

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**AGRICULTURE AND NATURAL RESOURCES COMMITTEE**

Thursday, December 3, 2015  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Kenton Onstad, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Representatives Kenton Onstad, Roger Brabandt, Bob Hunsakor, Dennis Johnson, Dwight Kiefert, Diane Larson, Wayne Trottier; Senators Bill L. Bowman, Robert Erbele, Larry Luick, Joe Miller, Philip M. Murphy

**Others present:** John Walstad, Legal Division Director, Legislative Council  
See [Appendix A](#) for additional persons present.

**OPENING COMMENTS BY THE CHAIRMAN**

Chairman Onstad said the committee will be moving forward with the rewrite of the agriculture chapters in the North Dakota Century Code. He said at this point we are in the fifth interim of the rewrite project. He said the committee may consider leaving some chapters out of the rewrite that were initially part of the plan such as livestock provisions, warehousing provisions that are under the authority of the Public Service Commission, and State Fair provisions. He said the goal is not to make substantive changes to the law, but rather to clean up some language and to move all of the chapters that fall under the authority of the Agriculture Commissioner into a single title within the Century Code.

**SUPPLEMENTAL RULES**

The Legislative Council staff presented a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

**STUDY OF GAME AND FISH DEPARTMENT  
SPECIAL ALLOCATION HUNTING LICENSES**

The Legislative Council staff presented a background memorandum entitled [Game and Fish Department Licenses Provided to Entities for the Purpose of Fundraising - Background Memorandum](#). The Legislative Council staff said there are currently nine sections in Century Code which authorize special allocation hunting licenses to be provided to various entities.

In response to a question from Chairman Onstad, the Legislative Council staff said he was unsure whether the size of the raffle or auction for the special allocation hunting licenses was limited, but he would find out.

Chairman Onstad called on Mr. Scott Peterson, Deputy Director, Game and Fish Department, for testimony regarding special allocation hunting licenses issued for fundraising purposes. Mr. Peterson said the Game and Fish Department's role in the license fundraisers is to simply make the licenses available to the entities and to develop the administrative rules regarding the reporting requirements on the proceeds of the entities that receive the licenses. He said the department is not involved in the raffle or auction process at any point.

In response to a question from Chairman Onstad, Mr. Peterson said there is no limit on the number of participants involved in the raffles or auctions for special allocation licenses.

Mr. Peterson said the number of organizations that receive licenses from the department was summarized nicely in the background memorandum previously presented by the Legislative Council staff. He said the licenses that were allocated to entities in 2015 are displayed in the document that he handed out ([Appendix B](#)).

Mr. Peterson said the department receives information regarding the amount of gross and net proceeds raised by the raffle or auction from each fundraising organization that receives a special allocation hunting license. He said the net proceeds raised from the 2015 season are highlighted in the second document handed out ([Appendix C](#)). He said the document shows revenues from the 2014 bighorn sheep auction because there was no bighorn sheep season in 2015.

Mr. Peterson said the funds generated by the auction or raffle are used primarily at the discretion of the entity that holds the fundraiser. He said the Game and Fish Department, by statute and administrative rule, receives 90 percent of the proceeds from the bighorn sheep auction fundraising efforts. He said those are the only funds that the department receives directly from any of the special allocation hunting licenses. He said the department may partner with the organizations that receive special allocation licenses to work on projects in North Dakota that benefit sportsmen and sportswomen within the state.

In response to questions from Chairman Onstad, Mr. Peterson said the Game and Fish Department does not receive many requests directly to expand the number of special allocation licenses made available. He said most of those requests are made to members of the legislature. He said there was no license for pronghorn antelope for many years because the pronghorn antelope population could not sustain a hunting season. He said no special allocation licenses for pronghorn antelope are issued if there is not a hunting season made available to the general public as well. He said 90 percent of the revenues generated from the bighorn sheep auction are returned to the Game and Fish Department. The remaining 10 percent is retained by the organization that conducts the fundraising auction or raffle. For all other special allocation hunting license fundraisers, 100 percent of the revenues generated are retained by the organization that conducts the auction or raffle.

