

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1341

2007 HOUSE AGRICULTURE

HB 1341

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1341

House Agriculture Committee

Check here for Conference Committee

Hearing Date: 2-2-07

Recorder Job Number: 2676

Committee Clerk Signature *Edward Edgerton/MK*

Minutes:

CHAIRMAN JOHNSON: Committee Members, we will open on HB 1341.

Representative Griffin would you like to start.

REPRESENTATIVE GRIFFIN: House Bill 1341 is another bill I introduced. The bill would expand the scope of Agriculture disaster payments. In 1994 these programs were expanded. Currently the program is administered in ND can only be used if the farmer involved is in a dispute. They would like to expand it for some other purposes. One of them is rural housing issues.

The fiscal note on HB 1341 increases from fifty dollars to seventy five dollars.

I ask for your support on HB 1341.

TOM SILBERNAGEL: I am the Administrator for the ND Agriculture Mediation Service. I am here today to support HB 1341, which will allow the Agriculture Mediation Service to assist all ND citizens adversely affected by decisions of the USDA Agencies required to participate in mediation. [[PLEASE READ TESTIMONY WHICH IS ATTACHED]] I would be happy to answer any questions.

CHAIRMAN JOHNSON: Representative Froelich.

REPRESENTATIVE FROELICH: Mr. Chairman. Tom we were talking about what we

Have now and USDA paid me for my Map insurance and they have been doing that for years. All of a sudden this now two week ago the FFA representative called me and Rod, I got a notice from the head office they changed the rules and regulations and said they were going to pay us at a lesser rate. I said wait a minute, I have already got my money and spent it. There is going to be a lot of them are going to be effected. My question is so by coming to you, you could help.

TOM: FFA will participate in mediation if a producer requests it.

REPRESENTATIVE FROELICH: So we get the mediation, does that preclude, say we can't come to an agreement, that doesn't stop me from going to court?

TOM: No it does not. Mediation over the years has been since 1989. We have a very high success rate.

REPRESENTATIVE FROELICH: Just for the committees information, the reason I brought this up is USDA is changing the rules on land that I lease. The state does not get much of a payment on that. The land I own remains the same. It is ironic that a land owner, which one quarter is adjoined to another, is going to have a different situation.

CHAIRMAN JOHNSON: Representative Mueller, thank you Mr. Chairman.

REPRESENTATIVE MUELLER: It would seem that you are expanding the rolls of mediation in a pretty significant way. The question that I have is, do you have folks on board that are going to know about crop insurance conservation issues, wet land seems like my question is, what do you know about this stuff?

TOM: We have a very experienced field staff that knows how to do the research. We never know when we step in to a financial problem; we never know what we are going to be dealing with. Many times it could end up a family dispute as part of a program issue

with FFA. We are used to dealing with the unknown. We have done extensive training with FFA and other state programs, probably more than any other agency.

CHAIRMAN JOHNSON: Are there any other issues that are waiting out there?

TOM: Well, you know it would remove the uncertainty. Over the years there have been instances that I mentioned in the testimony where it has been difficult to determine whether we could really help the individual. This would remove the doubt. An example would be rural development homes. Rural housing loans, you might have a farmer that goes out to the farm and has a rural development loan. If he runs into trouble with that, technically he is not a farmer any more. Changing this allow to help him.

REPRESENTATIVE FROELICH: If you don't come to a conclusion with USDA now I go to an attorney and have to go through the legal system. Are you allowed, under statutes to help us?

TOM: We are allowed to help you in preparation.

CHAIRMAN JOHNSON: Other to offer support for HB 1341?

WOODIE BARTH: I serve as the president of the credit review board and us. Six on the board voted for this. We support the changes to the laws presented to you. We think the expansion of mediation in the USDA program, this should have been done right after the federal rules were changed the law to help out in other USDA. I would like to add a couple comments as to what Tom said about the question Rep. Mueller asked. Mediators are certified. They go through 40 hours of training on a yearly basis, and every two years at UND. I have been part of some of these seminars, they are intense. Mediators are people the neutral third party; that help assemble the information. Bring it to the table, to assist the party that needs assisting, process that has been developed.

It works well, and we have had great success. Over 80% success and people that is happy with the results. They might not always win but it brings to resolution. If a farmer has a problem with zoning, we are allowed to help could we resolve it, I don't know but the farmers would come to mediation and where it would end up I guess we would find out. According to law if a farmer is having a problem we are allowed to help them.

Rep ? : How many cases are you guys handling on the average?

TOM: It would be difficult for me to say, I don't have the numbers with me right Now but I can tell you there has been a significant increase July 2006 over 2005. The numbers of assistances has scaled down as the numbers of farmers have scaled down.

If we stop one Suicide it is worth it. We are dealing with larger farmers and with different kinds of problems.

TOM: Mr. Chairman, I would like to make a comment. We have worked with Over ten thousand farmers since the inception of this program. Right now We have from eight to twelve farmers a month. Those are brand new farmers and ranchers. They have never used this program before.

