

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1430

2001 HOUSE AGRICULTURE

HB 1430

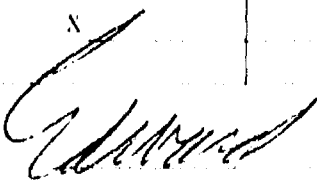
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1430

House Agriculture Committee

☐ Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
3	x		1 to end
4	x		1 to 2700
Committee Clerk Signature 			

Minutes.

Rep. Brusegaard - District 19: HB 1430 is before you this morning and the last two sessions I have looked at a lot of different ways to approach this. As you can see this deals with 10-06.1-09 which is the provision that allows corporations to engage in the business of farming or ranching provided they meet certain requirements. Those requirements in current code limit operations to fifteen shareholders or members. And then there is a wealth of verbiage that strictly delineates that those members must be related to other shareholders by blood or marriage. When I approached this legislation I wanted to make a small change, to fifteen members that weren't related. As you can see on this bill before you this amounts to a substantial portion of the language in the code. Think about that, the only thing we are changing from what currently exists is the fifteen members don't necessarily have to be related by blood or marriage. This would allow myself when I am in need of capitol to have a friend of mine invest in my farm. I have tried to be as careful as I could to address the concerns of people opposed to this legislation. One

of the things we did is make the principle shareholder actively involved in the operation of the farm. The majority shareholders are making the decision on planting and production. This is to insure that the people who have invested the majority of the money take an active interest in how the farm is run. The bill is fairly self explanatory. A couple of things you can look at - this legislation will give farmers more access to cash and yet protect the farm. We need to find a way to arouse capitol. The other thing, I used the language that the principle shareholder must be actively engaged in the operation. I wouldn't be opposed to the language that the majority shareholders need to reside on the farm or ranch. It seems to me we spend a lot of time trying to find bail capitol for agriculture. Most of the time it is in added value production. These people need capitol. This is the vehicle that would allow them to get it. People today will oppose this bill and testify that it will lead to bigger and fewer farms in ND. Has the current corporate farming law kept us from having bigger and fewer farms? Stronger rural communities? The current corporate farming law serves one purpose and that is to provide a false sense of security in rural ND. We need to become proactive to farmers. We need to protect from large corporate interests. I think the legislation before you does that. I will stand for questions.

Rep. Lemieux: In the last few years we have seen a rapid expansion in the pork industry in Manitoba. Are you familiar with, have corporate dollars been involved in that?

Rep. Brusegaard: As many of you are aware, I dealt closely with the pork industry last year. The hog industry in Canada has grown proportionately greater because of partnerships with corporates. I think that while this bill will make it easier for hog operations to compete with Manitoba, I also believe that they can do it now if they want to. They partner with people higher up on the ladder of production. I hate to look at this bill as strictly helping out large animal

feeding lots, it is targeted more for the individual farmer or rancher like myself. I think it is tragic the amount of growth in Manitoba.

Rep. Mueller: I understand why we want to become involved in corporations such as this given what we have in terms of our ability to generate income of those farms. I think the fundamental issue here is the value of our commodities. I am not so sure that this vehicle will begin to address this issue.

Rep. Brusegaard: I am not going to stand up here and tell you that this legislation is going to make agriculture in ND a fantasy, but I think it will begin to address one problem we have which is acquisition capitol. Another problem is the production level we have experienced over the last eight years. I think that there are people who would like to be involved with the process and are unable to own a farm themselves. Some investments made might not necessarily be returned. I think it is a viable alternative.

Rep. Berg: One of the things you suggested was taking a look at the structure of the corporation. That all members must be individuals rather than corporations under that. Do you feel that would accomplish what you are personally trying to do, bring that capitol in and yet you would become the corporation. Is that something you would like to explore further.

Rep. Brusegaard: That would accomplish all that could be accomplished, my goals could be accomplished. It would be the first step in moving ND Ag forward.

Roger Johnson - Commissioner of Agriculture: I am here to oppose HB 1430. (See written testimony).

Rep. Berg: On page three of your testimony you talk about economic concentration and on the fourth line down you say it will ultimately will increase and create higher prices for food. If food prices went up 30%, wouldn't that be good for our future?

Johnson: It would if our producers got the money, but the point behind the economic concentration, what really happens is it is not about deficiency, it is about power. Power means you can extract more of the price from the marketplace for that corporate bottom line. The result of which you drive prices lower. If in fact higher prices for food results in higher prices for producers I would say yes. But, the evidence indicates that is not the result.

Rep. Berg: I fail to make that connection totally, if economic power drove the price of meat up 50% on the retail shelf. That would create an opportunity for independent producers to sell directly to meat packing plant, or whatever.

Johnson: Meat is a good example. If the corporate entity that is selling the meat into that meat case is the same one that is buying the beef from individual producers and their bottom line is driving their decision and they are able to put a higher price only because they have become a sole supplier which is ultimately a goal, a monopolistic supplier and arbitrarily set prices where you choose that is economic power. That same economic power get exercised against those from which they purchased that beef to begin with.

Berg: Than that monopoly and the other producers would have their product on the shelves next to the higher priced product and there would be a benefit to that. My question is, what programs have we done in the last eight years that have put capitol into farming operations. Or that are not alone?

Johnson: Two sessions ago, we did some substantial rewrite of limited liability ownership provision for the very reason.

Berg: The question is what good has that done?

Johnson: I think it has helped. We are seeing more value added ventures as a result of that. It has been a tool and is being used. You ought to be considering another tool that can move us in that

direction. It is important for us not to forget that the ultimate issue we have is the issue of prices. But simply providing capitol in the absence of profit, you can debate for a long time if that does you any good, unless you buy into the economic power argument.

Rep. Mueller: It strikes me that we would certainly at a minimum be changing the definition of family farming. Now, the family farm issue I think has been received relatively well by the public in this United States. That has some influence on the kind of distance that we have managed to get. I guess I would have to comment, if we are not longer a family farm, do you believe that will have some implications and some ramifications for Federal farm policy. We are talking about capitol and if the Federal government hadn't been in my operation in the last few years, I wouldn't be farming. That is where I get a lot of my capitol. My question is if we are no longer family farms, are we going to be considered something different by the Federal government?

