

2009 HOUSE AGRICULTURE

HB 1150

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1150

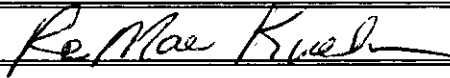
House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7538

Committee Clerk Signature



Minutes:

Jeff Knudson, Executive Services Program Manager, Ag. Dept.: We filed this bill as an agency bill. From our viewpoint it's more of a clean-up bill.

(written testimony attached # 1)

Vice Chairman Brandenburg: Is the state saying they don't want to be in charge of organic programs and just let the national programs take care of it?

Jeff Knudson: We really have no authority over the certifiers, if they're credited by USDA. State law simply mandates that they register with the commissioner and provide all the information that they provide USDA.

Vice Chairman Brandenburg: Do you have knowledge of the national program in what it does for organic farmers to control the seed they plant, etc.

Jeff Knudson: The national program has very stringent guidelines for certifying. Certifiers are the ones that regulate the producers. If the producers don't follow the national organic standards, they won't be certified by the certifying agency.

Representative Belter: What does it mean to be certified by USDA? What rights does that give you as an organic farmer? Are all organic farmers certified or are there noncertified?

Jeff Knudson: The farmers themselves are not certified by USDA. They are certified by private agencies. Look at the printout of the web page for USDA accredited certifying agents (**attachment #1**). There are currently 55 domestic agents and 40 foreign agents. The farmers themselves are certified and the production is certified by a certifying agency. The only one that we have based in ND is ICS out of Medina. They're national certification services.

Representative Belter: If you're an organic farmer, do you have to be approved by this organization in order to sell any type of commodity that you advertise as organic.

Jeff Knudson: That is correct. It would not have to be a certifying company in the state.

Vice Chairman Brandenburg: There's an issue with some organic farmers who do a good job with clean fields and there are some that don't. We have programs that watch over conventional farmers. Why should organic farmers not have a program to keep a handle on issues that they deal with?

Jeff Knudson: I guess that would be an option the legislature could look at. There are several states where the Ag. Dept. does certification services in addition to private enterprises. I'm not here advocating for that.

Representative Mueller: Does it exempt the Dept. from having any records.

1. Who may be an organic farmer.
2. Who those certifiers are.

Jeff Knudson: No, it doesn't exempt us. The Commissioner has an organic advisory board. They do their best to keep a list of the organic producers in ND. This law says certifying agents should be registered with the commissioner before they operate in the state. We really have no way of knowing if they are doing that. What brought this to my attention was, we are going to be running the organic cost share reimbursement program. We have to determine eligibility of producers if they are certified by an accredited certifying agency before we

reimburse those certification costs. With this new USDA website, it shows who they are rather than register with the commissioner. They have to do that every year. The USDA does audit them and if they're not up to par they lose their accreditation.

Chairman Johnson: How do you deal with the ones on the borders? Do you try to locate all the North Dakota growers?

Jeff Knudson: If they submit a request for reimbursement of the organic certification costs, they will have to submit an itemized bill from the certifying agency.

Representative Belter: What is the difference between a domestic accredited agent and a foreign accredited agent?

Jeff Knudson: Domestic are the ones that are based in the United States. Foreign are based in foreign countries but they may do certification in the United States. ICS is accredited for domestic certification as well as foreign.

Vice Chairman Brandenburg: If we were to pass this bill, basically it's saying the Ag. Dept. has nothing to do with organic farmers in ND.

Jeff Knudson: It simply would eliminate the requirement for USDA accredited certifying agents to register in the state.

Vice Chairman Brandenburg: Is there another way the Ag. Dept. keeps track of the organic farmers that this is duplication of law?

Jeff Knudson: We're trying to get a good list of organic producers in the state through the Organic Advisory Board and their website. There is nothing in the law that says all producers register with the commissioner. This is simply referring to certifying agents.

Representative Mueller: We're also going to be repealing any penalty phases if there's a violation on the part of an organic producer. I'm not sure what form that might take and who else might be involved in taking them to task. We're going to repeal that section in our code if

we pass this bill. If they're not doing something they are suppose to be doing, violating certification requirements, there is no penalty any more. Is that the intent of the bill?

