2023 HOUSE AGRICULTURE

HB 1371

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1371
1/27/2023

Relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, and raising or producing of livestock by person that have limited landholdings.

Vice Chairman Beltz called the meeting to order at 9:35 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Pritchard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Zoning
- Surplus feed
- Trade wars
- Global politics
- Lost opportunities
- Competition
- Economic benefits
- Corporate processers
- Marketing
- Distance to market
- Supply chain
- Processors
- Partnerships
- S Corps
- Land purchases
- Local control
- Weather

In favor:
Representative Paul Thomas, District 6, Primary bill sponsor, #17475
Governor Doug Burgum, North Dakota Governor, #17858
Doug Goehring, Commissioner, ND Agriculture Department, #17856
Daryl Lies, President ND Farm Bureau (no written testimony)
Kenton Holle, ND Milk Producers Association, # 17469
Craig Jarolimek, ND Livestock Alliance (no written testimony)
Wayne Trottier, Retired Legislator and Farmer, Bismarck (no written testimony)
Richard Roland, Crosby, ND #17208

Opposed:
Mark Watne, President, ND Farmers Union (NDFU), #17471
Shelly Ziesch, Rancher, Pettibone, ND #17281

Rebecca “Beckie” Phillips, #17333
John Lueck, Farmer, Spiritwood, ND, #17302
Mary Rude, HS Senior, Family rancher/farmer, #17319
Baille Graner, Morton County Rancher (no written testimony)
Scott Skokos, Executive Director, Dakota Resource Council, #17184
Frank Matejcek, Farmer/Rancher, Grand Forks, ND, #17465
Travis Zablotney, Farmer, Rancher, Ward County, ND (no written testimony)

Additional written testimony:
Randy Melvin, Farmer, Buffalo, ND, #17473
Julie Ellingson, ND Stockmen’s Association, #17468
Scott German, 4th generation farmer from Oakes ND, #16609
Alan Qual, Lisbon ND Dairy Farmer, #17229
Jeff Zueger, CEO, Midwest Ag Energy, Director, ND Ethanol Producers Association, #17278
Jacy Schafer, Cattle producer, Carson, ND, #17328
Andrew Mauch, President, ND Corn Growers Association, #17361
Tamra Hein, Executive Director, ND Pork Council, #17497
Curtis Stofferahn, Professor Emeritus, Sociology, University of ND, #14835, 14836, 14840
Steven Perdue, Ray, North Dakota Farmer, #15809
Sarah Vogel, Author, Attorney, Advocate, and former ND Agriculture Commissioner, #16828
Cassidy Lyngaas, Farmer/Rancher, #17298
Ronda Throener, Farm/Rancher, Cogswell, ND, #17318
Madeline Luck, #17349
Olivia Johnson, Dakota Resource Council member, #17356
Scott Shively, Dairy farmer, Towner, ND, #17362
Karen Ehrens, RD, LRD, Bismarck, ND, #17373
Nicole Donaghy, Executive Director, ND Native Voice, #17472, #19340
Phil Murphy, ND Soybean Growers Association, #16939
Mark Lyman, Economic Development specialist, Minot Area Chamber EDC, #17303
Frank Tomac, District 31 Sioux County Rancher, #19339

Vice Chairman Beltz adjourned the meeting at 12:05 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1371
2/17/2023

Relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, and raising or producing of livestock by person that have limited landholdings.

Chairman Thomas called the meeting to order at 10:56 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:
- Corporate structures
- Beekeeping

Representative Paul Thomas presented amendment, #27949, LC #23.0721.02002.

Doug Goehring, Commissioner, ND Department of Agriculture, #21095, #21123

Dutch Bialke, General Counsel, ND Department of Agriculture, (no written testimony)

Matt Perdue, ND Farmers Union, (no written testimony).

Chairman Thomas adjourned the meeting at 11:49 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1371
2/17/2023

Relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, and raising or producing of livestock by person that have limited landholdings.

Chairman Thomas called the meeting to order at 4:10 PM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:
- Committee action

Matt Perdue, ND Farmers Union (no written testimony)

Representative Beltz moved to adopt the amendment LC #23.0721.02002 (Testimony #21123).
Representative Fisher seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	AB

Motion 11-0-2

Representative Thomas, further amended page 3, line 1 strike,” hypophonic agriculture”.

Representative Beltz moved to adopt the further amendment.
Representative Christy seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	AB

Motion passed 11-0-2

Representative Headland moved a do pass as amended.
Representative Beltz seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	N
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	N
Representative Lori VanWinkle	AB

Motion passed 9-2-2

Representative Fisher will carry the bill.

Chairman Thomas adjourned the meeting at 4:40 PM

Diane Lillis, Committee Clerk

Adopted by the House Agriculture Committee

February 17, 2023

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1371

Page 1, line 1, after "to" insert "create and enact four new sections to chapter 10-06.1 of the North Dakota Century Code, relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, replace the second "and" with ", 10-06.1-02, and 10-06.1-04,"

Page 1, line 2, after "10-06.1-12" insert ", and sections 10-06.1-13, 10-06.1-14, 10-06.1-17, 10-06.1-21, 10-06.1-22, 10-06.1-26, and 10-06.1-27"

Page 1, line 4, remove "and"

Page 1, line 4, after "landholdings" insert ", and required reporting for corporate farming; and to provide a penalty"

Page 1, line 16, remove ""Beekeeping" means the breeding or rearing of bee colonies or the owning,"

Page 1, line 17, replace "maintenance, or management of bee apiaries" with ""Authorized livestock farm corporation" means a corporation formed for cattle backgrounding, cattle finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter"

Page 1, after line 17, insert:

"4. "Authorized livestock farm limited liability company" means a limited liability company formed for cattle backgrounding, cattle finishing, or the production of poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter."

Page 1, line 18, replace "4." with "5."

Page 1, replace lines 20 through 23 with:

"6. "Cattle finishing" means the feeding or growing of cattle for the purpose of expeditiously preparing the cattle for harvest."

Page 2, line 1, replace "6." with "7."

Page 2, line 3, replace "7. a." with "8."

Page 2, line 3, remove the overstrike over "~~cultivating~~"

Page 2, line 3, remove the underscored colon

Page 2, line 4, remove "(1) Cultivating"

Page 2, line 4, remove the overstrike over the overstruck comma

Page 2, line 4, remove the underscored semicolon

Page 2, line 4, remove the overstrike over "~~the~~"

Page 2, line 5, remove "(2) The"

Page 2, line 6, remove the overstrike over "~~It~~"

Page 2, line 7, remove "b. Notwithstanding subdivision a, "farming or ranching""

Page 2, remove line 8

Page 2, line 9, replace "(2)" with "a."

Page 2, line 10, replace "(3)" with "b."

Page 2, line 11, replace "(4)" with "c."

Page 2, line 12, replace "(5)" with "d."

Page 2, line 12, remove "Cattle backgrounding or cattle finishing feedlot operations, or the raising or"

Page 2, remove lines 13 and 14

Page 2, line 15, replace "hundred sixty acres [64.75 hectares]" with "Custom harvesting"

Page 2, line 16, replace "(6)" with "e."

Page 2, line 16, remove ", hydroponic agriculture,"

Page 2, line 19, replace "(7)" with "f."

Page 2, line 21, replace "8." with "9."

Page 2, line 24, replace "9." with "10."

Page 2, line 26, replace "10." with "11."

Page 2, remove lines 29 and 30

Page 3, line 13, after "in" insert "day-to-day"

Page 3, line 13, after the second "or" insert "day-to-day"

Page 3, line 14, after "contribute" insert "significantly"

Page 3, after line 14, insert:

"**SECTION 2. AMENDMENT.** Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. A corporation or a limited liability company may be a partner in a partnership that is in the business of farming or ranching only if that corporation or limited liability company complies with this chapter. Notwithstanding any other provision, an authorized livestock farm corporation or authorized livestock farm limited liability company is prohibited from being a partner in

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a partnership owning or leasing land used for farming or ranching or engaging in the business of farming or ranching, a shareholder of an authorized livestock farm corporation, or a member of an authorized livestock farm limited liability company.

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SECTION 3. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and section 11 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching."

Page 3, after line 21, insert:

"**SECTION 5.** A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or limited liability company - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing real estate and engaging in the business of farming or ranching if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If a corporation, the corporation may not have more than ten shareholders. If a limited liability company, the limited liability company may not have more than ten members.

2. If a corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are actively engaged in operating a farm or ranch, corporations that meet the requirements of chapter 10-06.1-12, or limited liability companies that meet the requirements of chapter 10-06.1-12. If a limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are actively engaged in operating a farm or ranch, corporations that meet the requirements of chapter 10-06.1-12, or limited liability companies that meet the requirements of chapter 10-06.1-12.

3. If a corporation, all shareholders who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all shareholders that are persons otherwise eligible under this chapter, and any controlling person of the corporation, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States or permanent resident aliens. If a limited liability company, all members who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all members that are persons otherwise eligible under this chapter, and any controlling person limited liability company, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States or permanent resident aliens.

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4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not at any time, directly or indirectly, own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of land.

5. If a corporation, none of its shareholders are shareholders in other authorized livestock farm corporations, or members in authorized livestock farm limited liability companies, that directly or indirectly in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of land. If a limited liability company, none of its members are members in other authorized livestock farm limited liability companies or shareholders in authorized livestock farm corporations that directly or indirectly in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of land.

6. If a corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the authorized livestock farm corporation. If a limited liability company, the governors, managers, and officers must be members who are actively engaged in operating the authorized farm limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from the production of cattle, poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the corporation or limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the corporation or limited liability company.

9. The corporation or limited liability company may not directly or indirectly engage in the cultivation of land for the production of crops or the grazing of livestock.

10. The corporation or limited liability company must begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding.

11. The corporation or limited liability company must have a fully operational animal feeding operation or concentrated animal feeding operation within three years of obtaining the agricultural landholding.

12. An authorized livestock farm corporation or limited liability company violating subsection 10 or 11, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

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SECTION 6. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations and authorized livestock farm corporations, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 7. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1, except those sections which pertain to foreign limited liability companies, is applicable to farming or ranching limited liability companies and authorized livestock farm limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 8. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Applicability of restriction on alien ownership of land.

The provisions of chapter 47-10.1 supersede this chapter in the event of any conflict.

SECTION 9. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Initial report - Authorized livestock farm corporations and authorized livestock farm limited liability companies.

1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation or articles of organization. The report must be signed by the incorporators or organizers, and must contain the following:

   a. The name of the corporation or limited liability company.

   b. With respect to each shareholder or member:

(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) A statement of whether each is a citizen or permanent resident alien of the United States; and

(7) As to individuals, a statement of whether each will be actively engaged in operating the farm or ranch and whether each will reside on the farm or ranch.

c. With respect to management:

(1) If a corporation, the names and addresses of the officers and members of the board of directors.

(2) If a limited liability company, the names and addresses of the managers, members of the board of governors, and officers.

d. A statement that the corporation or limited liability company does not and will not directly or indirectly own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares].

e. If the purchase or lease of land is final at the time of the initial report, a statement listing the acreage and the number of hectares and location listed by section, township, range, and county of all land in the state in which the corporation or limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of land is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease land in the state.

f. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].

g. A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

h. A statement that the corporation or limited liability company will not engage in the cultivation of land for the production of crops.

i. If the facility is not operational, a statement as to the planned date of operations.

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j. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.

2. A corporation or a limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation or articles of organization. The corporation or limited liability company shall furnish to the official county newspaper of each county or counties in which it has any interest in any land a legal notice reporting the following:

   a. The name of the corporation or limited liability company and its shareholders or members as listed in the initial report.

   b. A statement to the effect that the corporation or limited liability company has reported that it holds an interest in land in the county, the use of the land, and that a description of that land is available for inspection at the secretary of state's office.

   c. A statement to the effect that each of the shareholders of the corporation or members of the limited liability company do not directly or indirectly in combination with interests in any other person own more than six hundred forty acres [259 hectares] of agricultural land.

SECTION 10. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

Except for the first annual report, the annual report of a corporation engaged in farming or ranching after June 30, 1981, and a limited liability company engaged in farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a corporation and subsection 49 of section 10-32.1-02 if a limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

3. With respect to each corporation:

   a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

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b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

4. With respect to each limited liability company:

a. A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

b. A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

5. With respect to each shareholder or member:

a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

b. The number of shares or membership interests or percentage of shares or membership interests owned by each;

c. The relationship of each;

d. A statement of whether each is a citizen or permanent resident alien of the United States; and

e. A statement of whether at least one is an individual residing on or operating the farm or ranch.

~~5.~~6. With respect to management:

a. If a corporation, then the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

b. If a limited liability company, then the name and address of each manager and member of the board of governors, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~7. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~8. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

~~8.~~9. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~10. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.

~~10.~~11. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

SECTION 11. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation or articles of organization. The annual report must be signed as defined in section 10-19.1-01 if a corporation or section 10-32.1-02 if a limited liability company and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, the annual report must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

   a. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

   b. The name of the corporation or limited liability company.

   c. With respect to each corporation:

      (1) A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

      (2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

   d. With respect to each limited liability company:

      (1) A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

      (2) A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

   e. With respect to each shareholder or member:

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(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) A statement of whether each is a citizen or permanent resident alien of the United States; and

(7) As to individuals, a statement of whether each will be actively engaged in operating the farm or ranch and whether each will reside on the farm or ranch.

f. With respect to management:

(1) If a corporation, the names and addresses of the officers and members of the board of directors.

(2) If a limited liability company, the names and addresses of the managers and members of the board of governors.

g. A statement that the corporation or limited liability company does not directly or indirectly own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares].

h. A statement providing the land description and listing the acreage, the total number of hectares and location listed by section, township, range, and county of all land in the state in which the corporation or limited liability company has an ownership, leasehold, or other interest.

i. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].

j. A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

k. A statement that the corporation or limited liability company does not engage in the cultivation of land for the production of crops or the grazing of livestock.

l. The first date of operations.

m. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.

n. The statement also must designate which, if any, of the acreage and the total number of hectares is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage and the total number of hectares.

o. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

p. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

2. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required by this section.

3. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required by this section.

SECTION 12. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 or section 5 of this Act, the secretary of state shall transmit such information to the attorney general and the governor.

SECTION 13. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from farming or ranching operations and shall compare such returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 and section 11 of this Act and shall forward any apparent violations to the attorney general and the governor.

SECTION 14. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation or authorized livestock farm corporation doing business under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder. Any shareholder who desires to withdraw from the corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 15. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company or authorized livestock farm limited liability company doing business under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined by this section upon the withdrawal of the member. Any member who desires to withdraw from the limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to

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be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1371: Agriculture Committee (Rep. Thomas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1371 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact four new sections to chapter 10-06.1 of the North Dakota Century Code, relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, replace the second "and" with ", 10-06.1-02, and 10-06.1-04,"

Page 1, line 2, after "10-06.1-12" insert ", and sections 10-06.1-13, 10-06.1-14, 10-06.1-17, 10-06.1-21, 10-06.1-22, 10-06.1-26, and 10-06.1-27"

Page 1, line 4, remove "and"

Page 1, line 4, after "landholdings" insert ", and required reporting for corporate farming; and to provide a penalty"

Page 1, line 16, remove ""Beekeeping" means the breeding or rearing of bee colonies or the owning,"

Page 1, line 17, replace "maintenance, or management of bee apiaries" with ""Authorized livestock farm corporation" means a corporation formed for cattle backgrounding, cattle finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter"

Page 1, after line 17, insert:

"4. "Authorized livestock farm limited liability company" means a limited liability company formed for cattle backgrounding, cattle finishing, or the production of poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter."

Page 1, line 18, replace "4." with "5."

Page 1, replace lines 20 through 23 with:

"6. "Cattle finishing" means the feeding or growing of cattle for the purpose of expeditiously preparing the cattle for harvest."