In response to a question from Representative Larson, Mr. Peterson said if the bighorn sheep population could only sustain one hunting license, the department would likely choose to not have a season instead of trying to determine whether that single license should be issued to the general public or a special allocation entity for fundraising purposes.

In response to a question from Representative Kiefert, Mr. Peterson said he did not believe that the Game and Fish Department has ever sold elk to other states. He said he was not sure that it would be legal to do so anymore. He said it was done in the past by the National Park Service at the Theodore Roosevelt National Park, not by the Game and Fish Department.

In response to questions from Senator Luick, Mr. Peterson said the population of whitetail deer has trended downward over the past 5 years. He said there are three main reasons for the downward trend. First, the state of North Dakota used to have an overpopulation of whitetail deer, so the number of hunting tags made available was increased. Second, there have been a number of harsh winters over the past 5 years which have reduced the population. Finally, the natural habitat for deer in the state has gone down over the same time period. He said as recently as 5 years ago, the Game and Fish Department was issuing approximately 147,000 whitetail deer licenses. He said last year the department issued approximately 43,000 licenses. He said the goal is to build the deer population back up, but not to the point that it was 5 years ago.

Representative Johnson commented that coyotes have also negatively impacted the deer population.

In response to questions from Senator Bowman, Mr. Peterson said there are notable differences between whitetail and mule deer. He said whitetail deer are more prolific than mule deer. He said mule deer populations do not bounce back as quickly as whitetail deer. He said the Game and Fish Department is aware that predators prey on mule deer in the badlands. However, he said, mule deer are also susceptible to harsh winters. He said the mule deer numbers are beginning to rebound, but the department is attempting to rebuild the mule deer population slowly and steadily. He said trying to rebuild the mule deer population too quickly could upset many farmers and ranchers within the state. He said there are a number of theories as to why deer are driven closer to human populations and out of their natural habitat. He said the first theory is that in small farming towns, especially around the railroad, there is often spillage of grains and other food sources that attract the deer. Additionally, he said, human populations can often offer the deer a reprieve from predators. Finally, he said, towns can offer the deer some protection from harsh winter weather.

Representative Hunskor said one of the things that the committee should be trying to figure out is whether the legislature should continue to be the body that makes the decisions on what special allocation hunting licenses to make available to which entities, or if the authority for those decisions should be given to the Game and Fish Department.

Chairman Onstad said the goal of the committee is to determine whether the legislature, or another body, is best suited to have authority over special allocation hunting licenses.

Mr. Peterson said there are many good causes that pursue special allocation hunting licenses for fundraising purposes. He said it is difficult to say which are worthy of a special allocation license and which are not. He said the question becomes where to draw the line. He said the Game and Fish Department would be more than willing to develop administrative rules to help regulate the issuance of special allocation hunting licenses, but the

department is not necessarily pushing to take authority over the special allocation license decisionmaking process from the legislature. He said he believes that maintaining the authority in the legislature, with rulemaking assistance from the department, is the most responsible way to address special allocation hunting licenses.

Chairman Onstad said the Game and Fish Department is ultimately responsible for game management.

In response to a question from Senator Erbele, Mr. Peterson said the Game and Fish Department, in accordance with statute, does not allow for individuals who receive a hunting license in the general lottery to transfer those tags to other individuals who did not receive a tag. As a result, he said, the department would not allow for individuals to transfer their tags to entities to be used in an auction or raffle for fundraising purposes.

Senator Murphy said that he respects the science behind the Game and Fish Department's decisions regarding whether to have a season for various types of game, and how many tags to issue each year. As a result, he said he would encourage the committee to allow the department to have the ultimate authority over special allocation hunting licenses. He said the department is in a better position than the legislature to make decisions on those types of licenses because the department is further removed from political pressures.

Senator Bowman said he prefers the decisionmaking process as it currently stands. He said the Game and Fish Department has expertise that the legislature can rely on when making difficult decisions on special allocation hunting licenses while still maintaining authority in the legislature.

Representative Hunskor said transferring authority of the decisionmaking process to the Game and Fish Department, once administrative rules are developed, would allow for more consistent decisions on special allocation licenses that are less influenced by politics.

