



1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8669 • Fax: 701-224-9485

North Dakota Farm Bureau Testimony
To
The Advisory Commission on Intergovernmental Relations
Wednesday, October 3, 2007

Chairman Kaldor and members of the Advisory Commission my name is Brian Kramer. I am here representing North Dakota Farm Bureau regarding the possible study of feedlot zoning. During the latest Legislative Assembly, zoning of confined animal feeding operations, CAFOs, was a topic of interest for a number of reasons. House Concurrent Resolution 3061 was introduced in part to try to address concerns of local jurisdictions regarding zoning of CAFOs, in part to countermand the provisions set forth in House Bill 1420 and, in my opinion, partly to try to curtail any expansion of the livestock feeding industry in this state.

HCR 3061 was adopted, as are most resolutions. However, the Legislative Council determined it was not a priority and did not deem it necessary to place it as an interim study. We understood that to mean that HB 1420 and SB 2278 should be given the opportunity to address the issue before further action or study was warranted. North Dakota Farm Bureau believes that was sound logic and we believe further study at this time would not be prudent.

Let's look at the statutes on zoning as it pertains to animal feeding operations within the purview of political subdivisions. House Bill 1420 clarified the jurisdictional authority of state and local entities regarding various aspects of livestock zoning. It provides the local zoning authority the power to regulate the location of feeding operations based on size and type of species. It grants the local jurisdiction the authority

to establish setback distances and vary those setbacks up to fifty percent depending on whether the location is within a high-density or low-density agricultural production area or district. Those districts are also established by the local entity.

HB 1420 also acknowledged the authority of the ND Department of Health to site an animal feeding operation with respect to environmental protection. The department is charged with ensuring a site is suitable for an animal feeding operation and that our natural resources are not damaged. Clearly, this puts the environmental regulation where it is best suited while giving the local jurisdictions the opportunity to locate the livestock operation in the most desirable areas within that jurisdiction.

According to the minutes of the last meeting, there is a desire to have a seamless and meaningful permitting process for counties and townships to work with the ND Department of Health. My understanding of that process is that the farmer or rancher building the CAFO will contact the department to have the site evaluated for an environmental permit. The farmer/rancher must also apply for and receive a conditional use permit from the local zoning entity before farmer/rancher may proceed. This process seems to be straightforward, meaningful and seamless. The process also gives the farmer/rancher, as well as the local government entity, the opportunity to determine if the site environmentally viable before local permit applications are submitted.

I would like to address some of the other comments made on this subject at the last meeting. A comment was made that legislation was not enacted in the past, as interested parties would work together to resolve any problems. Many issues have been resolved in that fashion. A case in point is the model zoning ordinance. Several of the groups represented here today participated in that exercise. The result is an excellent model that local jurisdictions can use as a template to write their animal feeding ordinance. A great many of those jurisdictions have adopted it verbatim, others have modified a portion or portions of it to suit their local needs. The Department of Health, the Department of Commerce and the Attorney General's office are prepared to come to

township or county meeting to discuss various aspects of animal feeding operation zoning.

Comments were made about the lack of revenues coming to political subdivisions because animal feeding operations are agricultural property and that different classifications should be considered. On the first point, property taxes are collected on agricultural land. Animal feeding operations are considered an agricultural activity and thus the facilities and equipment are treated the same as any other agricultural activity. If in fact you want to tax these animal feeding farms as commercial enterprises it would seem to me they would not be subject to North Dakota's ridiculous anti-corporate farming laws. You cannot have it both ways.

Revenues to a political subdivision can come in many forms. More economic activity in the community will increase revenues. More people buying goods and services, more children attending local schools, and more new businesses to supply the animal feeding operation all contributing to the increased revenues of the political subdivision.

Agriculture is the number one business in North Dakota. Livestock is the leading industry in economic expansion with a gross multiplier of 4.5 for the state. In comparison, the retail trade gross multiplier is 2.08. To say that animal feeding operations are not contributing the economic well being of a political subdivision is shortsighted.

I can agree with the statement that the impact of a large animal feeding operation can be broader than a township's zoning jurisdiction. The facility may lie adjacent to the township line and have impacts to more than one township. The nutrient management plan may include spreading animal manure on land in adjoining townships. That is why it is advisable to work together to form districts. Also political subdivisions need to seek assistance from the state agencies mentioned earlier so that zoning can be coordinated to meet the needs of the interests that are involved.

If the issue is taxing animal feeding operations, that is best left to the Tax Committee. If the issue is regulating animal feeding operations, that issue is best handled by the ND Department of Health with input and advice from the Agriculture Committee. We do not believe the Advisory Commission on Intergovernmental Relations is the proper venue for this study.