

2013 HOUSE AGRICULTURE

HB 1326

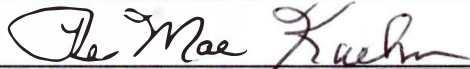
2013 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1326
January 31, 2013
Job #18066

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

(Fiscal Note)

Relating to the manufacturing and distribution of commercial feed; relating to the rules, enforcement, and registration and licensing requirements applicable to commercial feed; and to provide a penalty

Minutes:

Attachments #1-4

Representative Pollert, Co-Sponsor: This deals with feed regulations and labeling. I own/operate GNR Grain and Feed in New Rockford which is a pellet mill and feed plant. We also have fertilizer and chemicals. The main business is feed.

This bill comes from six stakeholder meetings that were held in the last two years. There needs to be some updating with the Food Security Modernization Act. This bill is a collaborative effort between the Ag. Dept. and people in the feed business. There is also a Letter of support from the American Feed Industry Association. (See attached #1)

An amendment will be coming from the Ag. Dept. I support the amendment. It deals mainly with the pet food market.

Representative Pollert: There is a fee on the fiscal note for people who have to come under licensure. This will bring that more into compliance.

My facility buys screenings which are foreign material. If you sell grain and not feed, you don't need a feed license for that. There are a lot of feed facilities that roll or grind and they add drugs. We need to keep track of drugs and what is being mixed. This bill will address that as well.

Representative Belter: When feed mills are using screenings, are they grinding them to the point that weeds are destroyed?

Representative Pollert: At my facility, it is ground down to a powder. That is what happens before you pellet it. There is the possibility that not all seeds get ground.

This is the third rewrite. We have been working on this legislation for some time.

Dave Phillips, Feed Specialist at the North Dakota Dept. of Agriculture: (8:45) (See attached #2)

Amendment (15:00) (See Attachment #3) Anything that would come as a rendered product. If you look at pet foods distributed in the state, there are a number of them that are using meat and bone meal, chicken by product meal. With the bill in front of you, it would make all that illegal. Currently we don't have a large poultry industry or a swine industry in North Dakota.

The original language comes out of the federal regulations. If we employ these amendments, the language as it should read is on Attachment #4. This gives the Secretary of Agriculture the authority to set up pesticide and other hazardous material tolerances that are acceptable. Essentially a rendered product becomes unacceptable when it exceeds established tolerances for hazardous materials. The federal government regulates it so that rendered animal products are not illegal. The way our bill is currently written, it would be.

Chairman Dennis Johnson: In what type of feed can rendered by-products be used?

Dave Phillips: Currently it is acceptable to use rendered products in pet foods, poultry, and swine. There is a prohibition on using rendered products from bovine or four-stomach animals and feeding it back to ruminants.

Chairman Dennis Johnson: (19:40) With this language it makes sure it stays the same?

Dave Phillips: Correct.

Representative Fehr: Can you clarify the amendment?

Dave Phillips: Attached #4 is what you will have once the amendment is applied.

Representative Kiefert: How does this affect what is currently being done?

Dave Phillips: We are trying to get back to status quo. We have 7,000 registered pet foods for distribution in North Dakota. The way the current language got into the bill, we would make 1/3 of them in violation of our feed law.

Representative Kiefert: Does that prohibit anything happening now with the amendment? Are they staying as they were?

Dave Phillips: The biggest change is under current standards in North Dakota. The only official inspections we have been doing of feed manufacturing facilities are the 8 facilities that require licenses under FDA because of the drugs they are using.

The language will provide us to do state level inspections at any feed producing facility in North Dakota.

Chairman Dennis Johnson: Are they still subject to federal inspections?

Dave Phillips: Anybody is subject to federal. Our largest distribution of commercial feed in North Dakota is from byproducts--DDGs from the ethanol industry. Currently there are no standards. The Food Safety and Modernization Act will have federal standards for those facilities.

Representative M. Nelson: Is the state running a check program to see that there are not illegal rendered parts sold in cattle feed?

Dave Phillips: We aren't doing a lot. We haven't had the support or backup. We get service through North Dakota Dept of Health lab. It is consumer protection type of sampling. They check for economic factors such as protein, fat, fiber.