In response to a request for suggestions from Representative Kiefert, Mr. Peterson said the most prevalent suggestion on relaxing the regulations regarding predator control is to allow chasing coyotes with motorized vehicles. However, he said, the Game and Fish Department has taken a stand against that due to the potential liability that could result from injuries sustained from a motorized vehicle accident. He said there is already a year-round season to hunt coyotes. He said the department has a catalog that pairs hunters with farmers and ranchers that are having deer depredation issues from coyotes. He said he is not sure what more the department can do to help control the coyote population. He said fur prices can often dictate the number of people willing to hunt predators, but the department has no control over fur prices.

Chairman Onstad requested a copy of the administrative rules adopted by the Director of the Game and Fish Department regarding special allocation hunting licenses. Mr. Peterson said he will provide a copy of the administrative rules and information regarding the costs associated with administering the rules to Legislative Council to distribute to the committee.

In response to a question from Chairman Onstad, Mr. Peterson said the process to get administrative rules adopted by the Director of the Game and Fish Department requires a public hearing to gather input. He said after the public hearing, an initial draft of the rules is published. He said the public then has an opportunity to comment on the rules. Finally, he said, the department meets with the Administrative Rules Committee to get the final version of the rules adopted.

In response to a question from Senator Erbele, Mr. Peterson said the Game and Fish Department does not receive information regarding whether the person who won the special allocation license through an auction or raffle was subsequently successful in their hunt. He said every person who receives a license also receives a survey to determine if the hunt was a success. However, he said, the surveys do not distinguish between licenses received through the general lottery or a special allocation auction or raffle.

In response to questions from Representative Johnson, Mr. Peterson said the Game and Fish Department does not usually have a large number of patrons attending the public hearings held by the department.

Mr. Walstad said it is important to note that the rulemaking requirements have some associated costs that are funded by the department. He said it is not all an inflow of funds, there is also some outflow. He said to legally conduct a raffle in North Dakota, an entity must be licensed by the Attorney General's office to comply with the games of chance laws. He said to be licensed and to comply with the law, an entity must also be registered as a nonprofit organization through the Secretary of State's office.

Chairman Onstad requested that the committee be briefed at the next committee meeting on the oversight of raffles by either the Legislative Council staff or the Attorney General's office.

In response to a question from Senator Bowman, Mr. Peterson said he agrees that the Game and Fish Department needs to be careful and assure that special interest groups do not obtain too much power over time and start to dictate department policy. He said there are checks and balances in place to prevent such outcomes.

### **AGRICULTURE REWRITE PROJECT**

The Legislative Council staff presented a background memorandum entitled [Provisions of the North Dakota Century Code which Relate to Agriculture - Background Memorandum](#). Mr. Walstad said there have been 8 years invested into the agriculture rewrite project so far. He said in that time 27 chapters of Century Code have been rewritten. However, he said, approximately 80 chapters of Century Code remain to be addressed. He said it is the intent of the Legislative Council staff to attempt to complete the rewrite project during the current interim. He said it is a very ambitious goal, but the Department of Agriculture is willing to lend their support to help accomplish that goal.

Mr. Walstad said the Legislative Council staff is planning to bring proposed bill drafts to every meeting for the committee to review. He said the intention of the Legislative Council staff in bringing bills before the committee is to move chapters of Century Code into the new Title 4.1. He said the language will all be new law in Title 4.1, but the bills will be attempting to clean up existing law and move it to a new location in Century Code. He said the intention is not to make substantive changes to the law. He said the bill drafts will show any new language as being underscored, and language being removed will be overstruck. He said attempts will be made to get copies of the bill drafts to the Department of Agriculture in advance of the meetings, so they may review them in preparation for each meeting.

Mr. Walstad said once the committee has approved the initial bill draft, the bill draft will be presented to the committee once again in proper form to be recommended to the Legislative Management. He said the committee may then recommend the bill draft to the Legislative Management through a roll call vote. He said the bills will then be organized for recommendation to the Legislative Management. He said it may be best to combine bills on similar topics into a single bill for recommendation, for the purpose of reducing the number of agriculture rewrite bills to be discussed during the session.

