

**2013 HOUSE AGRICULTURE**

**HCR 3022**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HCR 3022  
February 8, 2013  
Job #18640

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A resolution urging Congress to amend the Federal Meat Inspection Act for the purpose of allowing flexibility in the state meat inspection programs.

## Minutes:

Attachments #1-3

**Representative Fehr:** (See Attached #1)

**Terry Schantz, Meat Processing:** (2:25) The federal government is taking away our rights to consume products, for example, shutting down church benefits, boy scout benefits, etc. They are telling our custom exempt meat processing facilities what kind of beef we can bring in and out of our establishments.

Custom exempt meat plants--the person that brings meat to the shop is the person that takes it home to consume. This is what I am trying to address. The other issues I don't have a problem with for on and off sale of federal inspected meats.

The consumer has to bring in a statement that the animal was ambulatory when he slaughtered it. The federal government took the downer cow issue to an extreme. A farmer is feeding a steer in the corral for a year and wants to bring it in to process it. The steer slips while going on the trailer and breaks its hip. Now it can't get up so the owner brings it to the processing facility so he doesn't lose the animal.

Our last Agriculture Commissioner introduced a bill that makes it a Class A Misdemeanor and a \$1,000 fine to process that animal because it is considered a downer cow. You can take a deer that is shot one night and can't find it until the next morning and can still tag that deer and legally consume it. They can bring it the next morning, process it, and donate it to the Hunter for Hunger program. There is a double standard.

The federal government is forcing North Dakota Meat Inspection to enforce these rules. This is the sworn statement. (See attached #2)

I asked Dr. Grondahl to answer a few questions back in 2010 on what is permissible for wildlife and what is permissible for personally consumed beef. (See attached #3)

The federal government is enforcing these standards onto our custom exempt processing plants. It used to be that custom exempt meant the federal government never had to look at the carcasses that were for personally consumed meat. Now they are enforcing this ambulatory clause. They have a zero tolerance on foreign contamination on beef carcass. I have never seen a wildlife carcass that could pass this test. They don't have to look at the wildlife carcass if it is a personally consumed product.

This is not a sanitation issue. It is a carcass ownership issue. There is discrimination between the farmer and the hunter.

**Representative Fehr:** Back to the steer that slipped. He can only process it himself? What else can he do with the animal?

**Terry Schantz:** He can't eat it and has to dispose of it.

**Representative Fehr:** So he needs to bury it. How much money is he out?

**Terry Schantz:** \$1,000 to \$1,500

With the Hunter for Hunger Program, you can donate any wildlife but not farm-raised meat.

**Chairman Dennis Johnson:** He could process that beef on his farm?

**Terry Schantz:** I don't think so.

**Representative M. Nelson:** Elk and deer shot in a high-fence hunt would be considered food. Do they have to be in an ambulatory condition in order to be processed?

**Terry Schantz:** That's a good question? It should be under 30 months of age because of Mad Cow Disease. Chronic Wasting Disease is what the deer & elk have. If it is over 30 months of age, I have to process it different. They have to bring in their calving books. What I don't understand is why the federal government is telling our state meat inspectors how our farmers and ranchers can process their meat.

Last winter we had a semi-truck that rolled by New Salem. People thought the butcher would be busy. But most of that beef was wasted.

**Opposition:** none

**Chairman Dennis Johnson:** Closed the hearing

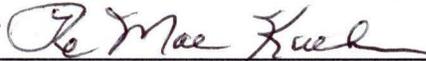
# 2013 HOUSE STANDING COMMITTEE MINUTES

**House Agriculture Committee**  
Peace Garden Room, State Capitol

HCR 3022  
February 14, 2013  
Job #18959

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

(Committee Work)

A resolution urging Congress to amend the Federal Meat Inspection Act for the purpose of allowing flexibility in the state meat inspection programs.

**Minutes:**

**Chairman Dennis Johnson:** To follow up on some questions from the hearing:  
Dr. Andrea Grondahl from the Agriculture Department said that you can process an injured steer on your farm. The law exempts on your own premises.

The other question was asked if elk and deer in a fence need to be ambulatory? The answer is elk and deer can be processed if injured. Ambulatory is only for cattle because of Mad Cow Disease. Inspections are done when there is concern of other diseases.

**Representative Fehr:** Moved Do Pass

**Representative Rust:** Seconded the motion

Voice Vote was taken. Motion passed.