Representative M. Nelson: So there is no quick test that would show genetic material from cattle in the feed?

Dave Phillips: No.

Representative Fehr: (26:00) In regard to drugs you said labeling standards, inspecting feed facilities, certificates based on facility inspections, contaminated totes. In your opinion will this manage control, prevent as needed in terms of substances in feeds?

Dave Phillips: Are you saying, will the bill provide for that level of safety?

Representative Fehr: Is it your opinion that the bill will provide that level of safety?

Dave Phillips: It will establish a basis. It hasn't been viewed as an important factor. This is a starting point. We will develop administrative rules.

Representative Fehr: What is the problem we are trying to fix? It sounds like we are trying to react to federal rules.

Dave Phillips: That is correct. We are reacting to what is happening on the federal basis.

Tom Bodine, North Dakota Farm Bureau: We are in support. We want to make sure regulatory oversight doesn't get too much. If federal rules force us, having a state inspector in the state is beneficial. This is an outreach program getting business up to compliance.

Chairman Dennis Johnson: With ground screenings, are there federal laws that deal with transporting screenings across state lines if they are not ground.

Dave Phillips: Are you referring to the noxious weed issue?

Chairman Dennis Johnson: Yes

Dave Phillips: No there isn't anything that would prohibit that.

Representative Headland: Moved the amendment

Representative Kiefert: Seconded the amendment

Voice Vote taken. Amendment passed.

Representative Belter: Moved Do Pass as amended.

Representative Headland: Seconded the motion

A Roll Call vote was taken: Yes 11, No 0, Absent 2.
(Reps. Heilman and Trottier)

Do Pass as amended carries.

Chairman Dennis Johnson will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/17/2013

Amendment to: HB 1326

- 1 A. **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.*

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

This bill updates the current feed law and minimal fiscal impact.

- 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.*

Sections 2 through 5: These sections change the fee schedule for new licenses; however, the law changes only impacts initial licenses. Fees for license renewals have not been changed.

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.*

It is estimated that we will register 20 new licensees per biennium, for total increase in revenue of \$200. This change was not included in the executive budget.

- 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.*

N/A

- 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.*

N/A

Name: Wayne Carlson

Agency: ND Department of Agriculture

Telephone: 328-4761

Date Prepared: 01/21/2013

FISCAL NOTE
Requested by Legislative Council
01/17/2013

Bill/Resolution No.: HB 1326

- 1 A. **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.*

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N/A

- 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.*

N/A

Name: Wayne Carlson

Agency: ND Department of Agriculture

Telephone: 328-4761

Date Prepared: 01/21/2013



January 31, 2013

1/31/13
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1326

Page 11, line 30, remove "The feed"

Page 11, line 30, overstrike "is"

Page 11, line 30, remove "deemed unsafe under section 402(a)(1) or (2) of the Federal"

Page 11, replace line 31 with "The feed consists"

Page 12, line 1, overstrike the comma and insert immediately thereafter "of"

Page 12, line 2, remove the overstrike over "~~which is unsafe within the meaning of section 402(a)~~"

Page 12, line 3, remove the overstrike over "~~(1) or (2) of the Federal Food, Drug, and Cosmetic Act, as amended~~"

Page 12, line 4, remove the overstrike over "~~21 U.S.C. 342~~"

Page 14, line 1, replace "indivdual" with "individual"

Renumber accordingly

Date: 1/31/13

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1326**

House **Agriculture** Committee

Legislative Council Amendment Number 13.0441.03001

Action Taken: Do Pass Do Not Pass Amended Consent Calendar
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Kiefert

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Boschee		
Vice Chairman John Wall			Rep. Jessica Haak		
Rep. Wesley Belter			Rep. Marvin Nelson		
Rep. Alan Fehr					
Rep. Craig Headland					
Rep. Joe Heilman					
Rep. Dwight Kiefert					
Rep. Diane Larson					
Rep. David Rust					
Rep. Wayne Trottier					

*Voice Vote
passed*

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Allows rendered animal products to be used in feed unless they exceed established tolerances.