In response to a question from Chairman Onstad, Mr. Walstad said roll call votes are only necessary on final committee action. He said the committee may hold off on a roll call vote until after a bill has been subsequently presented before the committee in proper bill draft form that is ready for recommendation. He said once the committee is satisfied that all bill drafts are in the proper form and are ready for recommendation, the committee is required to take a roll call vote to approve and recommend the bill drafts to the Legislative Management. He said a roll call vote will be required to consolidate multiple approved bill drafts into a single bill draft for recommendation.

### **Interstate Compact on Pest Control**

The Legislative Council staff presented bill draft 17.0020.02000 ([Appendix D](#)) on pest control. Mr. Walstad said according to the Department of Agriculture, the interstate compact on pest control is no longer operational. As a result, he said, the corresponding chapter in Century Code may be repealed.

Chairman Onstad said the bill draft should be prepared in proper form for final approval.

### **Eggs**

The Legislative Council staff presented bill draft 17.0021.01000 ([Appendix E](#)) on eggs. The Legislative Council staff said the entirety of the current sections dealing with eggs have been overstruck in the bill draft with the new sections in Title 4.1 being underscored. He said the sentence structure under the new sections are being rearranged, but there are no substantive changes being made to the law.

In response to a question from Senator Miller, Mr. Walstad said the Legislative Council was not entirely sure who an ultimate consumer is under the law as that phrase is not defined in Century Code. As a result, he said, the language was not changed to avoid making an unintended substantive change to the law.

Chairman Onstad said his understanding is that an ultimate consumer is the final destination point of a product.

Chairman Onstad directed the Legislative Council staff to research the meaning of an ultimate consumer.

### **Poultry**

The Legislative Council staff presented bill draft 17.0022.01000 ([Appendix F](#)) on poultry. The Legislative Council staff said the note section after each section of proposed rewritten language is there to indicate to members of the committee what the logic was behind the changes that were made in the bill draft.

In response to a question from Representative Larson, Mr. Walstad said although the note on page 1, line 7 uses a definition of poultry that includes additional species of birds, those additional species were not added to the definition included in this bill draft because doing so would result in a substantive change to the law. He said the Legislative Council staff was not sure if the definition of poultry should be expanded.

Mr. Shaun Quissell, Livestock Development Division Director, Department of Agriculture, said the list of animals already included in the definition of poultry are the only ones that would be considered domesticated by the Department of Agriculture.

Representative Larson said if that is the case, then she is not sure why domesticated is only applied to geese and ducks in the current definition and not applied to all of the species like in the definition provided for in the note section.

Mr. Walstad said perhaps the word domesticated should be moved so that it applies to all the subsequent species in the definition.

Senator Miller said the point of a rewrite is to make things more clear in Century Code. As a result, he said, applying the word domesticated to all of the subsequent species in the definition would make the most sense.

Mr. Walstad said as he reads the note on page 1, line 7, "domesticated" applies to each of the animals that follows.

Senator Erbele said he was on the Agriculture Committee and he carried the bill on the floor that previously added more species to the poultry division.

Representative Larson suggested that the definition of poultry should be the same in both the bill draft and the section of Century Code used in the note.

Chairman Onstad directed the Legislative Council staff to consult with the Department of Agriculture and to amend the bill draft to make the definitions of poultry compatible.

### **Industrial Hemp**

The Legislative Council staff presented bill draft [[17.0023.01000](#)] on industrial hemp. The Legislative Council staff said this bill draft does not include the current law as it exists in Century Code. Rather, he said, this bill draft shows all underscored language as it would appear in the new Title 4.1. However, he said, because this chapter is fairly new and well written, there were no amendments made to the language. As a result, he said, the language as it appears in the bill draft is exactly as it appears under current law.

Ms. Rachel Seifert-Spilde, Hemp Program Coordinator, Department of Agriculture, said the department would like to propose an amendment to page 1, line 15--after "process" insert "viable kernels of." She said legal counsel has advised the department that they should be licensing anyone who processes or grows any part of the industrial hemp plant. She said any person desiring to become licensed would then have to undergo a background check and pay the \$150 licensing fee. She said the proposed amendment would require anyone handling the viable kernels of industrial hemp that could be replanted to become licensed through the department.

