

SENATE AGRICULTURE & VETERANS AFFAIRS COMMITTEE
SENATOR LARRY LUICK, CHAIR

TESTIMONY PRESENTED BY

MICHAEL MONROE, BUSINESS SERVICES DIRECTOR

Chairman Luick and members of the committee, I'm Mike Monroe, Business Services Director for the Office of the Secretary of State. I'm here to provide testimony in support of SB2150. Last session, HB1371 created a new entity type in the corporate farming act - authorized livestock farms - and removed, clarified, and updated outdated language in NDCC 10-06.1. This bill provides additional clean-up language that was omitted in the original bill and will assist in reducing confusion for farmers or ranchers regarding membership interests for limited liability companies. Our office partnered with Senator Thomas and the Department of Agriculture on these proposed changes.

The proposed changes in this bill in no way changes the intent nor does it expand or reduce the scope of the corporate farming law that was passed last session.

OVERVIEW SUMMARY OF BILL SECTIONS

SECTION 1: This section adds language to subsection 7 of NDCC 10-06.1-01. The addition of "or ranch" on page 1, lines 18 and 19, correct code to ensure *ranchers* are not excluded in the definition of farming or ranching.

SECTION 2: This section makes changes in subsection 3 of 10-06.1-12.2. On page 2, on lines 3, 8, 12 and 17, the word *individual* is replaced with "person" to align with the definition provided for property ownership under NDCC 47-01-01. Lines 5 and 14 replace *entity* with "organization" to align with the definitions in statute which include a foreign or domestic association, business trust, corporation, enterprise, estate, joint venture, limited liability company, limited liability partnership, limited partnership, partnership, trust, or any legal or commercial entity.

SECTION 3: This section cleans-up language on page 3, line 4, from controlling *person* to "individual or organization." The language change made on lines 7 and 8 are to reflect who is an authorized person under Chapter 47-10.1 – Agricultural Land Ownership by Aliens (NDCC 47-10.1-02).

SECTION 4 & SECTION 5: These sections provide adjustments to reduce confusion and make language consistent for authorized livestock farms operating as limited liability companies (NDCC 10-06.1-17) and authorized livestock farm corporations (NDCC 10-06.1-17.1) with regards to their annual reporting requirements.

As it has created confusion among filers, we are asking to strike the existing language in Section 4, page 3, that limited liability company membership interests are itemized by classes and series and instead replace it with whatever they designate in the operating agreement of their respective entity type. This language is echoed under Section 5 for authorized livestock farm limited liability companies on page 4, lines 10-14. Section 5 also includes similar updates regarding aggregate numbers of membership interests and compliance with 47-10.2.

Also in Section 5, on page 5, lines 6 and 9 updates language to reflect a more accurate statement for whether each is actively engaged in the operation of the corporation or limited liability company as opposed to the previous language.

REQUEST FOR AMENDMENT: We are requesting an additional amendment to the bill to correct language for authorized livestock farm corporations and limited liability companies, which is included at the end of my testimony. Section 10-06.1-12.2, subsection 1, subdivision a., states “if an authorized livestock farm corporation, the corporation may not have more than ten shareholders.” Subdivision b., states “if an authorized livestock farm limited liability company, the limited liability company may not have more than ten shareholders.” Our proposed amendment strikes may and replaces it with “must,” for consistency in law and to maintain the original intent of HB1371.

I ask that you consider our suggested updates for better administration of chapter 10-06.1 and would be happy to stand for any questions.

PROPOSED AMENDMENT TO SENATE BILL NO. 2150

Create a new section in SB 2150 to amend section 10-06.1-12.2:

Subsection 1 of section 10.-6.1-12.2 of the North Dakota Century Code is amended and reenacted as follows:

1. a. If an authorized livestock farm corporation, the corporation ~~may~~ must not have more than ten shareholders.
- b. If an authorized livestock farm limited liability company, the limited liability company ~~may~~ must not have more than ten members.