Date: 1/31/13

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1326**

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Consent Calendar
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Belter Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman John Wall	X		Rep. Jessica Haak	X	
Rep. Wesley Belter	X		Rep. Marvin Nelson	X	
Rep. Alan Fehr	X				
Rep. Craig Headland	X				
Rep. Joe Heilman	AB				
Rep. Dwight Kiefert	X				
Rep. Diane Larson	X				
Rep. David Rust	X				
Rep. Wayne Trottier	AB				

Total Yes 11 No 0

Absent 2

Floor Assignment Representative Dennis Johnson

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

REPORT OF STANDING COMMITTEE

HB 1326: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1326 was placed on the Sixth order on the calendar.

Page 11, line 30, remove "The feed"

Page 11, line 30, overstrike "is"

Page 11, line 30, remove "deemed unsafe under section 402(a)(1) or (2) of the Federal"

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2013 SENATE AGRICULTURE

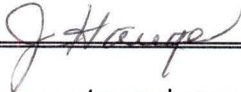
HB 1326

2013 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

Engrossed HB 1326
March 7, 2013
19539

Conference Committee



A bill to create and enact six new sections to chapter 19-13.1 relating to the manufacturing and distribution of commercial feed.

Minutes:

Chairman Miller opened the hearing on HB 1326. All members were present.

Representative Chet Pollert, District 29, introduced HB 1326 dealing with registrations and updates in the law. He is the owner, operator of G & R Grain and Feed in New Rockford. He said that there were a number of stakeholder meetings and the Feed Mill people worked with the North Dakota Agricultural Department to put this bill before you. He referred to a statement from the American Feed Industry Association regarding HB 1326 from Leah Wilkinson, Director, Ingredients, Pet Food and State Affairs.

Written testimony #1

Senator Klein asked if there were issues or problems that initiated this bill.

Representative Pollert said that we want to make sure in our industry that the people are licensed that are adding medication or additives to feeds and selling it. What this bill does is puts into statute the guidelines of what we have to do when we sell a product. Another example of the need for this bill is to address the leased bulk bags and the danger of contamination.

Senator Miller asked how selling corn screenings would fit into this.

Representative Pollert said that it was discussed that facilities selling screenings would have to have a feed license but that is not in the bill. He said he didn't think that should be in the bill.

Dave Phillips, Feed Specialist at the North Dakota Department of Agriculture (NDDA), testified in support of HB 1326 and explained the proposed changes and the amendment that the House added. **Written testimony #2**

Senator Luick asked who's health they were talking about on line 31 on page 9, which states, "The feed injurious to health"

Dave Phillips this language is taken almost verbatim from Federal regulation and it refers to the health of animals.

Senator Larsen asked for clarification of what he meant by 8 licensed facilities.

Dave Phillips said that the 8 facilities are licensed in North Dakota as Feed Manufacturers but they are also required to hold an FDA license. The qualifications become the nature of the drugs they are using to make medicated feed. Under FDA credentials he inspects four of those facilities every year. The other 60 plus feed mills in the state of North Dakota are under no official inspection criteria.

Senator Heckaman asked him to explain the House amendment.

Dave Phillips referred to page 11, line 30 of HB 1326 in the section on adulteration. The way it was written, it may have made 2000-3000 registered pet foods in the state illegal. Also could affect some poultry and swine feeds that are imported into the state.

Senator Klein are we wanting every feed plant to be a registered facility.

Dave Phillips said the former law defines that anyone manufacturing feed was to have a commercial feed manufactures license. He gave examples.

Senator Klein asked if we are bringing all these facilities in to be licensed, shouldn't there be more money collected.

Discussion followed on money collected, possible needs for FTEs, the inspection fees and the cost of running the program. It was learned that all money collected through fees goes to the general fund.

Senator Miller asked Mr. Phillips to provide some additional financial information.

Senator Luick asked if they had problems with commercial feed and animals getting sick from processors that aren't inspected.

Dave Phillips said that he had heard rumors and explained. He said that what we really have to worry about is residues that could end up on our plate.

