

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1603-FN, requiring state agencies to provide current and verifiable evidence of a species presence before imposing any land use restriction related to that species' habitat.

Hearing Date: March 17, 2026

Time Opened: 9:00 a.m.

Time Closed: 10:34 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill requires the executive director of the department of fish and game to adopt rules relative to procedures for verifying accuracy of records collected relative to threatened and endangered wildlife and ensures landowner permission is granted for the gathering of such record.

Sponsors:

Rep. DeVito

Rep. Beaulier

Rep. Litchfield

Rep. Tom Mannion

Rep. Mazur

Rep. McGrath

Rep. Sabourin dit

Rep. Harvey-Bolia

Rep. DeRoy

Choiniere

Rep. Mary Murphy

Sen. Murphy

Who supports the bill: 8 Individuals signed in Support of this legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 81 Individuals signed in Opposition of this legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Sayra Devito, District

- Representative Devito addressed concerns that arose after she introduced the bill the previous week, aiming to clarify misunderstandings.
- She emphasized her strong personal commitment to conservation, noting her involvement with local forestry committees and time spent in nature.

- She explained that the legislation did not reduce environmental protections, but instead formalized and standardized procedures that were already in place.
- She responded to concerns about contacting landowners by stating that this was already common practice and that the bill would not interfere with it.
- She argued that the bill would improve clarity and transparency through rulemaking, while reinforcing respect for private property rights and ensuring the data is accurate.

Senator Watters raised a concern about the budget, noting that no additional funding was allocated in the Fish and Game Department and seeking confirmation that the bill would not create a financial burden.

Representative Devito clarified that the practices outlined in the bill were already standard operating procedure and therefore were not expected to result in additional costs for the department.

Senator Watters said there needs to be language changes regarding site specific as well as try and clarify when it is Fish and Game personnel that need to do the reporting.

Representative Devito agreed and was open to making those revisions.

Senator Watters asked for confirmation that the bill would not require the Fish and Game Department to revise historical data.

Representative Devito clarified that the intent of the bill was to guide future data collection only and would not require any changes to previously collected data.

Senator Rosenwald raised a question about line 14, specifically regarding the age of data, and asked whether long-term data is important for identifying trends.

Representative DeVito agreed that long-term data is valuable for tracking trends, but noted that for some endangered species, their lifespans and movement mean they may no longer be present on a given property over time.

Senator Watters asked for clarification using an example of a turtle crossing a road, questioning whether that would still qualify as an endangered presence.

Representative DeVito explained that if an animal, such as a turtle, briefly appears on a property and is not seen again, the landowner should not be held responsible for assuming the species is still present. She clarified that the bill does not determine whether a species is no longer endangered but rather focuses on whether its presence on a specific property is current and verifiable.

Senator McConkey shared his experience working in the Lakes Region for over 40 years, noting he had never personally encountered the turtle referenced in testimony. He expressed concern about the permitting process, explaining that forms often indicate the presence of a turtle on a property, even when it may not be accurate. He said he supports tracking wildlife, but emphasized that records should be current to avoid unnecessary costs and delays for clients and businesses.

Representative DeVito agreed, stating she had encountered this issue many times and that outdated data can repeatedly cause problems for developers and local businesses. She added that those situations can increase costs for homeowners, delay projects, and tie up commercial land use, leading to significant time and financial impacts.

Matthew Mayberry, NH Homebuilders Assoc.

- Mr. Mayberry explained that when it was introduced in the house, they opposed the bill as written. However, after the prime sponsor and stakeholders got together to amend the bill, it is acceptable and his organization offered their support.
- He added that the legislation simply directs fish and game to adopt the rules to notify homeowners and then get access to lands. The legislation encourages the department to adopt rules that will make the process more efficient.

Senator Watters emphasized the importance of collaborating with the Homebuilders Association and asked how many housing units had been affected or prevented due to endangered species regulations.

