

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3061

2007 HOUSE AGRICULTURE

HCR 3061

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR3061

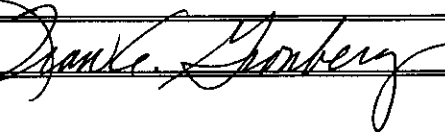
House Agriculture Committee

Check here for Conference Committee

Hearing Date: February, 22, 2007

Recorder Job Number: 3657

Committee Clerk Signature



Minutes:

**Chairman, Dennis Johnson**, opened the hearing on HCR3061, All members (13) were present.

**Representative Kenton Onstad** introduced the resolution regarding confined animal feeding operations in the state; which account for approximately 25 percent of all agricultural income. He stated that this bill is directly related to HB 1420. Discussion has revealed that this is a big topic for the future of North Dakota. There is not a single answer or solution to the problems and concerns and therefore he feels that HCR 3061 would help create a solution for the constituents involved. HB 1420 drafted by the Legislative Council realizes that it is hard to get definition with regard to nature and scope of the situation. The Legislative Council will be asked to study the financial and environmental impact of confined animal feeding operations on individual property owners and local communities and develop clear, concise, and consistent laws governing the siting and regulation of confined animal feeding operations.

**Representative Wesley Belter** stated that he was not opposed, but that he was concerned that the state is saying that we don't want to do anything. We are just going to let it drag until next session. He is concerned that nothing will be done for the three years.

Representative Onstad said that he didn't disagree, but that there is a workable agreement now. We don't want to hinder livestock development, but there is a need for the study to define the nature and scope.

**Terry Traynor, ND Association of Counties**, (amendment attached) thanked the sponsors.

He said that questions have been raised as to how to proceed from where we are now and that this could be a good answer. All the groups involved could bring their concerns to the committee conducting the study.

**Representative Joyce Kingsbury** suggested that the meetings should be held around the state in order for the most people to have input.

**Traynor** said that it was a wonderful idea.

Representative Belter questioned whether that wasn't already being done utilizing the legislative process. It has been being done for four or five sessions. How was the models ordinance done?

**Traynor** replied that the models ordinance was done in a study process and worked well.

If the Legislature requests the study, it would carry more weight.

**Wayne Carlson**, Department of Agriculture testified. ( testimony attached)

**Representative Phillip Mueller** stated that the study may or may not get chosen. Can the Ag Department and the Health Department go out on their own and do a study anyway?

**Carlson** said that there has been that discussion, but dictated by the Legislature would cause more buy in by all the entities.

**Representative Mueller** agreed, but in the absence of a Legislative study, a study should still be done.

**Representative Craig Headland** stated that 1420 doesn't properly define the areas.

**Carlson** said that the bill does a good job (although some weren't satisfied) and that he likes it.

**Representative Headland** asked if the study wasn't going to study what he thought had been resolved.

**Carlson** said that what has been studied did not need to be addressed again, but there are other areas that need to be discussed.

**Representative Mike Brandenburg** questioned whether groups from elsewhere are following what is happening in North Dakota.

**Carlson** responded that several sizable dairy organizations are interested in coming to or expanding in North Dakota.

**Representative Brandenburg** questioned why they haven't come here. Are there some concerns that we can address to speed up their coming here.

**Carlson** replied that we need concise regulations and that they cannot be different for each county and township.

**Representative Headland** stated that he thought that 1420 said that counties and townships cannot levy special taxes on affected roads.

**Woody Barth, North Dakota Farmers Union**, testified in support of the bill. We need to move it forward as in line six of the resolution. He also supports the amendment.

**Representative Brandenburg** asked how can we speed it up?

**Barth** said there were many concerns to be addressed. Dairy operations need a place to sell milk. The Bank of ND wants long term contracts. Zoning and taxing also need to be addressed. Feedlots need a place to deliver and harvest.

**Representative Brandenburg** said that some in the dairy industry had looked in his area, but because of issues of zoning, etc. decided not to come.

