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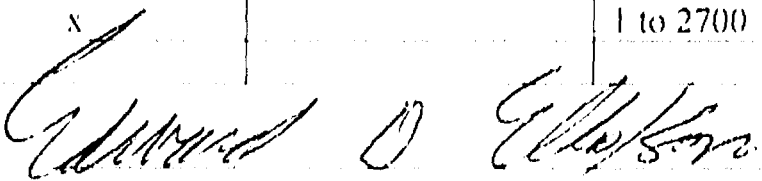
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1430

House Agriculture Committee

Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
3	x		1 to end
4	x		1 to 2700
Committee Clerk Signature 			

Minutes.

Rep. Brusegaard - District 19: HB 1430 is before you this morning and the last two sessions I have looked at a lot of different ways to approach this. As you can see this deals with 10-06.1-09 which is the provision that allows corporations to engage in the business of farming or ranching provided they meet certain requirements. Those requirements in current code limit operations to fifteen shareholders or members. And then there is a wealth of verbiage that strictly delineates that those members must be related to other shareholders by blood or marriage. When I approached this legislation I wanted to make a small change, to fifteen members that weren't related. As you can see on this bill before you this amounts to a substantial portion of the language in the code. Think about that, the only thing we are changing from what currently exists is the fifteen members don't necessarily have to be related by blood or marriage. This would allow myself when I am in need of capitol to have a friend of mine invest in my farm. I have tried to be as careful as I could to address the concerns of people opposed to this legislation. One

of the things we did is make the principle shareholder actively involved in the operation of the farm. The majority shareholders are making the decision on planting and production. This is to insure that the people who have invested the majority of the money take an active interest in how the farm is run. The bill is fairly self explanatory. A couple of things you can look at - this legislation will give farmers more access to cash and yet protect the farm. We need to find a way to arouse capitol. The other thing, I used the language that the principle shareholder must be actively engaged in the operation. I wouldn't be opposed to the language that the majority shareholders need to reside on the farm or ranch. It seems to me we spend a lot of time trying to find bail capitol for agriculture. Most of the time it is in added value production. These people need capitol. This is the vehicle that would allow them to get it. People today will oppose this bill and testify that it will lead to bigger and fewer farms in ND. Has the current corporate farming law kept us from having bigger and fewer farms? Stronger rural communities? The current corporate farming law serves one purpose and that is to provide a false sense of security in rural ND. We need to become proactive to farmers. We need to protect from large corporate interests. I think the legislation before you does that. I will stand for questions.

Rep. Lemieux: In the last few years we have seen a rapid expansion in the pork industry in Manitoba. Are you familiar with, have corporate dollars been involved in that?

Rep. Brusegaard: As many of you are aware, I dealt closely with the pork industry last year. The hog industry in Canada has grown proportionately greater because of partnerships with corporates. I think that while this bill will make it easier for hog operations to compete with Manitoba, I also believe that they can do it now if they want to. They partner with people higher up on the ladder of production. I hate to look at this bill as strictly helping out large animal

feeding lots, it is targeted more for the individual farmer or rancher like myself. I think it is tragic the amount of growth in Manitoba.

Rep. Mueller: I understand why we want to become involved in corporations such as this given what we have in terms of our ability to generate income of those farms. I think the fundamental issue here is the value of our commodities. I am not so sure that this vehicle will begin to address this issue.

Rep. Brusegaard: I am not going to stand up here and tell you that this legislation is going to make agriculture in ND a fantasy, but I think it will begin to address one problem we have which is acquisition capitol. Another problem is the production level we have experienced over the last eight years. I think that there are people who would like to be involved with the process and are unable to own a farm themselves. Some investments made might not necessarily be returned. I think it is a viable alternative.

Rep. Berg: One of the things you suggested was taking a look at the structure of the corporation. That all members must be individuals rather than corporations under that. Do you feel that would accomplish what you are personally trying to do, bring that capitol in and yet you would become the corporation. Is that something you would like to explore further.

Rep. Brusegaard: That would accomplish all that could be accomplished, my goals could be accomplished. It would be the first step in moving ND Ag forward.

Roger Johnson - Commissioner of Agriculture: I am here to oppose HB 1430. (See written testimony).