Mr. Mayberry responded that “limited” was a more accurate description, noting he did not have a specific number on hand but could provide a rough estimate to the committee later.

Senator Rosenwald asked whether the legislature should establish specific guidelines for the Fish and Game Department or if it was acceptable to give the department authority to set its own rules.

Mr. Mayberry said it be better to have 424 members collaborate and decide a framework rather than one person or director at the executive branch. He emphasized that legislative guidance could be helpful.

Senator Rosenwald asked if he could clarify whether or not he agreed with her that it should be the legislature that makes the guidelines.

Mr. Mayberry confirmed that he did.

Linda Dionne,

- Ms. Dionne argued that not seeing the turtle should be alarming, suggesting that there may not be many in the area and need more protection.
- She claimed that the bill is a “solution looking for a problem” because she heard the prime sponsor say the department is already asking landowners for permission.
- She raised the concern that rulemaking is burdensome and with a new director. She said it is already busy and they are unable to focus on this issue.
- The commission supports the bill, but some feel biologists are constrained and cannot fully express their professional opinions.

- There were objections that the bill primarily benefits wealthy landowners and does not address affordable housing or ordinary homeowners like herself.
- She noted that the Wildlife Action Plan, required by federal law, hasn't been discussed in the committee, and the prime sponsor acknowledged that the bill may be unnecessary since existing processes already follow correct procedures.

Senator Watters asked if she could give more thought on the landowner permission concerns. He said it was important to get landowner permission. If somebody is on unposted land such as a hiker or hunter and encounters a species of concern and documents it, would they be able to report that under the bill because that siting has not been previously permitted.

Ms. Dionne said no because they did not get the landowners permission.

Senator Watters noted that biologists cannot simply assume a species will be in the same location after an individual has reported it and suggested the bill might need language specifying how rulemaking should address such situations.

Ms. Dionne responded that the bill should be "Inexpedient to Legislate" and asserted that it primarily benefits "the rich" rather than the general public.

Chris Bogart, state licensed rehabilitator

- She shared her two decades of experience working with Fish and Game and landowners, emphasizing that since 2001 annual reports have contained complete, accurate, and verifiable data, often including photos.
- She described her professional and cooperative interactions with landowners, including an anecdote where she worked with a homeowner to locate an endangered species and obtain permission to release a turtle safely.
- In reviewing the bill, she questioned who it truly benefits, concluding that it primarily concerns the protection of New Hampshire's endangered species rather than specific landowners.
- She highlighted that turtles have long lifespans and reproduce over many years, so data on their habitats and populations should not be assumed or disregarded.

Senator Rosenwald mentioned that she participates each summer in a census that tracks the long-term presence of Loons since she was a little kid. She hadn't seen a Loon until 25 years ago, when they started returning. She asked if it was a case where older trend data proves valuable as well?

Ms. Bogart confirmed that it does, explaining that the program provides researchers with valuable long-term data, allowing them to study population trends over time, analyze the distribution of animal ages, and assess population density across different regions. This information helps scientists understand how the species is faring and identify factors that may affect its survival and growth

Senator Avard asked how far turtles travel in their lifetime.

Ms. Bogart that the distance depends on both the landscape and the gender of the animal. It can range anywhere from 1 to 3 miles. Males typically travel less when seeking a mating partner, she estimated about half a mile, but in some cases turtles have been recorded traveling as far as 7 miles, according to data from Fish and Game.

Senator Avard asked whether this essentially means that any type of development within three to seven miles of an area where a turtle has been spotted could be affected.

Ms. Bogart said she doesn't deal with developments and doesn't know how they determine that.

Senator Avard spoke about Mine Falls Park in Nashua. He mentioned seeing holes dug by foxes, likely from disturbing turtle nests. He asked whether this activity could have an impact and raised the question of whether foxes should be removed.

Ms. Bogart stated that those are naturally occurring events and that she does not have a problem with them. Turtles have been around for a long time and have been successful in their evolution. However, the introduction of humans has created additional challenges for them.