Page 2, line 1, replace "6." with "7."

Page 2, line 3, replace "7. a." with "8."

Page 2, line 3, remove the overstrike over "~~cultivating~~"

Page 2, line 3, remove the underscored colon

Page 2, line 4, remove "(1) Cultivating"

Page 2, line 4, remove the overstrike over the overstruck comma

Page 2, line 4, remove the underscored semicolon

Page 2, line 4, remove the overstrike over "~~the~~"

Page 2, line 5, remove "(2) The"

Page 2, line 6, remove the overstrike over "~~It~~"

Page 2, line 7, remove "b. Notwithstanding subdivision a, "farming or ranching""

Page 2, remove line 8

Page 2, line 9, replace "(2)" with "a."

Page 2, line 10, replace "(3)" with "b."

Page 2, line 11, replace "(4)" with "c."

Page 2, line 12, replace "(5)" with "d."

Page 2, line 12, remove "Cattle backgrounding or cattle finishing feedlot operations, or the raising or"

Page 2, remove lines 13 and 14

Page 2, line 15, replace "hundred sixty acres [64.75 hectares]" with "Custom harvesting"

Page 2, line 16, replace "(6)" with "e."

Page 2, line 16, remove ", hydroponic agriculture,"

Page 2, line 19, replace "(7)" with "f."

Page 2, line 21, replace "8." with "9."

Page 2, line 24, replace "9." with "10."

Page 2, line 26, replace "10." with "11."

Page 2, remove lines 29 and 30

Page 3, line 13, after "in" insert "day-to-day"

Page 3, line 13, after the second "or" insert "day-to-day"

Page 3, line 14, after "contribute" insert "significantly"

Page 3, after line 14, insert:

"**SECTION 2. AMENDMENT.** Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. A corporation or a limited liability company may be a partner in a partnership that is in the business of farming or ranching only if that corporation or limited liability company complies with this chapter. Notwithstanding any other provision, an authorized livestock farm corporation or authorized livestock farm limited liability company is prohibited from being a partner in a partnership owning or leasing land used for farming or ranching or engaging in the business of farming or ranching, a shareholder of an authorized livestock farm corporation, or a member of an authorized livestock farm limited liability company.

SECTION 3. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and section 11 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching."

Page 3, after line 21, insert:

"**SECTION 5.** A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or limited liability company - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing real estate and engaging in the business of farming or ranching if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If a corporation, the corporation may not have more than ten shareholders. If a limited liability company, the limited liability company may not have more than ten members.

2. If a corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are actively engaged in operating a farm or ranch, corporations that meet the requirements of chapter 10-06.1-12, or limited liability companies that meet the requirements of chapter 10-06.1-12. If a limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are actively engaged in operating a farm or ranch, corporations that meet the requirements of chapter 10-06.1-12, or limited liability companies that meet the requirements of chapter 10-06.1-12.

3. If a corporation, all shareholders who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all shareholders that are persons otherwise eligible under this chapter, and any controlling person of the corporation, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States or permanent resident aliens. If a limited

liability company, all members who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all members that are persons otherwise eligible under this chapter, and any controlling person limited liability company, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States or permanent resident aliens.

4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not at any time, directly or indirectly, own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of land.

5. If a corporation, none of its shareholders are shareholders in other authorized livestock farm corporations, or members in authorized livestock farm limited liability companies, that directly or indirectly in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of land. If a limited liability company, none of its members are members in other authorized livestock farm limited liability companies or shareholders in authorized livestock farm corporations that directly or indirectly in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of land.

6. If a corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the authorized livestock farm corporation. If a limited liability company, the governors, managers, and officers must be members who are actively engaged in operating the authorized farm limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from the production of cattle, poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the corporation or limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the corporation or limited liability company.

9. The corporation or limited liability company may not directly or indirectly engage in the cultivation of land for the production of crops or the grazing of livestock.

10. The corporation or limited liability company must begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding.

11. The corporation or limited liability company must have a fully operational animal feeding operation or concentrated animal feeding operation within three years of obtaining the agricultural landholding.

12. An authorized livestock farm corporation or limited liability company violating subsection 10 or 11, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

SECTION 6. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations <u>and authorized livestock farm corporations</u>, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 7. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1, except those sections which pertain to foreign limited liability companies, is applicable to farming or ranching limited liability companies <u>and authorized livestock farm limited liability companies</u>, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 8. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

<u>**Applicability of restriction on alien ownership of land.**</u>

<u>The provisions of chapter 47-10.1 supersede this chapter in the event of any conflict.</u>

SECTION 9. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

<u>**Initial report - Authorized livestock farm corporations and authorized livestock farm limited liability companies.**</u>

<u>1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation or articles of organization. The report must be signed by the incorporators or organizers, and must contain the following:</u>

<u>a. The name of the corporation or limited liability company.</u>

<u>b. With respect to each shareholder or member:</u>

<u>(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;</u>

<u>(2) If an organization, the state of domicile;</u>

<u>(3) The number of shares or membership interests;</u>

<u>(4) Each person's percentage of shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;</u>

<u>(5) Each person's percentage of capital and financial interests;</u>

<u>(6) A statement of whether each is a citizen or permanent resident alien of the United States; and</u>

(7) As to individuals, a statement of whether each will be actively engaged in operating the farm or ranch and whether each will reside on the farm or ranch.

c. With respect to management:

(1) If a corporation, the names and addresses of the officers and members of the board of directors.

(2) If a limited liability company, the names and addresses of the managers, members of the board of governors, and officers.

d. A statement that the corporation or limited liability company does not and will not directly or indirectly own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares].

e. If the purchase or lease of land is final at the time of the initial report, a statement listing the acreage and the number of hectares and location listed by section, township, range, and county of all land in the state in which the corporation or limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of land is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease land in the state.

f. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].

g. A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

h. A statement that the corporation or limited liability company will not engage in the cultivation of land for the production of crops.

i. If the facility is not operational, a statement as to the planned date of operations.

j. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.

2. A corporation or a limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation or articles of organization. The corporation or limited liability company shall furnish to the official county newspaper of each county or counties in which it has any interest in any land a legal notice reporting the following:

a. The name of the corporation or limited liability company and its shareholders or members as listed in the initial report.

b. A statement to the effect that the corporation or limited liability company has reported that it holds an interest in land in the county, the use of the land, and that a description of that land is available for inspection at the secretary of state's office.

c. A statement to the effect that each of the shareholders of the corporation or members of the limited liability company do not directly or indirectly in combination with interests in any other person own more than six hundred forty acres [259 hectares] of agricultural land.

SECTION 10. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

Except for the first annual report, the annual report of a corporation engaged in farming or ranching after June 30, 1981, and a limited liability company engaged in farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a corporation and subsection 49 of section 10-32.1-02 if a limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

3. With respect to each corporation:

   a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

   b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

4. With respect to each limited liability company:

   a. A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

   b. A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

5. With respect to each shareholder or member:

   a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

   b. The number of shares or membership interests or percentage of shares or membership interests owned by each;

c. The relationship of each;

d. A statement of whether each is a citizen or permanent resident alien of the United States; and

e. A statement of whether at least one is an individual residing on or operating the farm or ranch.

~~5.~~ 6. With respect to management:

a. If a corporation, then the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

b. If a limited liability company, then the name and address of each manager and member of the board of governors, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~ 7. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~ 8. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

~~8.~~ 9. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~ 10. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.

~~10.~~ 11. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

SECTION 11. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation or articles of organization. The annual report must be signed as defined in section 10-19.1-01 if a corporation or section 10-32.1-02 if a limited liability company and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, the annual report must

be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

a. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

b. The name of the corporation or limited liability company.

c. With respect to each corporation:

(1) A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

d. With respect to each limited liability company:

(1) A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

(2) A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

e. With respect to each shareholder or member:

(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) A statement of whether each is a citizen or permanent resident alien of the United States; and

(7) As to individuals, a statement of whether each will be actively engaged in operating the farm or ranch and whether each will reside on the farm or ranch.

f. With respect to management:

(1) If a corporation, the names and addresses of the officers and members of the board of directors.

(2) If a limited liability company, the names and addresses of the managers and members of the board of governors.

g. A statement that the corporation or limited liability company does not directly or indirectly own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares].

h. A statement providing the land description and listing the acreage, the total number of hectares and location listed by section, township, range, and county of all land in the state in which the corporation or limited liability company has an ownership, leasehold, or other interest.

i. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].

j. A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

k. A statement that the corporation or limited liability company does not engage in the cultivation of land for the production of crops or the grazing of livestock.

l. The first date of operations.

m. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.

n. The statement also must designate which, if any, of the acreage and the total number of hectares is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage and the total number of hectares.

o. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

p. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

2. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required by this section.

3. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required by this section.

SECTION 12. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 <u>or section 5 of this Act</u>, the secretary of state shall transmit such information to the attorney general and the governor.

SECTION 13. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from farming or ranching operations and shall compare such returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 <u>and section 11 of this Act</u> and shall forward any apparent violations to the attorney general and the governor.

SECTION 14. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation <u>or authorized livestock farm corporation</u> doing business under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder. Any shareholder who desires to withdraw from the corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 15. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company <u>or authorized livestock farm limited</u>

liability company doing business under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined by this section upon the withdrawal of the member. Any member who desires to withdraw from the limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code."

Renumber accordingly

2023 SENATE AGRICULTURE AND VETERANS AFFAIRS

HB 1371

2023 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1371
3/24/2023

A bill relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; and relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, raising or producing of livestock by persons that have limited landholdings, and required reporting for corporate farming; and to provide a penalty.

9:00 AM Chairman Luick called the meeting to order. Members present: Chairman Luick, Vice Chairman Myrdal, Senator Lemm, Senator Webster, Senator Weber. Members absent: Senator Hogan.

Discussion Topics:
- Animal Agriculture
- Corporate investment
- Livestock feeding operation
- Farming business structures
- Feed and forage markets
- AFL Corp & ALF LLC's
- Ownership eligibility requirements

9:10 AM Representative Paul Thomas, District 6, introduced HB 1371 and testified in favor. # 26531.

9:19 AM Dutch Bialke, General Counsel and Senior Policy Advisor, North Dakota Department of Agriculture testified in favor of HB 1371. #26483, #26484, #26485, #26486, #26487

9:42 AM Mark Watne, President North Dakota Farm Bureau, testified neutral. #26538

9:47 AM Matt Perdue, Lobbyist, North Dakota Farmers Union, testified neutral on HB 1371. No written testimony.

9:50 AM Julie Ellingson, ND Stockmen's Association testified in support of HB 1371. No written testimony.

9:52 AM Pete Hannebutt, ND Farm Bureau, Policy Director, testified in support of HB 1371. No written testimony.

9:54 AM Phil Murphy, ND Soybean Growers Association, testified in favor of HB 1371. #26540

9:57 AM Jeff Zueger, Midwest Ag Energy, and owner of two ethanol plants in North Dakota, testified on behalf of the ethanol producers in support of HB 1371. #26529

9:57 AM Andrew Mauch, North Dakota Corn Growers Association, testified in favor of HB 1371. No written testimony.

10:00 AM Sam Wagner, Ag and Field Food Advisor, North Dakota Ag Council, testified opposed to HB 1371. #26511

10:16 AM Dr. Madeline Luke, Dakota Resource Council, testified opposed to HB 1371. #26444

Additional written testimony:
Curtis Stofferahn #26126, #26127, #26128, #26129, #26157
Kristal Stoner #26399
Brenda Elmer #26555
Sharnell Seaboy #26541
Joseph Bialke #26504, #26505
Frank Tomac #26522
Olivia Johnson #26524
Whitney Oxandahl #26525

10:24 AM Chairman Luick closed the hearing.

Brenda Cook, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1371
3/30/2023

A bill relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; and relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, raising or producing livestock by persons that have limited landholdings, and required reporting for corporate farming; and to provide a penalty.

8:33 AM Chairman Luick called the meeting to order. Members present: Chairman Luick, Vice Chairman Myrdal, Senator Lemm, Senator Hogan, Senator Weston, Senator Weber.

Discussion Topics:
- Committee action

8:35 AM Dutch Bialke introduced proposed amendments to HB 1371. #27 5

8:45 AM Pete Hanebutt, North Dakota Farm Bureau, spoke on HB 1371. No written testimony.

8:46 AM Chairman Luick closed the hearing on HB 1371.

8:47 AM Senator Myrdal moved to adopt amendment LC 23.0721.03002. #27 #27 6

8:48 AM Senator Weber seconded the motion.

Roll call vote:

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	Y
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Vote 6-0-0- Motion DO PASS TO ADOPT THE AMENDMENT.

8:48 AM Senator Myrdal moved to DO PASS HB 1371 AS AMENDED.
Senator Weber seconded the motion.

Roll call vote:

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	N
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Vote: 5-1-0 Motion DO PASS HB 1371 AS AMENDED.

Chairman Luick will carry the bill.

8:48 Chairman Luick closed the hearing on HB 1371

Brenda Cook, Committee Clerk

23.0721.03003
Title.04000

Prepared by the Legislative Council staff for the Senate Agriculture and Veterans Affairs Committee

March 30, 2023

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1371

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 18, after the third underscored comma insert "<u>or</u>"

Page 1, line 18, after "<u>or</u>" insert "<u>the business of</u>"

Page 1, line 20, remove "<u>agriculture</u>"

Page 1, line 22, after the second "<u>corporation</u>" insert "<u>, joint-stock company or association</u>"

Page 1, line 22, replace "<u>cattle</u>" with "<u>livestock</u>"

Page 1, line 23, replace "<u>cattle</u>" with "<u>livestock</u>"

Page 2, line 1, after the second "<u>products</u>" insert "<u>which is allowed to engage in the business of farming or ranching under section 13 of this Act,</u>"

Page 2, line 4, replace the first "<u>cattle</u>" with "<u>livestock</u>"

Page 2, line 4, replace the second "<u>cattle</u>" with "<u>livestock</u>"

Page 2, line 4, after "<u>of</u>" insert "<u>poultry or</u>"

Page 2, line 5, after the second "<u>products</u>" insert "<u>which is allowed to engage in the business of farming or ranching under section 13 of this Act,</u>"

Page 2, line 7, remove ""<u>Cattle backgrounding" means the feeding or growing of cattle from weaning until the</u>"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "<u>expeditiously preparing the cattle for harvest</u>" with ""<u>Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries</u>"

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Page 2, line 11, replace "7." with "6."

Page 2, line 13, replace "8." with "7. a."

Page 2, line 13, overstrike "cultivating land for production of agricultural crops or"

Page 2, line 14, overstrike "livestock, or the"

Page 2, line 14, overstrike "of" and insert immediately thereafter "agricultural crops, fruit, horticultural products, or"

Page 2, line 14, overstrike "poultry or"

Page 2, line 15, overstrike "poultry products, milk or dairy products, or fruit or horticultural products. It" and insert immediately thereafter "or livestock backgrounding, or livestock fishing.

b. The term"

Page 2, line 17, replace "a." with "(1)"

Page 2, line 18, replace "b." with "(2) Aquaculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4)"

Page 2, line 19, replace "c." with "(5)"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "agricultural landholding not exceeding forty acres [16.19 hectares];"

Page 2, line 23, replace "f." with "(6)"

Page 2, line 25, replace "9." with "8."

Page 2, line 26, after "association" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, line 28, replace "10." with "9."

Page 2, line 29, after "company" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, after line 29, insert:

"10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching."

Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.

14. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest.

15."

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Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be

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passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock farm limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is ~~the~~

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conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

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10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

   a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

   b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company~~ allowed to engage in farming or ranching under section 10-06.1-12~~.

   c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

   d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

   e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

   f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

   b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of

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the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

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2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

   a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

   b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

   b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

Page 4, line 25, after "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

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Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.

