decided to have bees? For example, this beekeeper can have bees on this property near my residence which in turn not only affects my quality of life but restricts a farmer from spraying at certain times. The actions of one person negatively affect the other and currently there's nothing the one individual can do to remedy the situation.

I realize trying to resolve the issue of apiaries too close to residences is difficult, but an individual's safety should take precedence no matter what!

I also attended a meeting with the Dept. of Ag early this winter in Langdon, ND. I shared a map of western Walsh County, Cavalier County, and northern Ramsey County showing all the registered bee apiaries printed from the Dept. of Ag's website. Please keep in mind that there were people stating nearly 50% of apiaries in their area are unregistered.

Spink County in South Dakota is roughly the same size as Cavalier County in North Dakota- 1,510 square miles. Spink County has 76 registered apiaries according to SD website. In Cavalier County I counted 284 registered apiaries. If you double the number (because possibly only half are registered) it's more like 568. That is 7.5 times more than in the same size county in South Dakota. Then if you take 1,510 square miles divided by 568 that averages out to be one apiary every 2.7 square miles. That's a lot of bees! If more beekeepers want to come to the canola growing areas of North Dakota, there will be major issues. I feel beekeepers should be cutting back their numbers in this area... not increasing them. If South Dakota is able to regulate its number of bees, I'm sure North Dakota can figure out a beneficial system also.

Overall I feel with every issue both parties are supposed to have equal rights. With the issues I have brought to your attention it sure doesn't seem that the citizens, taxpayers, and voters have the same rights as the beekeepers. Certain state agencies put a deaf ear to those of us that

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have complaints and cater completely to the bee industry. That is not right. These agencies are funded by taxpayer dollars. Therefore, when taxpayers have issues with a certain industry, these issues should be considered in a bipartisan way. I'm asking that you please take the time to look into these issues and put yourself in the shoes of an individual dealing with overpopulations of honey bees every summer.

With all this information being addressed today, please contact me if you have any questions. I thank you for your time and support.

Dustin McGregor,
Fairdale, ND

#7

Shauna Schneider

**10217 98th Ave
Wales, ND 58281
701-370-0398
schnid@utma.com**

SB2025

March 19, 2015

Chairman and House Committee Members,

Good Morning! I am Shauna Schneider. My husband and I are 4th generation farmers near Wales, ND. Over the past few years we have noticed a dramatic increase in bee activity around our farm and farmlands. In recent years, missile sites throughout the county have been purchased by bee keepers for the purpose of housing apiaries. As you can see on the enclosed map our farm and the missile site location we have near us. The site is surrounded by our fields of which there has never been permission to pollinate given for our crops, but because they own the missile site, they put hives out and use our crops for honey production. We can't farm our land properly because of the bees, which hinders yield and promotes disease. I don't feel this is fair and quite frankly I don't need bees to pollinate my crops, my crops are self pollinating. It is stealing, if you don't have permission to take or use something, that is stealing. There needs to be something in the law that requires permission in cases like this.

During the summer we have no issues with bees, but when everything finishes blooming up north and the honey is taken from the hives, the hives are left out, and there are issues everywhere. Our yard is overtaken with bees and they are aggressive because they are looking for something to pollinate and there is nothing left. They are also aggressive in the fall of the year because all of their usual water sources are now stale and covered with slime which means they are looking for fresh water. We have a garden, water for our cattle and pets all of which are over taken with bees. My husband and hired man are allergic to bees and can't even work in the yard. At this time of the year we are trying to get ready for harvest or some years beginning harvest. All medical costs are put on us with epi pens and hospital visits. I can't work in the yard or my garden. CHS refuses to drop off chemical in the fall in our yard and we can't get fuel delivered because the bees swarm any vehicle that comes into the yard. I think it is important to have a set back clause in the new law that states that hives are to be removed from locations that are located within 2 miles from any rural residence, bin site or municipality within two weeks once crop flowering has ended. This would be the time beekeepers are taking honey and a good time to relocate hives eliminating many problems in our county and state.

There is a water board member from Rolette County that had a terrible, life threatening experience on August 1st, 2014. Sherwood Haakenson was mowing the road side ditches, as we are required by law, with an open cab tractor. He remembers being

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swarmed by bees while mowing. Someone found him and got him to the hospital. His throat was swollen shut, he was in critical condition and he almost lost his life. Sherwood came out of it, but was told later that when he was found, every inch of his body was covered with bees. After recovery, Sherwood ran into the owner of the hive who apologized to Sherwood for the incident telling him that he had been trapping bees in southern California and must have trapped some Africanized bees (a/k/a killer bees) in that hive. There was nothing marking the apiary and Sherwood had no idea there was even an apiary in that location. I think it is important to have something in the bee law that deals with what needs to be done when this happens. We have hives coming in from all over down south with no accountability or responsibility regarding a situation like this.

