

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3008

2005 HOUSE AGRICULTURE

HCR 3008

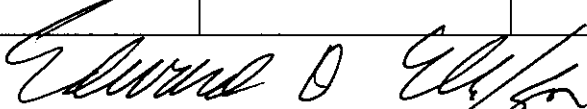
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3008

House Agriculture Committee

☐ Conference Committee

Hearing Date 1---27---05

Tape Number	Side A	Side B	Meter #
FOUR	A		0 to 3.0
Committee Clerk Signature 			

Minutes:

CHAIRMAN EUGENE NICHOLAS: Committee Members, we will re-open on HCR 3008. Committee Members, what are your wishes on HCR 3008?

**REPRESENTATIVE BRANDENBURG: I WILL MAKE A MOTION FOR A DO PASS.**

**REPRESENTATIVE HEADLAND: I WILL SECOND THE MOTION.**

**CHAIR: COMMITTEE MEMBERS, IS THERE ANY DISCUSSION?**

**THE CLERK WILL TAKE THE ROLL.**

**THERE WERE 11 YES**

**0 NO**

**2 ABSENT**

**REPRESENTATIVE BELTER WILL CARRY THE BILL**

**CHAIR**

1-27-05  
HER3008  
Date:  
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House HOUSE AGRICULTURE COMMITTEE Committee

☐ Check here for Conference Committee

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

Action Taken DO PASS

Motion Made By BRANDEN BURG Seconded By HEADLAND

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE		
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH		
REP. WESLEY BELTER	✓		REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment MR. BELTER

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

**REPORT OF STANDING COMMITTEE (410)**  
January 27, 2005 7:43 p.m.

**Module No: HR-18-1269**  
**Carrier: Belter**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HCR 3008: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS**  
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3008 was placed on the  
Tenth order on the calendar.

2005 SENATE AGRICULTURE

HCR 3008

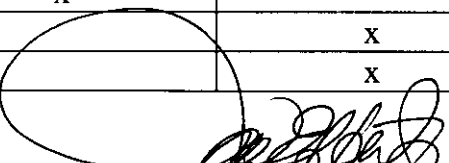
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3008

Senate Agriculture Committee

☐ Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		5257 - end
1		x	0 - 1048
1		x	2336 - 2795
Committee Clerk Signature 			

Minutes:

**Chairman Flakoll** opened the hearing on HCR 3008, a resolution directing the Legislative Council to study agricultural commodity organizations and the Legislative Assembly oversight of commodity appropriations and charges. All members were present.

**Representative Brandenburg** introduced the resolution. The prime sponsor is Representative Wald who is unable to be here this morning. He asked that a handout be distributed, "Agricultural Commodity Organizations". Representative Wald felt it was very important to see what other states are doing.

**Senator Flakoll** asked about line 7 in the resolution, that mentions the varying degrees of control of commodity groups in other mid western states, what do we care, we are North Dakota.

**Representative Brandenburg** said Representative Wald thinks this is important.

**Senator Klein** said he wonders if there is a problem we are trying to fix and Representative Wald may have an underlying concern with one particular commodity group. Overall, we have

been doing a pretty good job, the legislature has an opportunity to have each commodity group come before us every session. We know what their balance sheets are, we know where their research is. Does this verbiage mean we shall study it or we may. Is there a problem here.

**Representative Brandenburg** said he wishes Representative Wald was here, he thinks Representative Wald thinks there is a problem.

**Senator Klein** said it troubles him when an urban legislator is driving the train on this issue.

**Representative Brandenburg** said he is pinch hitting.

**Senator Urlacher** said he votes on an issue, not on a sponsor. Due to the fact there has been a lot of testimony and a mixed bag over a couple of sessions, it is good to study it and come to a consensus.

**Senator Seymour** asked what would be the ideal results of the study.

**Representative Brandenburg** said we have to look back at the beginning of the session and where we are now. We have made tremendous progress. This resolution addresses that.

