

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

AGRICULTURE COMMITTEE

Wednesday, August 1, 2012
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Robert Erbele, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Robert Erbele, Tim Flakoll, Oley Larsen, Larry Luick, Philip M. Murphy, Donald Schaible, Gerald Uglem; Representatives Michael D. Brandenburg, Tom Conklin, Wayne Trotter, John D. Wall

Members absent: Senators Bill Bowman, Curtis Olafson; Representatives Dennis Johnson, Joyce Kingsbury, Phillip Mueller

Others present: See attached [appendix](#)

It was moved by Senator Flakoll, seconded by Representative Mueller, and carried on a voice vote that the minutes of the April 24-25, 2012, meeting be approved as distributed.

BRANDING - ESTRAYS - LIVESTOCK AND WOOL DEALERS

Chairman Erbele said the committee will consider a bill draft [\[13.0058.01000\]](#) relating to livestock branding, estrays, and the licensing of livestock dealers and wool dealers. He said it is his intent to address only those sections that are accompanied by notes and those sections upon which others wish to comment. He said the remaining sections have already been considered by the committee at earlier meetings.

Section 4.1-72-01

Chairman Erbele said because the authority of the North Dakota Stockmen's Association extends to several chapters of the North Dakota Century Code, the bill draft proposes to place the general powers and duties of the association into a separate chapter.

Committee Counsel said current law authorizes the North Dakota Stockmen's Association to provide inspection services for the purpose of determining or verifying ownership of all cattle, horses, and mules that are shipped or consigned to a livestock auction market, a buying station, or a packing plant. She said there are other purposes that require brand inspections, e.g., removal from the state for recreational or competitive purposes.

Ms. Julie Ellingson, Executive Director, North Dakota Stockmen's Association, said that the purpose of brand inspection goes beyond merely determining or verifying ownership.

Committee Counsel said the authority to inspect could be extended to "any purpose established by law."

Chairman Erbele said it is the recommendation of the committee that the section be amended to include the suggested authority.

Section 4.1-72-04

Chairman Erbele said the North Dakota Stockmen's Association employs two individuals who serve as deputies under the Chief Brand Inspector. He said these individuals are referred to, within the business, as "fieldmen." He said because this is colloquial terminology, it is proposed that the rewrite reflect a more formal statutory reference, i.e., deputy brand inspectors. He said this is also done to ensure that there is no confusion with respect to the powers and duties of the two fieldmen, as opposed to the 200 individuals (a.k.a. "local inspectors") who go into the field to perform brand inspections.

Chairman Erbele said current law provides that the Chief Brand Inspector and the two fieldmen have the power of a police officer, but the law does not indicate whether they must in fact be licensed peace officers. He said all three are so licensed. He said current law also authorizes certain activities, such as making arrests. As reworded, he said, the section requires these individuals to be licensed peace officers, and it removes statutory examples of their authority. He said the examples are not necessary because their authority is defined by the scope of their license.

Ms. Ellingson said the North Dakota Stockmen's Association does not want to be limited in who the association can hire. She said, on occasion, an individual they would like to hire is in the process of becoming a licensed peace officer or is willing to become a licensed peace officer, but in either instance, does not hold that license at the time of hiring.

Committee Counsel said a new subsection could be added to allow a period of time within which such an individual may become a licensed peace officer.

Mr. Stan Misek, Chief Brand Inspector, North Dakota Stockmen's Association, said currently people are able to obtain temporary licenses, on the condition that they pass all required examinations within the year.

Section 4.1-72-05

Chairman Erbele said current law authorizes the North Dakota Stockmen's Association to serve as the state's administrator for that portion of any federally sponsored animal identification program which pertains to cattle, horses, and mules. He said, in light of federal programmatic changes, the committee directed that the association's authority be retained and broadened.

Committee Counsel said, as rewritten, this section would allow the North Dakota Stockmen's Association to administer or participate in the administration of any federal program pertaining to livestock. She said the association would like specifically to retain the requirement that it be the administrator of any federally sponsored animal identification program.

In response to a question from Chairman Erbele, Committee Counsel said the section could be amended to accommodate both the administrative role in animal identification programs and the authorization to participate in other federal programs pertaining to livestock.

Section 4.1-73-03

Committee Counsel said this section lists a variety of symbols that are permitted for purposes of brand recording. She said the North Dakota Stockmen's Association has long accepted a "slash." However, she said, that symbol is not listed in the statute.