In Cavalier County we have a road crew that oils and sands our county highways every summer. Last year the crew had an incident where they were working, not aware they were coming upon an apiary. They noticed bees starting to swarm the truck and before they knew what was going on a crew member was stung, he happened to be allergic to bees and didn't have an epi pen with him. The crew rushed him to the emergency room and thankfully he was okay. Afterwards they looked over the area and noticed an apiary right off the county highway. Work on that road was abandoned and never completed. Hives are being placed too close to highways endangering highway maintenance crews.

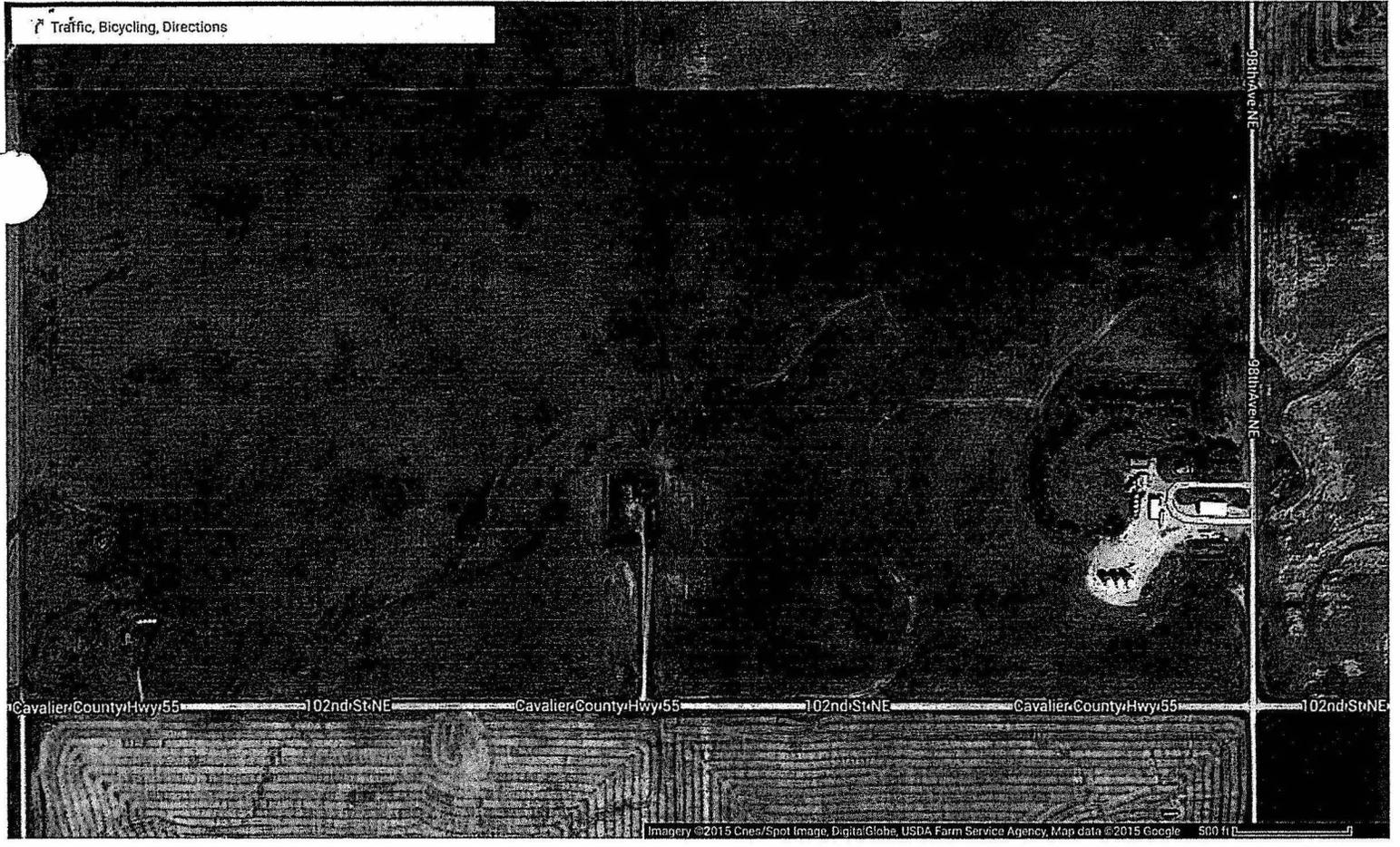
At the Senate Committee hearing it was recommended that the wording "beekeeping is an agricultural practice" be removed from the law. I believe it should be removed. Problem being, you cannot report bees as a nuisance issue if they are an agricultural practice. These are an invasive species brought in and out of our area and should not be labeled agriculture.