Jeff Knudson: As I read, what's left of Chapter 4-38, the penalty for a person that violates this chapter is guilty of a Class B Misdemeanor. Based on what is left effective in this chapter, I believe only pertains to certifying agents who are not registered with the commissioner. Part of the reason why I think this should be eliminated is out-of-state certifiers are not necessarily going to be aware of the requirement. There is no enforcement authority on our part either.

Representative Mueller: You do have one in Medina. As certifying agents, if they're not doing the job they are suppose to do, you can do nothing about it in this repeal, if this repeal goes through.

Jeff Knudson: USDA regulates the accredited certifying agents. If we were to hear that Medina was doing something we thought was wrong, we would report that to USDA. We would not be the enforcer. I don't believe we have any authority, unless I'm misreading this statute.

Representative Kingsbury: Going back to the Organic Advisory Board, what is the function? Who is on the board? Who chooses the board members? Do they meet monthly, quarterly?

Jeff Knudson: It is a voluntary board. The members are appointed by the commissioner. We have a representative from organic livestock, certifiers, producers, manufacturers. They meet quarterly. Their goal is to make recommendations to the commissioner regarding federal rules and regulations. They also developed their own website and list all the members that want to be listed with their product. We get a fair amount of calls in the office from potential buyers of organic products.

Opposition: None

Chairman Johnson: Closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1150

House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2009 (**Committee Work**)

Recorder Job Number: 8815 (19'00")

Committee Clerk Signature

Re Mae Kuehn

Minutes:

Vice Chairman Brandenburg: I'm a little confused on this one. The Ag. Commissioner wants to repeal Chapter 4-38 which deals with organic farming. We just heard HB 1465 which says they want the Ag. Commissioner to be in charge of organic farming.

Representative Uglem: If I remember right, this basically regards certifying agents who are certified nationally. That's all that is left of the organic food standard. Everything else has been repealed in the past.

Chairman Johnson: That's what I remember. They don't need this when they go by the national guidelines.

Representative Holman moved Do Pass.

Representative Vig seconded.

Representative Holman: North Dakota registration is redundant so the removal of this eliminates the need for a second registration.

A Roll Call vote was taken. Yes: 11, No: 1, Absent: 1, (Representative Froelich).

Representative Boe will carry the bill.

Date: 2/5/09Roll Call Vote #: 12009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1150House Agriculture Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ AmendedMotion Made By Rep Holman Seconded By Rep. Vig

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe	✓	
Mike Brandenburg, Vice Chair		✓	Rod Froelich	AB	
Wesley R. Belter	✓		Richard Holman	✓	
Joyce M. Kingsbury	✓		Phillip Mueller	✓	
David S. Rust	✓		Benjamin A. Vig	✓	
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 11 No 1Absent 1Bill Carrier Rep. Boe

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

REPORT OF STANDING COMMITTEE

HB 1150: Agriculture Committee (Rep. D. Johnson, Chairman) recommends DO PASS
(11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1150 was placed on the
Eleventh order on the calendar.

2009 SENATE AGRICULTURE

HB 1150

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1150

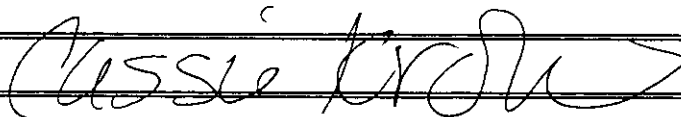
Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10387

Committee Clerk Signature



Minutes:

Sen. Flakoll opened the hearing on HB 1150, a bill relating to organic food standards. All members (7) were present.

Jeff Knudson, Executive Services Program Manager for the ND Dept of Agriculture, testified in favor of the bill. See attached testimony, attachment #1.

Sen. Klein- so we only have one certified organic grower in ND?

Jeff Knudson- we only have one certified grower in the state but we do have others that are certified in the state but produce outside of the state.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Klein motioned for a Do Pass and was seconded by **Sen. Behm**, roll call vote 7 yea, 0 nay, 0 absent. **Sen. Miller** was designated to carry the bill to the floor.

Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1370

Senate Agriculture

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]

Total (Yes) 7 No 0

Absent

Floor Assignment Sen. Miller

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2009 9:49 a.m.

