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 10, 2026

Time Opened: 9:26 a.m. **Time Closed**: 10:36 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 Choiniere	Rep. Harvey-Bolia	Rep. DeRoy
Rep. Mary Murphy	Sen. Murphy	

Who supports the bill: 10 Individuals signed in Support of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 614 Individuals signed in Opposition of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Sayra DeVito, Rockingham District 8

- Representative DeVito introduced the bill. She stated that the purpose of the legislation is to address concerns posed by land owners regarding endangered and threatened species claims on private property and subsequent land use restrictions as a result of those claims.
- She stated that when the State imposes land use restrictions on private

property because of an endangered or threatened species claim, property owners should be able to rely on two basic principles; data should be collected lawfully and data should be verifiable and specific to the location in question.

- She explained that the amendment adopted by the house codified two standards. First, agencies must obtain landowner permission in order to collect biodiversity data. Second, any data used to impose restrictions must be verifiable and lawfully obtained.
- The amendment clarified that land use applicants cannot be required to conduct new biodiversity searches as a condition of approval.
- She stated that the legislation would not weaken any conservation protections or interfere with Federal endangered species requirements. It would not prevent agencies from carrying out their work.
- She stated the amendment was crafted after conversations with DES, NH Farm Bureau, and the NH Timber Owners Association. The NH Fish and Game Commission reviewed the legislation as amended and voted 9-1 in support of the legislation.
- She spoke about New Hampshires' unique culture which often sees private property owners allowing public access to their land. She is concerned that without this legislation, property owners will end public access to their land, based on the concern that government agencies could possibly enter without permission.

Senator Watters asked about the kinds of verification methods that could be used. He inquired what Rep. DeVito imagined the verification process would include.

Rep. DeVito said that it could be at the discretion of who ever is collecting the data. It could also be simply identifying if the person recording the data was with a government agency. She said that currently, anyone can fill out a form that reports the presence of endangered or threatened species on private property even without the owner's permission.

Senator Watters made a statement about compliance with federal requirements. He asked if the word "verify" would open the state up to lawsuit from people who believe that verification was not done properly.

Rep. DeVito stated that she does not believe there would be concern for lawsuit.

Senator Rosenwald stated that Fish and Game gets a lot of authority to set rules. She asked if she would agree that this provision gives away substantial policy power from the legislature to an independent run commission.

Rep. DeVito stated that she did not think she would agree with that statement. She stated that the legislature has the ability to address concerns with rule making after rules are made and put in place.

Senator Rosenwald noted that both filing bills and engaging in rulemaking are

costly and time-consuming. She questioned whether it made sense to pass legislation that might need to be corrected later.

Rep. DeVito stated that rule making will be done by the executive director. She stated that the rule making authority is clear and she did not foresee it returning to the legislature.

Melissa Nemeth, Legislative Lesion for NH Fish and Game

- Ms. Nemeth explained that there is an interesting dynamic between the NH Fish and Game Department and the NH Fish and Game Commission that is understood by the committee.
- She stated that at the last Commission meeting they voted in support of the amendment.
- She stated that there were some concerns raised about the cost that this would be imposed on NH Fish and Game. The legislation would create a lot of administrative work and costs on the technology front. She stated it would also require the department to contact the land owners to obtain permission, which again would impose additional administrative work.
- She stated that there could be a lot of fiscal impact that would go along with this legislation. The department is more concerned about the financial cost rather than the policy goal of protecting homeowners rights.

Senator Pearl asked if she could walk him through the process of making a claim for an endangered species on private property.

Melissa Nemeth stated that she didn't have the answer to that question at that moment.

Senator Pearl asked if they currently ask for land owner permission. Asked if there was a difference between the process for posted and non-posted properties.

Melissa Nemeth stated that she would need to get back to him on that later.

Senator Watters asked about the original fiscal note on the bill. The bill originally had a $1,000,000 fiscal note and it had been removed but there is still a provision requiring the notification of property owners. Asked about the cost that this could add.

Melissa Nemeth stated that she would find out and get back to him later.

Senator Watters asked if she had any comments from the wildlife biologist.

Melissa Nemeth said that she did not have a comment from them today and did not want to speak for them.

Drew Stevens and Dallas Huggins, NH Turtle Rescue

- Mr. Stevens was opposed to the legislation. He stated that this bill will upend the way that they discover where endangered species are located. He challenged the claim that NH Fish and Game has the authority to impose land use restrictions. He stated that they only have the power to make recommendations.
- He stated that endangered species are a public resource that should already be protected under current statutes. He stated that by extension it means that the observations of those endangered species is itself a public resource. He stated that if they are not able to observe endangered species, they won't be able to properly conserve them.
- He stated that observation data submitted by the public is verified by a wildlife biologist. This challenges the idea that people are going around private property searching for evidence that could be inaccurately identified. No claims go without a wildlife biologist to verify the observation to be genuine.
- He stated that observations of endanger animals and the animals themselves are not the private property of a land owner even if they are located on their land.
- He claimed that if the bar for permission to collect data is set too high, it would devastate the flow of scientific data. Biologists would not support this legislation for that reason.
- Ms. Dallas said that if this legislation would revoke previous data that's been historically collected on private property, it would lead to gaps in data leading to poor management.
- Mr. Stevens stated that despite support by the Farm Bureau and Timber Association he believed that they would ultimately be hurt by this legislation. He claimed that limiting the flow of data will undermine forestry management grants, conservation stewardship plans, wetland easements, and small Fish and Game grants. All of these programs rely on endangered and threatened species data to determine priority for grants.