Senator Heckaman read a paragraph from the written testimony of Leah Wilkinson (AFIA). "AFIA will continue to work with the Department over the next couple of years for innovative ways to reduce the regulatory burden on the feed industry and the administrative workload of the department regarding the product registration requirement. In fact, twenty eight states have done away with this requirement as they modernized their feed laws in the last few years and we encourage the Department to look to them as examples in the future." She asked if they will be back in two years.

Dave Phillips said that they (AFIA) indicated that we'd have to come back. He addressed the comment on the bottom of the page. (42:00)

Senator Miller asked about out of state pet food manufactures being licensed.

Dave Phillips said that they just send in a label, no licensing.

Senator Larsen had a question on microbrewery by products being feed and if they had to be licensed.

Dave Phillips he exclaimed past discussions but in the law, whole seeds are exempted from being commercial feed but if you add anything to it...it becomes commercial feed. That is why the DDGs from ethanol plants are being distributed as feed. Some states surrounding us consider screenings a commercial feed~~s~~ and they expect every elevator selling them to have a license and they collect tonnage. In regard to the microbrewery, you have to use enforcement discretion. "If I find them and it looks like it has become significant, in the issue of creating a level playing field, yes."

Senator Miller said microbreweries have special tax statues and they are registered in the Tax Department.

Senator Miller asked for some financial information for the committee and closed the hearing on HB 1326.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

Engrossed HB 1326
March 15, 2013
19976

Conference Committee

Flange

Minutes:

Vote

Chairman Miller opened discussion on Engrossed HB 1326. All committee members were present.

Senator Klein moved a **Do Pass** on Engrossed HB 1326.

Senator Heckaman seconded.

Roll call vote: 5-0-0

Senate Larson will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/17/2013

Amendment to: HB 1326

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N/A



Name: Wayne Carlson

Agency: ND Department of Agriculture

Telephone: 328-4761

Date Prepared: 01/21/2013



FISCAL NOTE
Requested by Legislative Council
01/17/2013

Bill/Resolution No.: HB 1326

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N/A



Name: Wayne Carlson

Agency: ND Department of Agriculture

Telephone: 328-4761

Date Prepared: 01/21/2013



Date: 3-15-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. Eng 1326

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Klein Seconded By Senator Heckaman

Senators	Yes	No	Senator	Yes	No
Chairman Joe Miller	✓				
Vice Chairman Larry Luick	✓				
Senator Jerry Klein	✓				
Senator Oley Larsen	✓				
Senator Joan Heckaman	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Larsen

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

REPORT OF STANDING COMMITTEE

HB 1326, as engrossed: Agriculture Committee (Sen. Miller, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1326 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1326



#1
HB 1326

January 30, 2013

Statement of the American Feed Industry Association regarding HB 1326 before the House Agriculture Committee on January 31, 2013

Dear Chairman Johnson and Vice Chairman Wall:

On behalf of the American Feed Industry Association (AFIA) and our members who manufacture in and distribute commercial feed into the state of North Dakota, I write today regarding HB 1326.

AFIA has been working with the Department of Agriculture and other stakeholders in the state to provide recommendations to update the commercial feed law. AFIA supports states in the endeavor to model their laws after the Association of American Feed Control Officials (AAFCO) Model Bill and Regulations. Generally, HB 1326 strives for harmonization with the AAFCO model bill and we support that.

We are concerned with the language as drafted in 19-13.1-07(h) and urge the committee to amend this language with the proposal from the Department. As the bill is in currently drafted, any feed or pet food that contained rendered animal products would be adulterated in the state and we do not believe that was the intent when drafted by legislative counsel. If this amendment is not adopted, it would drastically alter the type and volume of feed products and pet foods available for North Dakota's livestock industry and pet owners.

AFIA will continue to work with the Department over the next couple of years for innovative ways to reduce the regulatory burden on the feed industry and the administrative workload of the department regarding the product registration requirement. In fact, twenty eight states have done away with this requirement as they modernized their feed laws in the last few years and we encourage the Department to look to them as examples the future.

We encourage your support of the bill with inclusion of the amendment as proposed by the department.