In response to a question from Chairman Onstad, Mr. Walstad said that if the committee is agreeable to the suggested amendment, the committee can instruct the Legislative Council staff to make the proposed amendments and present the revised bill draft at the next committee meeting.

Senator Luick said perhaps a proposed amendment should include any type of particulate or substance of an industrial hemp plant, not just the kernels. Ms. Seifert-Spilde said the intent is to limit licensure to only the people that are handling what is considered a controlled substance by the federal Drug Enforcement Administration.

Chairman Onstad directed the Legislative Council staff to consult with the Department of Agriculture and to amend the bill draft to reflect the proposed change and present the new bill draft at the next committee meeting.

### **Meat Inspection**

The Legislative Council staff presented bill draft 17.0024.01000 ([Appendix G](#)) on meat inspection. Mr. Walstad said this chapter contains a lot of old law which leaves room for clean up. He said the definition of carcass was amended to mean all or part of a carcass in order to eliminate unnecessary repetition in the chapter. He said "commissioner" does not need to be defined in every chapter as long as it is defined at the beginning of the new Title 4.1 so that every reference to "commissioner" in the title means the Agriculture Commissioner.

Mr. Quissell said in reference to the proposed rewrite on page 2, lines 3 through 5, under meat inspection law, big game animals only become amenable under custom processing when amenable species are added to the product, such as pork, beef, or bison. He said under current law any person can process big game as long as the person is not adding amenable species into the product. As a result, he said, the Department of Agriculture would not want big game added in this definition.

In response to a question from Chairman Onstad, Mr. Quissell said a moose, deer, or elk with nothing added to it would not be allowed to be resold unless it is a farmed species that is slaughtered under inspection.

Mr. Walstad asked how it can be determined whether a person who is processing a deer is adding pork or another animal to the product. Mr. Quissell said that custom processing goes back to a business that is processing animals on behalf of someone else. He said anyone can process their own animals and not be subject to the meat inspection laws. He said it is only when a person takes an animal to a custom processor, and that person adds to the product to be sold to third parties, that it becomes amenable and falls under the meat inspection laws. He said if a person takes an animal to a custom processor to be processed and the animal is given back to the original owner, that animal is not subject to inspection. However, he said, if the custom processor is located in a facility that conducts custom processing subject to meat inspection laws, then even animals not intended for resale are subject to the laws. Ultimately, he said, adding bison to the definition of animal is fine, but the addition of the language after poultry should be removed. He said custom processing does not need to be included in the definition of animal because it is defined later on in the chapter.

Mr. Walstad said on page 9, line 25, the Legislative Council staff forgot to remove parts of carcasses which should have been done. He said the Legislative Council staff will make that change.

Mr. Walstad said the language on page 11, lines 10 and 11, appears to be wrong and that the language should say not suitable for use.

Senator Luick said it appears that the intent, starting on line 7, is to identify the food processing part itself.

Chairman Onstad said it appears the section is trying to identify products that an inspector would detain. He said the lines are referring to food product that the plant thought was usable as human food, but the inspector is saying that it is not usable as such. He said it is important to note that starting on line 7, and going to line 15, is a single sentence, which may be part of the issue.

Mr. Quissell said the law is attempting to define a situation where an inspector finds a dead, dying, or diseased animal that the processing plant was still attempting to use as an article of food. He said this provision allows the inspector to detain that product. He said the next sentence regarding animals intended to be distributed in violation of this chapter is trying to reaffirm the same language.

Mr. Walstad said the language appears to mean that there is something wrong with the animal and if there was not, then it would be useable as human food.

Mr. Walstad said this bill draft deals with Title 36, which is livestock. He said the new Title 4.1 will be the agriculture title. He said some of the chapters in Title 36 have already ended up in Title 4.1 as part of the ongoing rewrite project. However, he said, agriculture and livestock have always existed under separate titles. He said it may not be the best approach to combine them into a single title.

Chairman Onstad directed the Legislative Council staff to work with the Department of Agriculture to rewrite the language on page 11, lines 11 and 28, in a more clear and concise manner. He said perhaps language along the lines of "and would otherwise be useable as human food" or "and but for the adulteration or misbranding it would be usable as human food." He directed the Legislative Council staff to address the length of the sentence. He also directed the Legislative Council staff to consult with the Department of Agriculture regarding whether livestock and agriculture should be combined under a single title.