Johnson: I think all of you would acknowledge that there are a lot of people showing up for these hearings that may have some impact on how you tend to look at legislation. I say that in support of the point you're trying to make that there is public confidence and a good feeling towards the family farm system of agriculture. You are more likely to get some farm policy that is beneficial to those producers. If you move away from that structure, and simply have corporate agriculture, the likelihood of getting public support would diminish.

Rep. Berg: If in fact this bill would be amended to require the share holders to be individuals and not other entities, how would that differ from our LLP's that you indicated were helping out in ND?

Johnson: I would have to look at the amendment. It is instructive for us to remember the experience I related at the onset of my testimony. We spent days trying to get our arms around some sort of amendment.

Rep. Berg: We are talking about an amendment that would basically set up the same thing as a LLT, only it would be called a corporation. Would we not?

Johnson: What is the point of it. What's the point of the change?

Rep. Berg: So you would support that?

Johnson: I don't think I said that, I said what is the point of changing something so it provided you no more eligibility or tools than are already in existence?

Rep. Berg: The taxation would be different on it?

Chairman Nicholas: Most of the LLTs are still one man, one vote. You can have different types of investment levels, but it is still one vote whether you have \$100 or \$100,000 investment. Or a corporation the voting structure follows. Proponents of HB 1430.

Brian Kramer - ND Farm Bureau: We support HB 1430. (see written testimony).

Rep. Onstad: Make note that for ventures that intuitive seed investment capital is needed I am assuming you are referring to value added ag parts. You are asking for some outside individual to make an investment for him in the value added process. Is that correct?

Kramer: Either that or in the production side of it.

Onstad: So isn't it value added, don't we already do that now?

Kramer: There are a number of values that are available. But taking a look at that and in responding in some part to Rep. Mueller's question, that when commodity prices are so low, why would someone want to invest in something like this. One of the things that can help when prices are so low is the economy of scale. If you are getting a \$1 a head fro the beef you raise, profit, if

you raise enough of them you can eek out a living. If I invest in a project like this at some point those beef cattle will be worth a lot more at some later date, and I can recoup my investment and make some profit. I think that is what this bill will allow.

Rep. Lemieux: I would like you to answer the question, to what advantage is this over an LIT?

Kramer: I guess from my standpoint it would allow me an opportunity into something by being a silent partner. I think it will provide some other opportunities. That is what we need in agriculture today.

Paul Becker - Farmer: I am here today in support of HB 1430. At this time there is already out of state interest in buying farmland. With the limits of this bill, I think it only gives ND farmers another option to set up farming.

Rep. Mueller: Who would come in and be involved in this operation. If we don't see any of them on the horizon, why would we want to do this?

Becker: I guess referring to Rep. Brusegaard that maybe a doctor or attorney that had a farming background that isn't looking for big economic deals. Just wanted to be involved in something like that. The other thing is we have been taught to buy low and sell high and I guess this the time to get in.

Rep. Mueller: Do you know some of those folks that would like to come in and be involved in my farm operation for nostalgic reasons would you?

Chairman Nicholas: Anyone else wish to testify in favor of HB 1430. Anyone opposed?

Walter Hardy: The thing that worries me about this bill, is I think one of the things we are trying to do in this state is to bring our young people back to this state. I think that if we want to get a doctor from Wisconsin involved in a farm, this isn't going to help the population at all. What we

need is younger farmers on the land. Three farmers having 3000 acres instead of having investors from out of the state.

Rep. Lloyd: How do you propose we get these young people back here?

Hardy: That is a really good question. I don't think we need to do it this way. One thing we need to do is to give our subsidies to the farmers that need it. As our economy gets worse, as the land is going up and the cash rent is going up and it forces young farmers out of business and it only helps big operators. If we can funnel these payments towards the smaller farmers. That will make a lot of difference.

Rep. Froelich: What you are purposing, I see what you are saying, but is it better to have three farmers starving to death, than one?

Hardy: Well, I don't think we need a bunch of doctors from Wisconsin investing in ND. What are we going to have left here. One farmer on 10,000 acres. What are we doing to our population?

Rep. Merle Boucher - District 9: I will be offering opposition to this legislation. I am a little scared when I hear the terminology, tweak this bill. No doubt in the area of agriculture there is a crisis. It is a capitalization crisis that exists out there. As we all know in today's modern term capitalizing an agricultural operation is going to be viable. It costs many hundreds of thousands of dollars. For an individual to accomplish that it can be extremely difficult. I think we need to look at this, someone needs to assist the farmers in this capitalization process. I really have fears in terms of this legislation you have in front of you in terms corporations. Because a corporation itself does extend the implication for those interests we think of in large terms and that is big corporations. When we talk about where we want to go, it is a greater situation than just capitalization of agriculture, it is a market issue. As a legislative assembly we have taken a rather

anemic position in addressing the market issues in this country. We as independent farmers operate in an arena where we don't have what we call a competitive market. We are out there competing with each other and many other interests for capitol and at the same we are selling our commodities in a captive market. That is what is wrong about the system that exists today. I think we have to take a look at capitalization of agriculture. We have to look at the total agricultural position from top to bottom and how we as individual producers can participate in that process and how we can open up resources to make that process more accessible and more available to us. So if we can participate in those value added co-ops and corporations. I think the availability of capitol is made to us so we can become shareholders and stockholders of the entities that produce that final product where we know the margins of profit really exist. We know a box of corn flakes cost \$3.50 and there's a nickels worth of corn in there, which tells me we could double the price of corn and only add another nickel to the cost of the product. So there's something more involved out there. I do agree with those people who try to capitalize in the added value products of agriculture, and I feel as a committee we should work diligently in that particular direction. The bill you have before you, I am very leery of it and I encourage you to leave it alone.

Sen. Elroy Lindaas: I appear here against HB 1430. My parents farmed in 1917, the end of World War I, World War II, the recession, the high times, the low times. Corporate farming was and continues to be a bad idea. Our predecessors understood that. Some experiences we lack leave us open to some ideas that might be dangerous. There seems to be a misconception about corporate entities because of their financial advantage and size. Somehow benevolent, but somehow the capitol they bring with them would be doled out to the benefit of everyone. To that I would say they make no investments that would not pay a larger return and with that profit could for the

most part leave our state. The other concern I have is the corporate policy, the main thing, the bottom line. Less important are personal, environmental and local concerns with relationships. The law we now have should be left alone.