According to current ND Century Code, no one is legal in our county with beekeeping regarding identification and on top of that over half the hives we have up north are not even registered. You combine the unregistered hives with the registered hives and we are over run by bees in Cavalier County. We've complained, begged and pleaded on deaf ears for help regarding the bee issues. Those of us who call for help or to report illegal hives get the run around such as, "we don't have the funds to enforce the law," or "we don't have the staff or equipment to enforce the law" and my personal favorite "we can't do anything with nuisance issues because bees are an agricultural practice and can't be a nuisance." This is the time to create "BALANCE" with beekeeping and landowners. We are looking to you for help in creating balance.

Thank you so much for your time. If you have any questions or would like to contact me, please don't hesitate in doing so.

Sincerely,
Shauna Schneider
Cavalier County Resident

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#8
3/19/15

Chairman Johnson and Agriculture committee members

My name is Kevin Herrmann from Beulah, ND. I stand oppose to Engrossed Senate Bill 2025 that is before the Agriculture committee today. I have the understanding of the comments of Bonnie Woodworth who is represents North Dakota Beekeepers Association and Doug Goehring, Agriculture Commissioner like the rewrite of the North Dakota century code dealing with Beekeeping. I disagree. There needs to be some changes in this bill.

On page 2, under 4.1-16-02 Beekeeper's License section, line 15 to 16, "An apiary will not be placed at a location without first obtaining the consent of the property owner". This sentence need to be change to have "written consent" instead meaning "verbal permission". I can see a beekeeper say they have verbal permission without talking to the property owner. It will be property owner word vs. beekeeper. Who are you going to believe?

Next, staying on page 2 in same 4.1-16-02 section, lines 17 to 25, this subsection allows a complaint of location of bee apiary if the individual resides adjacent to the apiary of where the location is than the Agriculture Commissioner has the authority to remove the bee apiary from that location. There is no wording for allowing any public taxpayer able to make a complaint about nuisance of bee apiary or in any other part of this bill.

On page 3, under 4.1-16-08 Apiary location section, line 25, the words "or leases" should be remove from this sentence. The individual who leases the land is not the property owner. If an individual who leases the property allows bee apiary on the property, how do we know if the property owner wants the bee apiary on the property. Some property owners who lease the farm land do not live on their property.

I do own property farmland which I have told the individual who lease the land that no bee apiary on the property.

Still on page 3, starting on line 29 continue to page 4 line 1-9, 4.1-16-09 Identification of apiary section. The Identification of apiary has been ongoing problem for many years. The beekeepers have not been following the current code in 4-12.2-14 where the beekeeper is to post a weather proof board with beekeeper name, address and telephone number at or near the main entrance of each apiary or on a beehive. It seems the beekeepers do not want the public to get this information in order to call them or file a complaint to an official. How is the Agriculture department going to enforce this section? It would not be too costly where the beekeeper put the Identification of apiary on the post at entrance of property.

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Page 6, line 20, 4.1-16-18 Beekeeping- Agricultural practice. I do not agree to this section needed in this bill due to 42-04-01- Agricultural Operation defined.