(2) All"

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Page 5, line 15, replace "person" with "individual or entity"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 20, remove "person limited"

Page 5, line 21, replace "liability company" with "individual or entity of the person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

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Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

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Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

      (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

      (3) The relationship of each;

      (4) A statement of whether each is a citizen or permanent resident alien of the United States; and

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(5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

c. With respect to management:

(1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

(2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

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Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation organization or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

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Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

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Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

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10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "<u>of the farming or ranching corporation or the farming or ranching limited liability company</u>"

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Page 10, line 13, overstrike "1." and insert immediately thereafter "<u>a.</u>"

Page 10, line 13, after "the" insert "<u>farming or ranching</u>"

Page 10, line 13, after "or" insert "<u>farming or ranching</u>"

Page 10, line 14, overstrike "2." and insert immediately thereafter "<u>b.</u>"

Page 10, line 14, after the second "the" insert "<u>farming or ranching</u>"

Page 10, line 14, after "or" insert "<u>farming or ranching</u>"

Page 10, line 17, overstrike "3." and insert immediately thereafter "<u>c.</u>"

Page 10, line 17, after "each" insert "<u>farming or ranching</u>"

Page 10, line 18, overstrike "a." and insert immediately thereafter "<u>(1)</u>"

Page 10, line 21, overstrike "b." and insert immediately thereafter "<u>(2)</u>"

Page 10, line 23, overstrike "4." and insert immediately thereafter "<u>d.</u>"

Page 10, line 23, after "<u>each</u>" insert "<u>farming or ranching</u>"

Page 10, line 24, replace "<u>a.</u>" with "<u>(1)</u>"

Page 10, line 24, replace "<u>number of units</u>" with "<u>membership interests</u>"

Page 10, line 26, replace "<u>b.</u>" with "<u>(2)</u>"

Page 10, line 26, replace "<u>number of issued units</u>" with "<u>membership interests</u>"

Page 10, line 28, replace "<u>5.</u>" with "<u>e.</u>"

Page 10, line 29, overstrike "a." and insert immediately thereafter "<u>(1)</u>"

Page 11, line 1, overstrike "b." and insert immediately thereafter "<u>(2)</u>"

Page 11, line 3, overstrike "c." and insert immediately thereafter "<u>(3)</u>"

Page 11, line 3, after the semicolon insert "<u>and</u>"

Page 11, line 4, overstrike "d." and insert immediately thereafter "<u>(4)</u>"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "<u>6.</u>" with "<u>f.</u>"

Page 11, line 9, overstrike "a." and insert immediately thereafter "<u>(1)</u>"

Page 11, line 9, after "a" insert "<u>farming or ranching</u>"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "<u>(2)</u>"

Page 11, line 12, after "a" insert "<u>farming or ranching</u>"

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Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

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"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 17, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

Page 13, line 6, remove ", including the names and addresses and"

Page 13, line 7, remove "relationships of trusts and estates that own shares or membership interests"

Page 13, line 8, replace "an organization" with "a person other than an individual"

Page 13, line 8, after "of" insert "incorporation, organization, or"

Page 13, line 9, after "interests" insert "or percentage of shares or membership interests of each"

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Page 13, line 10, after "of" insert "total"

Page 13, line 12, after "of" insert "total"

Page 13, line 13, replace "A" with "As to individuals, a"

Page 13, line 14, remove "and"

Page 13, remove line 16

Page 13, line 17, replace "ranch" with "the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 13, line 19, replace "a" with "an authorized livestock farm"

Page 13, line 20, replace the underscored period with ", and a statement whether each actively is engaged in the operation of the corporation; or"

Page 13, line 21, replace "a" with "an authorized livestock farm"

Page 13, line 22, after "governors" insert ", and a statement whether each actively is engaged in the operation of the limited liability company"

Page 13, line 23, after "the" insert "authorized livestock farm"

Page 13, line 23, after the first "or" insert "authorized livestock farm"

Page 13, line 23, remove "directly or"

Page 13, line 24, remove "indirectly"

Page 13, line 25, after the underscored closing bracket insert "of farmland or ranchland"

Page 13, line 26, replace "land" with "farmland or ranchland"

Page 13, line 26, remove ", the total"

Page 13, line 27, replace "number of hectares" with "[hectarage]"

Page 13, line 28, replace "land in the state" with "farmland or ranchland"

Page 13, line 28, after the second "the" insert "authorized livestock farm"

Page 13, line 28, after "or" insert "authorized livestock farm"

Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

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Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock farm"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 10, after "livestock" insert "on farmland or ranchland"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock farm"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

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Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.

3. The acreage [hectarage] and location listed by section, township, range, and county of all ~~such land in the state~~the farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.

4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

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10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so~~

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~~declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease

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payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees."

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Page 15, after line 20, insert:

"1."

Page 15, line 22, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 15, line 22, after "business" insert "of farming and ranching"

Page 15, line 27, after the period insert:

"2."

Page 15, line 28, after the first "the" insert "farming and ranching"

Page 15, line 28, after "corporation" insert "or authorized livestock farm corporation"

Page 16, line 5, after the period insert:

"3."

Page 16, line 6, after the third "the" insert "farming or ranching"

Page 16, line 7, after "corporation" insert "or authorized livestock farm corporation"

Page 16, after line 18 insert:

"1."

Page 16, line 20, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 16, line 20, after "business" insert "of farming and ranching"

Page 16, line 25, overstrike "by" and insert immediately thereafter "under"

Page 16, line 26, after the period insert:

"2."

Page 16, line 26, after the third "the" insert "farming or ranching"

Page 16, line 27, after "company" insert "or authorized livestock farm limited liability company"

Page 17, line 5, after the period insert:

"3."

Page 17, line 7, after "company" insert "or authorized livestock farm limited liability company itself"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1371, as engrossed: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1371 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 18, after the third underscored comma insert "or"

Page 1, line 18, after "or" insert "the business of"

Page 1, line 20, remove "agriculture"

Page 1, line 22, after the second "corporation" insert ", joint-stock company or association"

Page 1, line 22, replace "cattle" with "livestock"

Page 1, line 23, replace "cattle" with "livestock"

Page 2, line 1, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 4, replace the first "cattle" with "livestock"

Page 2, line 4, replace the second "cattle" with "livestock"

Page 2, line 4, after "of" insert "poultry or"

Page 2, line 5, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 7, remove ""Cattle backgrounding" means the feeding or growing of cattle from weaning until the"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "expeditiously preparing the cattle for harvest" with ""Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries"

Page 2, line 11, replace "7." with "6."

Page 2, line 13, replace "8." with "7. a."

Page 2, line 13, overstrike "cultivating land for production of agricultural crops or"

Page 2, line 14, overstrike "livestock, or the"

Page 2, line 14, overstrike "of" and insert immediately thereafter "agricultural crops, fruit, horticultural products, or"

Page 2, line 14, overstrike "poultry or"

Page 2, line 15, overstrike "poultry products, milk or dairy products, or fruit or horticultural products. It" and insert immediately thereafter "or livestock backgrounding, or livestock fishing.

b. The term"

Page 2, line 17, replace "a." with "(1)"

Page 2, line 18, replace "b." with "(2) Aquaculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4)"

Page 2, line 19, replace "c." with "(5)"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "agricultural landholding not exceeding forty acres [16.19 hectares];"

Page 2, line 23, replace "f." with "(6)"

Page 2, line 25, replace "9." with "8."

Page 2, line 26, after "association" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, line 28, replace "10." with "9."

Page 2, line 29, after "company" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, after line 29, insert:

"10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching."

Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.

14. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest.

15."

Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock farm limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is

~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do

business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

    a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

    b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company~~ allowed to engage in farming or ranching under section 10-06.1-12~~.

    c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

    d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

    e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

    f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

    b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

    c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

   a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

   b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

Page 4, line 25, after "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.
(2) All"

Page 5, line 15, replace "person" with "individual or entity"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 20, remove "person limited"

Page 5, line 21, replace "liability company" with "individual or entity of the person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

      (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

      (3) The relationship of each;

      (4) A statement of whether each is a citizen or permanent resident alien of the United States; and

      (5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

   c. With respect to management:

      (1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

      (2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized

under a statement of authority, and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation organization or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests

among and between the corporation and its respective shareholders or holders of interest.

b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "of the farming or ranching corporation or the farming or ranching limited liability company"

Page 10, line 13, overstrike "1." and insert immediately thereafter "a."

Page 10, line 13, after "the" insert "farming or ranching"

Page 10, line 13, after "or" insert "farming or ranching"

Page 10, line 14, overstrike "2." and insert immediately thereafter "b."

Page 10, line 14, after the second "the" insert "farming or ranching"

Page 10, line 14, after "or" insert "farming or ranching"

Page 10, line 17, overstrike "3." and insert immediately thereafter "c."

Page 10, line 17, after "each" insert "farming or ranching"

Page 10, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 10, line 23, overstrike "4." and insert immediately thereafter "d."

Page 10, line 23, after "each" insert "farming or ranching"

Page 10, line 24, replace "a." with "(1)"

Page 10, line 24, replace "number of units" with "membership interests"

Page 10, line 26, replace "b." with "(2)"

Page 10, line 26, replace "number of issued units" with "membership interests"

Page 10, line 28, replace "5." with "e."

Page 10, line 29, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 1, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 3, overstrike "c." and insert immediately thereafter "(3)"

Page 11, line 3, after the semicolon insert "and"

Page 11, line 4, overstrike "d." and insert immediately thereafter "(4)"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "6." with "f."

Page 11, line 9, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 9, after "a" insert "farming or ranching"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 12, after "a" insert "farming or ranching"

Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 17, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

Page 13, line 6, remove ", including the names and addresses and"

Page 13, line 7, remove "relationships of trusts and estates that own shares or membership interests"

Page 13, line 8, replace "an organization" with "a person other than an individual"

Page 13, line 8, after "of" insert "incorporation, organization, or"

Page 13, line 9, after "interests" insert "or percentage of shares or membership interests of each"

Page 13, line 10, after "of" insert "total"

Page 13, line 12, after "of" insert "total"

Page 13, line 13, replace "A" with "As to individuals, a"

Page 13, line 14, remove "and"

Page 13, remove line 16

Page 13, line 17, replace "ranch" with "the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 13, line 19, replace "a" with "an authorized livestock farm"

Page 13, line 20, replace the underscored period with ", and a statement whether each actively is engaged in the operation of the corporation; or"

Page 13, line 21, replace "a" with "an authorized livestock farm"

Page 13, line 22, after "governors" insert ", and a statement whether each actively is engaged in the operation of the limited liability company"

Page 13, line 23, after "the" insert "authorized livestock farm"

Page 13, line 23, after the first "or" insert "authorized livestock farm"

Page 13, line 23, remove "directly or"

Page 13, line 24, remove "indirectly"

Page 13, line 25, after the underscored closing bracket insert "of farmland or ranchland"

Page 13, line 26, replace "land" with "farmland or ranchland"

Page 13, line 26, remove ", the total"

Page 13, line 27, replace "number of hectares" with "[hectarage]"

Page 13, line 28, replace "land in the state" with "farmland or ranchland"

Page 13, line 28, after the second "the" insert "authorized livestock farm"

Page 13, line 28, after "or" insert "authorized livestock farm"

Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock farm"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 10, after "livestock" insert "on farmland or ranchland"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock farm"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.
2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.
3. The acreage [hectarage] and location listed by section, township, range, and county of all ~~such land in the state~~the farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.
4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

   d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership

by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees."

Page 15, after line 20, insert:

"1."

Page 15, line 22, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 15, line 22, after "business" insert "of farming and ranching"

Page 15, line 27, after the period insert:

"2."

Page 15, line 28, after the first "the" insert "farming and ranching"

Page 15, line 28, after "corporation" insert "or authorized livestock farm corporation"

Page 16, line 5, after the period insert:

"3."

Page 16, line 6, after the third "the" insert "farming or ranching"

Page 16, line 7, after "corporation" insert "or authorized livestock farm corporation"

Page 16, after line 18 insert:

"1."

Page 16, line 20, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 16, line 20, after "business" insert "of farming and ranching"

Page 16, line 25, overstrike "by" and insert immediately thereafter "under"

Page 16, line 26, after the period insert:

"2."

Page 16, line 26, after the third "the" insert "farming or ranching"

Page 16, line 27, after "company" insert "or authorized livestock farm limited liability company"

Page 17, line 5, after the period insert:

"3."

Page 17, line 7, after "company" insert "or authorized livestock farm limited liability company itself"

Renumber accordingly

2023 CONFERENCE COMMITTEE

HB 1371

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1371
4/13/2023

Conference Committee

Relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, and raising or producing of livestock by person that have limited landholdings.

Chairman Thomas called the meeting to order at 11:05 AM

Members present: Chairman Thomas, Representatives Christy, Prichard, Senators Luick, Myrdal, Lemm.

Discussion Topics:

- Committee action

Representative Beltz moved the Senate recede to Senate amendments and amend as follows by adding an emergency clause, #27556, LC #23.0721.03004

Senator Myrdahl seconded.

Motion passed 6-0-0

House carrier Representative Thomas.

Senate carrier Senator Luick.

Chairman Thomas adjourned the meeting at 11:07 AM

Diane Lillis, Committee Clerk

23.0721.03004
Title.05000

Adopted by the Conference Committee

April 13, 2023

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1371

That the Senate recede from its amendments as printed on pages 1537-1561 of the House Journal and pages 1268-1293 of the Senate Journal and that Engrossed House Bill No. 1371 be amended as follows:

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 9, remove the second "and"

Page 1, line 10, after "penalty" insert "; and to declare an emergency"

Page 1, line 18, after the third underscored comma insert "or"

Page 1, line 18, after "or" insert "the business of"

Page 1, line 20, remove "agriculture"

Page 1, line 22, after the second "corporation" insert ", joint-stock company or association"

Page 1, line 22, replace "cattle" with "livestock"

Page 1, line 23, replace "cattle" with "livestock"

Page 2, line 1, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 4, replace the first "cattle" with "livestock"

Page 2, line 4, replace the second "cattle" with "livestock"

Page 2, line 4, after "of" insert "poultry or"

Page 2, line 5, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

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Page 2, line 7, remove ""Cattle backgrounding" means the feeding or growing of cattle from weaning until the"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "expeditiously preparing the cattle for harvest" with ""Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries"

Page 2, line 11, replace "7." with "6."

Page 2, line 13, replace "8." with "7. a."

Page 2, line 13, overstrike "cultivating land for production of agricultural crops or"

Page 2, line 14, overstrike "livestock, or the"

Page 2, line 14, overstrike "of" and insert immediately thereafter "agricultural crops, fruit, horticultural products, or"

Page 2, line 14, overstrike "poultry or"

Page 2, line 15, overstrike "poultry products, milk or dairy products, or fruit or horticultural products. It" and insert immediately thereafter "or livestock backgrounding, or livestock fishing.

b. The term"

Page 2, line 17, replace "a." with "(1)"

Page 2, line 18, replace "b." with "(2) Aquaculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4)"

Page 2, line 19, replace "c." with "(5)"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "agricultural landholding not exceeding forty acres [16.19 hectares];"

Page 2, line 23, replace "f." with "(6)"

Page 2, line 25, replace "9." with "8."

Page 2, line 26, after "association" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12."

Page 2, line 28, replace "10." with "9."

Page 2, line 29, after "company" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12."

Page 2, after line 29, insert:

"10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching."

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Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.

14. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest.

15."

Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock farm limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

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SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

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SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own <u>or lease</u> farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~<u>farmland or ranchland</u> may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

   a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

   b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a <u>farming or ranching</u> corporation or <u>a farming or ranching</u> limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

   c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

   d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

   e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

   f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. <u>a.</u> Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

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b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all

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the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

   a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

   b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

   b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends,

interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

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Page 4, line 25, after "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.
(2) All"

Page 5, line 15, replace "person" with "individual or entity"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 20, remove "person limited"

Page 5, line 21, replace "liability company" with "individual or entity of the person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

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Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

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Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

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(2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

(3) The relationship of each;

(4) A statement of whether each is a citizen or permanent resident alien of the United States; and

(5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

c. With respect to management:

(1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

(2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

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Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation, organization, or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

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Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

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Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or

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ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

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Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "of the farming or ranching corporation or the farming or ranching limited liability company"

Page 10, line 13, overstrike "1." and insert immediately thereafter "a."

Page 10, line 13, after "the" insert "farming or ranching"

Page 10, line 13, after "or" insert "farming or ranching"

Page 10, line 14, overstrike "2." and insert immediately thereafter "b."

Page 10, line 14, after the second "the" insert "farming or ranching"

Page 10, line 14, after "or" insert "farming or ranching"

Page 10, line 17, overstrike "3." and insert immediately thereafter "c."

Page 10, line 17, after "each" insert "farming or ranching"

Page 10, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 10, line 23, overstrike "4." and insert immediately thereafter "d."

Page 10, line 23, after "each" insert "farming or ranching"

Page 10, line 24, replace "a." with "(1)"

Page 10, line 24, replace "number of units" with "membership interests"

Page 10, line 26, replace "b." with "(2)"

Page 10, line 26, replace "number of issued units" with "membership interests"

Page 10, line 28, replace "5." with "e."

Page 10, line 29, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 1, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 3, overstrike "c." and insert immediately thereafter "(3)"

Page 11, line 3, after the semicolon insert "and"

Page 11, line 4, overstrike "d." and insert immediately thereafter "(4)"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "6." with "f."

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Page 11, line 9, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 9, after "a" insert "farming or ranching"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 12, after "a" insert "farming or ranching"

Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

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Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 17, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

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Page 13, line 6, remove "<u>, including the names and addresses and</u>"

Page 13, line 7, remove "<u>relationships of trusts and estates that own shares or membership interests</u>"

Page 13, line 8, replace "<u>an organization</u>" with "<u>a person other than an individual</u>"

Page 13, line 8, after "<u>of</u>" insert "<u>incorporation, organization, or</u>"

Page 13, line 9, after "<u>interests</u>" insert "<u>or percentage of shares or membership interests of each</u>"

Page 13, line 10, after "<u>of</u>" insert "<u>total</u>"

Page 13, line 12, after "<u>of</u>" insert "<u>total</u>"

Page 13, line 13, replace "<u>A</u>" with "<u>As to individuals, a</u>"

Page 13, line 14, remove "<u>and</u>"

Page 13, remove line 16

Page 13, line 17, replace "<u>ranch</u>" with "<u>the business of farming or ranching; and</u>

<u>(8)</u> <u>As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02</u>"

Page 13, line 19, replace "<u>a</u>" with "<u>an authorized livestock farm</u>"

Page 13, line 20, replace the underscored period with "<u>, and a statement whether each actively is engaged in the operation of the corporation; or</u>"

Page 13, line 21, replace "<u>a</u>" with "<u>an authorized livestock farm</u>"

Page 13, line 22, after "<u>governors</u>" insert "<u>, and a statement whether each actively is engaged in the operation of the limited liability company</u>"

Page 13, line 23, after "<u>the</u>" insert "<u>authorized livestock farm</u>"

Page 13, line 23, after the first "<u>or</u>" insert "<u>authorized livestock farm</u>"

Page 13, line 23, remove "<u>directly or</u>"

Page 13, line 24, remove "<u>indirectly</u>"

Page 13, line 25, after the underscored closing bracket insert "<u>of farmland or ranchland</u>"

Page 13, line 26, replace "<u>land</u>" with "<u>farmland or ranchland</u>"

Page 13, line 26, remove "<u>, the total</u>"

Page 13, line 27, replace "<u>number of hectares</u>" with "<u>[hectarage]</u>"

Page 13, line 28, replace "<u>land in the state</u>" with "<u>farmland or ranchland</u>"

Page 13, line 28, after the second "<u>the</u>" insert "<u>authorized livestock farm</u>"

Page 13, line 28, after "<u>or</u>" insert "<u>authorized livestock farm</u>"

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Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock farm"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 10, after "livestock" insert "on farmland or ranchland"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock farm"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

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Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.

3. The acreage [hectarage] and location listed by section, township, range, and county of all ~~such land in the state~~the farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.

4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

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SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is

located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

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4-13-23

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid~~

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4-13-23

~~by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees."

Page 15, after line 20, insert:

"1."

Page 15, line 22, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 15, line 22, after "business" insert "of farming and ranching"

Page 15, line 27, after the period insert:

"2."

Page 15, line 28, after the first "the" insert "farming and ranching"

Page 15, line 28, after "corporation" insert "or authorized livestock farm corporation"

Page 16, line 5, after the period insert:

"3."

Page 16, line 6, after the third "the" insert "farming or ranching"

Page 16, line 7, after "corporation" insert "or authorized livestock farm corporation"

Page 16, after line 18 insert:

"1."

Page 16, line 20, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 16, line 20, after "business" insert "of farming and ranching"

Page 16, line 25, overstrike "by" and insert immediately thereafter "under"

Page 16, line 26, after the period insert:

"2."

Page 16, line 26, after the third "the" insert "farming or ranching"

Page 16, line 27, after "company" insert "or authorized livestock farm limited liability company"

Page 17, line 5, after the period insert:

"3."

Page 17, line 7, after "company" insert "or authorized livestock farm limited liability company itself"

Page, 17, after line 17, insert

"**SECTION 32. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 4/13/2023
Roll Call Vote #: 1

2023 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1371 as (re) engrossed

House Agriculture Committee

Action Taken
☐ **HOUSE accede to Senate Amendments**
☐ **HOUSE accede to Senate Amendments and further amend**
☐ **SENATE recede from Senate amendments**
☒ **SENATE recede from Senate amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Beltz Seconded by: Myrdahl

Representatives	4-13			Yes	No		Senators	4-13			Yes	No
Chairman Thomas	X			X			Chairman Luick	X			X	
Beltz	X			X			Myrdal	X			X	
Prichard	X			X			Lemm	X			X	
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Thomas Senate Carrier Luick

LC Number 23.0721 . .03004 of amendment

LC Number 23.0721 . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.0721.03004
House Carrier: Thomas
Senate Carrier: Luick

REPORT OF CONFERENCE COMMITTEE

HB 1371, as engrossed: Your conference committee (Sens. Luick, Myrdal, Lemm and Reps. Thomas, Beltz, Prichard) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1537-1561, adopt amendments as follows, and place HB 1371 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1537-1561 of the House Journal and pages 1268-1293 of the Senate Journal and that Engrossed House Bill No. 1371 be amended as follows:

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 9, remove the second "and"

Page 1, line 10, after "penalty" insert "; and to declare an emergency"

Page 1, line 18, after the third underscored comma insert "or"

Page 1, line 18, after "or" insert "the business of"

Page 1, line 20, remove "agriculture"

Page 1, line 22, after the second "corporation" insert ", joint-stock company or association"

Page 1, line 22, replace "cattle" with "livestock"

Page 1, line 23, replace "cattle" with "livestock"

Page 2, line 1, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 4, replace the first "cattle" with "livestock"

Page 2, line 4, replace the second "cattle" with "livestock"

Page 2, line 4, after "of" insert "poultry or"

Insert LC: 23.0721.03004
House Carrier: Thomas
Senate Carrier: Luick

Page 2, line 5, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 7, remove ""Cattle backgrounding" means the feeding or growing of cattle from weaning until the"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "expeditiously preparing the cattle for harvest" with ""Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries"

Page 2, line 11, replace "7." with "6."

Page 2, line 13, replace "8." with "7. a."

Page 2, line 13, overstrike "cultivating land for production of agricultural crops or"

Page 2, line 14, overstrike "livestock, or the"

Page 2, line 14, overstrike "of" and insert immediately thereafter "agricultural crops, fruit, horticultural products, or"

Page 2, line 14, overstrike "poultry or"

Page 2, line 15, overstrike "poultry products, milk or dairy products, or fruit or horticultural products. It" and insert immediately thereafter "or livestock backgrounding, or livestock fishing.

b. The term"

Page 2, line 17, replace "a." with "(1)"

Page 2, line 18, replace "b." with "(2) Aquaculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4)"

Page 2, line 19, replace "c." with "(5)"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "agricultural landholding not exceeding forty acres [16.19 hectares];"

Page 2, line 23, replace "f." with "(6)"

Page 2, line 25, replace "9." with "8."

Page 2, line 26, after "association" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, line 28, replace "10." with "9."

Page 2, line 29, after "company" insert "which is allowed to engage in the business of farming or ranching under section 10-06.1-12,"

Page 2, after line 29, insert:

"10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching."

Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.

14. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest.

15."

Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock farm limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or

section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching

corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

   a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

   b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

   c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

   d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

   e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

   f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

   a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

   b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

   b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

Page 4, line 25, after "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.
(2) All"

Page 5, line 15, replace "person" with "individual or entity"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 20, remove "person limited"

Page 5, line 21, replace "liability company" with "individual or entity of the person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

b. With respect to each shareholder or member:

(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

(3) The relationship of each;

(4) A statement of whether each is a citizen or permanent resident alien of the United States; and

(5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

c. With respect to management:

(1) If a <u>farming or ranching</u> corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

(2) If a <u>farming or ranching</u> limited liability company, ~~then~~ the names and addresses of the managers<u>, members authorized under a statement of authority,</u> and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~<u>farmland or ranchland</u> owned or leased by the <u>farming or ranching</u> corporation or <u>farming or ranching</u> limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the <u>farming or ranching</u> corporation or <u>farming or ranching</u> limited liability company will be derived from <u>engaging in the business of</u> farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A <u>farming or ranching</u> corporation or a <u>farming or ranching</u> limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~<u>,</u> articles of organization<u>, or certificate of authority,</u> and the initial report required ~~by~~<u>under</u> this section.

<u>3.</u> The <u>farming or ranching</u> corporation or <u>farming or ranching</u> limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~<u>farmland or ranchland</u> is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation, organization, or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States,

permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "of the farming or ranching corporation or the farming or ranching limited liability company"

Page 10, line 13, overstrike "1." and insert immediately thereafter "a."

Page 10, line 13, after "the" insert "farming or ranching"

Page 10, line 13, after "or" insert "farming or ranching"

Page 10, line 14, overstrike "2." and insert immediately thereafter "b."

Page 10, line 14, after the second "the" insert "farming or ranching"

Page 10, line 14, after "or" insert "farming or ranching"

Page 10, line 17, overstrike "3." and insert immediately thereafter "c."

Page 10, line 17, after "each" insert "farming or ranching"

Page 10, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 10, line 23, overstrike "4." and insert immediately thereafter "d."

Page 10, line 23, after "each" insert "farming or ranching"

Page 10, line 24, replace "a." with "(1)"

Page 10, line 24, replace "number of units" with "membership interests"

Page 10, line 26, replace "b." with "(2)"

Page 10, line 26, replace "number of issued units" with "membership interests"

Page 10, line 28, replace "5." with "e."

Page 10, line 29, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 1, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 3, overstrike "c." and insert immediately thereafter "(3)"

Page 11, line 3, after the semicolon insert "and"

Page 11, line 4, overstrike "d." and insert immediately thereafter "(4)"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "6." with "f."

Page 11, line 9, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 9, after "a" insert "farming or ranching"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 12, after "a" insert "farming or ranching"

Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 17, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

Page 13, line 6, remove ", including the names and addresses and"

Page 13, line 7, remove "relationships of trusts and estates that own shares or membership interests"

Page 13, line 8, replace "an organization" with "a person other than an individual"

Page 13, line 8, after "of" insert "incorporation, organization, or"

Page 13, line 9, after "interests" insert "or percentage of shares or membership interests of each"

Page 13, line 10, after "of" insert "total"

Page 13, line 12, after "of" insert "total"

Page 13, line 13, replace "A" with "As to individuals, a"

Page 13, line 14, remove "and"

Page 13, remove line 16

Page 13, line 17, replace "ranch" with "the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 13, line 19, replace "a" with "an authorized livestock farm"

Page 13, line 20, replace the underscored period with ", and a statement whether each actively is engaged in the operation of the corporation; or"

Page 13, line 21, replace "a" with "an authorized livestock farm"

Page 13, line 22, after "governors" insert ", and a statement whether each actively is engaged in the operation of the limited liability company"

Page 13, line 23, after "the" insert "authorized livestock farm"

Page 13, line 23, after the first "or" insert "authorized livestock farm"

Page 13, line 23, remove "directly or"

Page 13, line 24, remove "indirectly"

Page 13, line 25, after the underscored closing bracket insert "of farmland or ranchland"

Page 13, line 26, replace "land" with "farmland or ranchland"

Page 13, line 26, remove ", the total"

Page 13, line 27, replace "number of hectares" with "[hectarage]"

Page 13, line 28, replace "land in the state" with "farmland or ranchland"

Page 13, line 28, after the second "the" insert "authorized livestock farm"

Page 13, line 28, after "or" insert "authorized livestock farm"

Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock farm"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 10, after "livestock" insert "on farmland or ranchland"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock farm"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.

3. The acreage [hectarage] and location listed by section, township, range, and county of all ~~such land in the state~~the farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.

4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

   d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law

for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership

by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in <u>the business of</u> farming or ranching ~~by~~<u>under</u> this chapter or any resident of legal age of a county in which the ~~land~~<u>farmland or ranchland</u> owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~<u>If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees</u>."

Page 15, after line 20, insert:

"<u>1.</u>"

Page 15, line 22, overstrike "doing" and insert immediately thereafter "<u>engaged in the</u>"

Page 15, line 22, after "business" insert "<u>of farming and ranching</u>"

Page 15, line 27, after the period insert:

"<u>2.</u>"

Page 15, line 28, after the first "the" insert "<u>farming and ranching</u>"

Page 15, line 28, after "corporation" insert "<u>or authorized livestock farm corporation</u>"

Page 16, line 5, after the period insert:

"<u>3.</u>"

Page 16, line 6, after the third "the" insert "<u>farming or ranching</u>"

Page 16, line 7, after "corporation" insert "<u>or authorized livestock farm corporation</u>"

Page 16, after line 18 insert:

"<u>1.</u>"

Page 16, line 20, overstrike "doing" and insert immediately thereafter "<u>engaged in the</u>"

Page 16, line 20, after "business" insert "of farming and ranching"

Page 16, line 25, overstrike "by" and insert immediately thereafter "under"

Page 16, line 26, after the period insert:

"2."

Page 16, line 26, after the third "the" insert "farming or ranching"

Page 16, line 27, after "company" insert "or authorized livestock farm limited liability company"

Page 17, line 5, after the period insert:

"3."

Page 17, line 7, after "company" insert "or authorized livestock farm limited liability company itself"

Page, 17, after line 17, insert

"**SECTION 32. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed HB 1371 was placed on the Seventh order of business on the calendar.

TESTIMONY

HB 1371

Community Effects of Industrialized Farming: An Update

Curtis W. Stofferahn, Professor Emeritus
Department of Sociology, University of North Dakota

I used the following electronic searches in my review of the literature: Google Scholar, Agricola, and the UND Chester Fritz Library Primo Library Search. I also reviewed the programs from the Rural Sociological Society Annual Meetings from 2005-2016. My search resulted in twenty articles from peer-reviewed journals, one summary of a PEW Charitable Trusts Study, one encyclopedia article, and one paper presented at the Rural Sociological Society meetings. I saved digital copies of all the articles to a file, and later printed all of them so that I could read them later.

From that number, I eliminated seven peer-reviewed articles and a symposium summary. These articles included one that I had included in a previous review as well as ones about the corporate farming debate, the health effects of CAFOs on neighbors in Germany, policies to promote multifunctional agriculture, civic agriculture in England, sustainable development of the agricultural bio-economy, agric-ecological systems in Australia, and a symposium summary comparing impacts of industrialized agriculture in Brazil and the United States.