Chairman Erbele said the section should be amended to include reference to a backward or forward slash as an acceptable symbol.

Section 4.1-73-07

Ms. Ellingson said this section, like current law, references tattoos. She said while tattoos are used for herd or animal identification, they are not "brands." Therefore, she said, the reference to tattoos should be removed.

Section 4.1-73-09

Committee Counsel said this section, like current law, provides that the Chief Brand Inspector may cancel a legally recorded brand if the Chief Brand Inspector determines that the brand has been recorded in another state. She said the committee asked that this provision be reviewed and further discussed.

Ms. Ellingson said the North Dakota Stockmen's Association believes that this is authority it would like to retain and is satisfied with the current language.

Section 4.1-73-11

Chairman Erbele said current law provides that by the required date each livestock brand must be canceled and no person may use or have any right, title, or interest in or to any livestock brand previously recorded in this state. He said it is suggested that when the Chief Brand Inspector provides notice of the time for rerecording a brand, it might be appropriate to

also require a statement indicating the purpose for the rerecording and the consequences for failing to rerecord the brand in a timely manner. He said this has been added to the section, subject to the committee's review and consent.

Section 4.1-73-21

Committee Counsel said because this section pertains to registered livestock and not commercial livestock, the committee wanted to further consider whether the concept should be included as part of the North Dakota Century Code. She said, if it is to be retained, a new location would be appropriate, in part because the section does not pertain to brand inspection and recording.

Senator Flakoll said this is a very important section in that it focuses on veracity within the registration and breeding process. He said he is not opposed to the section being relocated, but it definitely should be retained.

Section 4.1-73-22

Committee Counsel said this current law provides that a person may not remove cattle, horses, or mules from any place of regular, official inspection, until a brand inspection has occurred. She said, earlier in the rewrite process, it was determined that a place of regular, official inspection reference a livestock auction market, buying station, or packing plant. She said the committee might wish to consider whether the reference to a packing plant is appropriate.

Mr. Misek said even though it is rare there could still be a mixup that requires a brand inspection at a packing plant. He said it would be his suggestion to leave the reference in the statute.

Section 4.1-73-23

Chairman Erbele said current law provides that in the case of an error on the part of the brand inspector, the North Dakota Stockmen's Association will bear the cost of the reinspection. He said the question is whether the association is responsible for the return of any livestock that were shipped to an unintended destination or any other costs that might be associated with the error.

In response to a question from Senator Erbele, Mr. Misek said it is the responsibility of the North Dakota Stockmen's Association to provide accurate brand inspection services. He said others are responsible for ensuring that they have the correct paperwork and the correct animals. Therefore, he said, the current language limiting the association's liability to the cost of providing for a reinspection is appropriate.

Section 4.1-73-24

Chairman Erbele said this section pertains to the provision of brand inspection services at out-of-state facilities. He said current law states that an out-of-state livestock facility wishing to obtain brand

inspection services from this state may file a written request with the North Dakota Stockmen's Association. He said, upon receiving a request for brand inspection services, the association must petition the State Board of Animal Health for permission to provide the services. He said the State Board of Animal Health is to adopt rules setting forth the criteria that must be met before out-of-state brand inspections are approved.

Chairman Erbele said at an earlier meeting, the committee directed the section be "cleaned up" so that the North Dakota Stockmen's Association is not put in the position of having to formally petition for permission to provide inspection services, even if it is not supportive of the request. He said this has been done.

Committee Counsel said the committee might wish to examine the rulemaking requirement of this section. She said current law requires the State Board of Animal Health to adopt rules setting forth the criteria that must be met before out-of-state brand inspections are approved. She said this is a delegation of legislative authority. She said it is not appropriate to have an agency, by rule, determine that brand inspection services will only be provided to facilities that average 5,000-head daily sales or that are located more than "X" miles from a competitor. She said it is appropriate to require that an agency list the criteria that will go into the consideration of a petition. She said this might include daily and annual volume, the size of the facility, environmental impact, the availability of labor, etc. She said this nuance has been incorporated in the rewrite for the committee's consideration.

Section 4.1-73-25

Chairman Erbele said current law provides that brand inspectors shall charge and collect fees for inspections. He said according to testimony provided at the January 2012 meeting of the committee, livestock auction markets generally submit brand inspection fees to the North Dakota Stockmen's Association at the end of each month. He said the fees for local brand inspections are generally provided to the inspector at the time and place of the inspection. He said these concepts have all been incorporated in the rewrite of Section 36-22-03, which requires the adoption of rules regarding brand inspections and fees.