Senator Pearl asked them to walk him through the process of reporting an endangered or threaten species.

Drew Stevens explained a hypothetical situation in which he was a property owner and he spots an endangered species on his neighbor's land. He asked why he should not be allowed to report that public resource. He claimed that the observations themselves will not restrict land use, but rather mitigates harm to the animal. He stated that animals do not understand property lines.

Senator Pearl asked what was involved in the process of data collection. Asked if they would ask permission from the land owner first.

Drew Stevens stated that he would not go on to his neighbor's property without

permission. He said that if it were him, he would ask before he went to search for turtles and he would ask if it was acceptable to report his findings.

Dallas Huggins stated that Fish and Game gets approval to carry out surveys, which is the bulk of the data that is collected. Public data allows biologists to determine whether or not an intervention is needed.

Senator Pearl asked if they would agree that its in the best interest of the process to have the cooperation of the land owners.

Dallas Huggins said that she would agree its in the best interest to have cooperation of land owners. The problem they face is having to prove the permission was granted. Stated its difficult as it is to get people to report sightings. The legislation would add additional burden to that process.

Senator Watters asked if under this provision, and someone is out on private property and they see a endanger species, they would have to get permission before they are allowed to even report it.

Drew Stevens stated yes, that is what would happen. Retroactive data would also need permission from land owners to be used. State that "ensuring land owner permission" is too broad.

Carston Springer

- Mr. Springer supported the legislation. He stated it strengthens efforts to protect species and habitats by establishing data integrity. He stated that accurate data should be the primary concern of conservationists. Stated that if data is incorrectly collected, they risk Federal action.
- Stated that the Fish and Game Commission is in support of the legislation. NH Fish and Game works closely with the DES, which as of 15 years ago is already required to obtain written land owner permission. Claimed that it is not a financial burden on Fish and Game as it has been previously stated.
- Stated that there is a financial burden on land owners if there is mismanagement. Stated that even police need permission to enter a property.
- Stated that there is a financial burden on land owners if there is mismanagement. Stated that even police need permission to enter a property. He claimed that current situation will lead to more private property signs popping up over NH.
- He countered the claim that Fish and Game does not have the power to cause property value loss. Fish and Game can put high financial burdens on to the landowner. While they do not have direct authority to impose land use restrictions, they are empowered by other agencies to do so via strong recommendations that are required to be followed so other agencies can distribute land use permits.

Senator Rosenwald asked about data and quality of research. She stated that large data sets are often high quality then smaller data sets. She asked if the legislation will reduce the volume of data and does it risk degrading the quality of the data set as a whole.

Carston Springer stated small data sets can still be of value. He did not see that it will degrade the data even if there is less data it should be more reliable with this legislation.

Senator Rosenwald asked about the language "appreciably jeopardize the existence of a species" and how that pertains to rule making. Asked what "appreciably jeopardize" means to him and how Fish and Game would define that in its rules.

Carston Springer stated he does not know how they would interpret this. Stated that it is not right or fair to have data collected without land owner permission.

Leslie MacGregor

- Ms. MacGregor was opposed to the legislation. She is a long-time wildlife biologist, veterinarian, and lawyer**.** She stated that she wanted to speak on behalf of the dataset. She claimed that the legislation would hurt biologists' ability to tract endangered species.
- She stated that certain species of endangered turtles are elusive and rarely spotted in the wild. She said that since these turtles can live up to 80 years historical data is crucial in tracking their habitats.
- She stated if this legislation passes it would make historical data collected without permission invalid, hurting conservationists' ability to protect endangered species.

Judi Lindsey

- Ms. Lindsay was opposed to the legislation. She stated that this legislation would weaken protection for endangered species.
- She stated that the Blanding's Turtle, an endangered species, would be put at serious risk of extinction without strong legal protection. She stated that the Blandings Turtle promotes a healthy environment by cleaning up ponds and wetlands. She stated that it would not be wise to pass legislation that could potentially put the turtle in more danger than it currently is.
- She stated that turtles reproduce at a slower rate then other species and only 5% of eggs end up hatching and surviving. She stated that because of this they need special attention and protection.
- She told an anecdote about a Blanding's Turtle that was found at the school property that she was a teacher. She stated that since that incident a housing development has been constructed in the area where the turtle habitat was. The housing development destroyed that habitat of the turtle.
- She stated that they must safeguard the protections that the turtle already has

rather than prioritizing wealthy land owners.