Roger Beck: I come in opposition to this bill for many reasons. I come from a family of 7 boys and all of us wanted to farm. Four of us did. Three of the four are working off the farm now, 2 were pork producers along with grain farming. When we had this last pork crash, they said the heck with it and got out. I sure didn't see the pork price drop in the stores to compensate for the price of pork to farmers. The corporate farmers out there are still going, it never stopped the local stores, it never stopped the local elevators, it is all trucked in. What is the logic of having corporations if they don't help the local communities? They help the bottom lines. They want someone to invest. We have enough crops to invest in now. We need the price of commodities to be raised. I don't know of any one here who is that weak in math that can't figure out that when the cost of production is more than what you can sell a commodity for, who in there right mind is thinking this is a good place to invest? We gotta get the prices up where they can do some good first, then we won't have trouble raising investors. I really question the logic of needing a corporate sponsorship of any kind when we don't have the income to get things going? As far as communities we have lost so many farms now, no one can afford to come back in. We need to fix the income side of this and the rest will fall in place. So I stand in opposition of this bill.

Rep. Lemieux: Having struggled through the pork plunge. Could it have been advantageous to have a corporate partner that would have shared the burden of capitol investment and possibly facilitated the risk management? To have helped you and your brothers through that time period. I allude again to the producers in Canada who used the Pork Industry as a tool to add value to their poor grain?

Beck: I don't know. I feel the bottom line is a lot more important to these corporations than anything else.

Rep. Lemieux: In your hog operation, would it be favorable if a company such as locally owned Cloverdale were interested in coming out and investing with you. Cloverdale was in here last week talking about how every day they are importing \$75,000 worth of hogs from Canada because we lost all these producers in ND. Would you be in opposition to opening the avenues up so you could enter into an agreement with Cloverdale? It would be a corporate agreement, that is the only way they could participate.

Beck: I have no problem with something like that, an instate program to start with. But, again, I'm speculating in the sense of what I would be doing. I do feel if it is a local company, I would rather do that than with someone from out side of the state. I have another concern with appropriations that we have invested in Pro Gold to help them out and a lot of stuff gets shipped out to Colorado and they operate the program out there. If it's corporate, in state financing, but when it comes to out of state, we are opening up Pandora's box.

Rep. Lemieux: This committee starts with, how can we help rural ND? We've looked at a lot of different avenues. We need the input of a lot people. We need your input, we need to ask questions, I appreciate your participation.

Beck: I just want to make my point too.

Chairman Nicholas: Your brothers in the hog business, were they able to do contract pricing for their hogs to have avoided the 11 cents debt? Those hogs are forward contracted for several months out. Were you offered that? What was the size of the operation?

Beck: The size was 30-40 sow size net profitability. One of my brothers did feed them out. Right now I don't think they had access to it. I think part of it was because of their size they thought

they couldn't do it. Mainly it was raising them and putting them on the market once every two weeks.

Chairman Nicholas: Any other questions?

Richard Schlosser - ND Farmers Union: I am in opposition of HB 1430. (see written testimony).

Rep. Lemieux: In the capitalist world we live in we borrow a lot of money to invest in agriculture wouldn't this facilitate farms instead of having to borrow money and pay interest to be able to have partners to bring capitol in and their share of the risk and rewards would not be reflected in an interest payment to a financial institution or elsewhere but rather they would share the risk.

Schlosser: No. 1 I need to stand on the policy of where are members feel. The producer out there. No. 2 you mentioned amendments to the Century Code allowing Triple L to be used. I guess we stood back and didn't see a problem with that, but we do have a concern about corporate capitol being brought in.

Rep. Froelich: Much as I thought about the tax advantages of corporations, what advantages would you and I have if we formed a corporation and you invested in my land, what tax advantages would there be?

Schlosser: All I have to respond to that is that there are tax advantages, maybe someone else could speak to that issue.

Woody Barth: I am here today in opposition to HB 1430. It is my belief that the capitol or lack thereof is not the overriding problem with today's agriculture. We need a decent price for our commodities. The concentration in agriculture in the marketing and food retail end of the supply chain. There is lack of equity capitol that we as farmers put back into our operations. Low agricultural prices cannot support increases in debt for ND producers. Our system of family farms has worked very well. I believe that the change to corporate farming would not help ND

producers. Programs for capitol can be obtained if we as producers can get a decent price for our commodities to pay back that capitol. The land we have, is the last chance of the whole food chain is that we control that land. WE must assure that control and responsibility of our agriculture does remain vested in our family farmers.

Rep. Froelich: If this bill was amended so it excludes personal property would this bill be more farmer friendly?

Barth: I still have trouble with corporate America or outside ventures coming in here to agriculture. I still feel outside capitol at some point and some time wants two things -- control and a return on their investments. I feel we as family farmers will lose control and profitability by shifting up to cooperate vestments. If we move more corporate we are losing control and income possibilities.

Rep. Lemieux: Do you have a problem with corporate investing in hog facilities and in joint corporate ventures with farmers?

Barth: Once again, I shy away from this area. I think farmers would be willing to invest in their own hog facilities if in fact they could get a guaranteed price formula. If they could invest in their own facilities and control their own destinies.

Jerry Alrich - Farmer: (See written testimony).

Dale Barkhart: I am asking this committee how much you know about the CED? Does anyone know about the National Committee for Economic Development? Does anyone know what happened in the early 70's and 69? The CED said we have poor farmers out there and we need to take the land away from them. Things will be priced at a price that we will be making money. That is the only thing they are interested in. The law says the farmer may price his product at any price he needs to stay in business as long as he doesn't

(some banter)

John Crabtree - Director of the Future of Agriculture: The commission is not taking a position on this bill. I want to try to answer a question Rep. Lemieux asked. We are clearly discussing ownership of land. Whether or not corporations should own land. I think Rep. Lemieux, the answer to your question is there are currently avenues for allowing for investments that would address what you are saying. This change in the law would make this more available. Are we creating avenues for other companies to invest in our ownership. I think we should also talk about ownership of the livestock not just the investments or marketing contracting, we need to make sure we don't create

Gail Erickson - ND Progressive Coalition: We urge you to reject HB 1430. (See written testimony).