Section 4.1-73-26

Committee Counsel said this section requires the compilation of slaughter records by custom processors and the forwarding of such records to the North Dakota Stockmen's Association. She said the association is a private organization, not a governmental entity. She said the committee might wish to consider whether slaughter records in the possession of the association are considered to be open records or whether access should be limited only to entities with legitimate enforcement interests.

Representative Brandenburg said it is important to ensure that records are not accessed for purposes that could be destructive to the industry.

Ms. Ellingson said it would be appropriate to provide an exemption from the open records requirement.

Committee Counsel said an exception could be crafted in a fashion similar to that currently found in Section 36-09-28. She said that section addresses records held by the State Veterinarian and the North Dakota Stockmen's Association.

Section 4.1-75-02

Committee Counsel said an attempt was made to delineate the steps that must be taken when an individual finds an estray on property that the individual owns or controls. She said this section is in need of further refinement.

Section 4.1-75-08

Chairman Erbele said current law provides that if "the person that takes possession of an estray notifies either the sheriff or the chief brand inspector, as provided in this chapter, the person is not liable if, without fault on the part of the person, the estray dies, is stolen, or escapes and wanders away." He said the rewrite suggests greater specificity with respect to the acts for which the individual taking possession of the estray is not liable and it includes a reference to economic loss.

Senator Flakoll said perhaps verbiage is needed to ensure that in the event an estray is injured while a person is attempting to take control of it, that person is not subject to liability either.

Section 4.1-83-08

Chairman Erbele said under current law, it is not clear whether an increase in the amount of the bond may be requested by the Agriculture Commissioner only at the point of application or at any time during the period of the license. He said Department of Agriculture personnel indicated that the commissioner should be able to request an increase at any time. He said this suggestion has been incorporated and is subject to committee approval.

Mr. Wayne Carlson, Livestock Development Division Director, Department of Agriculture, said because a livestock dealer could at any time acquire a significantly larger account than first anticipated, it is appropriate that the Agriculture Commissioner be allowed to require an increase in the dealer's bond.

Chairman Erbele said North Dakota Century Code Section 36-04-10(4) provides that one ground for revocation of a license is that the livestock dealer "has failed to keep and maintain suitable records, which disclose all purchases and sales of livestock, or has refused, during reasonable hours, to allow any authorized agent of the department to have access to inspect and to copy any and all of such records relating to the dealer's business." He said if this

concept is to be retained, this section needs to reference both records kept by the livestock dealer and records held by others on behalf of the dealer. He said this addition has been included for the committee's consideration.

Mr. Carlson said in today's world livestock dealer records may be held by a variety of entities. He said the Agriculture Commissioner should have access to the records, regardless of their location.

Section 4.1-83-10

Chairman Erbele said current law sets forth certain instances in which the Agriculture Commissioner "shall" deny an applicant a license. He said these include failure to file a bond, failure to demonstrate that assets exceed liabilities, failure to pay for livestock transactions without reasonable cause, and making a false entry or statement of fact in an application, financial statement, or report filed under the chapter. He said at an earlier meeting, it had been suggested that the Agriculture Commissioner should have discretion in determining whether to issue or deny a license. He said because discretion with respect to the application of a mandate is irreconcilable, this section has been reworded to require a denial of licensure in two instances and to provide discretion in other stated instances. He said the committee is asked to review these changes.

In response to a question from Committee Counsel, Mr. Carlson said it would be appropriate to include language that allows license denial for other nonlisted reasons.

Chairman Erbele said at the January 2012 meeting, it had been suggested that a person who is denied a license should be able to request a hearing. He said if such a provision is included, would the Agriculture Commissioner be "required" to provide a hearing upon an applicant's request. He said this provision has not been included, pending further discussion by the committee.

Mr. Carlson said it has been the policy of the Agriculture Commissioner to provide a hearing if an individual requests one. He said he would not be supportive of requiring that a hearing be provided in all cases.

In response to a question from Senator Uglem, Mr. Carlson said the letter of denial could indicate that the applicant has a certain number of days within which to request a hearing. He said this is generally 20 days or 30 days. He said, after that, the offer of a hearing should expire.

Section 4.1-83-12

Chairman Erbele said current law allows a livestock dealer's license to be revoked if the dealer fails to maintain adequate records. He said, that being the case, the law should also require the dealer to maintain such records. He said the two-year period for record retention referenced in this section was suggested by Department of Agriculture personnel.

