

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE MANAGEMENT

Thursday, September 30, 2010
Prairie Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 8:00 a.m.

Members present: Representatives Al Carlson, Gary Kreidt, Bob Skarphol; Senators Robert S. Erbele, Tracy Potter, Bob Stenehjem, Rich Wardner

Members absent: Representatives Merle Boucher, Chris Griffin, David Monson, Shirley Meyer, Robin Weisz, Lisa Wolf; Senators Tony S. Grindberg, Ray Holmberg, David O'Connell, Larry J. Robinson

Others present: See [Appendix A](#)

OPENING REMARKS

Chairman Carlson said the purpose of the meeting is to fulfill the Legislative Council's statutory responsibility to coordinate the determination of the estimated fiscal impact of initiated measures. In 2005, he said, the Legislative Assembly enacted North Dakota Century Code Section 16.1-01-17, which requires the Legislative Council to hold hearings, receive public testimony, and gather information on the estimated fiscal impact of initiated measures. He said this law resulted from the passage of an amendment to the state constitution in 2004 which permits the Legislative Assembly to provide by law a procedure through which the Legislative Council may establish an appropriate method for determining the fiscal impact of an initiated measure and for making the information regarding the fiscal impact of a measure available to the public.

Chairman Carlson said the Secretary of State has notified the Legislative Council office that one initiated measure qualifies for the general election ballot--an initiated statutory measure relating to captive hunting of exotic and native game animals.

Chairman Carlson said the procedure for obtaining fiscal information basically tracks that followed during legislative sessions--those state agencies determined to have either the best information on the impact of a measure or the primary responsibility for compiling and maintaining the information that is needed have been invited to present their findings at this meeting. He emphasized the only purpose of holding this meeting is to meet the Council's statutory responsibility to obtain fiscal information on each measure, and the Council is not holding this meeting to hear testimony on the merits of any measure. He said the Council will first hear from the State Board of Animal Health on the estimated fiscal impact of the

measure that would prohibit captive hunting of exotic and native game animals.

INITIATED MEASURE REGARDING CAPTIVE HUNTING OF EXOTIC AND NATIVE GAME ANIMALS

This initiated measure ([Appendix B](#)) makes it a Class A misdemeanor to obtain fees or other remuneration from another person for the killing or attempted killing of privately owned big game species or exotic mammals confined in or released from any manmade enclosure designed to prevent escape.

Ms. Beth Carlson, DVM, Deputy State Veterinarian, State Board of Animal Health, presented information ([Appendix C](#)) on the estimated fiscal impact of this measure.

Ms. Carlson said the State Board of Animal Health regulates 103 nontraditional livestock and farmed elk facilities. She said the board does not differentiate between those that offer fee hunting and those that do not. She said it appears that local law enforcement agencies and local state's attorneys would be the responsible parties for enforcing the prohibition provided by the initiated measure.

Ms. Carlson said she does not know the impact of the initiated measure on facilities that sell animals for slaughter.

In response to a question from Representative Carlson, Ms. Carlson said if an individual purchases a bison for slaughter, inspection would occur only if the meat would be offered for sale to others.

In response to a question from Representative Skarphol, Ms. Carlson said the definition of nontraditional livestock regulated by the board includes pheasants, partridge, bobcats, lynx, and just about anything that historically is not considered domestic.

In response to a question from Senator Wardner, Ms. Carlson said if the measure passes, the impact on regulation by the board would not change that much because the current regulation does not distinguish between facilities that offer fee hunting and those that do not.

In response to a question from Senator Potter, Ms. Carlson said the board could decide to regulate the uses of such facilities, but that is a decision yet to be made.

Mr. Greg Link, Assistant Chief, Wildlife Division, Game and Fish Department, distributed a prepared

statement ([Appendix D](#)). He said the State Board of Animal Health has regulatory responsibility over non-traditional livestock and farmed elk facilities. He noted that farmed elk have been statutorily designated as domestic animals, not nontraditional livestock.

Mr. Link said the Game and Fish Department has permitting authority over the domestication of protected game species. He said the big game species specified in the initiated measure would be within the department's oversight. He said big game is defined under Section 20.1-02-02 as deer, moose, elk, bighorn sheep, mountain goats, and antelope.

Mr. Link said the Game and Fish Department does not track which facilities that possess, propagate, and domesticate protected game species operate hunting operations. He said the best estimate of department staff is that a dozen farmed deer and elk facilities provide hunting opportunities.

Mr. Link said regardless of the outcome of the vote on the measure, it appears there would be little to no fiscal impact on the department.

Senator Stenehjem inquired about the impact of the initiated measure on an individual purchasing a bison from a bison farm for slaughter and whether that individual would be prohibited from shooting the bison. Mr. Link said bison and farmed elk are not non-traditional livestock. He said this would be an issue of interpretation.

Mr. Shawn Schafer, President of the North Dakota Deer Ranchers Association, and member of the State Board of Animal Health, said there may be legal challenges to this measure if it passes, so there may be a fiscal impact resulting from the measure.

In response to a question from Senator Wardner, Mr. Schafer said a dozen facilities provide hunting opportunities. He said North Dakota's size and geography limit areas that provide a good fee hunting experience, e.g., hills, draws, trees, etc.

In response to a question from Representative Kreidt, Ms. Susan J. Keller, State Veterinarian, said if the desire is to provide active enforcement of the prohibition established by the initiated measure, that

could result in added costs to the agencies involved. She said if administrative rulemaking is required for active enforcement, that would result in costs being incurred. She said the cost to the State Board of Animal Health for its last administrative rulemaking process ranged between \$2,000 to \$3,000.

In response to a question from Chairman Carlson, Mr. Al Jaeger, Secretary of State, said the report from this committee about the fiscal impact of the measure would be included in the report by the Secretary of State on its website.

COMMITTEE DISCUSSION

Senator Stenehjem said there may be fiscal impact depending on the level of enforcement, but it appears that as a result of the testimony today, the fiscal impact of the initiated measure is unknown.

Chairman Carlson called on the director who said the information provided by the state agencies will be compiled by the Legislative Council staff and will be submitted as a report to the Secretary of State.

It was moved by Senator Stenehjem, seconded by Representative Skarphol, and carried that the Legislative Council accept the fiscal notes prepared on the initiative measures and forward the information to the Secretary of State as provided by Section 16.1-01-17.

No further business appearing, Chairman Carlson adjourned the meeting at 8:45 a.m.

Jay E. Buringrud
Assistant Director

Jim W. Smith
Director

ATTACH:4