Bob Viken: I felt compelled over this issue to drive down here. I am here on my own behalf. I only have my opinion on how this will impact my life and many ND ag producers. The decline in the number of family farms has not been due to the lack of capitol investment, but due to the failure of the Federal government to have a long term sustainable farm bill. Bringing outside capitol into this equation will only speed up the demise of rural ND. It is already a huge challenge to operate a farm. This bill will draw an outside muscle that is not dependent upon the profitability of production agriculture. The only benefit of this bill is if you have already decided to retire or quit farming and your only concern is to get big money for your farm. You end up raising the bar so the only way a young producer can stay in production is to incorporate and draw outside investment capitol. I am not opposed to competition, but this competition must be on a level playing field. Not only will you be keeping people like me from farming in ND, but also from living here. Current law helps to keep our current ND lifestyle. If I had my own way,

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House Agriculture Committee
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we would eliminate all our corporate farms. If you want only 1 or 2 farms per township you should vote yes on this bill. If you don't mind accelerating the decline of population in ND you should vote yes, if you don't mind closing rural schools, churches and hospitals you should vote yes on this. But if you love ND's rural way of life, then please just say no.

Eric Schultz: I have come back to ND 9 years ago to farm. I got into farming and thank God I was ignorant to the marketing end of this because I had a neighbor that was doing exactly what this bill is trying to do which is expanding. I got into farming and it has been tough. I stand here and ask that you vote no on this.

Chairman Nicholas: I will close this hearing.

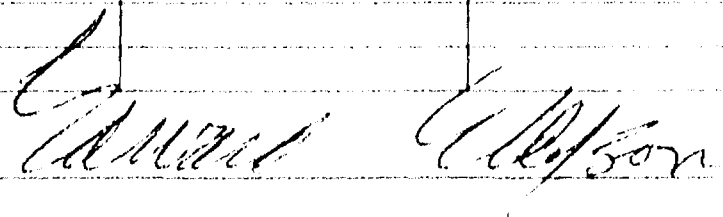
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1430

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--16--01

Tape Number	Side A	Side B	Meter #
ONE	A		1620 TO 1774
Committee Clerk Signature 			

Minutes:

1A:CHAIRMAN NICHOLAS: Committee Members what are your thoughts on HB 1430.

We heard that Bill yesterday also.

Representative Brandenburg: I move for a DO NOT PASS , Representative Renner, second the motion. Is there any discussion Committee Members

The clerk will take the Roll on DO NOT PASS ON HB 1430.

2-16-01

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

30
HB 14

House AGRICULTURE Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By DAVID M. JOHNSON Seconded By RENE A. HARRIS

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman	✓		Rod Froelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux	✓	
Rick Berg	✓		Philip Mueller		
Michael Brandenburg	✓		Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Slandvig	✓	
Myron Koppang			Dennis J. Renner	✓	
Edward H. Lloyd		✓	Dwight Wrangham	✓	
Bill Pietsch	✓				

Total (Yes) 12 No 1

Absent 2

Floor Assignment Johnson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 16, 2001 2:21 p.m.

Module No: HR-29-3715
Carrier: D. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1430: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO NOT PASS
(12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1430 was placed on the
Eleventh order on the calendar.

2001 TESTIMONY

HB 1430

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**Testimony on HB1430
By Richard Schlosser**

On behalf of North Dakota Farmers Union

Mr. Chairman and members of the house agriculture committee, my name is Richard Schlosser. I am a farmer from Edgeley. I am here representing North Dakota Farmers Union in opposition to HB1430. North Dakota Farmers Union supports the present Corporate Farming Law, which was enacted in 1933 through an initiated measure. HB1430, on the surface appears to be a rather innocuous amendment to the present restrictions contained in this section of the code. In reality, the proposal would overturn the primary objective of the law, which is to keep agriculture in the hands of independent family farmers.

In 1981, the Corporate Farming Law was amended to allow families to incorporate their farms under certain guidelines specifically spelled out in the law. North Dakota Farmers Union agreed to this amendment and has since stood firm in defense of the present law. Specifically, our policy states that the law "should not be further weakened to give additional advantages to non-family farm units or to allow the control of agriculture production to move to off-farm interests." With respect to our position on this issue, HB1430 goes too far by eliminating the relationship requirements under this section.

"Changing our state's corporate farming law is both ill-timed and ill-advised. The present law serves us well. ... agricultural production should be reserved for individual and family enterprises, not for corporate business." This is a quote from our president, Robert Carlson's testimony opposing a change to the corporate farming law five years ago. It was true then and it is true in this instance today.

North Dakota producers have combined their resources and built processing facilities for durum, hard red spring wheat, corn, and other commodities. Also, would producers be considering producer owned ethanol plants, feed lots and slaughter facilities if North Dakota production agriculture were operating under a corporate structure? As family farmers, we have the opportunity to develop a vision of what we want to become. Because of our creativity and independence, North Dakota is nationally recognized as a leader in new and innovative concepts. For example, several pieces of legislation have been introduced during this session including bonding authority for a slaughter facility, a farmer equity trust fund, and an initiative that would provide tax credits for investment in producer owned ventures. In short, we do not need to change our state's corporate farming law. Instead, we need to preserve the very law to ensure that these benefits continue to flow to independent family farmers and ranchers.

Some believe that we need to change the existing law because farmers cannot raise enough capital for large-scale operations. We at North Dakota Farmers Union recognize the need for capital in agriculture and we have worked over the years to help develop a system to provide capital for producer owned ventures. In addition to local banks, credit unions and Farm Credit Services, programs at the Bank of North Dakota are available to producers.

Finally, the September issue of the Union Farmer (the North Dakota Farmers Union monthly publication) carried a story about North Dakota legislative candidate survey results. One of the questions on the survey was, "Do you support the current corporate farming law?" Of the 72 house candidates who responded, 67 said yes, 3 were undecided, 2 said no. Of the 36 senate candidates who responded, 32 said yes, 1 was undecided, and 3 said no. These results clearly indicate that there is overwhelming support for the current law. In closing, we urge a 'DO NOT PASS' of HB1430. Thank you.



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North Dakota Farm Bureau

www.ndfb.org

North Dakota Farm Bureau

Testimony on

House Bill 1430

Good morning Chairman Nicholas and members of the House Agriculture Committee. My name is Brian Kramer and I am here representing the 26,000 member families of North Dakota Farm Bureau. We support House Bill 1430.