Section 4.1-83-15

Chairman Erbele said this section sets forth the conditions under which the Agriculture Commissioner may deny an agent's license. He said one condition is that the individual previously had been denied a livestock dealer's license or an agent's license. He said he wondered if the Agriculture Commissioner should refuse to issue a license only if the person had a livestock dealer's license or an agent's license "revoked" or whether there should also be a reference to the person having a license suspended.

Mr. Carlson said a suspension is a temporary punishment and should not be the basis for permanently denying an individual a livelihood. He said he is satisfied with the reference to revocation.

Chairman Erbele said, as rewritten, this section articulates instances in which the Agriculture Commissioner may deny licensure of an agent. He said, in so doing, it eliminates the statutory reference to various determinations regarding rehabilitation that are currently in the North Dakota Century Code. He said it also includes the definition of an offense, rather than merely referencing the section in which the definition is found.

In response to a question from Committee Counsel, Mr. Carlson said there may be other instances in which the Agriculture Commissioner would consider denying an agent's license. He said perhaps a catchall phrase should be added to this section as well.

Section 4.1-83-18

Chairman Erbele said North Dakota Century Code Section 36-04-09.2 references investigations pertaining to a livestock dealer's sales and transactions, the conditions under which a dealer's business is conducted, and violations of the chapter. He said North Dakota Century Code Section 36-04-10 calls for a revocation of the dealer's license upon the occurrence of certain acts that are not violations of the chapter. He said the rewrite attempts to combine the concepts by providing that the Agriculture Commissioner shall investigate the conduct of any livestock dealer if the commissioner has reasonable cause to believe that the dealer may have violated this chapter or engaged in any activity that constitutes a ground for license suspension or revocation under this chapter.

Section 4.1-83-19

Chairman Erbele said, in establishing the grounds for denial, the word "may" is used rather than "shall," which is in current law.

Chairman Erbele said because proposed Section 4.1-83-18 calls for an investigation and a determination regarding license suspension or revocation if there is reasonable cause to believe that a violation of the chapter might have occurred, the rewrite adds the act of violating the chapter to the list of grounds for revocation of a dealer's license.

Chairman Erbele said according to proposed Section 4.1-83-10, the Agriculture Commissioner "shall" deny an applicant a livestock dealer's license if the applicant submitted false or misleading information in connection with the application. However, he said, once the license has been issued, and it is then discovered that the applicant submitted false or misleading information in connection with the application, the dealer's license may be suspended or revoked.

Mr. Carlson said this is appropriate verbiage. He said it allows flexibility to be a part of the Agriculture Commissioner's decisionmaking regarding the nature of the act.

Chairman Erbele said if a livestock dealer's license can be suspended or revoked for failing to maintain adequate records, the chapter needs to require that a dealer maintain such records. He said this has been done in proposed Section 4.1-83-12.

Chairman Erbele said North Dakota Century Code Section 36-04-05.1 requires that a livestock dealer file, "together with the license application, a release authorizing the access of the commissioner to financial records of the dealer held by financial institutions, accountants, and other sources." He said, once filed, the records release gives the Agriculture Commissioner access to records held by financial institutions, etc. However, he said, some of the pertinent financial records could also be retained by the dealer. He said failure to provide these records was added as another ground for possible license revocation. He said this addition is subject to committee review and approval.

Mr. Carlson said this addition is appropriate.

Chairman Erbele said another ground for suspension or revocation is that the livestock dealer has failed to pay the brand inspection fees and veterinary inspection fees.

Mr. Carlson said the livestock dealer is functioning on behalf of his client and, therefore, it is appropriate to require that the dealer take care of all necessary paperwork pertinent to any livestock transaction.

Chairman Erbele said North Dakota Century Code Section 36-04-10(9) states that a license may be revoked if the "licensee has failed to pay for livestock purchased." He said the section goes on to provide that such "failure includes the issuance of a check as payment for livestock purchased, when such check is returned unpaid with a notation that the payment has been refused because of nonsufficient funds." He said the rewrite simplifies this concept. He said if a nonsufficient funds check is written by a livestock dealer, the dealer has effectively failed to pay for the livestock.

Mr. Carlson said he is in agreement with the proposed verbiage.

Section 4.1-83-23

Chairman Erbele said at the January 2012 meeting of the committee, it was suggested that the Agriculture Commissioner be directed to take possession only of

the "pertinent" records and not "all accounts and records pertaining to the dealer's business." He said because the purpose of this effort is to determine assets that could be used to satisfy claims against the livestock dealer, the rewrite authorizes the commissioner to take all of the accounts and records and then permits the commissioner to return those that are not necessary to the claims settlement process.

