

2007 DRAFTING REQUEST

Bill

Received: **09/25/2006**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Griffin**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact: **Eric Thompson**
266-8251

Addl. Drafters:

Subject: **Nat. Res. - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Griffin, BB0118 -

Topic:

Karner blue butterfly habitat funding

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	rkite 10/03/2006	jdye 10/06/2006	jfrantze 10/06/2006	_____	lparisi 10/06/2006		State
/P2	rkite 10/11/2006	kfollett 10/11/2006	sherritz 10/11/2006	_____	sbasford 10/11/2006		State
/P3	rkite 11/15/2006	kfollett 11/15/2006	pgreensl 11/15/2006	_____	lparisi 11/15/2006		

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Carbon copy (CC:) to: Eric.Ebersberger@dnr.state.wi.us

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1P3/gf
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11/15
PV
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1P2kjf sh 10/11
10/11
sh/ss 10/11
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May Contact: **Eric Thompson**
266-8251

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Requester's email: **Eric.Ebersberger@dnr.state.wi.us**

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Pre Topic:

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/?	rkite	1P/kjf 10/4	26 10/6	26/SD 10/6			

FE Sent For:

<END>

2007-09 Statutory Language Proposals

Division:	Land And Forestry
Bureau:	Forestry
Issue/Topic:	Karner Blue Butterfly Habitat Conservation Plan All Funds Received Appropriation
Proposed Change:	This proposal would create a new "all moneys received" appropriation which would allow the Department to receive and expend all moneys or anything of pecuniary value received under or for administration of the Karner blue butterfly Habitat Conservation Plan (HCP) and federal incidental take permit. The Department, as part of its endangered resources and forestry program responsibilities, is engaged in a conservation effort for the Karner blue butterfly with 38 other entities, and has accepted leadership, administrative, and applicant roles.
Explanatory Note:	<p>The Habitat Conservation Plan (HCP) and conservation efforts, consistent with the Federal Incidental Take Permit, are funded by Partner in-kind efforts, but new entities joining the conservation plan must pay a fee, which is to be used for the administration of the HCP. In addition, with an increased focus on recovery efforts, other public and private entities will likely wish to donate funds to the effort.</p> <p>The Department currently has the authority to solicit, accept and expend gifts, grants and bequests to the Department's endangered species and non-game species programs. However, the Department has no current authority to solicit, accept or expend such fees, liquidated damages under HCP agreements, or gifts, donations or bequests to the HCP Partnership and effort, not the Department programs per se.</p>
Desired Effective Date:	Effective Date of the 2007-09 Budget.
Contact Person:	Eric Thompson, Bureau of Management & Budget, 266-8251

*fees
Program
(1) program
suggests
(9+)*

Eric to send more info.

*fees to be partner } under
in the HCP } what
authority?*

*29.604 (6m) -
(7)(b)*

2007-09 Statutory Language Proposals

DIVISION: Forestry

BUREAU: Office of Forest Sciences

ISSUE/TOPIC: Karner Blue Butterfly HCP/Incidental Take Permit and Recovery – Solicitation, Acceptance, and Expenditure of Anything of Pecuniary Value, including fees and fines (DI #5126)

PROPOSED CHANGE:

Create s. 20.370(1)(gt), relating to appropriations, to read:

S. 20.370(1)(gt) Karner *blue butterfly*. All moneys or anything of pecuniary value received under or for administration of the Karner blue butterfly Habitat Conservation Plan (HCP) and federal Incidental Take Permit and the conservation effort associated with it, or for recovery of the species, to be expended for the purposes for which made and received.

EXPLANATORY NOTE:

The Department as part of its endangered resources and forestry program responsibilities is and has been engaged in a conservation effort for the Karner blue butterfly (federal endangered species) with 38 other entities, and has accepted a leadership and applicant role. This leadership role is as a Partner to and facilitator for the HCP collaboration. This effort is not solely a Department program but a collaborative program with other public and private entities.