REPRESENTATIVE BOE: What is the cost for this service?

WOODIE BARTH: It is \$15.00 per hour for negotiation services plus a \$25.00 Fee for mediation services. If a farmer can't pay we still do the work. We could handle a group for mediation. Some of the fees can be waved and all of it is kept confidential.

CHAIRMAN JOHNSON: Other to offer support. Others as to opposition?

REPRESENTATIVE Froelich made a motion for a Do Pass.

REPRESENTATIVE BRANDENBURG: seconded the motion.

THE CLERK TOOK THE ROLL THERE WERE 10 YES 0 NO ABSENT 3

CHAIRMAN JOHNSON: IS THERE A CARRIER FOR THIS BILL?

REPRESENTATIVE FROELICH WILL CARRY THE BILL.

CHAIRMAN JOHNSON CLOSED THE HEARING ON HB 1341

FISCAL NOTE
Requested by Legislative Council
01/12/2007

Bill/Resolution No.: HB 1341

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$1,400	\$0	\$0
Expenditures	\$0	\$0	\$810	\$1,890	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill expands the authority of the agricultural mediation service to provide mediation services to USDA customers who are not farmers as defined under current law.

The bill increases the per diem for credit review board members.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The mediation services expansion is anticipated to slightly increase the number of mediation cases resulting in both increased revenues and expenditures. The fiscal impact is based on an estimated additional 20 mediation cases per biennium.

The increased per diem for credit review board members will increase the total per diem expenses.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues are mediation fees assessed to mediation participants. The revenues are special funds and used to defray the expenses of the agricultural mediation service. The estimated revenues are based on additional mediation fees that would be assessed for additional mediation cases.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures are additional salaries and operating expenses associated with the estimated number of additional mediation cases and increased per diem for credit review board members. The estimated expenditures are \$810.00 in general funds and \$1,890.00 in other (federal) funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Appropriations required beyond the executive budget are not anticipated.

Name:	Jeff K. Weispenning	Agency:	Agriculture
Phone Number:	328-4758	Date Prepared:	01/12/2007

Date:
Roll Call Vote #:

2-2-07

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

HB1341

House **Agriculture**

Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

DO PASS

Motion Made By

REP FROELICH

Seconded By

REP BRANDENBURG

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	✓		Tracy Boe	✓	
Vice Chair Joyce Kingsbury	✓		Rodney Froelich	✓	
Wesley Belter			Phillip Mueller	✓	
Mike Brandenburg	✓		Kenton Onstad	✓	
Craig Headland	✓		Benjamin Vig	✓	
Brenda Heller					
John D Wall					
Gerry Uglen	✓				

Total (Yes)

10

No

0

Absent

3

Floor Assignment

REP FROELICH

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

REPORT OF STANDING COMMITTEE

HB 1341: Agriculture Committee (Rep. D. Johnson, Chairman) recommends DO PASS
(10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1341 was placed on the
Eleventh order on the calendar.

2007 SENATE AGRICULTURE

HB 1341

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1341

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3671

Committee Clerk Signature

Cassie Krow

Minutes:

Sen. Flakoll opened the hearing on HB 1341, a bill relating to persons eligible for mediation.

Members (6) present, absent (1)- Sen. Taylor.

Rep. Griffin, district 19, testified in favor of the bill.

Rep. Griffin- This bill was introduced at the request of the Ag department, the Ag department can explain more in detail the other programs and such.

Tom Silbernagel, Agriculture Department, testified in favor of the bill. See attached testimony.

Sen. Flakoll- when was last time there was an increase in the per diem?

Tom Silbernagel- I am not sure, I think that this is probably the first change.

Sen. Behm- how long does it for someone to go through a program to learn all of this?

Tom Silbernagel- we have training every year, we are certified mediators trained by UND.

We are required to provide that training by federal grant. We also provide yearly financial training so that they understand how to deal with the financial disputes, how to restructure. We do a lot of work with FSA and their program.

Sen. Erbele- how many mediators do you have and do you have enough?

Tom Silbernagel- right now we have 6 field staff and 3 of them are full time. We have been able to handle things so far but in the last 10 months we have seen almost a 100% increase in clients. We have asked permission and received it from the credit review board to allow mediators to move across the state and we found that to be an economical way to do that.

Sen. Flakoll- these people that are mediators, do they normally work on an per hour basis?

Tom Silbernagel- yes they do.

Sen. Flakoll- do you track what their normal hourly rate might be?

Tom Silbernagel- yes we do and it varies according to skill level, but most of them would be around \$15-16 per hour.

Woody Barth, NDFU, testified in favor of the bill.

Woody Barth- We support the changes of the mediation program as proposed here. There has been some good discussion here, the board supports us moving into other areas. This is probably over due we should have moved on it many years ago. Line 12 pretty much explains who and what we are.

Sen. Erbele- back in the bill where it says mediation participants \$25 per hour, do you pay mileage to these mediators?

Woody Barth- the \$25 per hour refers to what we charge the participants of the mediation. What we pay our people that go to them is a salary plus mileage or else they use state vehicles.