After a quick perusal of the remaining fifteen articles, I classified them into three categories: community effects of industrialized agriculture (one peer-reviewed article and one paper), agriculture of the middle (encyclopedia article), effects of confined animal feeding systems (four peer-reviewed articles and one PEW report), and civic agriculture (five peer-reviewed articles).

After reading the articles, I found only the one by Welsh (2009)[1] to be somewhat related to the community effects of industrialized agriculture. Although the article did not deal with actual research on the impacts of industrialized agriculture, it proposed several conceptual and methodological issues that researchers should consider in future research. Welsh notes that:

> *" . . . since Walter Goldschmidt's original study was completed in the 1940s, the agricultural market and farming structures have changed dramatically. Market structure is now more differentiated than in previous decades. Vertical and horizontal integration, contract production, organic and other specialty markets, and direct marketing are examples of new marketing forms that have emerged over the past few decades. In addition, as farm and market structure have shifted, some states have enacted public policy to forestall negative outcomes related to the industrialization of agriculture. Previous studies which measured the effects on rural community welfare from the structure of the surrounding farming sector have been valuable contributions to the development of the sociology of agriculture and have led to increased understanding of agriculture and rural development. However, a new generation of studies should be undertaken to address the impacts of changing market structure as well as assess public policy attempts to mitigate negative impacts of agricultural industrialization."*

He suggests incorporating latent variables that combine several indicators, and that these latent variables be incorporated into a path analytical model. For instance, the latent variable of farm size should be composed of the sales, acres, and hired labor, community welfare should be composed of percent in poverty and per-capita income; and direct marketing should be comprised of direct sales and farmers' markets. Furthermore, he suggests that market structure variables of contract production, organic production and direct marketing should be considered as intervening variables between farm size and community welfare, and that regional effects accounting for state's policies including anti-corporate farming laws and laws protecting farmers' collective bargaining rights also be included in the path model.

The paper presented at the 2009 Annual Meeting of the Rural Sociological Society had never been formally prepared as a paper, but the authors sent me the Power Point presentation.[2] The presentation contrasted farms of various sales categories regarding several issues to determine whether there were significant differences by farm size categories. There were no significant differences by farm size categories for most of these issues. Especially important for this review was that the four contrasts on community vitality were not significantly different by farm size categories. The authors speculated as to explanations for a lack of significant differences, and included among their speculations was that it was difficult to detect subtle differences in attitudes, values, and beliefs using mail questionnaires; the orientation to industrialized, larger farms was so pervasive and accepted that no real substantive differences existed; the sample size did not have the complete spectrum farm structure represented, rather they were comparing farms within a narrow range; or the changes in the structure of agriculture had to be viewed in the context of changing rural culture that includes all forms of production and social organization (mass culture).

The agriculture of the middle encyclopedia article was not relevant to the literature review update because it primarily addressed how the disappearing middle (sales between $40,000 and $250,000) can endure through new business and marketing strategies, particularly those identified as "values-based" food supply chain; public policy changes; and research and education support. [3] Interestingly, this article references Lobao and Stofferahn's 2008 article in *Agriculture and Human Values*. More information about the Agriculture of the Middle Initiative can be found at http://agofthemiddle.org/

After reviewing the five articles about the effects of confined animal feeding systems, I concluded that they were not relevant to the literature review. The first one was a summary of the impacts of confined animal feeding systems (CAFOs) on the health rural communities and recommended policy changes to ensure that residents' health was not impacted by CAFOs.[4] The next article proposed novel methods to measure the impact of CAFOs on the health of rural community residents that combined objective and subjective measures, and it involved residents in the collection of the data.[5] The PEW Charitable Trust report was a summary of the impacts of CAFOs on public health, the environment, animal welfare and rural communities.[6] I was an external reviewer of this report before it was published in 2008.

The next article about CAFOs and their impacts on rural communities also was a review of methods of detecting hog odors among residents living near CAFOs while monitoring meteorological conditions.[7] The last article examined how the changing industrial structure in animal agriculture in four US livestock sectors affected possibilities in each for promoting more sustainable practices. It was published in 2003, so it would have been considered in the first summary, but I could not recall if I had reviewed it or not.[8]

There were five peer-reviewed articles about civic agriculture, which was defined by Lyson (2004) as agricultural production and distribution methods that offer promise for reinvigorating social ties and a sense of community among producers and consumers.[9] It includes locally oriented, small-scale agriculture enterprises that use more traditional farming methods, require knowledge of place, and involve the sharing of information among practitioners. The distribution of food produced from these enterprises involves farmers connecting with consumers through farmers markets, community supported agriculture (CSA) programs, pick-your-own operations, and food coops.[10] While these articles are not directly relevant to the proposition that industrialized agriculture has adverse social impacts for rural communities, they demonstrate that a civic agriculture (the opposite of industrialized agriculture) has positive social consequences for those who are engaged in it, whether they be producers or consumers.

The first article examined CSAs as a form of ethical consumerism, and the research question was how it sustains itself in an increasingly competitive and corporate-dominated area of organic foods.[11] They found that CSAs work through a convergence of "economic, ideological, and cultural factors that leverage anti-globalization sentiments in ways that serve the economic interests of small farmers and that provide a marketplace resource for consumers to co-product feelings of enchantment".

The next article compared the impacts of three components of civic agriculture on rural communities: four CSAs, a direct market organic farm, and four community gardens.[12] They found that different modes of local agricultural production have distinctive effects on the local population concerning equitable access to healthy food, social inclusion, and experiential knowledge of the natural world. They concluded that local food products should reduce the class-based disparities in inclusion in local agricultural participation.

The third article compared conventionalized organic farmers (in terms of organic and nonorganic sales, acreage, employees, membership and leadership in conventional agriculture organizations) with more civic agriculture oriented farmers (in terms of direct marketing, sustainable agriculture organization membership and leadership) on measures of economic, social and environmental sustainability.[13] His first hypothesis that the less conventionalized organic farms would contribute more to sustainable agriculture than would the more conventional organic farms was supported. The later appeared to have a negative effect on environmental stewardship and community vitality but a positive effect on individual financial security. The second hypothesis that the more civically-engaged organic farmers would contribute more to sustainable agriculture than the less civically-engaged organic farmers also was supported. The former civic activities (direct marketing and sustainable/organic agriculture organization membership) had a positive effect on both environmental stewardship and community vitality. While these results are interesting in that the more industrialized organic farmers scored lower on their perceptions of their contributions to environmental and community vitality, the research was primarily focused on individual, subjective measures of their contributions.

The fourth article examined how involvement by both producers and consumers in community-supported agriculture (CSAs) promoted the development of various community capitals.[14] The researchers found that those who participated based on satisfying multiple capitals were more likely to maintain participation over time and were more satisfied with the experience. Producers and consumers, who defined the CSA experience as social and political, as well as economic, were more likely to maintain and expand their participation. Producers who started out in collaborative CSAs and defined their activities based on multiple capitals often used the experience as a business incubator to begin individual CSAs and to expand the variety of foods produced.

The last article examined the role of civic agriculture in promoting community engagement.[15] The researchers surveyed 1300 civic agriculture participants as measured as CSA participants, farmers' markets patrons, and shoppers at independent health food stores. The results indicated higher levels of voluntarism and engagement in local politics among civic agriculture participants compared to the general population. They also found variation among those engaged in various forms of civic agriculture with those who were engaged in more socially-embedded forms of exchange with the later exhibiting greater community and political involvement.

In summary, in my review of the literature, using various electronic searches, I found only one article that was indirectly related to the topic of the impact of industrialized agriculture on rural communities, and that article only dealt with conceptual and methodological issues that should be considered in future research. One group of articles reviewed indicated that civic agriculture (the opposite of industrialized agriculture) has positive social consequences for those consumers and producers who are engaged in it.

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[1] *Welsh, Rick, 2009, Farm and market structure, industrial regulation and rural community welfare: conceptual and methodological issues, Agriculture and Human Values, 26:21–28.*

[2] *Korsching, Peter, Paul Lasley, J. Arbuckle, and Chris Kast. 2009, Farm size and farmers' support of the local community: Is Goldschmidt relevant to the 21st Century Midwest agriculture? Paper presented at the 2009 Rural Sociological Society meetings, Madison, Wisc.*

[3] *Stevenson, George W., Kate Clancy, Fred Kirschenmann, Kathryn Ruhf, Agriculture of the Middle, 2014, in Thompson, PB and DK Kaplan (eds.) Encyclopedia of Food and Agricultural Ethics, Springer Science +Business Media, Dordrecht, Netherlands.*

[4] *Donham, Kelley J., Steven Wing, David Osterberg, Jan L. Flora, Carol Hodne, Kendall M. Thu and Peter S. Thorne, 2007, Community health and socioeconomic issues surrounding concentrated animal feeding operations. Environmental Health Perspectives, (115)(2): 317-320.*

[5] *Wing, Steven, Rachel A. Horton, Naeema Muhammad, Gary Grant, Mansoureh T, Kendall Thu, 2008, Integrating epidemiology, education and organizing for environmental justice: community health effects of industrial hog operations, American Journal of Public Health, 98 (8),1390-1397.*

[6] *The Pew Charitable Trusts and Johns Hopkins Bloomberg School of Public Health, 2008, Putting Meat on the Table: Industrial Farm Animal Production in America: A project of the Pew Commission on Industrial Farm Animal Production.*

[7] *Wing, Steven, Rachel A. Horton, Stephen W. Marshall, Kendall Thus, Mansoureh Tajik, Leah Schinasi, and Susan S. Schiffman, 2008, Air pollution and odor in communities near industrial swine operations, Environmental Health Perspectives (116)(10): 1362-1368.*

[8] *Hinrichs, C. Claire and Rick Welsh, 2003, The effects of the industrialization of US livestock agriculture on promoting sustainable production practices, Agriculture and Human Values, 20: 125-141.*

[9] *Lyson, T.A., 2004, Civic agriculture: Reconnecting farm, food and community. Medford, MA: Tufts University Press.*

[10] *Obach, Brian K. and Kathleen Tobin, 2014, Civic agriculture and community engagement. Agriculture and Human Values, 31: 307-322.*

[11] *Thompson, Craig J, and Gokchen Conskuner-Balli, 2007, Enchanting ethical consumerism: the case for community supported agriculture. Journal of Consumer Culture, 7(3): 275-303.*

[12] *Macias, Thomas, 2008, Working toward a just, equitable, and local food system: the social impact of community-based agriculture. Social Science Quarterly (89) (5): 1086-1101.*

[13] *Goldberger, Jessica R., 2011, Conventionalization, civic engagement and the sustainability of organic agriculture. Journal of Rural Studies, (27):288-296.*

[14] *Flora, Cornelia B., and Bregendahl, Corene, 2012, Collaborative community-supported agriculture: balancing community capitals for producers and consumers. International Journal of Agriculture and Food, (19)(2): 329-346.*
[15] *Obach, Brian K. and Kathleen Tobin, 2014, Civic agriculture and community engagement. Agriculture and Human Values, 31: 307-322.*

In 2006, I was contracted by the North Dakota attorney general's office to provide expert testimony on the social justification for the North Dakota corporate farming law. I updated the research conducted by my colleague, Linda Lobao, for her 2000 defense of the South Dakota corporate farming law.

Defense of these corporate farming laws often requires evidence from social science research that industrialized farming poses risks to communities. Social scientists have had a long history of concern about the effects of industrialized farming on communities. So, after we synthesized some 80 years of research on the social consequences for rural communities of industrialized farming, Lobao and I had our research published in Agriculture and Human Values in 2007. We evaluated studies investigating the effects of industrialized farming on community well-being from the 1930s to the present.

Using a pool of 51 peer-reviewed studies, we documented the research designs employed, evaluated results as to whether adverse consequences were found, and described the aspects of community life that may be affected by industrialized farming. Of these studies, 57 percent found largely detrimental impacts. Twenty-five percent were mixed, finding some detrimental impacts. And 18 percent found no detrimental impacts. The adverse impacts were found across an array of indicators measuring socioeconomic conditions, community social fabric and environmental conditions. Meanwhile, few positive effects of industrialized farming were found across studies. The results show that public concern about industrialized farms is warranted.

More particular to whether corporate farming laws have had any impact on rural communities, our colleagues Tom Lyson and Rick Welsh used data on 433 agriculture-dependent counties in the United States as the basis for a 2005 article in Environment and Planning. They found that counties in states with laws that limit nonfamily corporate entry into farming scored higher on important social welfare indicators, and that the laws mitigated negative impacts on rural communities from industrial farming.

Curtis Stofferahn, Professor Emeritus and Rural Sociologist at the University of North Dakota, and Chair of Dakota Resource Council

#14840

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The community effects of industrialized farming: Social science research and challenges to corporate farming laws

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Abstract. Social scientists have a long history of concern with the effects of industrialized farming on communities. Recently, the topic has taken on new importance as corporate farming laws in a number of states are challenged by agribusiness interests. Defense of these laws often requires evidence from social science research that industrialized farming poses risks to communities. A problem is that no recent journal articles or books systematically assess the extent to which research to date provides evidence of these risks. This article addresses the gap in the literature. We evaluate studies investigating the effects of industrialized farming on community well-being from the 1930s to the present. Using a pool of 51 studies, we document the research designs employed, evaluate results as to whether adverse consequences were found, and delineate the aspects of community life that may be affected by industrialized farming. Of these studies, 57% found largely detrimental impacts, 25% were mixed, finding some detrimental impacts, and 18% found no detrimental impacts. Adverse impacts were found across an array of indicators measuring socioeconomic conditions, community social fabric, and environmental conditions. Few positive effects of industrialized farming were found across studies. The results demonstrate that public concern about industrialized farms is warranted. Scholars often debate whether research should be oriented around disciplines' accumulated body of knowledge or, conversely, provide critical knowledge in the public interest. Social scientists' long-term engagement in building the body of research on industrialized farming allows for accomplishment of both objectives.

Key words: Agriculture, Corporate farming, Corporate farm laws, Community well-being, Industrialized farming, Communities

Linda Lobao *is Professor of Rural Sociology in the Department of Human and Community Resource Development, Professor of Sociology, and Professor of Geography at the Ohio State University. Her research areas include community and regional development, the sociology of agriculture, and political sociology. She has published numerous journal articles and three books, most recently co-editing* The Sociology of Spatial Inequality *(SUNY Press, 2007). Linda was President of the Rural Sociological Society from 2002–2003. She provided expert testimony in the South Dakota case, South Dakota Farm Bureau, Inc. v. Hazeltine, described in this article.*

Curtis W. Stofferahn *is Professor of Rural Sociology in the Department of Sociology at University of North Dakota. His research areas include community and rural development, sociology of cooperatives and the sociology of agriculture. He has published in Rural Sociology, Agriculture and Human Values, Journal of Cooperatives, and Great Plains Sociology. He provided expert testimony in the recent case of the State of North Dakota v. Crosslands described in this article.*

Introduction

Social scientists have long been concerned with the effects of large-scale, industrialized farming on communities. An extensive body of research from the 1930s onward addresses the risks posed to community well-being (Lobao, 1990). This same concern is shared by states and localities particularly in the US farm belt. Nine states in the Midwest and Great Plains have statutes or constitutional provisions that restrict corporations from engaging in farming or from acquiring farm land. Although such laws cannot halt structural change in agriculture, they do control the organizational form of farm operations based on ownership arrangements

(McEowen and Harl, 2006). These laws also serve as a business climate signal, indicating that corporations may need to contend with a more stringent regulatory environment.