Rep. Berg: On page three of your testimony you talk about economic concentration and on the fourth line down you say it will ultimately will increase and create higher prices for food. If food prices went up 30%, wouldn't that be good for our future?

Johnson: It would if our producers got the money, but the point behind the economic concentration, what really happens is it is not about deficiency, it is about power. Power means you can extract more of the price from the marketplace for that corporate bottom line. The result of which you drive prices lower. If in fact higher prices for food results in higher prices for producers I would say yes. But, the evidence indicates that is not the result.

Rep. Berg: I fail to make that connection totally, if economic power drove the price of meat up 50% on the retail shelf. That would create an opportunity for independent producers to sell directly to meat packing plant, or whatever.

Johnson: Meat is a good example. If the corporate entity that is selling the meat into that meat case is the same one that is buying the beef from individual producers and their bottom line is driving their decision and they are able to put a higher price only because they have become a sole supplier which is ultimately a goal, a monopolistic supplier and arbitrarily set prices where you choose that is economic power. That same economic power get exercised against those from which they purchased that beef to begin with.

Berg: Than that monopoly and the other producers would have their product on the shelves next to the higher priced product and there would be a benefit to that. My question is, what programs have we done in the last eight years that have put capitol into farming operations. Or that are not alone?

Johnson: Two sessions ago, we did some substantial rewrite of limited liability ownership provision for the very reason.

Berg: The question is what good has that done?

Johnson: I think it has helped. We are seeing more value added ventures as a result of that. It has been a tool and is being used. You ought to be considering another tool that can move us in that

direction. It is important for us not to forget that the ultimate issue we have is the issue of prices. But simply providing capitol in the absence of profit, you can debate for a long time if that does you any good, unless you buy into the economic power argument.

Rep. Mueller: It strikes me that we would certainly at a minimum be changing the definition of family farming. Now, the family farm issue I think has been received relatively well by the public in this United States. That has some influence on the kind of distance that we have managed to get. I guess I would have to comment, if we are not longer a family farm, do you believe that will have some implications and some ramifications for Federal farm policy. We are talking about capitol and if the Federal government hadn't been in my operation in the last few years, I wouldn't be farming. That is where I get a lot of my capitol. My question is if we are no longer family farms, are we going to be considered something different by the Federal government?

Johnson: I think all of you would acknowledge that there are a lot of people showing up for these hearings that may have some impact on how you tend to look at legislation. I say that in support of the point you're trying to make that there is public confidence and a good feeling towards the family farm system of agriculture. You are more likely to get some farm policy that is beneficial to those producers. If you move away from that structure, and simply have corporate agriculture, the likelihood of getting public support would diminish.

Rep Berg: If in fact this bill would be amended to require the share holders to be individuals and not other entities, how would that differ from our LLP's that you indicated were helping out in ND?

Johnson: I would have to look at the amendment. It is instructive for us to remember the experience I related at the onset of my testimony. We spent days trying to get our arms around some sort of amendment.

Rep. Berg: We are talking about an amendment that would basically set up the same thing as a LLT, only it would be called a corporation. Would we not?

Johnson: What is the point of it. What's the point of the change?

Rep. Berg: So you would support that?

Johnson: I don't think I said that, I said what is the point of changing something so it provided you no more eligibility or tools than are already in existence?

Rep. Berg: The taxation would be different on it?

Chairman Nicholas: Most of the LLTs are still one man, one vote. You can have different types of investment levels, but it is still one vote whether you have \$100 or \$100,000 investment. Or a corporation the voting structure follows. Proponents of HB 1430.

Brian Kramer - ND Farm Bureau: We support HB 1430. (see written testimony).

Rep. Onstad: Make note that for ventures that intuitive seed investment capital is needed I am assuming you are referring to value added ag parts. You are asking for some outside individual to make an investment for him in the value added process. Is that correct?

Kramer: Either that or in the production side of it.

Onstad: So isn't it value added, don't we already do that now?

Kramer: There are a number of values that are available. But taking a look at that and in responding in some part to Rep. Mueller's question, that when commodity prices are so low, why would someone want to invest in something like this. One of the things that can help when prices are so low is the economy of scale. If you are getting a \$1 a head fro the beef you raise, profit, if

you raise enough of them you can eek out a living. If I invest in a project like this at some point those beef cattle will be worth a lot more at some later date, and I can recoup my investment and make some profit. I think that is what this bill will allow.