**Barth** replied that 29 different counties have different definitions.

House  
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**Representative Onstad** stated that over the past 12 months he visited with several dairy operations in Wisconsin. They are here now looking at areas in ND. They chose ND because of what is currently in place. They feel that ND is environmentally friendly. California is looking at ND rather than SD.

**Barb Price, Dakota Resource Council**, (testimony attached) testified on behalf of the bill. I have offered questions from years of experience to be sure that all areas of CAFO are covered. I would support the study.

**Brian Kramer, North Dakota Farm Bureau**, said that he supported the concept of the study, but he didn't know if a conclusion could be reached. We are always opposed by the people who want local control. It makes it difficult to have clear, concise rules that cover all areas. Consistent rules are necessary, but the study has a number of things that go beyond the scope of what needs to be studied. Environment studies were started in 1999. How much more is needed? We'll just continue to study and stymie progress. I am afraid that emotions would drive too many areas (social issues) and that is our concern. We have clear, concise, consistent laws if applied properly.

**Representative Brandenburg**, The laws we have seem to be causing us to lose animal industry in the state.

**Representative Mueller** said he agreed with much of the discussion. The bill that was in the House didn't make it through the Senate, and the one that did is entirely different. It sounds like they are lukewarm. What would you suggest?

**Kramer's** concern is that we'll be in the same position two years from now that we are in now.

**Representative Mueller**. I think you make the case that we need to do it.

**Representative Rodney Froelich** asked if cattle and hogs, etc. are all lumped together.

**Kramer** stated that the animals fell into different categories.

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**Representative Froelich** said that it seemed that we could use different regulations for swine, etc.

**Kramer** said that locals should have some say, but setbacks aren't necessarily the problem. Environmental issues are some of the problems and siting permits from the Health Department.

**Representative Onstad.** If laws aren't in place does it revert to the state?

**Kramer.** Yes

**Representative Onstad** asked, so you're ok with the current law?

**Kramer** replied that model zoning ordinances and the Health Department are consistent, so ok. He said that ND is behind on dairy and are woefully behind with both dairy and bee compared to surrounding states. It's a chicken and egg situation. We are at the crossroads right now.

**Dave Glatt, Chief of the Environmental Section, ND Health Department,** There was a similar situation with the model zoning ordinance and the Governor issued a directive to study the situation. The concerns are pretty broad based concerning infrastructure, taxes, bonding and moratoriums. We already did a five year process for environmental rules. These rules would hold up for another study. We need to determine how counties and townships could move forward.

**Representative Brandenburg** said that counties and townships are wary of taking away local control, but they don't want to deal with them.

**Representative Dennis Johnson** said he signed on the bill to bring forth the issues facing counties and townships.

**Chairman Johnson** closed the hearings. There was no opposition.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3061

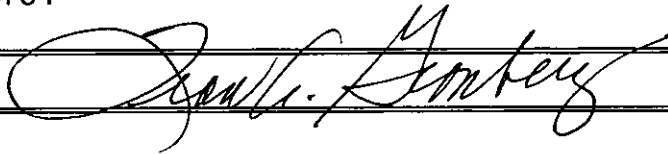
House Agriculture Committee

Check here for Conference Committee

Hearing Date: 2-23-07

Recorder Job Number: 3754

Committee Clerk Signature



Minutes:

**Chairman Johnson** declared a quorum present.

**Rep Onstad** moved a **do pass** on the amendment. **Rep Boe** seconded it.

**Voice Vote: 11 yeas 1 no 1 absent**

**Rep Onstad** moved a **do pass** on the bill. **Rep Mueller** seconded it.

**Roll Call Vote: 11 yeas 1 no 1 absent**

**Carrier: Rep Mueller**



HCR 3061

Date: 2/23/07  
Roll Call Vote #: 1 (on amendment)

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

House Agriculture Committee Committee

Check here for Conference Committee

Legislative Council Amendment Number HCR 3061

Action Taken DP (amendment)