HCR 3022 will be put on the consent calendar.

**Representative Fehr:** will carry the bill if needed

Date: 2/14/13

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3022**

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. Fehr Seconded By Rep. Rust

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 12 No 0

Absent 1

Floor Assignment Representative Fehr

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

**REPORT OF STANDING COMMITTEE**

**HCR 3022: Agriculture Committee (Rep. D. Johnson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3022 was placed on the Tenth order on the calendar.**

**2013 SENATE INDUSTRY, BUSINESS AND LABOR**

**HCR 3022**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HCR 3022  
March 19, 2013  
Job Number 20118

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Urging Congress to amend the Federal Meat Inspection Act for the purpose of allowing flexibility in state meat inspection programs

## Minutes:

Discussion and Vote

Chairman Klein: Opened the hearing.

Representative Schatz: Introduced the bill.

Chairman Klein: Said the current law says that the North Dakota meat inspection will mirror Federal law and be equal to or greater than. There are issues in the federal law but do you know of any state that has been successful in creating this gray area? Back in 1999 or 2001 when we passed the North Dakota meat inspection rules we thought we were getting gray area.

Representative Schatz: Said he didn't know that. This being a resolution is basically a suggestion to congress and our delegation to make them aware. I would of liked to have done something stronger but apparently we couldn't because we would have been in violation of Federal law.

Julie Ellingson, Executive Vice President of the North Dakota Stockmen's Association: In support of the resolution. Meat processing is an important bridge from the high quality cattle that we raise on our farms and ranches in North Dakota to bringing high quality beef to the restaurants and the dinner plates and the consumers around the world. As we know meat processing is part science, part art and there are fewer and fewer processors here in our state. We agree that state inspected processors and our state meat inspection program should be afforded flexibility in administration. We've heard about the challenges for meat processors across the state about some of those rules. We share the philosophy that is outlined in this bill. As the livestock spoke person, we will not compromise on food safety but some flexibility and administration of rules that do not sacrifice the integrity of the food should be afforded to processors to keep them viable and also to help support the livestock industry here in our state. We ask for your support of this resolution.

Senator Murphy: Asked why the current statute exists as it does.

Julie Ellingson: Said that over the last couple years they have heard from several meat processors as well as livestock producers who work with those meat processors about some of the concerns of an overreach of regulation from coming down from the Federal Government. Even in visiting with our state agriculture department that administers the state meat inspection program, indicated that there has been a very switch in the tone of state meat inspectors. Instead of coming to do an inspection and saying this is an area where you are not quite in compliance and this is what we would suggest to rectify this situation, they have been very penalty driven. They are not assisting those folks to come into compliance. That is some of the rigidity brought down from the Federal side of it. We are driving some meat processors out of business because they can't comply with some of those unrealistic rules.

Ken Bollinger, State Department of Health: Said that they do license and inspect a variety of food establishments, including grocery stores and meat markets in the state. They are all of the opinion that it is a good idea to send this resolution but isn't sure they will have a lot of luck changing Federal law. USDA has been pretty stringent and tough in what they passed in the Meat Inspection Act. He said he shares their frustration with the movement of state inspected products across state lines. There has been a prohibition on the state inspected products from prohibiting it from going in interstate commerce. USDA demands that state meat inspection programs be equal to the Federal law. They work very hard and are very good at being equal to but it is like the products that are state inspected are inferior because they wouldn't let them cross state lines. It isn't a food safety issue it is a marketing issue. USDA is protecting their plants so they don't go by the wayside if everyone goes under state inspection.

Chairman Klein: Asked if there was any Federal meat inspectors left in the state.

Ken Bollinger: There are a few, like Cloverdale and some of the bigger plants.

Discussion and Comments (12:45-17:00)

Chairman Klein: Closed the hearing.

Senator Andrist: Moved a do pass.

Senator Unruh: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent - 0

Floor Assignment: Senator Andrist

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3022**

Senate Industry, Business, and Labor 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 Andrist Seconded By Senator Unruh

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Andrist

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

**REPORT OF STANDING COMMITTEE**

**HCR 3022: Industry, Business and Labor Committee (Sen. Klein, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3022 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HCR 3022**

HCR 3022 Testimony

#11  
2/8/13

Good morning, Mr Chairman and members of the Committee:

I am Representative Alan Fehr, District 36, standing in for Rep Mike Schatz.