Sincerely,

Leah Wilkinson
Director, Ingredients, Pet Food and State Affairs

Cc: House Agriculture Committee Members
Bill Cosponsors

COMMISSIONER
DOUG GOEHRING



nda@nd.gov
www.nd.gov/nda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

**Testimony of Dave Phillips, Feed Specialist
North Dakota Department of Agriculture
House Bill 1326
House Agriculture Committee
Peace Garden Room
January 31, 2013**

Chairman Johnson and members of the House Agricultural Committee, I am Dave Phillips, the Feed Specialist at the North Dakota Department of Agriculture (NDDA). I am here today in support of HB 1326 which amends North Dakota Century Code (NDCC) §19-13.1 North Dakota's commercial feed law.

The current feed law was enacted in 1967 when the feed regulatory program resided with the North Dakota Department of Health. The feed law was transferred to NDDA in 1995. The initial focus of the program was consumer protection in which the major responsibility was conducting a sampling program to ensure truth in labeling. The focus has changed over the years to include a greater role in feed safety due to the increased awareness of the link between healthy feed and food safety. The Food Safety Modernization Act (FSMA) passed by Congress in late 2010 may increase this role even further in the future.

In January of last year, our department held six meetings around the state to solicit input from stakeholders to see what role our department should be focusing on in the future. Most of the proposed law changes are based on the input that was received from those meetings.

The majority of the issues discussed in those meetings were in regard to improving the clarity of the regulations. Many of the definitions are out dated or unclear and the law is confusing. Most of the changes in this bill reflect comments made at those meetings to improve the flow and

clarity of the chapter and do not change regulatory authority or intent.

However, other issues were discussed that lead to proposed changes to the law that impact the current intent and how the industry is regulated. Those proposed changes are incorporated in this bill to:

- Acknowledge and reward timely renewals of manufacturer's licenses, retail licenses, and pet food registration by adjusting new license and pet food registration fees. (Sections 2 and 5)
- Facilitate the ease of interstate commerce for instate and out of state manufacturers through labeling standards that are consistent with federal and other state standards. (Section 6)
- Establish by administrative rulemaking, "Good Manufacturing Practices" in order to inspect feed facilities under state credentials and provide greater state control. The majority of inspections are currently done using FDA credentials, therefore; FDA makes enforcement decisions.
- Provide export certificates to feed manufacturers. Foreign countries are starting to require export certificates based on production facility inspections. This bill gives the commissioner the authority to implement a program to conduct inspections and issue export certificates based on Good Manufacturing Practices. (Section 17)
- Prevent unintentional adulteration of feed if contaminated totes are reused to package feed. With the escalating use of poly packaging (referred to as totes) for seed, pesticides, and feed, a new section 19-13.1-07(j) is created to address the concerns of unintentional contamination of feed if reused for packaging feed.

I offer an attached amendment for your consideration because current changes to 19-13.1-07(h) provides unintended consequences that would consider all feeds or pet foods containing rendered products to be adulterated.

Chairman Johnson and committee members, I urge a "do pass" on HB 1326 as amended. I would be happy to answer any questions you may have.

Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1326

#3
1/31/13

Page 11, line 30, overstrike "is" and insert immediately thereafter "consists" and remove "deemed unsafe under section 402(a)(1) or (2) of the Federal"

Page 11, remove line 31

Page 12, line 1, overstrike the comma and insert immediately thereafter "of"

Page 12, remove the overstrike over line 2

Page 12, line 3, remove the overstrike over "~~(1) or (2) of the Federal Food, Drug, and Cosmetic Act, as amended,~~"

Page 12, line 4, remove the overstrike over "~~21 U.S.C. 342]~~"

Renumber accordingly

HB 1326

1/31/13

#4

The feed consists in whole or in part of the product of a diseased animal or of an animal that has died otherwise than by slaughter which is unsafe within the meaning of section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 342];

Additional
#1



March 6, 2013

Statement of the American Feed Industry Association regarding HB 1326 before the Senate Agriculture Committee on March 7, 2013

Dear Chairman Miller and Vice Chairman Luick:

On behalf of the American Feed Industry Association (AFIA) and our members who manufacture in and distribute commercial feed into the state of North Dakota, I write today regarding HB 1326.