Mr. Carlson said his only purpose in making the suggestion was to ensure that he does not have to store inordinate quantities of records that are of no significance to his purpose.

Section 4.1-83-30

Committee Counsel said this section provides that any person violating this chapter is guilty of a Class A misdemeanor. She said the committee might wish to consider whether a penalty should be imposed only for a "willful" violation of the chapter or whether there should be strict liability for a violation of the chapter.

Chairman Erbele said the committee will consider the question and discuss it at the upcoming meeting.

Sections 4.1-88-01 Through 4.1-88-29

Chairman Erbele said proposed Sections 4.1-88-01 through 4.1-88-29 pertain to wool dealers. He said they parallel the livestock dealer provisions. He said unless a committee member or a member of the audience wishes to specifically address any of the sections, it is not his intention to repeat the prior discussion.

SEED POTATO CONTROL AREAS

Chairman Erbele said the committee will consider a bill draft [[13.0104.01000](#)] relating to seed potato control areas.

Section 4.1-55-02

Chairman Erbele said North Dakota Century Code Section 4-26-02 defines an owner of land as any person who is registered as the owner of land in the books of the recorder's office; a purchaser of land under an agreement for purchase registered in the books of the recorder, and who is by the terms of the agreement liable to pay the taxes on the land; or a homesteader, purchaser, or lessee of land. He said North Dakota Century Code Section 4-26-05 provides that if 80 percent of the "owners" sign a petition for the formation of a control area, the Seed Commissioner may order its establishment. He said when the definition is superimposed, it in effect gives a lessee the power to encumber the land of another. He said the encumbrance could be for a limited number of years or for an indefinite number of years. He said the encumbrance could affect the value of the property to the owner's benefit or detriment. He said because the pertinent legislative records lack detail, it is impossible to determine whether lessees were intentionally or inadvertently empowered in this

fashion. He said the rewrite clarifies that all interested parties are welcome at the initial meeting. He said the rationale is that any limitation on what can be planted within an area affects both landowners and their lessees. However, he said, a determination to encumber the land is left within the purview of the landowners. He said this is subject to review and approval by the committee.

Committee Counsel said the committee addressed this matter briefly at its previous meeting. She said it was the committee's position that a lessee should not be given the power to encumber the land of another.

Chairman Erbele said that is an appropriate position.

In response to a question from Senator Uglen, Committee Counsel said if an individual, including a lessee, holds a power of attorney from the landowner, that individual is functioning on behalf of the landowner. She said that would not have to be separately addressed.

Section 4.1-55-04

Chairman Erbele said once the petition has been signed by at least 80 percent of the persons owning land in the proposed seed control area, the petition may be presented to the Seed Commissioner for approval. He said while this section is not problematic statutorily, from a policy perspective, it gives equal weight to the vote of each landowner. He said if one section of land is owned by Mr. and Mrs. Smith, two votes could be cast. He said if the adjoining section of land is owned solely by Mr. Jones, only one vote could be cast. He said this raises issues of equity.

Senator Luick said this would be more equitable if there was one vote per tract.

Senator Uglen said while one landowner per tract seems to make sense, if there was a large landowner, he could control the vote.

Representative Brandenburg said if a husband and wife own separate parcels of land, they should be able to vote with respect to their own parcels. He said if they own land jointly, there should be only one vote.

Senator Flakoll said perhaps one might want to consider what municipalities do in a protest situation. He said we are probably trying to solve a problem that does not exist.

In response to a question from Senator Flakoll, Committee Counsel said members of the committee were sent a copy of this bill draft several weeks ago because the Seed Commissioner had wanted to share it with potato growers.

Chairman Erbele said the verbiage pertaining to the vote should be left as it is under current law.

Chairman Erbele said if the Seed Commissioner determines that the petition meets the requirements of this chapter, the Seed Commissioner may order the creation of the seed potato control area as described in the petition or order a seed potato control area having boundaries that are not as extensive as those set forth in the petition. He said this presumes that the Seed Commissioner also could determine that the

petition is not a good idea and refuse to order its creation. He said the committee needs to consider whether this is the intent.

Committee Counsel said, again, this is not a statutory issue but a policy issue. She said if 80 percent of the landowners assent to the declaration of a certain area as a seed potato control area, is it the intent that the Seed Commissioner contravene the wishes of a supermajority. On the other hand, she said, this verbiage gives the Seed Commissioner flexibility in addressing the petitions.