HB 1430 will allow someone other than a family member to invest in North Dakota agriculture. Much of this session has been devoted to economic development and value-added agriculture. There are bills to provide tax incentives to capitalize agriculture. There are bills to allow bonds to be sold to capitalize agriculture. There are bills to provide venture capital. We applaud those efforts, but in order for these ventures succeed investment capital is needed. And that is what this bill is about. It will allow outside investment in production agriculture.

Under this legislation, a farm or ranch operation will be able to seek money to expand or create new opportunities. It simply allows someone who is not a blood relative the ability to invest in agriculture if they think the prospects warrant that investment. This is no different than any other business in the state.

One future. One voice.

If I and some of my associates want to partner in a hardware store or a repair shop of some kind, we can do that. But I am precluded from investing in the largest economic sector in the state, agriculture.

At the time when the corporate farming laws of this state were enacted, they provided the protection needed to insure that producers weren't coerced into something from which they could not recover. The laws provided safeguards so that corporations could not take over the operation and ownership of the farm. Those protections are worthwhile and they will still be in place when this bill is passed.

The bill limits the number of shareholders to fifteen. It requires that the principle shareholder must be actively engaged in operating the farm or ranch. It requires that the sixty-five percent of the gross income for the corporation or limited liability company must have come from the operation.

Times change and so do our needs. HB 1430 recognizes the changing landscape of production agriculture. It provides mechanisms to adapt and compete in this ever-changing economic environment.

We support this legislation and encourage the committee to give it a Do Pass recommendation. Thank you. Are there any questions?

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON



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**Testimony of Roger Johnson
Agriculture Commissioner
House Bill 1430
House Agriculture Committee
Brynhild Haugland Room
February 15, 2001**

Chairman Nicholas and members of the House Agriculture Committee, I am Commissioner of Agriculture Roger Johnson. I am here today to testify against HB 1430, which seeks to eliminate the "kinship requirement" in North Dakota's anti-corporate farming law. HB 1430 would, in effect, negate the purposefulness of the anti-corporate farming law in North Dakota.

The anti-corporate farming law was overwhelmingly approved by North Dakota voters in 1932 and serves our state well. Seven other states have since enacted anti-corporate farming legislation. The states of South Dakota and Nebraska have gone further and have made anti-corporate farming measures a part of their state constitutions. Why would we weaken our anti-corporate farming law when only recently other states have enacted similar safeguards or strengthened their laws? We should be cognizant of the lessons others have learned.

Agriculture has changed dramatically since the 1930's, but the same economic principals remain in play. North Dakota is an agriculture state, and agriculture is one of our driving industries. If allowed, corporations will farm our land – either directly or with tenant farmers. The anti-corporate farming law is just as applicable today as it was seventy years ago and is responsible public policy. It is still necessary to protect the economy of our state and the welfare of our independent farmers and ranchers.

Further, our current anti-corporate farming statute does not prohibit non-family members from investing in farms. There are many legal channels available (e.g. partnerships, limited partnerships, etc...) for anyone – family or non-family members – to invest in a farming operation.

Supporters of this bill will likely claim that North Dakota farmers need more access to capital. While I agree that farmers and ranchers need adequate access to capital, I do not believe that HB 1430 is an appropriate or necessary way to address that need.

This Legislature has before it several pieces of legislation that seek to improve access to capital for the agricultural community. You are considering bills that would create an equity trust fund (HB 1051), expand beginning farmer loans to include chattels (SB 2194), allow for revenue bonds to be issued for the establishment of meatpacking plants (HB 1417), and provide agricultural investment tax credits (SB 2396). These bills deserve serious consideration by this Legislature. If they become law, they would provide the kind of capital needed today.

As we are all well aware, prices are terribly low for agricultural products and commodities across the board. Changing or eliminating the anti-corporate farming law won't do anything about the disastrously low prices farmers receive for their products. In fact, it will likely exacerbate the problem.

Another major issue facing agriculture today is economic concentration, spurred by the corporate bottom line. The driving force for economic concentration is not economic efficiency but rather economic power, the exercise of which results in lower efficiencies, poorer services and ultimately higher prices for food. This bill would exacerbate economic concentration, precisely the opposite of what independent farmers and ranchers (and our consumers) need.

What agriculture truly needs is a federal farm policy that provides a realistic safety net and puts our producers on equal footing with their competitors. The federal government must also enforce existing laws that inhibit monopolies and anti-competitive actions by agricultural suppliers and buyers.

On the state level, agriculture needs tools to help farmers and ranchers develop and use new technologies, to grow new crops and livestock and to invest for themselves in grower-owned agricultural production, processing and distribution cooperatives. The bills I earlier cited in this testimony would do that. This bill would have the opposite effect.

The bottom line is that changing North Dakota's anti-corporate farming law won't make agriculture profitable for North Dakota farmers and ranchers. It will only drive our prices lower

so the corporate bottom line can improve. Chairman Nicholas and committee members, I urge you to give HB 1430 a do not pass recommendation. I would be happy to answer any questions you may have.

Terry Alrich

I would like to share my experiences with "outside investor capital"

One of our state paper's editorials lately viewed that our current anti-corporation farming law is a "vestige of an earlier age" that should be changed. Granted; the law may be footprint from the past, just like the U.S. Constitution. But it has served North Dakota well and has proven to be visionary. Many states would like to be in the position we are in now in light of the environmental messes they have at present.

Low commodity prices and bad farm policy, not our anti-corporate farming law, is what has driven family farmers from the land. By allowing our out-of-state relatives or investors to invest in our farms is not going to improve commodity prices or change policy.

North Dakota's future is family farms, not giant corporations. Just ask any of the people living around my home township. We recently have had people moving in from Pennsylvania, Virginia, Indiana, New York, Montana, Utah, and Oregon, the good with the bad! Times were tough and my neighbors wanted to retire, pay off debts, etc. The Internet brought prospective buyers from around the country. One farm was bought by an LLP, (by the way, which was financed by our local Farm Credit Office); composed of 100 stockholders from Pennsylvania, doctors and professional people who own 11 farms in 3 states. **No local people will ever** get the chance to farm that land again! A large soybean farmer from Indiana, (pushed out from the urban sprawl from Chicago) will have the land custom farmed for him; bragging about how he out bid all the locals by \$7.00 /acre. **No one could compete** with him on that marginal ground.