Motion Made By Rep Onstad Seconded By Rep Boe

| Representatives            | Yes                                 | No | Representatives | Yes | No |
|----------------------------|-------------------------------------|----|-----------------|-----|----|
| Chairman Dennis Johnson    | <input checked="" type="checkbox"/> |    | 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                |                                     |    |                 |     |    |
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Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Rep Mueller

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

Voice Vote (1 dissenting - Rep. Brandenburg)

- Asked that St. Ag Comm and St. Health Office convene a joint committee of all interested parties to assist the Reg. Council

HCR 3061

Date: 2/23/07  
Roll Call Vote #: 2

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

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number HCR 3061

Action Taken DP as amended

Motion Made By Rep Onstad Seconded By Rep Mueller

| 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 Ugem                 | ✓   |    |                 |     |    |
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Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep Mueller

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

**REPORT OF STANDING COMMITTEE**

**HCR 3061: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HCR 3061 was placed on the Sixth order on the calendar.

Page 1, after line 22, insert:

**"BE IT FURTHER RESOLVED**, that the state health officer and the commissioner of agriculture jointly convene a task force composed of state agency representatives, local government officials, organizations, and groups involved in the development of confined animal feeding operations to assist the Legislative Council in data gathering, analysis, and the formulation of recommendations; and"

Renumber accordingly

2007 SENATE AGRICULTURE

HCR 3061

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3061

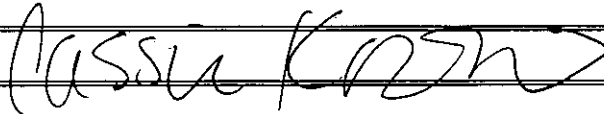
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: 5168

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened the hearing on HB 3061, a concurrent resolution directing the Legislative Council to study the financial and environmental impact of confined animal feeding operations on individual property owners and local communities and develop clear, concise and consistent laws governing the siting and regulation of confined animal feeding operations.

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

**Rep. Onstad**, district 4, testified in favor of the bill.

**Rep. Onstad**- This resolution is a result of HB 1420. (Explains the bill to the committee 1:38-5:23). I would urge you to give this a favorable consideration.

**Sen. Flakoll**- so if HB 1420 were to pass you would still need this?

**Rep. Onstad**- it is my opinion that it would need to be discussed.

**Terry Traynor**, NDACO, testified in favor of the bill.

**Terry Traynor**- Ten years ago we passed the zoning ordinances for feed lots, it has worked well but there has been some confusion and some issues raised and really that is where HB 1420 came from. With that there was an offer to study it and see how it works and study how it works. We are supportive of that and we hope that this study passes.

**Wayne Carlson**, NDDA, testified in favor of the bill. See attached testimony.

**Sen. Erbele-** does your department have any idea what the growth has been in animal agriculture in the last 8 years now?

**Wayne Carlson-** We have had very large increase in individual feedlots, I am not sure of the exact number.

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

**Woody Barth-** We support the resolution as presented and we would be a part of the study if it is picked by legislative council.

**Barb Price,** Dakota Resource Council, testified in favor of the bill. See attached testimony.

**Ken Yantes,** NDTOA, testified in favor of the bill.

**Ken Yantes-** we stand here in support of this bill.

No opposition to the bill.

**Sen. Flakoll** closed the hearing.

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

Date: March 15, 07'  
Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 3061**

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Heckaman 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   |    |                |     |    |
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Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Heckaman

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

**REPORT OF STANDING COMMITTEE**

**HCR 3061, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).** Engrossed HCR 3061 was placed on the Fourteenth order on the calendar.



2007 TESTIMONY

HCR 3061

HCR 3061

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**Testimony of Roger Johnson  
Agriculture Commissioner  
HCR 3061  
House Agriculture Committee  
Peace Garden Room  
February 22, 2007**

---

Chairman Johnson and members of the House Agriculture Committee, I am Wayne Carlson, Program Manager for Livestock Services, for the North Dakota Department of Agriculture. I am here today in support of HCR 3061, which asks the Legislative Council to study the financial and environmental impact that confined animal operations have on local governments and to look into developing clear, concise and consistent laws regarding the siting of these facilities.