AFIA has been working with the Department of Agriculture and other stakeholders in the state to provide recommendations to update the commercial feed law. AFIA supports states in the endeavor to model their laws after the Association of American Feed Control Officials (AAFCO) Model Bill and Regulations. Generally, HB 1326 strives for harmonization with the AAFCO model bill and we support that.

We support the amendments that were made during the House Agriculture Committee's consideration of the bill in January.

AFIA will continue to work with the Department over the next couple of years for innovative ways to reduce the regulatory burden on the feed industry and the administrative workload of the department regarding the product registration requirement. In fact, twenty eight states have done away with this requirement as they modernized their feed laws in the last few years and we encourage the Department to look to them as examples in the future.

We encourage your support of the bill.

Sincerely,

A handwritten signature in cursive script that reads "Leah Wilkinson".

Leah Wilkinson
Director, Ingredients, Pet Food and State Affairs

Cc: Senate Agriculture Committee Members
Bill Cosponsors

COMMISSIONER
DOUG GOEHRING



#2
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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

**Testimony of Dave Phillips, Feed Specialist
North Dakota Department of Agriculture
House Bill 1326
Senate Agriculture Committee
Roosevelt Park Room
9:00am, March 7, 2013**

Chairman Miller and members of the Senate Agriculture Committee, I am Dave Phillips, the Feed Specialist at the North Dakota Department of Agriculture (NDDA). I am here today in support of HB 1326 which amends North Dakota Century Code (NDCC) §19-13.1 North Dakota's commercial feed law.

Current legislation was enacted in 1967 when the feed regulatory program resided with the North Dakota Department of Health. The primary focus of the program was consumer protection, with oversight of truth in labeling conducted by a product sampling program. The feed law was transferred to the Department of Agriculture in 1995, with few amendments since.

The Food Safety Modernization Act (FSMA) passed by Congress in late 2010 requires major changes in the way the Food and Drug Administration (FDA) will regulate food and animal feed. The passage of FSMA has lead the Department to question the relevance of the existing feed law to the current status of the state's feed industry. To better understand appropriate roles for the Department in the oversight of commercial feed distribution, a series of six input meeting were held around the state in January 2012. Many of the proposed changes are based on the input that was received from those meetings.

You will note that HB 1326 contains numerous overstrikes that were required during this rewrite to improve clarity of the regulations. The overstrikes remove redundant references, unnecessary definitions, and in some cases whole sections that were too cumbersome to simply amend. The majority of these overstrikes do not change regulatory authority or intent.

Every two years considerable resources are expended tracking down persons failing to renew licenses or registrations before the end of the grace period. Language in sections 2 & 5 set new license and pet food registration fees at a rate twenty percent higher than on time renewals. This is to acknowledge and reward timely renewals of manufacturer's licenses, retail licenses, and pet

food registrations. Persons who fail to renew on time are cancelled and new application fees will apply.

The majority of the three hundred eighty feed manufacturers holding a North Dakota license distribute feed to destinations in and out of the state. To facilitate ease of interstate commerce for manufacturers, Section 6 amends 19-13.1-04 to establish labeling standards that are consistent with the federal regulations and the regulations of most other states.

Currently, the majority of Department inspections of feed facilities are done using FDA credentials and enforcement decisions are made by FDA. Section 13 contains amendments to NDCC §19-13.1-09 that provide the commissioner authority to establish Good Manufacturing Practices and the basis for inspecting feed manufacturers producing medicated or non-medicated feed.

With food and feed safety becoming a global issue, some foreign countries are starting to require export certificates based on production facility inspections. Section 17 is a new chapter that gives the commissioner the authority to implement a program to conduct inspections and issue export certificates based on Good Manufacturing Practices.

A new subsection 19-13.1-07(j) deems feed misbranded if it has been packaged in bags or poly packaging (also referred to as totes) that previously contained pesticide products, treated seeds, or other hazardous materials. This is in response to the escalating use of totes, which hold up to 2000 lb., and the concerns of unintentional contamination of feed if it is reused for packaging feed.

Chairman Miller and committee members, I urge a "do pass" on HB 1326. Thank you and I would be happy to answer any questions you may have.