I am here to present House Concurrent Resolution 3022.

This resolution is simple – it urges Congress to amend the Federal Meat Inspection Act.

The problems with the federal act are more complicated.

The Federal Meat Inspection Act of 1906 authorized the Secretary of Agriculture to inspect and condemn any meat or meat product found to be unfit for human consumption.

The US Supreme Court in 2012 held that the Preemption Clause of the Federal Meat Inspection Act prevents a state from imposing any additional or different requirements on slaughter facilities and operations.

This Federal Act and the Supreme Court decision leave no flexibility for states to address their own situations and circumstances.

For this reason, this resolution urges Congress to amend the Federal Meat Inspection Act so that each state can determine the nature and scope of protections necessary for its citizens and develop and implement an intrastate meat inspection program that is appropriate to its own culture and manner of producing and consuming meat and meat products.

The next speaker will describe problems we have with the Act and why it should be changed.

Are there any questions for me?

I would like to introduce Mr Terry Schantz.

# 2  
2/8/13

This Letter indicates that the cattle I am/we are presenting to you for slaughter and/or processing are non-ambulatory disabled livestock. I/we understand that non-ambulatory disabled cattle cannot be harvested and/or slaughtered for human food, in either inspected or custom-exempt establishments, per USDA-FSIS Notice 5-04, Interim GUIDANCE For Non-Ambulatory Disabled Cattle and Age Determination. Under this Notice, non-ambulatory disabled livestock are defined as livestock that cannot rise from a recumbent position and/or cannot walk, including but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column or metabolic condition. It is imperative that the information you are furnishing in this letter concerning the ambulatory condition of the animals presented for slaughter be accurate.

The livestock I am/we are presenting for slaughter is under 30 month \_\_\_\_ or over 30 month \_\_\_\_ of age.

Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Phone \_\_\_\_\_

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Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Phone \_\_\_\_\_

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The livestock I am/we are presenting for slaughter is under 30 month \_\_\_\_ or over 30 month \_\_\_\_ of age.

Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Phone \_\_\_\_\_



DOUG GOEHRING

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2/8/13

July 21, 2010

Terry Schantz  
Select Meats  
7217 44<sup>th</sup> St  
Glen Ullin, ND 58631

Dear Mr. Schantz:

The purpose of this letter is to provide answers to the questions you brought forward at our meeting on July 8, 2010. I hope to provide you with sufficient information and help clarify some of the requirements regarding your meat processing business and activities that may be conducted by other individuals near your area.

The first set of questions you discussed pertained to "ND big game and upland game" or "game" and the second set to "cows, pigs and chickens" or "farm animals". Before answering your questions I need to first clarify what is considered game and what is considered farm animals by the North Dakota Meat and Poultry Inspection Program (NDMPIP) and the jurisdiction we have over each category.

The NDMPIP has the responsibility and regulatory authority to inspect custom exempt meat processors within North Dakota. The NDMPIP operates with North Dakota Century Code §36-24, Administrative Rules §7-13 and Title 9, Code of Federal Regulations.

"Custom Exempt" or custom processing means "slaughtering, eviscerating, dressing, or processing an animal or processing meat products for the owner of the animal or of the meat products, if all meat products derived from the custom operation are returned to the owner of the animal or of the meat products" (NDCC §36-24-01).

Custom exempt does not mean plants or individuals are exempt from all inspection, only from the inspection of the preparation of products. Custom exempt operations must meet facility and sanitation requirements and follow all state rules and regulations pertaining to meat inspection.

The definition of "animal" ultimately determines which individuals and which type of livestock or animals fall under these requirements and regulations. "Animal" includes cattle, swine, sheep, goats, farmed cervidae, llama, horses, equines, other large domesticated animals, and poultry" (NDCC §36-24-01).

Any animal not included in this definition does not fall under NDMPIP jurisdiction. Therefore, wild game animals do not fall under our jurisdiction. It is only when other products are added to wild game that the regulations come into play.

The questions asked by you on the first sheet pertained to “big game and upland game”. I have answered the questions according to NDMPIP definition of game, which would, for example be wild deer or wild birds. This excludes captive species, such as, captive deer and captive elk.