Representative Wald wants a tighter rein. This is happening right now.

**Senator Flakoll** asked whose money is it, the state's money or the commodity groups money.

**Representative Brandenburg** said the legislature actually put it in place, it is a combined effort. If things go right, the commodity group takes the credit, if things go wrong, it is the legislature's fault.

**Senator Flakoll** asked whose money is it, he didn't really understand the answer.

**Representative Brandenburg** said it is a two fold effort. The legislature implemented the checkoff. The commodity groups are entrusted to spend it appropriately. Its the people's money.

**Senator Flakoll** asked if we wanted to, could we appropriate it, like the sales tax.



**Representative Brandenburg** said there are some people who think that way.

**Senator Flakoll** asked if this resolution would lead us down that road.

**Representative Brandenburg** said he would not want to answer that.

**Senator Flakoll** said could it happen.

**Representative Brandenburg** said there are some legislators who are afraid they are going to open the paper and read the legislators didn't do their job and allowed this money to be misspent. That is the bottom line.

**Senator Klein** said he would like to ask some questions of Neal Fisher. (meter 296)

**Neal Fisher**, administrator of the North Dakota Wheat Commission, appeared to answer questions.

**Senator Klein** said his concern is are we going to get to a position where we are going to require legislative action in the middle of a budget cycle. Does he see this as creating an issue as to who would control the moneys.

**Mr. Fisher** said that is a very good question. When this bill was drafted the Wheat Commission did not feel it was in a position to be very critical given the circumstances the commission was in at the time. He agrees with Representative Brandenburg that much progress has been made. He said the commodity groups could be concerned about micro management. In the trade case, were such measures required, they may have spent less money but they probably wouldn't have prevailed. That is not to say they didn't make mistakes, but they intend to correct them. Several other commodity groups may be concerned that the mistakes of the Wheat Commission might roll over on them. That might not be just.

**Senator Klein** said as a member of the audit fiscal review committee he knew where that committee was going and the chairman of that committee is the prime sponsor. We still as a committee have the opportunity to ask for an audit of any commodity group, he doesn't know if we are accomplishing any more here by dragging this out into the open. We are working the field too much.

**Mr. Fisher** said much progress has been made since the resolution was drafted. The Wheat Commission was in contact with agencies and officials to make this work. Everyone has pitched in to make this happen. It is within the purview of the legislature to study whatever they want to and the Wheat Commission fully understands where this comes from.

**Senator Urlacher** said we have made progress. He was looking at education and building in flexibility to bring about cooperation. He understands the possibility of micro management would not be good.

**Mr. Fisher** said he fully appreciates the statement and agrees with it. In situations like this, there are positives that can be uncovered and discovered. It has been his impression as he has worked with 20 other check off wheat groups across the country, he would put the North Dakota Wheat Commission up against any other group in the country and if fact, he would put their board, staff, mission and accomplishments above any of the others. He can't speak for the other North Dakota commodity groups but it his impression about them as well. The research, extension in North Dakota is excellent among the other wheat states. North Dakota does an extremely efficient job in the realm of agriculture.

**Senator Flakoll** asked how many commodity groups in North Dakota perhaps a dozen.

**Mr. Fisher** said there could be that many.

**Senator Klein** asked who is not here this morning. If you look at the language, they think it won't affect them.

**Mr. Fisher** said in many of the other states, there is a broad range in organization, some are under the governor's office, some the agriculture commissioner, so they are more directly controlled. Sometimes that is a good thing. Sometimes they need the latitude to accomplish more.

**Senator Flakoll** said maybe the groups could submit annual financials to the legislative council during the interim.

**Chairman Flakoll** closed the hearing on HCR 3008. (meter 1048)

**Senator Taylor** said those of us on the agriculture committee have lots of information from the commodity groups, we know what's going on, what their level of checkoff is, this is an unnecessary resolution. (meter 2336)

**Senator Taylor** moved a do not pass on HCR 3008.

**Senator Klein** seconded the motion.

**Senator Klein** said we have open hearings, and with what we have seen in the last two sessions these groups will be under close scrutiny. We are getting our pot awfully full with studies. At this juncture, this is unnecessary.