Recently, research on industrialized farming has assumed new importance because farm belt states are facing challenges to their corporate farming laws. Global agribusiness firms seeking to move to small, often remote rural communities along with farm organizations representing large, commercial clientele have sought to overturn existing laws. On the other side, state governments, often in alliance with family farm and environmental organizations have defended existing legislation. The clash has become one of "capital versus communities," whereby corporations use the Interstate Commerce Clause in an attempt to override state legislation aimed at protecting family farming and communities (Pittman, 2004). A main defense of corporate farming laws hinges on social science research: to what extent does the body of research find that industrialized farming poses risks to communities? Evidence for adverse effects beyond economic lines, particularly social impacts, and across historical periods is needed to support state claims that regulating industrialized farming is warranted in the public interest. A problem, however, is that no recent journal articles systematically assess whether extant research provides evidence of these effects.

Although numerous empirical studies on the community impacts of industrialized farming exist, little published work appraises the body of research as a whole, and no study draws together findings to date about detrimental impacts. This hampers development of a cumulative knowledge base and social scientists' ability to address a significant public issue.

Our purpose is to address the gap in the literature. We synthesize findings from eight decades of research. We document the types of studies conducted, evaluate results as to whether adverse consequences were found, and delineate aspects of community life that may be affected. The importance of these tasks is two-fold: our goal is to provide a systematic evaluation of research relevant to social scientists, and to provide states, localities, and nongovernmental organizations with a synthesis of findings useful in the public interest. First, we present an overview of the use of social science research in public debates about industrialized farming. Second, we take stock of research to date, focusing on conceptual and research design issues. Third, we evaluate findings from 51 empirical studies that address the question of detrimental impacts. The final section summarizes the results and considers future directions for research.

Although industrialized farming raises many public debates, we focus on the degree to which research provides evidence that industrialized farming jeopardizes communities. There are important reasons for this focus. First, concern with the risks of industrialized farming is widespread across scholarly, policy, and popular audiences, as seen in the serious questions raised about agribusiness concentration, consumer health, food safety, ecosystem sustainability, as well as community well-being (Schlosser, 2001; Lyson, 2004). The most immediate public risks of industrialized farms, however, occur in communities where they are located. Second, the body of research on the community impacts of industrialized farming is motivated foremost by the question of risks. Researchers are interesting in testing – and in turn, confirming or rejecting – the hypothesis that detrimental community impacts may arise, a hypothesis first formalized by Walter Goldschmidt in the 1940s (Lobao, 1990). We seek to summarize findings with regard to this hypothesis. Third, to contribute to current litigation, it is critical to document whether adverse consequences are present or absent. The presence of adverse impacts supports states' claims that the *intent* of corporate farm laws – to protect public well-being – is warranted in the public interest. The absence of these impacts supports the view that the state has no legitimate public interest in regulating corporate farming. Lastly, although our focus is the presence/absence of adverse outcomes, we also note studies finding positive outcomes.

Research on industrialized farming and the public interest

Researchers studying industrialized farming are concerned with a distinct structural shift, whereby farms have become larger-scale, declined in number, and integrated more directly into production and marketing relationships with processors through vertical or contractual integration (Drabenstott and Smith, 1996: 4). Small-scale farms (defined here as those with annual gross sales less than $50,000) made up nearly 79% of the nation's farms in 2002 but they produced only 6% of sales, while the top 3% of farms (those with sales of over a half million dollars annually) accounted for 62% percent of all sales (National Agricultural Statistics Service, 2006). Accompanying farm scale increases are organizational changes, such as increases in the proportion of hired to family labor and use of legal incorporation.[1] Another organizational shift is a more integrated industry, whose "hallmark" is "contract production and vertical integration that links farmers to other agribusiness (Barkema and Drabenstott, 1996: 64).

In classifying farms as "industrialized" as opposed to "family" operations, the difference between the construct and its empirical measurement must be recognized. The construct, "industrial farm," usually refers to a nonhousehold based production unit. As with nonfarm firms, industrialized farms have a division of labor: they "are owned by one group of people, managed on a daily basis by another person or group, and worked by yet another group'' (Browne et al., 1992: 30). Researchers studying industrialized farms invariably refer to both scale and organizational attributes.[2] Though distinct concepts, empirically scale tends to coincide with organizational attributes (Lobao, 1990; Wimberley, 1987). For the purpose of synthesizing research, we use the umbrella term ''industrialized farming'' when researchers refer to either scale or operating attributes of these units. We also distinguish between scale and operating attributes when useful and feasible to do so.

Social science research and public debates on industrialized farming: A brief history

Since the 1930s, social scientists have informed public debates regarding the community impacts of industrialized farming (Tetreau, 1938, 1940). However, the catalyst behind most studies is Walter Goldschmidt. Paralleling current controversies, Goldschmidt's research involved a state law restricting industrialized farming. In the early 1940s, Goldschmidt, then employed by the USDA, conducted a study using a matched-pair of California communities, Arvin where large, absentee-owned, non-family operated farms were more numerous, and Dinuba, where locally owned, family operated farms were more numerous. The purpose was to assess the effects of a California law placing acreage limits on farms. Goldschmidt (1978a: 458) notes: ''Large landholders throughout the state and corporate interests generally opposed this provision while diverse church and other agrarian-oriented interests wanted this law... The comparative study of Arvin and Dinuba...was designed to determine the social consequences that might be anticipated for rural communities if the established law was applied or rescinded.''

Goldschmidt (1978a) documented the adverse effects of large-scale farming on numerous community indicators. He found that relative to the family farming community, Arvin had a smaller middle class, more hired workers, lower family incomes, and higher poverty. There were poorer quality schools and public services and fewer churches, civic organizations, and retail establishments. Arvin's residents also had less control over public decisions and low civic participation. Goldschmidt's research report, though first suppressed by USDA and burned publicly in California, was later published as Congressional testimony (1968) and as a book (1978a). Although criticisms of his study exist (Hayes and Olmstead, 1984), its findings have proved quite resilient. Decades later, the Small Farm Viability Project (1977: 229–230) restudied Arvin and Dinuba, concluding: ''The disparity in local economic activity, civic participation, and quality of life between Arvin and Dinuba…remains today. There can be little doubt about the relative effects of farm size and farm ownership on the communities of Arvin and Dinuba.''

Social scientists neglected the study of industrialized farming and community well-being for decades, in part due to the controversy over Arvin-Duniba (Goldschmidt, 1978a). By the 1970s, changes in agriculture and social science shifts toward more critical perspectives opened the topic to new scrutiny. Congress conducted inquiries in which agricultural economists and rural sociologists testified about the risks to communities posed by industrialized farming (Boles and Rupnow, 1979: 468–469). The Office of Technology Assessment also commissioned a series of studies on the topic (Swanson, 1988).

Historically, concern with industrialized farming and community well-being proceeded irrespective of commodity (Lobao and Meyer, 2001). Since the 1990s, attention has turned to large integrated livestock producer/processor enterprises (DeLind, 1998; Guess-Murphy et al., 2001; Wright et al., 2001), the current source of controversy over corporate farming laws.

The current period: Corporate farming laws and the Commerce Clause

Nine farm belt states – South Dakota, North Dakota, Oklahoma, Iowa, Minnesota, Wisconsin, Nebraska, Missouri, and Kansas – have statutes or constitutional provisions that restrict corporations from engaging in farming or agriculture or from acquiring, purchasing or obtaining land for agricultural production (National Agricultural Law Center, 2006). Other specific regulations encoded in these laws vary by state.[3]

When these laws have been challenged on the basis that they violate the Equal Protection Clause, Due Process Clause, Privileges and Immunities Clause and Contract Clause of the US Constitution, courts have consistently upheld their constitutionality (Pittman, 2004). In 2003, however, in South Dakota Farm Bureau, Inc. v. Hazeltine, the Eighth Circuit Court held that a voter-approved amendment to the South Dakota constitution was unconstitutional because it violated the dormant Commerce Clause of the US Constitution. The dormant Commerce Clause is characterized as the negative implication of the Commerce Clause, the courts interpreting it as ''States may not enact laws that discriminate against or unduly burden interstate commerce'' (Pittman, 2004: 3). Closely following the South Dakota decision, the US District Court of the Southern District of Iowa held in Smithfield Foods, Inc. v. Miller that Iowa's corporate farming statute also violated the dormant Commerce Clause. The two cases marked the first time whereby corporate farming laws were challenged on the basis of the dormant Commerce Clause (Pittman, 2004). In both cases, the source of these challenges came from integrated livestock producer/processors seeking to expand operations and encountering barriers due to existing legislation.

The dormant Commerce Clause creates a new use for research on the community impacts of industrialized farming: documenting the legitimate public purposes that the challenged corporate farming law serves. In deciding dormant Commerce Clause challenges to state laws, courts apply a two-tiered analysis. First, the court determines whether the challenged law discriminates against interstate commerce. Second, the court subjects the law to the "strictest scrutiny." Here, the courts will determine the law to be constitutional only if it can be demonstrated that the law is intended to accomplish a legitimate public interest and there were no other methods to accomplish that objective. Although the court may not find the law discriminatory, it still may find it unconstitutional under the second tier of the dormant Commerce Clause (Pittman, 2004: 4). When corporate farming laws are challenged, one of the legitimate public interests postulated by their defenders is that industrialized farming can harm communities – requiring evidence as to the presence or absence of adverse community effects. In recent cases (South Dakota Farm Bureau, Inc. v. Hazeltine and State of North Dakota v. Crosslands) efforts to document the legitimate public purposes that the corporate farming law serves has fallen upon social scientists as expert witnesses who draw upon extant research investigating the community effects of industrialized farming (Lobao, 2000; Stofferhan, 2006). Another recent case (Gale and Bruning v. Jones), an appeal filed in 2006 to uphold Nebraska's overturned corporate farm law, also draws directly from social science research on the topic.

Research on industrialized farming and community well-being

Numerous studies spanning different time periods and regions question the effects of industrialized farming. To provide a summary response, it is first important to explain the complex conceptual issues involved and research designs employed to answer the question.

Conceptual issues involved in determining the effects of industrialized farming

In assessing the effects of industrialized farming, a set of research issues must be considered. Although no one study can address all these issues, they should be considered cautionary parameters in documenting the risks posed to communities. In particular, studies may only assess direct, economic impacts of industrialized farming and overlook social impacts, providing an incomplete response to the question of community risks that establishes the legitimate public interest component of the dormant Commerce Clause.

Industrialized farming should be studied using indicators of farm organization and not only scale

Although scale and organizational attributes overlap, analysts often employ scale alone as a simple proxy measure. Scale is usually measured by sales or sometimes acreage. As a measure of industrialized farming, scale is limited because: (1) family owned and operated farms may be large scale owing to technology; and (2) scale alone does not fully capture organizational features of industrialized farming thought to put communities at risk. Organizational measures of industrialized farming include: vertical integration of corporations into farming; contract farming arrangements; absentee ownership; dependency on hired labor; operation by farm managers as opposed to family members; and legal status as a corporation. With regard to legal status, family and non-family-held corporations should be distinguished.[4]

To adequately assess risks to community well-being, an array of outcomes should be considered

Often research centers on economic performance such as employment growth and misses other aspects of community well-being that may be at risk. Research reviewed below points to three major types of outcomes from industrialized farming impacts on: socioeconomic well-being; community social fabric; and local environment conditions. *Socioeconomic well-being* refers to standard measures of economic performance (e.g., employment growth, income levels, and business activity) and to a broader range of indicators of material conditions (e.g., poverty rates and income inequality). *Community social fabric* refers to social organization, the features of a community that reflect its stability and quality of social life. Impacts on community social fabric are seen in indicators such as: population change; social disruption indicators (e.g., crime rates, births to teenagers, social-psychological stress, community conflict, and interference with enjoyment of property); educational attainments and school quality; changes in social class structure (e.g., decline of the local middle class, in-migration of low wage workers); health status indicators; civic participation (e.g., decline in voluntary organizations and voting); changes in governance, such as loss of local control over community decision-making; and resource/fiscal pressures on local government due to increased need for public services and diversion of public funds to subsidize agribusiness development. *Environmental outcomes* include quality of local water, soil, and air, energy use, and environmentally related health conditions.

Industrialized farming has direct and indirect consequences for community well-being and both consequences should be considered

Studies limited to immediate, direct effects miss the manner by which industrialized farming fully affects communities. Although analysts recognize the potential for indirect consequences, the pathways by which these occur are still not well articulated. Here we provide a synopsis of potential direct-indirect paths, drawing from several studies (Boles and Rupnow, 1979; Lobao, 1990; MacCannell, 1988; and NCRCRD, 1999).

Industrialized farms directly influence communities: through the quantity of jobs produced and the earnings' quality of those jobs; by the extent to which these farms purchase inputs and sell outputs locally; and by affecting local environmental conditions. Owners/managers of industrialized farms also may directly influence local government and community decision-making in economic development and other public-interest areas relevant to local quality of life.

First-order, indirect effects on local socioeconomic conditions occur because the quantity and quality of jobs generated and purchases and sales of local goods by industrial farms affect: total community employment, earnings, and income (e.g., economic multiplier effects); the local poverty rate; and the level of income inequality. First order, indirect effects on local social fabric occur because: the quantity of jobs generated by industrial farms affects population size; and both the quantity and quality of jobs generated affect social class composition, such as when an increase in hired farm workers reduces the proportion of the local middle class. Another first-order, indirect effect stems from greater influence of outside owners/managers: local control over decision-making can erode and community conflict can increase, since the interests of industrialized farmers are often detached from or contrary to the interests of local residents.

Second-order, indirect effects on local social fabric work through first-order effects listed above. Population size and social class composition are related to: indicators of community social disruption, such as crime, family instability, the high school dropout rate, and conflict resulting in civil suits; demand for schooling, public assistance, health, and other social services; and the property tax base (Boles and Rupnow, 1979; Murdock et al., 1988; Freudenburg and Jones, 1991; NCRCRD, 1999). Decline of local control over decision-making also creates problems associated with poor governance. These problems include the potential for diversion of public resources toward financial incentives for agribusiness developers and thereby the loss of public revenues to support local schools, services, and infrastructure.

Differences for social groups within the community should be considered

Changes in farming can affect social groups differently, based upon residents' age, class position, proximity to industrialized farms, and other attributes (Barlett et al., 1999). The elderly and poor may be affected by rising costs of housing and services whenever large corporations migrate to a rural community (Summers et al., 1976). In communities with large, confined animal feeding operations (CAFOs), residents who live closer to the operation often report inability to enjoy their properties and physical/psychological problems related to odor (Schiffman, 1998; Schiffman et al., 1998; Wing and Wolf, 1999; Reisner et al., 2004; Constance and Tunistra, 2005). Property closer to CAFOs has been found to fail to appreciate in value relative to places further away (Seipel et al., 1998). Income generated by industrialized farms (compared to family farms) appears less likely to trickle down to different social classes, with some studies finding that income inequality is greater in communities where industrialized farming is greater (Crowley and Roscigno, 2004; Lobao, 1990). Income inequality, proximity to industrialized farms, and other measures tapping the well-being of different social groups can shed light on more diverse community impacts.

Long-term as well as short-term consequences should be considered

Industrialized farming puts a community on a path of development whose consequences are not fully manifest in one or two years. For example, Lobao (1990) found some impacts were manifest a decade later. Counties with greater industrialized farming in 1970 had significantly lower income, higher poverty, and greater income inequality the next decade, net of other local conditions.

Research designs employed to assess the effects of industrialized farming

Social scientists employ primarily four different research designs to study the impacts of industrialized farms. Each design has inherent strengths and limitations in comprehensively addressing the conceptual issues delineated above.[5]

Case study designs provide in-depth analysis of the consequences of industrialized farming in a single or multi-community site. Usually, a comparative case study design is implemented whereby communities characterized by industrialized farming are contrasted with communities with a different farming pattern (usually moderate-size, family-owned and operated farms). A comparative case study design allows communities to be matched on similar site characteristics, such as economic base and location relative to metropolitan centers, which helps to control for extraneous factors that influence the relationship between farming type and community well-being. Examples are the studies by Goldschmidt (1978a) and NCRCRD (1999). The strengths of case studies are the following. (1) They provide detailed information about how both scale and organizational aspects of industrialized farming impact community well-being. (2) They provide detailed information about outcomes for a great many indicators of socioeconomic well-being, social fabric, and the environment. (3) They trace the direct and indirect effects of industrialized farming. (4) They can address short-term as well as long-term outcomes. The inherent limitation of case studies is that detailed findings are produced about industrialized farms in specific site communities at the expense of producing less detailed findings over a greater number of research sites. Case studies also vary as to how well extraneous factors influencing the causal relationships of interest can be controlled.