It is envisioned this conservation program, consistent with a U.S. Fish and Wildlife Service Incidental Take Permit, will continue for a period of at least another 10 years with increased attention towards recovery of the species, which would reduce the burden of conservation efforts for public agencies and private landowners.

The Habitat Conservation Plan (HCP) and conservation efforts consistent with the Federal Incidental Take Permit are funded by Partner in-kind efforts, but new entities joining the conservation plan must pay a fee, which is to be used for the administration of the conservation plan. In addition, with an increased focus towards recovery efforts, other public and private entities will likely wish to donate funds to the effort.

The Department currently has the authority to solicit, accept and expend gifts, grants and bequests to the Department's endangered species and non-game species programs. However, the Department has no current authority to solicit, accept or expend such fees, liquidated damages under HCP agreements, or gifts, donations or bequests to the HCP Partnership and effort, not the Department programs per se.

Background/analysis:

For the past 11 years the Department has been working with up to 38 other entities and governmental bodies, along with the U.S. Fish and Wildlife Service (FWS), to develop and implement a Habitat Conservation Plan approved by the FWS under the authority of a state-wide federal endangered and threatened species incidental take permit (Permit) for the taking of the Karner blue butterfly. The Permit is necessary to allow various land use and land management business activities to continue in areas inhabited by the butterfly, e.g. forest industry, utilities, highway construction and maintenance, agricultural operations.

The original Partners in this venture and the FWS asked the Department to lead or facilitate this initiative and apply for and oversee the Permit. Although much of the conservation will be accomplished through in-kind efforts and land management, operation of the Plan includes fees to be paid by new Partners and

contributions or gifts by Partners and other stakeholders to the HCP collaborative effort, not the Department. The HCP Partners continue to ask the Department to administer these funds on behalf of and for the Partnership. The FWS, for purposes of assuring adequate funding is available to administer the conservation plan, requests assurance that such funds will be dedicated to fund the conservation effort. In addition, the Department and its partners in this venture are increasing efforts to recover the species for the purpose of down listing or delisting it, which would likely dramatically reduce the commitments and costs currently incurred by the public and private entities working with this species.

This request is for the purpose of modifying or creating statutory provisions to allow the Department to further facilitate implementation of this endangered species conservation plan, and incidental take permit initiative, and better assure its ultimate success. The Permit was issued in September of 1999 and is likely to be renewed at least until 2019.

The proposed statute will provide the ability to efficiently and effectively administer HCP funds in support of this conservation program and recovery efforts for the species consistent with the HCP, Partner Agreements and Implementation and Oversight Committee direction.

DESIRED EFFECTIVE DATE: July 1, 2007

CONTACT PERSON: David Lentz (Telephone: 261-6451)



(soon)
State of Wisconsin
2007 - 2008 LEGISLATURE

Agency
budget
draft

PI
LRB-0377/5

RNK: lgf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Do Not Gen

- 1 AN ACT ...; relating to: funding for administration of the Karner blue butterfly
- 2 habitat conservation plan and making an appropriation.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

FISH, GAME, AND WILDLIFE

X Under current law, the Department of Natural Resources (DNR) administers the Karner blue butterfly habitat conservation plan under an agreement with the U.S. Fish and Wildlife Service. Partners in the plan, such as utility companies and private landowners, must pay a fee to participate in the plan. The plan encourages plan partners to engage in activities that minimize harm to the Karner blue butterfly.

This bill creates an appropriation from the conservation fund that specifies that all grants and bequests to, and all fees paid by partners in, the Karner blue butterfly habitat plan are to be used to fund administration of that plan.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 20.370 (1) (gt) of the statutes is created to read:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0377/rdm

RNK..