**Senator Flakoll** asked if the audit committee can request an audit of any group.

**Senator Klein** said yes they can. There are some strong personalities on the committee that want to get to the bottom of situations. They get the answers. They can ask the state auditor to look at various areas. They have had some additional concerns that they are forcing the audits and the groups have to dig deep to get the audits.

**Senator Flakoll** said \$7000. Maybe it would be good to ask for an audit during the interim.

**Senator Urlacher** said he understands the movement that has taken place since the resolution was drafted. He can see more of the dangers now and he will be voting for a do not pass.

**Senator Flakoll** said this is essentially targeted at one group and its not the honey group. It was with good intentions they got an estimate of the cost and it was way off. That will be discussed on the floor and in appropriations.

The motion passed on a roll call vote 6-0-0.

**Senator Erbele** will carry the resolution to the floor.

Date: 3/11/05  
Roll Call Vote # 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 3008**

Senate Agriculture Committee

☐ Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Sen. Taylor Seconded By Sen. Klein

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Erbele

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

**REPORT OF STANDING COMMITTEE (410)**  
March 11, 2005 1:44 p.m.

**Module No: SR-45-4783**  
**Carrier: Erbele**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HCR 3008: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO NOT PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3008 was placed on the  
Fourteenth order on the calendar.

2005 TESTIMONY

HCR 3008

December 2004

## AGRICULTURAL COMMODITY ORGANIZATIONS

This memorandum provides information on seven state Legislative Assemblies' role in determining the assessment or "checkoff" rate charged and the expenditure of funds used by the state's agricultural commodity organizations. The states are Minnesota, South Dakota, Montana, Wisconsin, Wyoming, Iowa, and Idaho. The assessment or "checkoff" rate is a fee paid by agricultural commodity producers to finance authorized activities relating to marketing and promoting the commodity. The employees of the agricultural commodity organization or the state agency responsible for marketing and promoting the commodity are advised by a grower-elected advisory committee or board of directors. In addition, many state agricultural commodity organizations operate under a marketing order, which is a set of policies and procedures approved by the agricultural producers for administering the agricultural commodity program.

The following is a summary for each of the seven states:

- **Minnesota** - Minnesota Century Code Section 1570-0900 provides for the grower-elected board of directors of each agricultural commodity organization to determine the "checkoff" rate to be paid by the agricultural commodity producers. The "checkoff" rate is set at a maximum level within the marketing order which is approved by referendum. The board of directors can adjust the "checkoff" rate, but the rate may not exceed the maximum level established in the marketing order without grower approval by referendum.

The Minnesota Department of Agriculture is responsible for overseeing the "checkoff" revenues. The agricultural commodity organization is required to prepare an annual estimated budget which is submitted to the Commissioner of Agriculture. The Legislative Assembly does not appropriate funding to the agricultural commodity organizations.

- **South Dakota** - Title 38 of the South Dakota Century Code provides the assessment or "checkoff" rates to be charged by each of the state agricultural commodity organizations. The Legislative Assembly is responsible for establishing and amending the rates.

The board of directors for each agricultural commodity organization is responsible for determining the use of "checkoff" revenues. An informal annual budget is presented to the Legislative Assembly; however, the budget

does not require legislative approval. The Legislative Assembly however may provide recommendations to each respective agricultural commodity organization's board of directors.

- **Montana** - Montana Century Code Section 80-11-515 provides that the Department of Agriculture, in consultation with each commodity advisory committee, is to adopt, by rule, assessments or "checkoff" rates for each agricultural commodity program. However, the wheat and barley and alfalfa seed commodity organizations have been in existence longer and the "checkoff" rates are established in statute by the Legislative Assembly.