Macro-social accounting designs involve statistical analysis of secondary data from federal and other sources to document relationships in local social structure (MacCannell, 1988). Areal units such as counties, towns, and states are the research focus. To assess the consequences of industrialized farming, analysts usually compare its effects relative to smaller or moderate-size family farm units. Multivariate statistical techniques are used in order to assess the effects of farm structure net of other community conditions. Examples are Gilles and Dalecki (1988), Lobao (1990), Crowley and Roscigno (2004), and Irwin et al. (1999). The strengths of these studies are the following. (1) They provide results that are generalizable across many communities, states, and the nation. (2) They provide results about industrialized farming using measures of scale and organization. Customary scale-based measures of industrialized farming include farm size in sales, such as the proportion of farms above some gross annual sales threshold, or acreage above a certain size. Customary organizational-based indicators include: the proportion of farms organized as corporations or non-family-held corporations; proportion of farms with full-time hired labor; annual costs of hired labor per farm; and proportion of non-resident farm operators. (3) Macro-social accounting designs provide results about a variety of socioeconomic well-being and social fabric indicators and some environmental indicators. (4) They address short-term and long-term relationships between industrialized farming and community well-being. The inherent limitation of these studies is that they usually depend on secondary data which constrains measures of industrialized farming, outcomes, and time periods of study. For example, some organizational measures of industrialized farming, such as vertical integration of farm units are not available over time across communities.

Regional economic impact models use linear programming methods to estimate impacts on employment and income for regions, states, counties, and cities. These studies focus on the integration of business enterprises in markets and use statistical packages, such as variants of input–output analysis, to model backward and forward linkages with enterprises in other industries and to estimate resulting local impacts. Costs and benefits of different firm-level practices can be estimated. Examples are Heady and Sonka (1974), Marousek (1979), and Deller (2003). The strengths of regional economic impact models are the following. (1) They provide detail about economic performance, such as the number of jobs and total income produced by firms or industries in a region or community. (2) They can provide projected estimates, so that impacts of not yet existing firms can be appraised. Limitations of regional economic impact, input-output models for the study of farm impacts are well known (Guess-Murphy et al., 2001). In brief, models involve assumptions about relationships not actually found in the community but depend on estimates from past years and different places. Indicators of industrialized farming and its impacts are also limited. Farm scale is analyzed, not the organization of production. These studies do not examine certain socioeconomic indicators, such as poverty and income inequality, and social fabric indicators, nor do they usually address long-term impacts.

Survey design studies use samples of populations from any number of communities. Researchers employ interviews or questionnaires to collect data on how industrialized farming affects residents or a particular social group exposed to industrialized farming as compared to those who are not exposed (such as residents in family farming communities). Multivariate statistical procedures are used to assess the effects of farm variables on individuals' well-being, controlling for other attributes. Examples of survey design studies are Heffernan and Lasley (1978), Poole (1981), Wing and Wolf (2000). The strengths of these studies are the following. (1) They provide detailed information about how both scale and organizational aspects of industrialized farming impact individuals and families. (2) They provide detailed, in-depth information about outcomes for many indicators of socioeconomic well-being and social fabric, tapping issues such as community participation, stress from local conflict, and health and environmental concerns. A major limitation is that cost considerations usually restrict surveys to specific states and communities and to one time point.

Findings from empirical studies

As shown above, any single study assessing the impacts of industrialized farming is inherently limited due to research design and comprehensiveness. It is therefore useful to evaluate the body of work that spans different research designs, measures, regions of the country, and time points. To do so, we employ an integrative research review, an assessment across individual studies that provides a comparison and integration of empirical findings (Jackson, 1980; Cooper, 1989; Gough and Elbourne, 2002). Integrative research reviews are useful in drawing conclusions when a number of different empirical studies exist that examine the same research question.[6] We build on such a review by Lobao (1990) who evaluated the empirical studies on the community impacts of industrialized farming conducted from 1930 to 1988.

The strengths and limitations of integrative research reviews are discussed in a growing literature (Cooper, 1989; Gough and Elbourne, 2002; Young et al., 2002). An often noted methodological issue is selection of the pool of empirical studies. As in other types of research, sampling criteria for selecting observations (i.e., individual empirical studies) varies according to the researchers' objectives, while time and resources will limit the scope of work. Integrative research reviews thus are rarely exhaustive pools. In our analysis, the selection of empirical studies was based on two criteria important to establishing the legitimate public interest component of the dormant Commerce Clause: the need to provide consistent historical evidence on the impacts of industrialized farming; and the need to draw from leading scholarly sources. In litigation on corporate farm laws, the evidence that carries the most weight in court is peer-reviewed journal articles and books. To develop the pool of empirical studies, we surveyed the literature from 1988 to the present. We first examined journals relevant to the topic, followed by books, proceedings, and other major scholarly sources currently available electronically. We found 25 empirical studies since 1988 that addressed the topic. We combined these with the 26 studies in Lobao's (1990) analysis for a total of 51 empirical studies that form the basis of our analysis. These studies represent major research on the topic, but due to selection criteria and the inherent limitations of research reviews, they are not exhaustive of past work.[7]

We followed Lobao's (1990) methodology in classifying the studies along the following criteria: research design, as described above; regions of the country analyzed; use of scale and/or organizational indicators in measuring industrialized farming; types of community well-being impacts analyzed; and results. With regard to indicators of industrialized farming, most studies examine farm scale; organizational characteristics are examined less frequently. The studies examine a wide variety of impacts as shown below. While all center on the impacts of industrialized farming, most formally seek to test the hypothesis that where farms are larger scale or industrialized in terms of organizational characteristics, they have a negative impact on the indicator(s) of community well-being, relative to smaller and/or family-owned and operated farms. Appendix A presents each of the 51 studies classified along the criteria above.

Integrative research reviews are increasingly used to inform policy, particularly in health and education (Gough and Elbourne, 2002; Young et al., 2002). Recent litigation on corporate farm laws has ushered in the need for their extension to inform policy on agriculture and community well-being. Here, our analysis focuses on two sets of findings. We first document the types of adverse community impacts identified across studies. Then, we assess the extent to which studies in total find the presence/absence of detrimental impacts of industrialized farming.

Types of risks to communities reported across studies

Community impacts were grouped into three categories described earlier: socioeconomic well-being indicators (e.g., income levels, poverty, and unemployment); indicators of social fabric (e.g., population change, social class, civic involvement, quality and types of community services, population size and composition, and social disruption indicators such as stress and crime); and environmental impacts. The studies analyzed report that industrialized farms are related to relatively worse conditions for the following community impacts.

Socioeconomic well-being

1. Lower relative incomes for certain segments of the community: greater income inequality (income polarization between affluent and poor), or greater poverty (Tetreau, 1940; Heady and Sonka, 1974; Rodefeld, 1974; Flora et al., 1977; Goldschmidt, 1978a; Wheelock, 1979; Lobao, 1990; Durrenberger and Thu, 1996; Peters, 2002; Deller, 2003; Crowly and Roscigno, 2004: Lyson and Welsh, 2005).
2. Higher unemployment rates (Skees and Swanson, 1988; Lyson and Welsh, 2005).
3. Lower total community employment generated (Marousek, 1979).

Social fabric

1. Population: decline in population size where family farms are replaced by industrialized farms; smaller population sustained by industrialized farms relative to family farms (Heady and Sonka, 1974; Goldschmidt, 1978a; Rodefeld, 1974; Wheelock, 1979; Swanson, 1980).

2. Class composition: social class structure becomes poorer (increases in hired labor) (Goldschmidt, 1978a; Harris and Gilbert, 1982; Gilles and Dalecki, 1988).
3. Social disruption:
   - increases in crime rates and civil suits (NCRCRD, 1999);
   - increased general stress, social-psychological problems (Martinson et al., 1976; Schiffman et al., 1998);
   - swine CAFOs associated with areas having greater social vulnerability, high poverty and minority populations (Wilson et al., 2002);
   - greater childbearing among teenagers (Lobao, 1990);
   - deterioration of neighborly relations (McMillan and Schulman, 2003; Smithers et al., 2004; Constance and Tuinstra, 2005; Jackson-Smith and Gillespie, 2005).
4. Civic participation: deterioration in community organizations, less involvement in social life (Rodefeld 1974; Goldschmidt 1978a; Heffernan and Lasley 1978; Poole 1981; Lyson et al. 2001; Smithers et al. 2004).
5. Quality of local governance: less democratic political decision-making, public becomes less involved as outside agribusiness interests increase control over local decision-making (Tetreau, 1940; Rodefeld, 1974; Goldschmidt, 1978a; McMillan and Schulman, 2003).
6. Community services: fewer or poorer quality public services, fewer churches (Tetreau, 1940; Fujimoto, 1977; Goldschmidt, 1978a; Swanson, 1980).
7. Retail trade: decreased retail trade and fewer, less diverse retail firms (Goldschmidt, 1978a; Heady and Sonka, 1974; Rodefeld, 1974; Fujimoto, 1977; Marousek, 1979; Swanson, 1980; Skees and Swanson, 1988; Gomez and Zhang, 2000; Foltz et al., 2002; Smithers et al., 2004; Foltz and Zueli, 2005).
8. Reduced enjoyment of property: deterioration of landscape, odor in communities with hog CAFOs (Schiffman et al., 1998; Wing and Wolf, 1999; Wing and Wolf, 2000; Wright et al., 2001; McMillan and Schulman, 2003; Reisner et al., 2004; Constance and Tuinstra, 2005).
9. Health: neighbors of hog CAFOs report upper respiratory, digestive tract disorder, eye problems (Wing and Wolf, 1999; Wing and Wolf, 2000; Wright et al., 2001; Reisner et al., 2004; Constance and Tuinstra, 2005).
10. Real estate values: residences closest to hog CAFOs experience declining values relative to those more distant (Seipel et al., 1998; NCRCRD, 1999; Wright et al., 2001; Reisner et al., 2004; Constance and Tuinstra, 2005).

Environment

1. Eco-system strains: depletion of water, other energy resources (Tetreau, 1940; Buttel and Larson, 1979; NCRCRD, 1999).
2. Environmental consequences of CAFOs: increase in Safe Drinking Water Act violations, air quality problems, increased risks of nutrient overload in soils (NCRCRD, 1999).

Conclusions reported about impacts by study

The studies above indicate the types of community conditions associated with industrialized farming. To what extent do the studies overall provide evidence of the risks of industrialized farming? As noted, with regard to public interest defense of corporate farm laws, a count of studies where detrimental impacts were found is needed. If research shows that industrialized farming may jeopardize aspects of community life, this provides evidence to support the state's claim that laws restricting it are warranted; alternatively, few or no negative impacts undermines this claim. We classified studies according to whether the researchers report: largely detrimental impacts; mixed findings (i.e., authors report only some detrimental impacts were found); and no detrimental effects. Classifying the studies is somewhat complex because each may test a number of relationships about industrialized farming. We placed studies into detrimental/no detrimental outcome categories based on whether the findings for the majority of relationships tested consistently fell into either of these two categories. Remaining studies are those where researchers found some detrimental impacts but other relationships were mixed, as described further below. Appendix A presents these results individually for each study.

Out of the total 51 studies, authors report largely detrimental impacts in 29, some detrimental impacts in 13, and no evidence of detrimental impacts in nine. Thus, 82% (42 out of 51) of the studies report finding some negative impacts of industrialized farming. Table 1 presents the classification of findings by research design.

Of the 29 studies where social scientists found predominantly detrimental impacts, the following points should be noted. First, these studies use the four major types of research designs described earlier, comparative case study, macro-social accounting, regional economic impact models and surveys. Studies reporting detrimental impacts exist across all time periods and regions of the country. These studies report adverse outcomes for socioeconomic well-being, social fabric, and environmental conditions, using both scale and organizational measures of industrialized farming. In sum, the studies provide a great deal of evidence over many years by

Table 1. Summary of studies examining the effects of industrialized farming on community well-being.

	Findings with regard to detrimental effects		
	Detrimental	Mixed	No detrimental
Research design			
Case study	5[a]	2[f]	0
Macro-social accounting	12[b]	7[g]	8[j]
Regional economic impact	3[c]	2[h]	0
Survey	7[d]	2[i]	1[k]
Other design	2[e]	0	0[o]
Total (N = 51)	29 (57%)	13 (25%)	9 (18%)

[a]Goldschmidt (1968, 1978a), Small Farm Viability Project (1977), Constance and Tuinstra (2005), Whittington and Warner (2006), McMillan and Schulman (2003).[b]Fujimoto (1977), Goldschmidt (1978b), Buttel and Larson (1979), Swanson (1980), MacCannell (1988), Durrenberger and Thu (1996), Lyson et al. (2001), Peters (2002), Wilson et al. (2002), Crowley and Roscigno (2004), Smithers et al. (2004), Lyson and Welsh (2005).[c]Gomez and Zhang (2000), Foltz et al. (2002), Deller (2003).[d]Tetreau (1938, 1940), Heffernan (1972), Rodefeld (1974), Martinson et al. (1976), Poole (1981), Wing and Wolf (1999, 2000), Reisner et al. (2004).[e]Seipel et al. (1998), Schiffman et al. (1998).[f]NCRCRD (1999), Wright et al. (2001).[g]Flora et al. (1977), Wheelock (1979), Harris and Gilbert (1982), Skees and Swanson (1988), Flora and Flora (1988), Gilles and Dalecki (1988), Lobao (1990).[h]Heady and Sonka (1974), Marousek (1979).[i]Heffernan and Lasley (1978), Jackson-Smith and Gillespie (2005).[j]Heaton and Brown (1982), Swanson (1982), Green (1985), Buttel et al. (1988), van Es et al. (1988), Lobao and Schulman (1991), Barnes and Blevins (1992), Irwin et al. (1999).[k]Foltz and Zueli (2005).

researchers using different research designs, about the risks of industrialized farming.

Of the 13 studies where social scientists report some but not consistently negative impacts of industrialized farming, the following points should be noted. These studies provide mixed findings, in that while adverse effects on some community indicators were found, at least *one* of the following also occurred: (1) industrialized farming had no statistical relationship with other indicators (i.e., there was an absence of any relationship); (2) industrialized farming had a trade-off effect, with beneficial effects on certain indicators; (3) industrialized farming did not consistently produce negative impacts for all time periods or regions; or (4) industrialized farming produced effects beneficial for some groups but detrimental to other groups. Mixed findings are evident to a greater degree in regional economic impact and macro-social accounting studies (see Table 1). Regional impact studies tend to show costs-benefits for economic performance indicators, with larger farms injecting greater total income into the community, but also producing less employment relative to smaller farms (e.g., Heady and Sonka, 1974; Marousek, 1979). Macro-social accounting studies often test a number of relationships, adding to the greater potential of mixed findings. Lobao's (1990) study is an example. For counties in the contiguous states, industrialized farming had no relationship with poverty and median family income at either of two time points (1970 and 1980); however, industrialized farming was related to higher income inequality at both time points and also to lower family income, higher poverty, and higher income inequality across time (i.e., counties with greater industrialized farming experienced declines in well-being over the1970–1980 decade).