Pldn
kjf

Date

This draft creates an appropriation, from the conservation fund, to fund administration of the Karner blue butterfly habitat conservation plan. Under s. 29.604 (7) (b), stats., DNR is authorized to enter into agreements with federal agencies with respect to programs, such as the Karner blue butterfly habitat conservation plan, designed to conserve endangered or threatened species of wild animals. Also, under s. 29.603 (3) (a), DNR is required to establish, by rule, an endangered and threatened species list. That list is contained in administrative rule under NR 27.03 (1). I did not find the Karner blue butterfly on that list. Please confirm that the Karner blue butterfly is on the list of endangered and threatened species and accordingly covered by the provisions of s. 29.604, stats.

Please feel free to contact me if you have any questions concerning this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0377/P1dn
RNK:kjf:jf

October 6, 2006

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E-mail: robin.kite@legis.wisconsin.gov



DOA budget

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3 habitat conservation plan to be used for the administration of the plan.

 ***NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

4

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0377/P2dn

RNK: *kgf*

Date

This redraft is identical to the previous version. It has been redrafted only because redrafting is required for the purpose of changing the requester of the draft from the Department of Natural Resources to the Department of Administration.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0377/P2dn
RNK:kjf:sh

October 11, 2006

This redraft is identical to the previous version. It has been redrafted only because redrafting is required for the purpose of changing the requester of the draft from the Department of Natural Resources to the Department of Administration.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Thompson, Eric R - DNR [Eric.Thompson@Wisconsin.gov]
Sent: Friday, November 10, 2006 3:04 PM
To: Kite, Robin
Subject: FW: Draft review: LRB 07-0377/P1 Topic: Karner blue butterfly habitat funding
Attachments: LRB-0377_P1; LRB-0377_P1 Drafters_Note

Robin,

Please note the comments from Forestry on this draft.

ET

From: Hoisington, Jack B - DNR
Sent: Friday, October 20, 2006 8:19 AM
To: Thompson, Eric R - DNR
Cc: Hoisington, Jack B - DNR; Lentz, David R - DNR; Zastrow, Darrell E - DNR
Subject: FW: Draft review: LRB 07-0377/P1 Topic: Karner blue butterfly habitat funding

Eric -

A couple of recommendations -

1 - The monies are intended to be used for a broad variety of purposes; administration being just one. To encompass all intended uses, Dave and Jimmy suggest adding the words "and implementation" following the word "administration" in the last line of the last sentence:

"...to be used for administration and implementation of the plan."

2 - Concerning the drafter's note - Jimmy C. indicates that the Karner blue butterfly is a federally listed endangered species, and, therefore, part of the s. 29.604 list of threatened and endangered species. The updated list of federal species, which specifically includes this species, should be included in the Department's next update of the list in ch. NR 27, Wis. Adm. Code.

Thanks

Jack

From: Thompson, Eric R - DNR
Sent: Wednesday, October 18, 2006 10:18 AM
To: Hoisington, Jack B - DNR
Subject: FW: Draft review: LRB 07-0377/P1 Topic: Karner blue butterfly habitat funding

Jack,

For your (and others) review. See Drafter's note - it looks like we need to establish our authority to administer the Karner Blue HCP. We'll need Jimmy C. on this one.

11/10/2006

ET

From: Ebersberger, Eric K - DNR
Sent: Monday, October 16, 2006 9:45 AM
To: Thompson, Eric R - DNR
Subject: FW: Draft review: LRB 07-0377/P1 Topic: Karner blue butterfly habitat funding

ET,
Please review if you haven't already.
Thanks,
EE

From: Parisi, Lori [mailto:Lori.Parisi@legis.wisconsin.gov]
Sent: Friday, October 06, 2006 2:47 PM
To: Ebersberger, Eric K - DNR
Subject: Draft review: LRB 07-0377/P1 Topic: Karner blue butterfly habitat funding

Following is the PDF version of draft LRB 07-0377/P1 and drafter's note.

11-14

Redraft per Jenna



State of Wisconsin
2007 - 2008 LEGISLATURE

Soon

Rm run

P3

LRB-0377/P2

RNK:kjf: ~~A~~

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FISH, GAME, AND WILDLIFE

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(END)

and implementation



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0377/P3

RNK:kjf:pg

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