We had a 20000-acre farmer from a neighboring state that came in and drove the rent up \$20.00/acre in just one year. Five retiring farmers rented their land to this outfit; leaving **none** for younger farmers. They push the HEL highly erodible land as hard as they can for three years, dump it, leaving the erosion and mess behind, then moving on to other land.

One mile up the road, the Virginians, who own seven banks, bought 1300 acres for hunting (and are looking to buy some more) they come and stay for about three weeks every October. **None of these land buyers plan on moving here!** The point, is outside investors are already here and more will be coming due to urban sprawl. They are attracted to **our cheap land** and North Dakotans will benefit very little from it! How can young people start up farming in a competitive environment like this today? Are we going to hang a **For Sale sign on North Dakota?** Are we that **desperate** for outside capital that we are willing to sell out our state's soul all in the name of economic development?

I haven't seen any lack of investment capital for land ownership, but what I do see is a lack of incentives to invest in value added cooperatives, which should be good for North Dakota. As an investor in AgGrow Oils and Spring Wheat Bakers, at this stage of the game due to lack of profitability in the Ag Industry, I doubt if I would ever invest in a value-added coop again. There is simply too much risk!

Finally, the assertion that the law should be changed because "it makes job creation in agriculture more difficult," is interesting. What type of jobs are we talking about and what pay scale? Custom seeding, Custom harvesting, Manure Hauling? It basically, would be farmers getting paid an **hourly wage** to be farmers, except they wouldn't own the land or reap any benefits.

Surely, our legislators can up with better legislation than passing a corporate farming law that hands our natural resources to people solely interested in **stockholder profits** and who, the majority, are not residents of North Dakota either.

We need to address **farm income**, not farm ownership!

TESTIMONY IN OPPOSITION OF HB 1430

For the record, my name is Gail Erickson. I am representing the ND Progressive Coalition, but I have a personal connection with family farming as well. We urge you to reject HB 1430, which would essentially gut North Dakota's anti-corporate farming law. This bill is wrong for North Dakota on four levels.

First it's wrong for producers. I've heard supporters of this bill sell it as a way to "save" financially strapped family farmers by allowing them to bring in outside capital and gain tax advantage. I believe this is a case of "be careful what you wish for". Corporate cash "partners" won't come without expectations of having control over how their cash is managed. This bill is the final step to complete vertical integration of North Dakota farms. Seedbed to table, large out-of-state corporations will be able to control our food production. I believe the "principal shareholder" described in this bill will maintain only token control of his operation.

Secondly, this bill is wrong for consumers. We must apply what we have learned from our experience with OPEC and the control big oil has on our lives. Control of energy is crucial to an economy, as demonstrated by the deregulation debacle in California. The price at the gas pump is a grim reminder of the long lines at the pumps in the 1970's when a few powerful oil producers held us all hostage.

FOOD is essential to LIFE as well as to the economy, and we can't afford to give away control of our food supply to a few multi-national companies. Food quality, food safety, food SUPPLY are at stake. Deregulation allowed energy suppliers to make decisions that paid dividends to stockholders but put energy supply in jeopardy and threatens to make energy unaffordable. Consumers are held hostage. Corporate control of markets through international vertical integration of our food production already holds most family farmers hostage. Next it will be the consumer - us.

Third, this bill is wrong for our rural communities. When income, wealth, and power are distributed equitably, our communities are healthier. Industrialized, corporate farming creates farm laborers not farm owners. Their wages are below average, and they have little investment in their communities. Dean MacCannell, an anthropologist from the University of California, did a review of research on the relationship between the structure of agriculture and life in the farm community. He

notes, "As farm size and absentee ownership increase, social conditions in the local community deteriorate. We have found depressed median family incomes, high levels of poverty, low education levels, social and economic inequality..."

Equality has an impact on social behavior. People who do have a stake, bonds, and mutual obligations with others are more likely to act in the best interests of the common good. They create healthier communities.

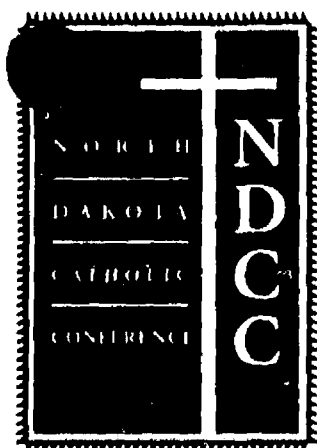
The corporate investment won't bring new net dollars into rural communities, because the inputs will be purchased outside of the local area from the corporate investor. Since they don't live there, the return on their investment will not be spent in the local community either. There is nothing to be gained for local communities and much to lose. In the end, any new money doesn't stay there.

Fourth, this bill is wrong for our environment. My father farmed four quarters of land in north central North Dakota. He believed he had a God-given responsibility to leave the land in as good or better condition than when he began to farm it. He was a MAN, whose heart and soul was in that land. Corporations are not human beings. They have no heart and no soul and no conscience. Does anyone believe that out-of-state corporations are going to care like my father did, like other North Dakota family farmers and ranchers do, about the condition of the land? Corporations will bring their cash only as long as profit can be sucked from the land. Profit is the one and only bottom line, and when the profit ceases, the corporation moves on, leaving clean up and restoration to the local community.

The family farmer who now farms my father's land cares as deeply about it as my father did. He is efficient, innovative, a good steward, and contributes to his community. I want to know that he and his son will be there to carry my father's legacy forward. I do not believe that will be possible if you pass HR 1430.

I urge you to defeat this bill.

Gail H. Erickson, Lobbyist # 470
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Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: House Agriculture Committee
From: Christopher Dodson, Executive Director
Subject: House Bill 1430
Date: February 15, 2001

The North Dakota Catholic Conference opposes House Bill 1430.

When the Roman Catholic bishops of North Dakota, Bishop James Sullivan and Bishop Paul Zipfel, issued their statement on rural issues, *Giving Thanks Through Action*, they called on citizens, the state government, and all persons of good will to "support the spirit and intent of North Dakota's Corporate Farming Law to preserve and maintain farm ownership and control in the hands of family farmers." House Bill 1430 is inconsistent with this call.