Module No: SR-38-4186
Carrier: Miller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1150: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1150 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1150

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



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Bismarck, ND 58505-0020
Equal Opportunity in Employment and Services

1/22/09 HB 1150
Jeff Knudson #1
Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

**Testimony of Jeff Knudson
ND Department of Agriculture
HB 1150
House Agriculture Committee
Peace Garden Room
January 22, 2009**

Chairman Johnson and members of the House Agriculture Committee, I am Jeff Knudson, Executive Services Program Manager for the North Dakota Department of Agriculture. I am here to support HB 1150 which would repeal chapter 4-38 of the North Dakota Century Code relating to organic foods standards.

The only remaining active sections of Chapter 4-38 require organic "certifying agents" to register as an agent with the Agriculture Commissioner. In the past, the registration requirement served a purpose in determining which certifying agents were operating in North Dakota and if those agents were properly accredited by the USDA under 7 CFR part 205 (National Organic Program).

Verifying USDA accreditation of certifying agents is now easily accomplished online via the USDA's National Organic Program website. Any certifying agent that is not listed as accredited by USDA is ineligible to operate in North Dakota or any other state. Therefore, the remaining sections of Chapter 4-38 have become redundant and an unnecessary burden on certifying agents operating in North Dakota.

Chairman Johnson and members of the Committee, I urge a do pass on HB 1150 and would be happy to take any questions.



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National Organic Program

USDA Accredited Certifying Agents

Number of domestic accredited certifying agents: 55
Number of foreign accredited certifying agents: 40
Total: 95

Media Help

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Domestic Accredited Certifying Agents:

North Dakota

North Dakota

International Certification Services, Inc. (PDF)
(dba, Farm Verified Organic and ICS-US)
301 5th Ave., SE
Medina, ND 58467
Contact: Dawn Krapp
Phone: 701-486-3578
E-mail: info@ics-intl.com
Website: www.ics-intl.com
Scope: crop, livestock, wild crop, handling
Accredited: 4/29/02
[List of Certified Operations \(PDF\)](#)
[2007 Accreditation Renewal Decision Letter \(PDF\)](#)

Foreign Accredited Certifying Agents:

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CHAPTER 4-38
ORGANIC FOODS STANDARDS

*Same
handout given
to Senate.*

4-38-01. Legislative intent. Repealed by S.L. 2003, ch. 64, § 4.

4-38-02. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Certifying agent" means a person accredited by the United States department of agriculture as an organic certifying agent under 7 CFR part 205.
2. "Commissioner" means the agriculture commissioner.

4-38-02.1. Certifying agent - Registration. Before a person may act as a certifying agent in this state, the person must register with the commissioner on a form prescribed by the commissioner. The form must include:

1. The name of the certifying agent;
2. The name of all partners if the certifying agent is a partnership and all officers if the certifying agent is a corporation;
3. A copy of the certifying agent's program requirements;
4. A copy of all documents relating to the certifying agent's certification process;
5. A copy of the certifying agent's letter of authorization or certificate of accreditation issued by the national organic program; and
6. Any other information requested by the commissioner.

4-38-03. Production standards. Repealed by S.L. 2003, ch. 64, § 4.

4-38-04. Compliance. Repealed by S.L. 2003, ch. 64, § 4.

4-38-05. Violations - Ineligibility - Reporting of violations. Repealed by S.L. 2003, ch. 64, § 4.

4-38-06. Rules. Repealed by S.L. 2003, ch. 64, § 4.

4-38-07. Penalty. A person that violates this chapter is guilty of a class B misdemeanor.

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Attachment #1

Phone (701) 328-2231
Toll Free (800) 242-7535
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Bismarck, ND 58505-0020
Equal Opportunity in Employment and Services

**Testimony of Jeff Knudson
ND Department of Agriculture
HB 1150
Senate Agriculture Committee
Roosevelt Park Room
March 6, 2009**

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National Organic Program

USDA Accredited Certifying Agents

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Total: 96

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Domestic Accredited Certifying Agents:

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North Dakota

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301 5th Ave., SE
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Accredited: 4/29/02
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