Senator Avard countered her point and said Humans and animals must be able to coexist.

Senator Pearl referred to her anecdotal story and asked why she stopped and talked to the landowner in her story.

Ms. Bogart explained that she had identified coordinates within the turtle's habitat that were located on the landowner's property. She added that she believed it was appropriate to approach the landowner because the wetlands there were part of the turtle's natural environment.

Senator Pearl said it would have been a different situation if she had not asked the landowner for permission and had instead trespassed. He added that while most landowners are likely to be agreeable, obtaining permission should be considered best practice, and he asked whether that is the case.

Ms. Bogart confirmed that asking for permission is best practice.

Senator Rosenwald asked about lines 18 and 19 regarding the rulemaking procedure. She questioned whether it was appropriate for the language to be so broad and lacking specific guidelines, and asked whether the legislature should establish clearer parameters.

Ms. Bogart said it was a difficult question and that she was unsure what specific rules or policies needed to be established. She mentioned possible considerations, such as release protocols and the need to obtain permission when accessing private land, but said she was not certain what policies or parameters should ultimately be put in place.

Robert Loree, Danville

- Speaking as a landowner, he expressed support for the legislation. He said he appreciates turtles but is unable to distinguish between endangered species. He compared this to invasive species such as milfoil, noting that people sometimes misidentify them and report inaccurate information. He suggested that similar issues arise with turtle reporting, where observations are not always verifiably accurate.
- He argued that codifying the rules would help ensure more accurate data, benefiting both property rights and wildlife management. Clear rules, he said, would make the process more accessible and transparent for everyone. He also noted that these issues can affect property taxes and a landowner's ability to complete projects.
- Regarding fiscal impact, he stated that reports are already being verified. However, inaccurate reports could delay construction or other projects if they are not properly validated.

Senator Avard discussed the issue of misidentification and how it could create problems for development projects and landowners. He noted that land use could be restricted in the future if an animal were released on a property. He also emphasized that releasing animals without the landowner's permission could create significant issues for the property owner.

Mr. Loree confirmed that if a person found a turtle on his property and misidentified them, it could cause problems.

Senator Avard inquired if turtles are capable of carrying or spreading milfoil.

Mr. Loree said it is possible.

Jamie McWiggan, Conservation Biologist

- She opposed the legislation, stating that it creates uncertainty for landowners and municipalities. She added that it could erase decades of previously collected data and result in wasted resources. She emphasized that if efficiency is a priority, existing data should not be deleted.

Senator Avard asked if she could identify where in the legislation it says it would delete old data.

Ms. McWiggan said the committee was talking about disregarding historical data and the bill refers to the erasure of that data. She pointed out that the bill explicitly mentions the "age of data," which she interpreted as a reference to the potential erasure of longstanding historical records.

Carol Foss, NH Audubon

- Ms. Foss highlighted the importance of ensuring public and stakeholder access to ecological and wildlife data without requiring a formal, costly rulemaking

process. She noted that relying on such a procedure can be time-consuming, expensive, and create unnecessary barriers to using the data effectively.

- There was significant concern about the use of data for denying permits. However, the same data is also used to secure federal grants for wetland protection. It was noted that the exact point locations of turtles are not as critical as the identification of suitable habitat; the focus should be on the habitat rather than the specific release location.
- Formal surveys are conducted by professional biologists, but citizen observations are also collected and vetted by Fish and Game biologists. Determining land ownership for data collection was mentioned as an additional consideration.
- She said that the exact point locations are not as important as the overall suitable habitat; what matters is the habitat itself, not necessarily the specific spot where the animals were released.
- Formal surveys are conducted by professional biologists, ensuring accuracy and scientific rigor. In addition, citizen observations are also collected; however, these reports are reviewed and verified by Fish and Game biologists before being used, to ensure reliability.
- She explained that there is a challenge in determining land ownership for reported sightings and data collection. Accurately identifying which pieces of land are private, public, or under specific management is important for permission and access. This can sometimes be a complicated process, particularly when dealing with multiple landowners or unclear property boundaries.
- She talked about Radio telemetry and the Fisher that went from UNH to Lincoln. She noted that although a fisher is not endangered, tracking an endangered species, such as a lynx, via telemetry could pose challenges. Specifically, it may be difficult to distinguish private from public lands and to determine whether landowner permission is necessary to record location points in the dataset.