Rep. Lemieux: I would like you to answer the question, to what advantage is this over an LIT?

Kramer: I guess from my standpoint it would allow me an opportunity into something by being a silent partner. I think it will provide some other opportunities. That is what we need in agriculture today.

Paul Becker - Farmer: I am here today in support of HB 1430. At this time there is already out of state interest in buying farmland. With the limits of this bill, I think it only gives ND farmers another option to set up farming.

Rep. Mueller: Who would come in and be involved in this operation. If we don't see any of them on the horizon, why would we want to do this?

Becker: I guess referring to Rep. Brusegaard that maybe a doctor or attorney that had a farming background that isn't looking for big economic deals. Just wanted to be involved in something like that. The other thing is we have been taught to buy low and sell high and I guess this the time to get in.

Rep. Mueller: Do you know some of those folks that would like to come in and be involved in my farm operation for nostalgic reasons would you?

Chairman Nicholas: Anyone else wish to testify in favor of HB 1430. Anyone opposed?

Walter Hardy: The thing that worries me about this bill, is I think one of the things we are trying to do in this state is to bring our young people back to this state. I think that if we want to get a doctor from Wisconsin involved in a farm, this isn't going to help the population at all. What we

need is younger farmers on the land. Three farmers having 3000 acres instead of having investors from out of the state.

Rep. Lloyd: How do you propose we get these young people back here?

Hardy: That is a really good question. I don't think we need to do it this way. One thing we need to do is to give our subsidies to the farmers that need it. As our economy gets worse, as the land is going up and the cash rent is going up and it forces young farmers out of business and it only helps big operators. If we can funnel these payments towards the smaller farmers. That will make a lot of difference.

Rep. Froelich: What you are purposing, I see what you are saying, but is it better to have three farmers starving to death, than one?

Hardy: Well, I don't think we need a bunch of doctors from Wisconsin investing in ND. What are we going to have left here. One farmer on 10,000 acres. What are we doing to our population?

Rep. Merle Boucher - District 9: I will be offering opposition to this legislation. I am a little scared when I hear the terminology, tweak this bill. No doubt in the area of agriculture there is a crisis. It is a capitalization crisis that exists out there. As we all know in today's modern term capitalizing an agricultural operation is going to be viable. It costs many hundreds of thousands of dollars. For an individual to accomplish that it can be extremely difficult. I think we need to look at this, someone needs to assist the farmers in this capitalization process. I really have fears in terms of this legislation you have in front of you in terms corporations. Because a corporation itself does extend the implication for those interests we think of in large terms and that is big corporations. When we talk about where we want to go, it is a greater situation than just capitalization of agriculture, it is a market issue. As a legislative assembly we have taken a rather

anemic position in addressing the market issues in this country. We as independent farmers operate in an arena where we don't have what we call a competitive market. We are out there competing with each other and many other interests for capitol and at the same we are selling our commodities in a captive market. That is what is wrong about the system that exists today. I think we have to take a look at capitalization of agriculture. We have to look at the total agricultural position from top to bottom and how we as individual producers can participate in that process and how we can open up resources to make that process more accessible and more available to us. So if we can participate in those value added co-ops and corporations. I think the availability of capitol is made to us so we can become shareholders and stockholders of the entities that produce that final product where we know the margins of profit really exist. We know a box of corn flakes cost \$3.50 and there's a nickels worth of corn in there, which tells me we could double the price of corn and only add another nickel to the cost of the product. So there's something more involved out there. I do agree with those people who try to capitalize in the added value products of agriculture, and I feel as a committee we should work diligently in that particular direction. The bill you have before you, I am very leery of it and I encourage you to leave it alone.

Sen. Elroy Lindaas: I appear here against HB 1430. My parents farmed in 1917, the end of World War I, World War II, the recession, the high times, the low times. Corporate farming was and continues to be a bad idea. Our predecessors understood that. Some experiences we lack leave us open to some ideas that might be dangerous. There seems to be a misconception about corporate entities because of their financial advantage and size. Somehow benevolent, but somehow the capitol they bring with them would be doled out to the benefit of everyone. To that I would say they make no investments that would not pay a larger return and with that profit could for the