The bishops' support for limiting farming and ranching to family owned and operated entities stems from their belief, supported by experience and social data, that such ownership best ensures a just system of agriculture. A just system of agriculture respects human life and dignity, strengthens families, fosters the common good, respects the integrity of creation, and provides food security. While we realize that our current system of agriculture often falls short of these ideals, we believe we can find better solutions to the problems in agriculture without threatening our family farming law.

We urge a **Do Not Pass** recommendation on HB 1430.

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Call Attention to the Crisis in Rural Life

We call on agencies within the Church and all persons to convey the problems facing rural communities and the Church's concern for rural life. We must share the struggles facing rural communities and the Church's concerns with urban communities and those residing in other states.

Education and Catechesis on Rural Issues

We call on our teachers and catechists to incorporate concern for rural issues, with a view to Catholic social teaching, into their work.

Prayer and Worship Opportunities

Our worship and prayer life should reflect our love and respect for farming and rural life. We call on all persons of faith to offer thanksgiving for the blessing of farm and ranch families and rural life.

Charitable Services

Whenever our farm and ranch communities face economic difficulties, other problems may follow such as domestic violence, abortion, substance abuse, suicide, divorce, and loss of health care coverage. The Church, through parishes, charitable organizations, and health care institutions must reach out and help those in need. In doing so, the Church's response should provide a sense of hope rooted in the resurrection of Christ.

Place of Community

In many of our rural communities, churches serve a civic function. Parishes can take advantage of their role in the community by offering space and even leadership to those seeking to address community needs.

While the Church is especially called to take on these tasks, we call on other faith organizations, charitable entities, government agencies, and all

people of good will to help those affected by our current rural crisis. In doing so, we must remember that such service, while necessary, should not distract us from the task of working for a just agriculture system.

Solidarity with Urban Communities

We make a special appeal to those not engaged in agriculture or who may live in urban settings. By focusing this statement on the matters concerning farmers and rural communities we do not intend to convey that farming and rural communities are better than those that live in urban areas or engage in other vocations. Rather, we wish to call attention to one of God's blessed vocations and ask the rest of our society give it due respect and attention.

Moreover, we ask our brothers and sisters in urban communities to take a special interest in the well-being of those that produce their food and steward God's creation. To a large extent, the health of our urban communities is related to the health of our rural communities. The virtue of solidarity joins us together in the struggle to preserve family farms and rural communities.

A Time to Give Thanks Through Action

God has blessed us with gifts of creation and persons who apply their labor to God's creation so that we may have food, clothing, and other essentials for life and dignity. Farmers and ranchers, their families, and the rural communities in which they live, work, and worship are blessings for all of us, no matter where we live. We have reason to give thanks. Let us show our thanks through concrete actions addressing the crisis in rural life.

James S. Sullivan, Bishop of Fargo
Paul A. Zipfel, Bishop of Bismarck
November 12, 1998

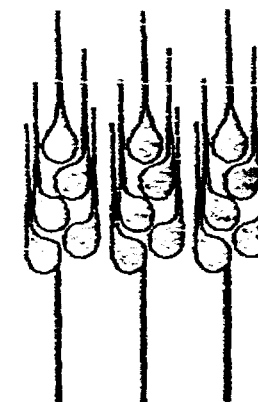
For more information, contact the North Dakota Catholic Conference 701-223-2519 <http://ndcatholic.org>



North Dakota
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227 West Broadway, Suite 2, Bismarck, ND 58501-3797

RETURN SERVICE REQUESTED

Giving Thanks Through Action

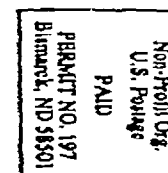


A Statement by the Roman Catholic Bishops of North Dakota on the Crisis in Rural Life

*Blessed are you, Lord, God of all
Creation.*

*Through your goodness we have this
bread to offer, which earth has given and
human hands have made.*

Liturgy of the Eucharist



The Breadbasket in Crisis

North Dakota truly is part of the world's breadbasket. The state's farm and ranch families produce an abundance of food and other agricultural products while contributing to a rural life enriched by values that come from working and living close to the land and to each other. Sadly, the families and communities that create that breadbasket are in crisis.

Record low prices for some crops and livestock, combined with disease, floods, and Hizzards have created an economic and social strain in our rural communities. These events worsen an already disturbing trend in the declining number of family farms and ranches, a loss of rural residents, and concentration of ownership in land and markets. Meanwhile, greater pressures are put on church ministries, public and nonpublic schools, the delivery of government services, the provision of health care, rural businesses, mental health services, and eventually the urban economy.

This crisis gives reason to reflect on what the Church can offer to matters concerning rural life. In doing so, the Church calls upon a social teaching based on the primacy of the human person in every economic and social activity, including agriculture, and the Church's experience as pastors, teachers, and ministers to the very people most affected by this crisis in rural life.

Principles for a Just Agricultural System

The present crisis in rural life must move all persons, in a spirit of cooperation, to work for a just agricultural system situated within an ethical framework rooted in principles of social justice found in Sacred Scripture and the Church's social teaching.

The Need to Respect the Life and Dignity of the Human Person

Ultimately, the test of any agriculture policy is a moral one -- does it make concern for human life and

dignity the guiding norm? Public and social policies must put the human person first. Society cannot consider farmers and ranchers expendable in the name of "progress" or "efficiency."

Respecting human dignity means we must respect the vocation of farmers and ranchers. By applying their labor to God's creation and providing essentials, such as food and clothing, for life and dignity, farmers and ranchers exercise a stewardship that puts them in unique communication with God. Society, through government, economic, and business policies, must respect the rancher and farmer by providing just compensation for labor and by supporting rural communities.

The Common Good

Life and dignity are best respected and protected in community. We must work to preserve family farms and ranches precisely because they provide one of the best guarantees of a healthy community.

The Integrity of Creation

By virtue of their vocation, ranchers and farmers should exercise responsible stewardship of creation. Agriculture and economic policies must support them in the exercise of this responsibility and not promote exhaustion of the earth's resources.

The Universal Destination of Goods

The goods of creation are meant for all, throughout generations. Excess profits in agribusiness, especially at the expense of the laborer, violate principles of justice. Policies should foster wide distribution of ownership in agriculture rather than concentration, whether in land, animals, technology, seed, genetic make-up, processing, or production. Moreover, social and economic policies must provide just compensation to ranchers and farmers for their labor.