I don't have to tell you that this has been a very contentious subject in the legislature the last several sessions. Since 1999 the legislature has addressed issues regarding siting, zoning, odor, and tax regulations for confined feeding operations.

At times the discussion regarding confined animal feeding has become quite heated which has made it almost impossible to come up with fair, concise and consistent regulations that all parties involved understand and agree to. Despite those disagreements, I believe a lot has been accomplished. Model zoning ordinances were developed for counties to use, odor legislation

was passed that seems to be working and a comprehensive waste management regulations have been developed that most believe are adequate.

However, we are addressing some of the same issues again this session. Currently a bill has passed the House that is addressing the definitions of size, scope and nature and other siting issues. We hope this bill does make the current law more concise and consistent, but we have some reservations about whether this is going to completely accomplish this. In addition, there are other issues that may not get resolved this session such as property tax issues and bonding requirements.

The livestock industry needs certainty in order for it to expand and grow. With the increased production of ethanol and bio fuels, additional livestock production will be needed to use all the by-products that they generate. It does not do the state any good to continue to fight every legislative session on what was supposedly was fixed last session.

It is the department's belief that this problem will take more deliberation and time by all those involved to complete this task. This is why we believe it is necessary to get industry leaders and county, township and state leaders together to discuss this before next session. We do not need to be arguing on the same issue two years from now.

I applaud the effort that everyone involved has put into this session to solve this issue and Commissioner Johnson has pledged his support and staff time to make sure that the Department

of Agriculture will be an active participant in this process if you pass this resolution and the Legislative Council picks this as one of the resolutions to study.

Chairman Johnson and committee members, I urge you to support HCR 3061. I'd be happy to respond to any questions.



**"Watchdogs of the Prairie"**  
*Organizing North Dakotans Since 1978*

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**Testimony on HCR 3061**  
**House Committee on Agriculture**  
**February 22, 2007**

Chairman Johnson and Committee Members,

Dakota Resource Council presents this testimony in support of HCR 3061. My name is Barb Price and I am an organizer for DRC. Dakota Resource Council forms citizen groups dedicated to protecting North Dakota's families and its air, water, land and natural resources.

To increase livestock production in North Dakota it would be good to have clear, concise, and consistent laws and regulations. While trying to get the laws and regulations straight in my mind to write testimonies for the many Concentrated Animal Feeding Operation (CAFO) bills that have been submitted during this legislative session, I can see why there is such a long process to get applications and permits approved in North Dakota.

DRC believes that the following questions should be answered by the proposed study:

1. Are current state health and environmental regulations adequate? Are they enforceable and what are the mechanisms and resources the state currently has and may need for proper enforcement?
2. What property tax benefits and financial liabilities do CAFO's present local governments? The report should detail CAFO closure costs and measures local

governments are taking to avoid those costs and whether there should be legislation to unify an approach to closure costs amongst local governments. The report should detail whether the state should assume closure cost liability or set forth a fund to provide funding for environmental damages caused by CAFO's.

3. Are local governments' zoning powers adequate for siting and locating CAFO's? Are adjacent landowners' use, enjoyment, and property values protected under current zoning laws and ordinances? What effects would commercial or industrial zoning have on siting and locating CAFO's?

4. What relationship issues exist between county and township zoning and what problems are created when a local entity attempts to enact or change a CAFO ordinance after a person begins the process of developing a CAFO in that jurisdiction?

5. Are the proposed CAFOs good economic development for the rural community or are they increasing costs to the community? The report should outline the costs and benefits for communities that now have CAFOs and those where CAFOS are being proposed for the next two years. The pros and cons should include the types of jobs created with actual pay scales, who is going to be working each type of job created (current community member or imported from outside the community, pay and benefit level for each created job), and what social services will be needed for each community a CAFO is proposed to come into.