### **County Extension Agent**

The Legislative Council staff presented bill draft 17.0028.01000 ([Appendix H](#)) on county extension agents. Mr. Walstad said under the current bill draft this chapter is being moved to Title 4.1. However, he said, the Legislative Council staff is not sure whether this chapter is best suited in the new agriculture title or elsewhere in Century Code. He said the extension agent provides services related to agriculture, but the chapter has more to do with counties or North Dakota State University. He said on page 1, line 8, authorizing or discontinuing an extension agent for the county requires a petition. He said this was originally addressed later on in the chapter. However, he said, that section was overstruck because it can be more clearly and concisely written, without being redundant, by

including it in Section 1. He said the language on page 1, line 19, and page 2, lines 4 and 5, is language that is included in the tax levy chapter of Century Code. It is important to include it here as well so that an interested person does not have to search throughout the rest of the Century Code to find the relevant language.

Mr. Walstad said the Legislative Council staff has made no changes to Sections 8, 9, 10, 12, and 13 of this bill draft in order to ask for input from the North Dakota Association of Counties. He said it was unclear whether these sections are still in current practice. He said Section 14 of the bill draft is overstruck because it was moved into a previous section of the bill draft.

In response to a question from Senator Murphy, Mr. Walstad said in addition to the North Dakota Association of Counties, the Legislative Council staff will also ask for input from North Dakota State University on this bill draft.

In response to a question from Chairman Onstad, Mr. Walstad said this chapter seems like a better fit in Title 11, which deals with counties. He said the agriculture title should generally only contain things that the Agriculture Commissioner is going to administer. He said the Agriculture Commissioner has no involvement in the contents of this chapter.

Senator Bowman said one-half of the salaries for county extension agents comes from the state.

In response to a question from Senator Bowman, Mr. Walstad said the sections of the bill draft that were unchanged, pending input from the North Dakota Association of Counties, include information regarding the salaries of county extension agents.

### General Livestock Provisions

The Legislative Council staff presented bill draft 17.0029.01000 ([Appendix I](#)) on livestock. The Legislative Council staff said he was unclear as to the meaning of the word "neat" on page 2, line 3.

Dr. Susan J. Keller, State Veterinarian, State Board of Animal Health, said when the provision was written "neat cattle" meant domestic bovine as opposed to exotic cattle. She said it would likely not make a difference substantively if the term "neat" was struck from the provision.

Chairman Onstad directed the Legislative Council staff to go ahead and amend the provision to remove the word neat.

Chairman Onstad said he is unsure whether Sections 1 through 5 of this bill draft are necessary at all. Mr. Walstad said he believes these provisions were likely written when the majority of the state was open range and cattle were commonly found on railroad tracks. He said he thinks these situations rarely, if ever, occur anymore.

In response to a question from Representative Larson, the Legislative Council staff said as the statute currently reads, Section 2 of the bill draft means that only the owner of the dead animal, employee or agent of the owner, or an employee of the railroad, may skin livestock killed by a train.

Senator Erbele said Section 36-21-05 should just be repealed entirely.

Chairman Onstad directed the Legislative Council staff to amend the bill draft to repeal Section 36-21-05.

In response to a question from Chairman Onstad, the Legislative Council staff said the liability of the owner of a dog who kills or wounds livestock is addressed in Section 4 of this bill draft under Section 36-21-11.

Senator Miller said he was unsure if Section 3 and the remaining sections of this bill draft are necessary at all. He said the majority of this should already be covered under animal cruelty laws. The Legislative Council staff said he will conduct research to determine whether similar provisions exist elsewhere in Century Code.

Mr. TJ Jerke, North Dakota State Director, The Humane Society of the United States, said it is questionable whether these issues are adequately addressed under the animal cruelty laws. He said it will require some research.

Senator Bowman said there should be a penalty for people who fail to control their dogs that subsequently kill another person's livestock. Mr. Walstad said civil liability is addressed in Section 4 of the bill draft.

In response to a question from Senator Luick, the Legislative Council staff said the sections being addressed in the current bill draft only deal with dogs. He said animals such as eagles, hawks, and falcons are not subject to the provisions in this bill draft.