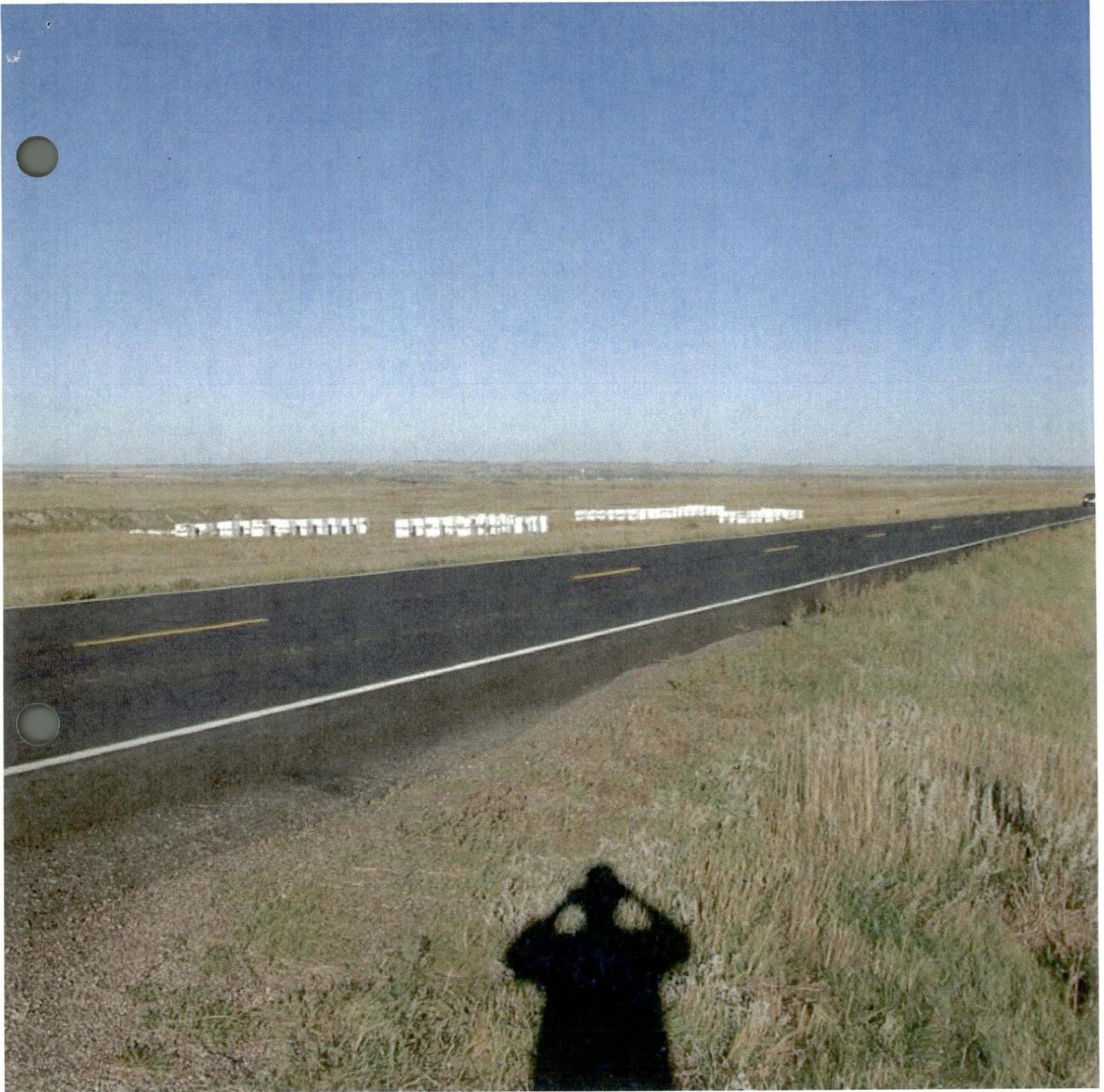
There is nothing in this bill about a setback of bee apiary from any state or federal paved road. There has been complaints to Agriculture department about the bee apiaries too close to paved road. There has been bills introduced in 1989, 1995, 1997 and 2013 dealing with setback of bee apiaries. I know in the past my complaints was considered as one complaint even though I call or email about different locations of bee apiary during the summer season. I have been informed the total amount of complaints about bee apiary location is low. The general public do not know where to file the complaint or individuals are tired to file a complaint because there has been no results.

All the general public is asking for some distance of setback from a state or federal paved road. How is it safe when I drive by a bee apiary that is on the edge of property along a paved road getting the windshield full of bee honey? Windshield washer fluid makes seeing out the windshield worst. Why do you see beekeepers wear safety gear at bee apiary but they say bees are safe? I have heard a few comments in the past from beekeepers the reason for bee apiary so close to paved roads which are not working for the general public.

I do not see any improvement with this bill to replace the current Chapter 4-12.2 in North Dakota Century Code.

Thank you for allowing me to speak against this bill and will take any questions.

Kevin Herrmann
300 Fair St. SW
Beulah, ND 58523



Highway 200 East of Hazen



Hiway 49 about 4 miles north of
Interstate 94



Highway 1806 north between Beulah and Haze

Beekeeping
NDCC 4-12.2
NDAC 7-02

#9
Tom Bodine
SB 2025
3/19/15

Civil Penalty Authority*:

N.D.C.C. 4-12.2-22 authorizes a civil penalty not to exceed \$5,000 for each violation of associated statutes or rules.

Civil Penalty Guidelines for Violations of N.D.C.C. 4-12.2:

Statute	Violation	Civil Penalty
4-12.2-04	License. Maintaining bees without a valid beekeeper's license.	No warning 100 to 1000
4-12.2-07	Registration. Failure to register an apiary.	Landowner permission: Warning -1000 No landowner permission: 250-1000
4-12.2-08.1	Nuisance. Commissioner may cancel a registration if the apiary is causing a nuisance as defined in Chapter 42-01.	Cancel registration
4-12.2-14	Identification of Colonies. Failure to identify colonies per the statute.	Warning to 500 or Deemed abandoned and subject to seizure.
4-12.2-18.1	Africanized Honey Bees. Use a swarm of honey bees positively identified as being Africanized in a beekeeping operation.	1000 to 5000
4-12.2-20	Shipment. Failure to obtain an entrance permit.	Warning

*Violations of this chapter are also guilty of a class A misdemeanor.