1. “Can a group of ND hunters take game they have harvested to a friend’s unlicensed shop for processing then take it to their home for consumption?” **Yes. However, the answer would be no if it included species other than wild game and the owner of the shop is actually providing custom processing services.**
2. “Can a group of ND hunters take game they have harvested and processed in the field to their homes for consumption?” **Yes**
3. “Can a group of ND hunters take game they have harvested and processed in the field, can they give it to a food pantry?” **Since we do not have jurisdiction on pure wild game product it would depend upon the food pantry’s requirements. My understanding is that donations are normally through the “Sportsmen Against Hunger” program. This program requires that the meat is processed by a registered and inspected (custom exempt or state-inspected or federally inspected) meat processing plant.**
4. “Can a group of ND hunters take game they have harvested and processed in the field to a local licensed custom shop and have the food pantry pay for the processing before the pantry can take the meat?” **Same answer as the one above.**
5. Can a group of ND hunters go on a paid hunt for game where the guide processes the meat for the hunters to consume at their homes? **If it is wild game, yes. If it is captive deer or elk, no.**
6. Do you have to know the age and weight of ND game when it is processed? **The age of wild game does not have to be known or recorded. Custom exempt establishments are required to keep records of the quantities of all products prepared on a custom basis, as per Title 9 CFR, part 303.1.**

The questions asked by you on the second sheet pertained to “cows, pigs and chickens”. I have answered the questions according to NDMPIP definition of animal as described above. This includes captive deer and elk.

1. “Can a group of ND citizens take farm products to a friend’s unlicensed shop for processing then take it to their home for consumption?” **Not if the friend was providing custom exempt or custom processing services as defined above. If the friend is not providing custom processing services then it would be allowed.**
2. “Can a group of ND citizens take farm products they have harvested and processed in the pasture to their homes for consumption?” **No. The regulations stipulate that a producer can do this if it is an animal ‘of their own raising’. A ‘group of citizens’ would not fall into this category.**

3. “Can a group of ND citizens take farm products they have harvested and processed in the pasture, can they give it to a food pantry?” **No, custom exempt product may only go back to the individual for which the product is being slaughtered or processed.**
4. “Can a group of ND citizens take farm products they have harvested in the pasture to a local licensed custom shop and have the food pantry pay for the processing before the pantry can take the meat?” **No, custom exempt product may only go back to the individual for which the product is being slaughtered or processed.**
5. “Can a group of ND citizens pay a farmer for farm products and have him process the product on his farm for the citizens to consume at their homes?” **No, the farmer would be conducting custom exempt activities without being registered and having approved facilities and sanitation.**
6. Do you have to know the age and weight of ND farm products when it is processed? **The age of cattle must be known and records must be kept to document age for all cattle slaughtered and/or processed. The age does not need to be known for other species. The weight of all carcasses must be known and records must be kept, as per Title 9 CFR, part 320.1.**

In addition to providing these answers I would like to take this opportunity to address some of your other concerns voiced at our meeting. As discussed, the NDMPIP was created by the 1999 State Legislature to allow small and medium meat processors and livestock producers a better opportunity to market their product, and provide a better means for processing alternative or non-traditional livestock.

Prior to implementing the NDMPIP, the ND Department of Agriculture (Department) was required by the USDA through the Federal Meat Inspection Act (FMIA) to develop a program that was at least equal to the federal program in all aspects including; laws, regulations, inspection procedures, sampling programs, facility standards, sanitation requirements, and, many other requirements that pertain to meat processing. This was required of the Department prior to USDA granting us the authority to administer a State meat inspection program. Once approved, the NDMPIP obtained the authority to develop official state establishments and, through USDA’s standard cooperative agreement, we also became responsible for regulating custom exempt establishments. This is a part of the program that some legislators may not have been aware of at the time it was created.

While meat processors such as yourself may get frustrated from time to time with the NDMPIP because of requirements imposed on you or because the laws and regulations of a state or federal program are very similar, it is important to recognize the many benefits a state program creates for all of North Dakota. State programs are desirable to the industry and state government alike because we focus on regulating small and medium-sized businesses and are generally more accessible and more flexible than the USDA, which now caters almost exclusively to large processors. State programs also provide more practical information and technical assistance and any disputes are handled at the state and local level. Also, elected state officials have a say in how the small business person is regulated.

One major advantage of a state program is the ease of access for plants to obtain a “Grant of Inspection” or “Official Establishment” status, which allows them to expand their market base through wholesaling. Wholesaling ability is especially useful in rural communities where there