Kevin McCurley

- Mr. McCurley is opposed to the legislation. He stated that this legislation would remove the minimal level of conservation that these animals need to survive. He stated that NH is losing its wildlife at a rapid pace.
- He is a wildlife expert that focuses mostly on reptiles. He is a consultant at one of the largest animal rescues in the world.
- He counted the claim that citizen scientists are irresponsibly conducting environmental audits with a hyperbolic statement. He stated "magical fairies" are not appearing and collecting data. He stated that reports are submitted by citizen scientists who have an interest in protecting endangered species and they are not submitting reports with malicious intent to restrict land use.
- He stated that reports of endangered species include a photo with geolocation information. When these reports are put into the database, they are then verified by a wildlife biologist to assess the accuracy of the claim.
- He made a hypothetical situation in which a property owner wants to sell their land to housing developers. He stated if there was Blanding's Turtle spotted there 17 years ago, Fish and Game would have a record of that sighting. He made the point that a property owner looking to sell that land would not want Fish and Game to verify if that turtle was still there as it may affect the property value.
- He stated that even if Fish and Game is aware of that sighting, development often still continues. He claimed that Fish and Game only has the power to made a weak recommendation on how to mitigate harm. He stated that developments are occurring in areas where there are no reported sightings, not because there are no endangered species there, but because they are not being reported.
- He stated that Fish and Game does not go out in search of endangered species on private property. He claimed that Fish and Game asks permission to investigate sightings when on private property.

Cyric Riley

- Mr. Riley was opposed to the legislation. He stated that the legislation would disincentivize public reporting, leading to weaker conservation efforts.
- He stated the majority of sightings are taken from the curtilage of a property. He stated that's its common practice for police and citizens to take pictures of private property if something of interest is in view from the curtilage of the property.
- He claimed that property owners have a huge incentive to avoid reporting endangered species due to the impact it can have on property value.
- He stated that we are only as healthy as the environment we live in. He stated that pushing further into the natural world with things housing development hurts human health as much as it does environmental health.

- He claimed that the current pattern of urban sprawl is the cause of the historic droughts that we are experiencing. He said that this legislation would allow for more development expansion, worsening the drought.
- He stated that the conservation initiatives we have now mitigate the impact that development has on the environment. Weakening those initiatives will hurt conservation efforts. He claimed that this legislation will make NH less healthy overall as well as destroy our biodiversity.

Karen Campbell

- Ms. Campbell was opposed to the legislation. She stated that it would jeopardize the ability to protect endangered wildlife. She was worried about the impact that this legislation would have on historic data sets.
- She stated that large data sets are critical to making informed scientific decisions. She was concerned that this bill would invalid previously collected data that does not fit the requirements laid out in the legislation. She stated that it would negate all the time and resources that have been poured into collecting that data. She believed that the bill was fiscally irresponsible.
- She said that the state has a responsibility to meet the requirements for protecting endangered species. This would require state agencies to spend more time and resources recollecting the invalid data. She did not want to see that endangered species were put in more danger than they already are.

Senator Watters stated the he did not believe that the legislation would invalidate previously collected data. Asked if her concern was that it would disrupt the continuity of data.

Karen Campbell responded yes.

Rick Van De Poll

- Mr. Van De Poll was opposed to the legislation. He stated he is concerned with the erosion of the rights of wildlife versus the rights of property owners. He said that a lot of his work focuses on identifying endangered species under permitting conditions.
- He spoke briefly about past legislation that changed the enforcement of the Endangered Species Act. He stated the in 2011 the Fish and Game executive director was given control of rulemaking for identifying critical habitats for endangered species. He stated that as of right now the executive director has not identified any critical habitats for the 5 endangered species found in NH.
- He claimed that this restricts the ability of the staff to come up with data that they can implement under the Endangered Species Act to better manage endangered wildlife.
- He spoke about a Supreme Court case in 2000 that displayed the disjunct between the language “not appreciably jeopardized” and how that is implemented by Fish and Game.

- He stated did not think that this bill was needed. He claimed that Fish and Game already asks for land owner permission before they validate previously collected data. He is concerned that the legislation will increase cost and further restrict employees from doing their jobs.

Senator Rosenwald stated that the rule making portion of the legislation is what she is concerned about. She did not think that rules set by Fish and Game would have to be followed by DES. Asked Mr. Van De Poll if he was hired by DES, would he have to follow rules set by Fish and Game.

Rick Van De Poll stated yes, he would have to follow rules set by Fish and Game at the DES.

Ashley Porter

- Ms. Porter opposed the legislation because she did not feel it was needed. She is a wildlife biologist who has worked for the state since 2019. She has experience verifying the presence or absence of endangered species on private land.
- She spoke about her experience on site verification. She stated that the legislation is not needed as landowners already have the right to deny them access to their land.
- She spoke to the difficulty the agencies have in collecting good data. She said that the legislation will limit their ability to check for presence or absence in previously documented areas as well as invalidate data that does not fit the new requirements.
- She stated that she is pregnant and is choosing to live in NH to be close to nature. She said that it's the states responsibility, as trustees of wildlife, to ensure that future generations can enjoy a diversity wildlife in NH.
- She said that this bill would be catastrophic to the minimal protects that endangered species have. She asked that the committee trust her professional opinion as a wildlife biologist.

Senator Avard asked how many times she had been rejected.

Ashley Porter stated she had been rejected two times in her one season.