In response to a question from Senator Bowman, Chairman Onstad said making the owner of dogs that damage livestock liable for the legal fees of the livestock owner would need to be an amendment to the bill draft.

In response to a question from Representative Larson, the Legislative Council staff said it is correct that Section 5 of the bill draft is written in a manner that assumes it is the fault of the railroad if livestock is killed by the railroad, regardless of the circumstances surrounding how the livestock got onto the railroad tracks. He said whether or not that is fair is a policy consideration that can be determined by the legislature.

### **Northern Crops Institute**

The Legislative Council staff presented bill draft 17.0031.01000 ([Appendix J](#)) on the Northern Crops Institute. Mr. Walstad said this may be another example of law that is currently located in the agriculture title, but is better suited to be located elsewhere in Century Code. He said the Northern Crops Institute is administered by North Dakota State University. He said the only thing that the Agriculture Commissioner has to do with the Northern Crops Institute is that, on page 2, the Agriculture Commissioner is a member of the Northern Crops Council. He said these provisions may be better located in Chapter 15-12 regarding North Dakota State University.

Mr. Walstad said if the committee chooses to move this chapter into the title dealing with North Dakota State University, an additional section should be added to the bill draft to repeal the current section of Century Code.

In response to a question from Chairman Onstad, Mr. Walstad said language regarding continuing appropriations usually is included in these types of sections where entities are authorized to accept gifts and grants. He said the Legislative Council Fiscal Services Division agreed this was the proper way to draft this type of statute.

Chairman Onstad directed the Legislative Council staff to consult with North Dakota State University about this rewrite, along with the rewrite on the county extension agents to see if they are agreeable to placing these provisions in the title under their authority.

### **Agricultural Products Utilization Commission**

The Legislative Council staff presented bill draft 17.0032.01000 ([Appendix K](#)) on the Agricultural Products Utilization Commission. The Legislative Council staff said this bill draft has amended the Century Code to move this chapter into Title 54 on state government. He said this is another chapter that may not be best suited under the new agriculture title. He said the Agriculture Commissioner has a little bit of involvement in this chapter, but the Department of Commerce has more control over the commission.

The Legislative Council staff said the language on page 3 regarding actual and necessary expenses was removed because it is assumed that expenses incurred by members of the commission in performance of their duties are actual and necessary to their duties.

In response to a question from Chairman Onstad, Mr. John F. Schneider, Director, Agricultural Products Utilization Commission, said the intent language included in Section 1 of the bill draft is included in their mission statement. He said they would have no objection to that language being overstruck and removed from Century Code.

### **COMMENTS BY INTERESTED PERSONS**

Dr. Beth Carlson, Deputy State Veterinarian, State Board of Animal Health, said regarding the poultry bill draft, the definition of poultry should be changed to adhere to the federal definition of poultry which applies to the national poultry improvement plan for poultry produced for meat and eggs. She said on page 2, consider changing communicable diseases to contagious or infectious diseases in accordance with the terminology used by the State Board of Animal Health. She said the United States Department of Agriculture Bureau of Animal Industry is now called Veterinary Services. She suggested the committee consider changing that language. Additionally, she said, the term baby chick jobber is redundant with hatchery operator and is not necessary in Century Code.

Dr. Carlson said in regards to the livestock bill draft on Chapter 36-21, all the sections that remain in that chapter fall under the authority of the State Board of Animal Health. She said it is useful to have them in a chapter by themselves. She said the State Board of Animal Health would like to be kept informed if chapters under their authority are being moved to new areas of Century Code.

In response to a previous comment from Senator Miller, Dr. Carlson said the humane treatment laws say that you are not guilty of animal cruelty or mistreatment if you kill an animal destroying your livestock. However, she said, you still may be liable for damages.



Chairman Onstad said for future rewrites, the State Fair is currently under agriculture, but it is more commercially based and may be better suited elsewhere in Century Code. He said the next committee meeting will likely be scheduled in early February.

No further business appearing, Chairman Onstad adjourned the meeting at 2:00 p.m.

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Dustin Assel  
Counsel

ATTACH:11