Chairman Erbele said there may be good reason for the Seed Commissioner to override the petition.

Senator Murphy said it is appropriate to provide the Seed Commissioner with discretionary authority regarding the approval of petitions.

Chairman Erbele said there is consensus among the committee regarding this issue.

In response to a question from Senator Luick, Chairman Erbele said there is only one seed potato control area in the state and it was established over 50 years ago. He said if there is a need to change existing policy, that should be done by means of a bill and considered during the legislative session.

Chairman Erbele said after the establishment of a seed potato control area, the Seed Commissioner may issue an order changing the quality of seed potatoes that may be planted within the control area. He said if individuals agreed to the formation of a seed potato control area based on the requirement that a certain quality of seed potato be planted, and if later that quality is changed, should they be able to withdraw from or request that their land be removed from the area.

Senator Uglen said such a provision would negate the purpose of the seed control area. He said he assumes that the members of the area would agree to a decision to change the quality of seed planted.

Section 4.1-55-05

Chairman Erbele said each seed potato control area must be governed by a committee consisting of three individuals who are appointed by the Seed Commissioner from a list of landowners or occupants within the control area. He said current law provides only that the governance committee consist of persons who are "members" of the control area. He said the committee is asked to determine whether this should include occupants as well as landowners.

Chairman Erbele said this allows for the appointment of individuals who live in the area but who are not necessarily potato producers. He said the governance committee should consist of individuals who "have skin in the game."

Committee Counsel said the word "members" means nothing statutorily. She said the purpose of the note was to highlight a change. She said the change allows the Seed Commissioner to appoint landowners or lessees, as the commissioner determines appropriate.

Chairman Erbele said an occupant does not necessarily have to be a producer. He said it would be preferable to reference lessees.

Senator Uglem said the governance committee should consist of landowners or lessees.

Committee Counsel said the final decision would be in the hands of the Seed Commissioner.

Committee Counsel said current law requires that there be three members on the governance committee. She said at the present time there is only one member on the governance committee and that causes concern with respect to the validity of the governance committee's actions. She said the proposed solution is that if fewer than three qualified individuals are willing or able to serve as members of the governance committee, the governance committee may consist of that lesser number. She said if, however, no qualified individual is willing or able to serve on the governance committee, the Seed Commissioner is to dissolve the seed potato control area.

Chairman Erbele said that is appropriate.

Section 4.1-55-07

Chairman Erbele said this section authorizes the governance committee to expend money collected pursuant to this chapter, to employ and compensate personnel, and to do all things necessary and proper to enforce this chapter and any rules adopted to implement this chapter. He said the question is whether the committee has any authority to contract or to accept gifts, grants, and donations.

Committee Counsel said language was put into the commodity group chapters allowing the groups to accept and expend gifts, grants, and donations. She said this governance committee appears to operate in a conceptually similar fashion.

Chairman Erbele said this could include Agricultural Products Utilization Commission grants, research grants, etc. He said he sees no problem with providing this authority.

Senator Luick said gifts, grants, and donations should be handled the same way as other commodity groups handle such.

Section 4.1-55-10

Chairman Erbele said this section provides that the person producing seed potatoes in a seed potato control area may not ship or transport the seed potatoes out of the area unless the person obtains a permit from the seed potato control area governance committee and pays the assessment provided for in this chapter. He said current law provides that "[n]o owner or lessee in a seed potato control area may ship potatoes out of the area without first obtaining a permit from the committee and paying the fee as fixed by the provisions of this chapter." He said this is the first and only reference to "a permit." He said, according to Seed Department personnel, such a permit does not exist. He said it is therefore recommended that the reference be removed. He said the reference in current law to the payment of a fee is presumed to mean the payment of the assessment, as provided for under proposed Section 4.1-55-09.

STAFF DIRECTIVES

It was moved by Senator Flakoll, seconded by Representative Brandenburg, and carried on a voice vote that the Legislative Management continue its study of North Dakota Century Code provisions that relate to agriculture for the purpose of recommending changes to laws that are found to be irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction and that the motion be reflected in the bill draft relating to branding laws, estrays, and livestock and wool dealers, through amendatory language mandating the study.

No further business appearing, Chairman Erbele adjourned the meeting at 12:00 p.m.

L. Anita Thomas
Committee Counsel

ATTACH:1