Senator Avard asked if the turtles should also be tagged.

Ms. Foss explained that the animals are being tagged and that the data shows where they have traveled and how far. She added that if the habitat remains suitable, there is a high likelihood of their survival and continued presence, providing an opportunity for the species to continue.

Senator Avard asked about the history of turtles in an area that had been decimated by foxes and where a developer now wants to build.

Senator Avard posed a hypothetical scenario in which an overpopulation of foxes led to the local extinction of an endangered turtle population, although historical records confirm the species once inhabited the area. He inquired how such circumstances

would impact potential development, noting that developers may wish to use the land and questioning the relevance of documented historical presence in this context.

Ms. Foss questioned how it could be determined whether the turtle population in the area had been completely wiped out.

Senator Avard responded that it was precisely the point of his question and it is impossible to know for certain. He emphasized that his concern extends not only to the turtles but also to private property owners and their ability to develop their land if they choose.

Jasen Stock, NHTOA

- Mr. Stock stated that when accessing private property, permission should be obtained. He provided testimony and a letter to the Danville selectboard from DES, emphasizing that asking for permission is the right approach and encourages landowner cooperation.
- He said that Fish and Game Staff are encouraged to seek landowner permission whenever practical, which is considered responsible practice.
- He clarified that this legislation will not eliminate the existing database of collected information. However, noted that the data can have implications for how property is used or managed, so a clear process needs to be in place.
- He provided additional information about the database, suggesting that there is a valid reason for implementing a formal process through rulemaking, which can help manage the procedure effectively.

Senator Rosenwald asked whether any of his members are concerned about invasive insects, such as the emerald ash borer or woolly adelgid, and whether timber owners are seeking reliable data on how these pests may be affecting their assets.

Mr. Stock confirmed, stating that whether dealing with invasive animals or plants, obtaining accurate data is essential. He further emphasized that there is considerable concern regarding the methods used to collect such data.

Senator Watters expressed hope that a consensus could be reached on this issue. He asked for clarification on his points regarding “site-specific” access, asking whether it makes sense to interpret it as referring to a wildlife biologist seeking to investigate a private property and that is what is meant when discussing “obtaining permission”.

Mr. Stock confirmed this, adding that if an individual is entering a property, their jurisdiction ends at the property line.

Senator Watters asked about the definition of “site-specific,” noting that some reports are documented on lawful property and then reported back. He suggested that this distinction should be reflected in the guidelines and asked whether Mr. Stock would agree.

Mr. Stock agreed and added that when an individual enters private property to gather data, it is important that a state agent obtains permission. He also noted that

there are now tools, such as apps like Onyx, that make it easier to identify property owners.

Senator Watters followed up by asking about the fiscal note for reexamining the data. He noted that there may be a need to provide clarity to the legislature and emphasized the importance of preserving the integrity of the data. He asked if that was understood.

Mr. Stock responded that, in that regard, there are ways to examine the data prospectively evaluating it when an action is proposed. He noted that occurrences vary, habitats change, and animals move, so data must be considered in context.

Robert Johnson, NH Farm Bureau

- Mr. Johnson expressed support for the legislation, highlighting that his organization's private landowners collectively oversee thousands of acres. He explained that the purpose of the bill is to facilitate clear communication with landowners. Under Fish and Game policy, permission is requested on posted properties, and while it is encouraged on unposted land, it is not mandatory.
- He expressed surprise at testimony that cast homeowners in a negative light, emphasizing that most are cooperative in supporting the protection of endangered species. He further noted that the bill is not onerous and that obtaining permission is essential when pursuing a permit.