Sen. Heckaman- what happens to these people right now that you are not able to serve or is there someone else that they are getting some assistance with?

Woody Barth- our success rate in mediation is about 80%, that is getting more and more difficult with the conditions out there. The people that we are coming to serve the situations are getting more then what we work with. NDSU and adult farm management are other

avenues and other options would also be the mediation service with farming rented out, work with other areas, work with relatives. There are many options, we look at all of them and look at what is best for that person.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Klein motioned for a Do Pass and was seconded by **Sen. Behm**, roll call vote 1: 6 yea, 0 nay, 0 absent. **Sen. Behm** was designated to carry the bill to the floor.

Date: Feb 22, 2007
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1341

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Behm

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur H. Behm	X	
Terry M. Wanzek-Vice Chairman	X		Joan Heckaman	X	
Robert S. Erbele	X		Ryan M. Taylor		
Jerry Klein	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Behm

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

REPORT OF STANDING COMMITTEE (410)
February 22, 2007 10:41 a.m.

Module No: SR-37-3660
Carrier: Behm
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1341: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1341 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1341



600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of Tom Silbernagel
Administrator
ND Agricultural Mediation Service
House Bill 1341
House Agriculture Committee
Peace Garden Room
February 2, 2007**

Chairman Johnson and members of the Agriculture Committee, I am Tom Silbernagel, Administrator of the ND Agricultural Mediation Service (AMS). I am here today in support of HB 1341, which will allow the Agricultural Mediation Service to assist all North Dakota citizens adversely affected by decisions of United States Department of Agriculture agencies required to participate in mediation.

The AMS is one of about 33 state mediation programs certified by USDA. Originally enacted to address only agricultural credit disputes, the program was expanded by federal law in 1994 to include other issues such as wetland determinations, conservation compliance, rural water loan programs, crop insurance, grazing on National Forest Service lands, pesticides and others as determined by the Secretary of Agriculture. Under current state law, the AMS cannot become involved in a dispute unless one of the parties is a farmer. As AMS tried to expand into the

areas approved in 1994, there have been instances when it has been unable to provide service because the USDA adverse decision did not affect a farmer.

According to the code of federal regulations governing certified state mediation programs (Title 7 – Part 785) *Covered Persons* means producers, their creditors (as applicable) and other persons directly affected by the actions of the USDA, involving one or more of the approved issues I mentioned earlier.

The USDA Certified State Agricultural Mediation Program gets strong support from both sides of the Congress. On April 21, 2005, S.643, (*an amendment to the Agricultural Credit Act of 1987 to reauthorize State mediation programs through 2010*), was passed without amendment by unanimous consent. On June 13, 2005, S.643 was agreed to by a vote of 371 to 2 in the House. The bill was signed by the President on June 29, 2005.

USDA encourages the use of mediation as a tool to prevent or minimize escalation of conflicts with its customers and to resolve such conflicts at the earliest possible stage. The mediation program in North Dakota as with all other certified state mediation programs is funded in part by a 70% federal matching grant. I feel strongly that AMS should be able to provide mediation services to all eligible North Dakota citizens in all areas of dispute covered under it.

Chairman Johnson and committee members, I urge a do pass on HB 1431. I would be happy to answer any questions you may have.

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of Tom Silbernagel
Administrator
ND Agricultural Mediation Service
Senate Bill 1341
Senate Agriculture Committee
Roosevelt Park Room
February 22, 2007**

Chairman Flakoll and members of the Agriculture Committee, I am Tom Silbernagel, Administrator of the ND Agricultural Mediation Service (AMS). I am here today in support of SB 1341, which will allow the Agricultural Mediation Service to assist all North Dakota citizens adversely affected by decisions of United States Department of Agriculture agencies required to participate in mediation.

The AMS is one of about 33 state mediation programs certified by USDA. Originally designed to address only agricultural credit disputes, the program was expanded by federal law in 1994 to include other issues such as wetland determinations, conservation compliance, rural water loan programs, crop insurance, grazing on National Forest Service lands, pesticides and others as determined by the Secretary of Agriculture. Under current state law, the AMS cannot become involved in a dispute unless one of the parties is a farmer. As AMS tried to expand into the

areas approved in 1994, there have been times when it has been unable to provide service because the USDA adverse decision did not affect a farmer.

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The mediation program in North Dakota, as with all other certified state mediation programs, is funded in part by a 70% federal matching grant. I feel strongly that AMS should be able to provide low cost mediation services to all eligible North Dakota citizens in all areas of dispute covered under it.

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USDA encourages the use of mediation as a tool to prevent or minimize escalation of conflicts with its customers and to resolve such conflicts at the earliest possible stage. The mediation program in North Dakota as with all other certified state mediation programs is funded in part by

a 70% federal matching grant. I feel strongly that AMS should be able to provide mediation services to all eligible North Dakota citizens in all areas of dispute covered under it.

Chairman Flakoll and committee members, I urge a do pass on SB 1341. I would be happy to answer any questions you may have.