Subsidiarity

Human dignity requires that persons and communities should possess the ability to exercise responsible self-governance. Subsidiarity means that while larger governments and businesses have a role and sometimes a duty to involve themselves in local affairs, they should give deference and due respect to local communities and families.

Option for the Poor

We should judge policies concerning rural life according to how they affect the least among us -- those with less power and influence, the most vulnerable, and the marginalized. A strong case exists that the "poor" today includes rural communities, not because they are among the economic poor -- although this is increasingly true -- but because they are among the least powerful and their way of life is marginalized, ignored, or forgotten.

A Framework for Action

These ideas provide not merely abstract principles, but a framework for action. Therefore, we urge citizens, local, state, and federal government, and all persons of good will to:

- Foster opportunities, such as cooperative associations, which give producers and communities more economic return and greater participation in the production process;
- Support the spirit and intent of North Dakota's Corporate Farming Law to preserve and maintain farm ownership and control in the hands of family farmers;
- Seriously examine and, if necessary, restrict the operation of large-scale animal confinement operations, looking not only at ownership and environmental questions, but also how such operations affect the common good of the community;
- Assure all persons in agriculture a just wage or

price for their labor, including compensation through production contracts, and take action to ensure just contractual arrangements;

- Foster widespread ownership of land and other agriculture property and assist first-time farmers;
- Strengthen rural communities by helping them shape their own environment and allowing them to enact land use ordinances consistent with the principles of subsidiarity and the common good;
- Support research, education, and markets for sustainable farm and ranch practices;
- Provide rural communities with a support structure, including the provision of health care and education.

Some may dismiss such actions and concerns as contrary to notions of "progress" and "efficiency." To them, the loss of family farms and vertical integration is inevitable. The economy, however, is a human-made institution and not an inevitable force. Moreover, in his encyclical, *The Gospel of Life*, Pope John Paul II reminds us that when cultural, economic and political currents encourage an idea of society excessively concerned with efficiency, a "conspiracy against life" is unleashed and a "culture of death" is promoted. We cannot embrace such a culture in the name of progress.

To address these issues, we call on persons to set aside partisan and ideological differences. We commend the spirit of cooperation that guided the North Dakota Commission on the Future of Agriculture and urge all persons and organizations to reach out in Christian charity, listen respectfully to each other, and work for the common good.

A Challenge for the Church

The challenges facing our rural communities are also challenges for the Church. The Church's ministry compels us to hear and respond to the needs of those in crisis. Reflecting on these challenges, we draw largely from the *Fargo Diocesan Response to the Rural Life Crisis*

Dakota Resource Council

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Dakota Resource Council is strongly opposed to HB 1430.

HB 1430 would gut our current law by removing the requirement that shareholders in incorporated farms all be family members. It would completely open up our agricultural land to ownership by all comers, even the likes of Tyson, Smithfield, Cargill, or Monsanto.

The argument is often made that North Dakota agriculture is suffering from undercapitalization, and that our current laws block a needed investment of corporate dollars. The flaw in this argument is that profits flow to investors. If corporation or limited liability companies from outside the state make the investment, they are the ones who will profit, and our own farmers and ranchers remain undercapitalized.

The corporate model for farming can be easily seen in the large hog facilities that have driven most of our nation's independent hog producers out of business over the last decade. In this model, farmer-contractors are reduced to serfs on their own land, while the corporate owners get all the profits and avoid all of the risks.

A 'Do Not Pass' recommendation is the only possible recommendation for this bill.

NORTH DAKOTA CONFERENCE OF CHURCHES

411 - N. 4th St. - Suite 8 • Bismarck, North Dakota 58501- 4078 • (701) 255-0604

To: Members of the House Agriculture Committee
From: The North Dakota Conference of Churches
Subject: HB 1430
Date: February 15, 2001

The 13 member denominations of the North Dakota Conference of Churches **oppose** HB 1430. The Conference of Churches' position, as expressed in its Statement: *Goals, Objectives, Definitions & Measurements of the Common Good*, is rooted in: the principles of economic justice; the preservation of human dignity; the upholding and support of family and community life; the assurance of food security; and the responsibilities entailed in the stewardship of creation.

The Conference of Churches opposes public policies which encourage or enhance corporatization of agricultural production. It is the Conference of Churches' expressed position that:

- non-family farm corporations should not be allowed to engage in the production of crops, livestock, produce, fibers or other agricultural commodities;
- public policies should be designed to encourage a system of agriculture in which farm and ranch families are the resident operators of agricultural production units; and
- corporate farming laws should be strengthened and effectively enforced -- the Conference of Churches opposes the weakening of such laws.

The ND Conference of Churches member denominations opposing HB 1430: American Baptist Churches of the Dakotas; Church of Brethren, Mon-Dak Area; Church of God (Anderson); Episcopal Diocese of ND; Evangelical Lutheran Church in America, Eastern ND Synod; Evangelical Lutheran Church in America, Western ND Synod; Moravian Church in America, Northern Province; Presbyterian Church, U.S.A. Presbytery of the Northern Plains; Religious Society of Friends (Quaker); Roman Catholic Church, Bismarck Diocese; Roman Catholic Church, Fargo Diocese; United Church of Christ, Northern Plains Conference; United Methodist Church, Dakotas Conference.

MEMBER DENOMINATIONS: American Baptist Churches of the Dakotas • Church of Brethren, Mon-Dak Area • Church of God (Anderson) • Episcopal Diocese of N.D. • Evangelical Lutheran Church in America, Eastern ND Synod, Western ND Synod • Moravian Church in America, Northern Province • Presbyterian Church, U.S.A., Presbytery of the Northern Plains • Religious Society of Friends (Quaker) • Roman Catholic Church, Bismarck Diocese, Fargo Diocese • United Church of Christ, Northern Plains Conference • United Methodist Church, Dakotas Conference.

ASSOCIATE MEMBERS: Catholic Family Service • CHARIS • Church Women United • Home on the Range • Jamestown College • Lutheran Social Services of North Dakota • University of Mary • North Dakota Chaplains Association • Unitarian/Universalist Fellowship • The Village Family Service Center.