The Montana Department of Agriculture is responsible for administration of the agricultural commodity organizations based on advice from the commodity advisory committees. Revenues received from "checkoffs" are appropriated on a continuing basis to the Department of Agriculture for authorized purposes of the agricultural commodity programs.

- **Wisconsin** - Pursuant to the Wisconsin Department of Agriculture, Trade, and Consumer Protection administrative rules, the maximum "checkoff" rates are to be established in the agricultural commodity organization's marketing order. A marketing order may provide for annual adjustments of the "checkoff" rate upon approval of the agricultural commodity organization's board of directors and the Secretary of the Department of Agriculture, Trade, and Consumer Protection, providing that the assessment does not exceed the maximum rate established in the marketing order. The marketing order may only be amended by referendum of affected producers and handlers.

The agricultural commodity organization's board of directors is responsible for managing the "checkoff" revenues, adopting an annual budget, and preparing financial statements for each fiscal year. The Department of Agriculture, Trade, and Consumer Protection is responsible for reviewing the budget for each agricultural commodity organization. The Wisconsin Legislative Assembly does not appropriate funds of the agricultural commodity organizations.



- **Wyoming** - Pursuant to Wyoming Century Code Section 11-35-111, the "checkoff" rates are established in the agricultural commodity organization's marketing order. However, the section provides that the "checkoff" rates assessed by the agricultural commodity organizations may not exceed 5 percent of the gross dollar volume of sales or dollar volume of purchases or amounts handled. Any amendment to the marketing order, within the limits set by law, must be approved by referendum of affected producers and handlers.

Revenues and expenditures are administered in conformity with rules and regulations prescribed by the State Board of Agriculture and approved by the agricultural commodity organization's board of directors. The Wyoming Legislative Assembly does not appropriate funds of the agricultural commodity organizations.

- **Iowa** - Title V of the Iowa Century Code provides the maximum "checkoff" rates that may be assessed by the agricultural commodity organizations. The board of directors of the agricultural commodity organizations have the authority to establish the "checkoff" rate up to the maximum amount permitted by law. A referendum of growers may be conducted once every five years to determine whether or not to continue the marketing order.

The agricultural commodity organization's board of directors is responsible for administration and use of funds. Revenues received from "checkoffs" are deposited in a special account with the Office of the State Treasurer and appropriated on a continuing basis for authorized purposes of the agricultural commodity organization.

- **Idaho** - Title 22 of the Idaho Century Code provides the maximum "checkoff" rates that may be assessed by the state agricultural commodity organizations. The agricultural commodity organizations have the authority to establish the "checkoff" rate up to the maximum amount permitted by law.

Pursuant to Idaho Century Code Section 22-112, the "checkoff" revenues are appropriated on a continuing basis to the Idaho Department of Agriculture for the services and programs offered by each agricultural commodity organization. The agricultural commodity organizations are required to annually file with the House and Senate Agriculture Committees of the Legislative Assembly a report showing the annual income and expenses incurred during the previous fiscal year and a projection of anticipated expenses for the current and next fiscal years.

### SUMMARY

The following is a summary of the seven states reviewed:

State	Does the Legislative Assembly Determine the Checkoff Rates?	Does the Legislative Assembly Approve Appropriations?
Minnesota	No	No
South Dakota	Yes	No
Montana	No <sup>1</sup>	No
Wisconsin	No	No
Wyoming	Yes <sup>2</sup>	No
Iowa	Yes <sup>2</sup>	No
Idaho	Yes <sup>2</sup>	No

<sup>1</sup>The Montana Legislative Assembly does not determine the "checkoff" rates with the exception of the wheat and barley and alfalfa seed commodity groups.

<sup>2</sup>The Legislative Assembly does not determine the "checkoff" rates but determines the maximum amount that may be assessed against producers.