6. What are the major changes coming to the industry in the next ten years? Given that the biofuels industry is looking at getting away from corn, the by-products may no longer be available for livestock and one of the largest pork producers in the United States is proposing to go to hoop barns rather gestation crates. Should new construction be reflecting the new direction of the industry?

Dakota Resource Council would support a study that would answer the above stated questions to determine the best process for increasing livestock development in North Dakota,.

Thank you for the opportunity to speak

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**Testimony of Roger Johnson  
Agriculture Commissioner  
HCR 3061  
Senate Agriculture Committee  
Roosevelt Park Room  
March 15, 2007**

---

Chairman Flakoll and members of the Senate Agriculture Committee, I am Wayne Carlson, Program Manager for Livestock Services for the North Dakota Department of Agriculture. I am here today in support of HCR 3061, which asks the Legislative Council to study the financial and environmental impacts that confined animal operations have on local governments and to look into developing clear, concise and consistent laws regarding the siting of these facilities.

I don't have to tell you that this has been a very contentious subject in the legislature the last several sessions. Since 1999 the legislature has addressed issues regarding siting, zoning, odor, and tax regulations for confined feeding operations.

At times the discussion regarding confined animal feeding has become quite heated which has made it almost impossible to come up with fair, concise and consistent regulations that all parties involved understand and agree to. Despite those disagreements, I believe a lot has been accomplished. Model zoning ordinances were developed for counties to use, odor legislation



was passed that seems to be working and comprehensive waste management regulations have been developed that most believe are adequate.

However, we are addressing some of the same issues again this session. The bill that you are addressing today helps define size, scope and nature and other siting issues. We believe this bill does make the current law more concise and consistent. However there appear to be other issues that may not get resolved this session such as property tax issues and bonding requirements.

The livestock industry needs certainty in order for it to expand and grow. With the increased production of ethanol and bio-fuels, additional livestock production will be needed to use all the by- products that they generate. It does not do the state any good to continue to fight every legislative session on what was supposedly fixed last session.

It is the department's belief that this problem will take more deliberation and time by all those involved to complete this task. This is why we believe it is necessary to get industry leaders and county, township and state leaders together to discuss this before next session. We do not need to be arguing the same issue two years from now.

I applaud the effort that everyone involved has put into this session to solve this issue and Commissioner Johnson has pledged his support and staff time to make sure that the Department of Agriculture will be an active participant in this process, if you pass this resolution and the Legislative Council picks this as one of the resolutions to study.

Chairman Flakoll and committee members, I urge you to support HCR 3061. I'd be happy to respond to any questions.



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## **Testimony on HCR 3061**

### **Senate committee on Agriculture March 15, 2007**

Chairman Flakoll and Committee Members,

My name is Barb Price and I am an organizer for Dakota Resource Council. Dakota Resource Council forms citizen groups dedicated to protecting North Dakota's families and its air, water, land and natural resources.

DRC does believe that animal agriculture is important to North Dakota. To increase livestock production in North Dakota it would be good to have clear, concise, and consistent laws and regulations.

During the Hearing process for HB 1420 and SB 2331 it has become clear that:

1. We need to keep local control in Townships and Counties;
2. Neither of the bills was a solution to the problems between Ramsey County and Prospect Township;
3. There are conflicting statements in and between the laws and rules concerning CAFOs;
4. To increase livestock production in North Dakota it will be good to have clear, concise, and consistent laws and rules;
5. There needs to be a comprehensive study of all laws and rules concerning zoning

*Dakota Resource Council forms citizen groups dedicated to protecting North Dakota's families and its air, water, land and natural resources.*

and operation of CAFOs in North Dakota; and

6. This study is a way to develop the “sound science” needed to determine how CAFOs affect the social and economic issues in the rural communities of ND as well as environmental and health issues.

As an attachment I have submitted a list of questions that DRC believes need to be answered by the proposed study.

DRC asks for a DO PASS on HCR 3061.

Thank you.