Other research designs also provide examples of mixed findings. An example of a case study showing mixed effects is Wright et al. (2001) conducted in six counties with CAFOs in Minnesota. This study found that CAFOs had: positive effects for farmers who expanded their operations; detrimental effects for neighbors to CAFOs whose ability to enjoy their property deteriorated; detrimental effects for younger and mid-sized producers unable to expand because expansion by others had restricted their access to markets; and no effects for those who were not neighbors or who were not expanding. A survey (Jackson-Smith and Gillespie, 2005) also found mixed effects for the impacts of large-scale, hired-labor dependent dairies on community social relations. Farm size was the strongest predictor of neighbors' complaints about dairy operations, but demographic attributes of dairy farm owners had a greater effect on their relationships with neighbors than did farm size or use of hired labor.

The nine studies that found no detrimental impacts of industrialized farming used mainly macro-social accounting designs and tended to analyze only indicators of socioeconomic well-being. Lobao's and Schulman's (1991) study is an example. They examined whether industrialized farming was related to higher family poverty across agricultural regions in the US for 1970–1980. They found no significant relationship in any of the four regions analyzed. Finally, a recent survey design study (Foltz and Zueli, 2005) found no evidence that large farms are unlikely to purchase locally once the presence of local suppliers was taken into consideration. Instead, they demonstrated that purchasing patterns are commodity specific and determined by community attachment, and local supply considerations.

To what extent are there positive impacts of industrialized farming?

While our focus has been on the risks of industrialized farming, an alternative question is whether industrialized farming promotes community well-being. First, overall studies are more likely to report benign, that is, nonsignificant effects of industrialized farming, than they are any positive impacts. (Appendix A reports positive findings in the results column by study.) In the nine cases where no detrimental impacts are shown, six (Swanson, 1982; Buttel et al., 1988; Lobao and Schulman, 1991; Irwin et al., 1999; Flotz and Zueli, 2005; Jackson-Smith and Gillespie, 2005) find little relationship between industrialized farming and community well-being. Only three (Heaton and Brown, 1982; van Es et al., 1988; Barnes and Blevins, 1992) report largely positive effects. Second, in the 13 studies reporting mixed findings, eight (Heady and Sonka, 1974; Flora et al., 1977; Marousek, 1979; Wheelock, 1979; Harris and Gilbert, 1982; Giles and Dalecki, 1988; Skees and Swanson, 1988; NCRCRD, 1999) find some positive effects for different variables and/or for different types of model specifications. Positive impacts are almost entirely limited to socioeconomic conditions. In particular, where positive impacts are found, it is usually between farm scale (not organization) indicators and greater community income (Wheelock, 1979; Harris and Gilbert, 1982; Skees and Swanson, 1988; Barnes and Blevins, 1992). In sum, if the research question were recast to appraise the benefits of industrialized farming, 11 (22%) of the 51 studies would provide some evidence of positive impacts.

Summary and conclusions

Social scientists often debate whether empirical research should be oriented around disciplines' accumulated body of knowledge or, conversely, address the public interest and provide critical knowledge to build civil society (Burawoy, 2005). The stock of research produced on the community effects of industrialized farming contributes to both objectives. Recent challenges to state corporate farming laws usher in a new need to build this body of research.

This study addresses the longstanding question, does industrialized farming pose risks to the well-being of communities, through evaluating the findings of studies from the 1930s to the present. Based on a sample of 51 studies, we found that 82% provide evidence of adverse impacts (57% reporting largely detrimental effects and 25% some detrimental effects). These impacts were reported in studies using various research designs and across different time periods and regions. Beneficial effects of industrialized farming were few and confined largely to income-related socioeconomic conditions. Twenty-two percent of studies provide evidence of these effects but only 6% (three studies) report largely beneficial effects.

The types of community impacts reported by social scientists were detailed earlier and are seen in the following general relationships. First, for socioeconomic well-being, industrialized farming tends to be related to higher income inequality, indicating it is less likely to sustain middle-class communities. Places with higher income inequality are also prone to other social problems because economic gaps are wider. With regard to other socioeconomic impacts, regional economic impact models are likely to report greater total income generated by industrialized farming relative to family farming. However, findings for income inequality suggest that income growth is impeded from trickling down to all community members. Second, studies assessing consequences for the social fabric of communities often find detrimental impacts. Industrialized farming affects the social fabric of communities through altering population size and social composition which in turn affects social conflict, family stability, local class structure, community participation, and purchasing patterns. Case studies report the loss of local autonomy and greater influence of outside agribusiness. Third, studies on large animal confinement operations report environment problems affecting air and water quality and human health.

Although this study provides a comprehensive summary to date regarding the impacts of industrialized farming, it has limitations. The purpose was to document the findings regarding the presence/absence of risks posed by industrialized farming to communities, to contribute to public debates and litigation regarding the public interest *intent* of corporate farm laws, and to provide an integrative research review for social scientists. Thus the study is limited in scope largely to understanding the risks posed by industrialized farming, although we do note studies finding positive effects. Integrative research reviews are inherently limited by the selection criteria of the pool of studies for analysis. As explained earlier, selection of studies was based on the need to provide historical coverage and focus on major scholarly works, particularly journal articles and books. While these selection criteria are important to establishing the robustness of evidence in court cases on corporate farm laws, other empirical work is inherently excluded. Also, research on the topic continues to grow, limiting any global assessment. Though we have captured much of the major research, we cannot claim to have an exhaustive pool of studies.

Based on the empirical studies reviewed here, some generalizations can be drawn for researchers and government and nongovernmental organizations concerned with the future impacts of industrialized farming. First, where industrialized farming expands we can expect distinct effects on communities' socioeconomic, social fabric, and environmental well-being. Communities that receive industrialized farming are likely to increase population relative to other communities (that is, if local family farmers are not displaced). They are also likely to experience greater income inequality; government services for the poor and other disadvantaged groups are likely to be needed. These communities will encounter stresses in the social fabric, particularly increased community conflict. In the case of large livestock confinement operations, communities will be at risk for environmental and health problems, entailing the need for government intervention. Finally, communities that lose moderate-size family farms, in part because of transaction cost advantages (e.g., volume buying-selling) and public incentives given to industrialized farms, will lose a base of middle-class producers and experience population decline and rifts in social fabric. These communities are likely to have declines in other local businesses and the property tax base and may require state aid for social and public services.

This study also suggests a number of directions for future research. First, our study as well as past work (Lobao, 1990; Wimberley, 1987) has argued for the need to improve the conceptualization and measurement of industrialized farming through attending to both indicators of farm organization and scale. While scale and organizational measures are often used interchangeably, researchers should explore their relationship in more depth and detail, both in terms of comparing their relative performance, and in determining the degree to which scale and organizational measures can be combined to create multi-dimensional indicators that more fully tap the complexities of today's industrialized farming.

Second, the paths by which industrialized farming affects communities are still not well-understood despite decades of research. Studies giving greater attention to conceptualizing and empirically assessing the direct and indirect paths of community influence are needed.

Third, future work should strive for a more comprehensive understanding of the types of impacts generated by industrialized farming. Most research, particularly quantitative studies, centers on socioeconomic impacts, when our analysis shows an array of potential impacts. Community conflict and decline in civic engagement are probably the most endemic problems to be expected from industrialized farming, but their documentation is confined largely to case studies. Long-term as well as short-term consequences should be examined. Studies often assume that impacts are homogeneous across communities. By contrast, the manner by which industrialized farming affects different social groups remains an important question.

New directions for methodology should be considered. Because research designs have different strengths and limitations, multi-method studies that combine both qualitative and quantitative approaches to the research question are particularly useful. In a similar vein, future research should pursue the use of integrative research reviews. These could be used to explore the topic in a more in-depth fashion than we have here, for example, by focusing only on studies that address a few select impacts but in much greater detail; or alternatively, by casting a wider net across the scope of existing studies.

Finally, researchers should give greater attention to the community factors that mediate the effects of industrialized farming. For example, a strong civil society (Lyson et al. 2001), high quality, non-farm local employment (Lobao, 1990), a state and local context supportive of labor unions and a strong social safety net (Lobao and Meyer, 2001) have been argued to buffer the potential negative effects of industrialized farming. In a similar vein, researchers might seek to study positive exemplars: are there community contexts where industrialized farming has been harnessed to improve local socioeconomic, social fabric, and environmental conditions?

The role that corporate farming laws play in protecting rural communities has been alluded to in past research (NCRCRD, 1999) but only recently addressed in a study by Lyson and Welsh (2005). They found that counties in states with anti-corporate farming laws fared better (relative to those in states without such laws) on socioeconomic indicators, such as having proportionately few families in poverty and lower unemployment. In comparing states with less restrictive and states with more restrictive laws, they generally found the same results, better conditions in states with more restrictive laws. Additional research is needed to explain these findings, such as whether corporate farming laws per se or broader aspects of the institutional regulatory environment are protecting the fortunes of local communities. It is clear, however, that within states, remote communities distant from metropolitan centers particularly need state-level protection. Remote rural communities are often targeted as operating sites by large animal confinement operations, but their governments have the least resources to cope with industrialized farming. They are in weak positions to bargain successfully with external corporations, to regulate their operations once they are in place, and to protect community social life and environment overall. State protection from industrialized farming is most critical in remote communities due, in part, to the fragility of local government (Lobao and Kraybill, 2005).

In summary, social science research provides substantial evidence to support the position that public concern about industrialized farming is warranted and, in turn, that states have a legitimate public interest in regulating these farms. This conclusion rests on the consistency of eight decades of research which has found detrimental effects of industrialized farming on many indicators of community quality of life, particularly those involving the social fabric of communities.

Notes

1. In 2002, more than 95.8% of the nation's 2.1 million farms were classified as family operations. Almost 90% were sole proprietorships and 6% were partnerships. Only 3.5% of all farms were incorporated, and of these, 88% were considered family-held corporations by USDA as they had 10 or fewer stockholders (National Agricultural Statistics Service, 2006).
2. Social scientists measure industrialized farming by both scale and organizational variables. Scale is usually measured by sales and sometimes by acreage and real estate and for livestock operations, animal inventory. The actual dollar value for scale indicators used by analysts to indicate a "large-scale" farm will obviously vary by the time period of study. In addition, what is considered a "large-scale farm" also varies by regional context and commodity. Organizational measures of industrialized farming include: vertical integration of corporations into farming; production contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers; and legal status as a corporation (family or non-family) or syndicate.
3. Some of these laws date back to the 1930s while others are of more recent origin. In addition to general provisions about corporations, some states limit absentee owned farms and contract farming, and some provide exemptions for certain types of farms and for some locales. For the regulations under each state's laws, see the Community Legal Environmental Defense Fund (2007). For a study rating the restrictiveness of each state's law, see Lyson and Welsh (2005). In addition to state laws, counties also may restrict the operation of large farms through zoning and other regulations. For a discussion of regulatory mechanisms used by counties, see the National Association of Counties (1999).
4. Farms may be incorporated because of family farmers' interests in estate planning, greater assurance of business continuity, limited liability, and income tax advantages.
5. We outline the strengths and limitations that are intrinsic to each research design. Any individual study will vary as to how the analysts have exploited the strengths or overcome the limitations of the design.
6. Integrative research reviews are systematic literature reviews, a family of methodologies that include meta-analyses. In integrative research reviews, studies center on the same research question but vary in other attributes such as those related to methodology (Cooper, 1989). The degree of similarity needed for comparison across studies varies according to the research question. In our case, we are concerned with a general question about the presence/absence of adverse impacts reported in studies using the range of methodologies common to this body of work, across regions, and across time.
7. To provide historical evidence, a sampling pool across time is needed. Hence, we used the 26 studies from Lobao's (1990) analysis, which covered the 1930–1988 period, then added studies from 1988 to the present. To compile the studies from 1988–present, we surveyed the following journals: *Agriculture and Human Values*, *Rural Sociology*, *Culture and Agriculture*, *Sociologia Ruralis*, *Southern Rural Sociology, American Journal of Alternative Agriculture* (now *Renewable Agriculture and Food Systems), Journal of Rural Studies, American Journal of Agricultural Economics*, and the *International Journal of the Sociology of Agriculture and Food*. Two scholarly search engines, Google Scholar and Agricola**,** were also used. Here we focused on the types of empirical studies given the most weight in litigation over anti-corporate farm laws: peer-reviewed journal articles, books, and other scholarly work from major national outlets. A number of reports produced for state and nongovernmental organizations exist. Some are literature reviews, not independent empirical studies, and hence are not included. Empirical studies from experiment station and extension reports were not specifically included unless the results were published as journal articles or given at professional meetings and currently available on a central website. Studies from dissertations and theses were also not included unless they too met the same criteria as above, such as Crowley and Roscigno (2004). Unpublished theses and dissertations are given less weight overall in court cases and until recently have not been widely accessible on-line so that attorneys and others can easily review findings. Theses and dissertations also raise issues with regard to quality equivalence relative to journal articles and work by senior scholars. As in any integrative research review, a limitation of the criteria used to select the pool of studies is that excellent empirical work likely exists which falls outside the scope of the analysis.

Appendix A. Summary of 51 individual studies examining the effects of industrialized farming on community well-being

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Goldschmidt (1968, 1978a)	Comparative case study: two communities	California	Scale/organization	Socioeconomic and social fabric (class structure, local services and organizations, politics, retail trade)	Detrimental: variety of community indicators
Tetreau (1938, 1940)	Survey design study: 2700 households	Arizona	Scale/organization	Socioeconomic and social fabric (class structure)	Detrimental: increased class inequality, rise in number of poor farm workers
Heffernan (1972)	Survey design study: 138 broiler producers, contract farming	Louisiana	Organization	Social fabric (social psychological indicators, community involvement)	Detrimental: poorer social psychological well-being, less community involvement
Heady and Sonka (1974)	Regional economic impact: 150 producing areas	Continental US	Scale	Socioeconomic	Mixed: large farms generate less total community income but also lower food costs
Rodefeld (1974)	Survey design study: 180 producers from 100 farms	Wisconsin	Scale/organization	Socioeconomic and social fabric (class structure, services, population size)	Detrimental: variety of community indicators
Martinson et al. (1976)	Survey design study: 180 producers	Wisconsin	Organization	Social fabric (social psychological indicators)	Detrimental: community isolation of farm workers
Fujimoto (1977)	Macro-social accounting: 130 towns	California	Scale	Social fabric (community services)	Detrimental: fewer and poorer quality services
Flora et al. (1977)	Macro-social accounting: 105 counties	Kansas	Scale/organization	Socioeconomic and social fabric (class structure, retail sales, crime)	Mixed: industrialized farming related to income inequality and crime but also to higher income; other relationships less consistent
Small Farm Viability Project (1977)	Comparative case study: reanalysis of Arvin and Dinuba	California	Scale/organization	Socioeconomic and social fabric (class structure, services)	Detrimental: variety of community indicators
Goldschmidt (1978b)	Macro-social accounting: states	Entire US except Alaska	Scale	Social fabric (agrarian class structure)	Detrimental: poorer class structure

Appendix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Heffernan and Lasley (1978)	Survey design study: 36 grape producers	Missouri	Organization	Social fabric (community social and economic involvement)	Mixed: industrialized farmers less involved in community socially but not more involved in economic control
Wheelock (1979)	Macro-social accounting: 61 counties	Alabama	Scale	Socioeconomic and social fabric (class structure, population size)	Mixed: rapid increases in farm scale related to decline in income, population, and white collar workers, but scale also positively related to income in a cross-time model
Marousek (1979)	Regional economic impact: one community	Idaho	Scale	Socioeconomic	Mixed: large farms generate less community employment but also greater income
Buttel and Larson (1979)	Macro-social accounting: state-level data	Entire US	Scale/organization	Environment (energy usage)	Detrimental: industrialized farming conserves less energy
Heaton and Brown (1982)	Macro-social accounting: county-level data	Continental US	Scale/organization	Environment (energy usage)	No detrimental: industrialized farming conserves more energy
Swanson (1980)	Macro-social accounting: 27 counties	Nebraska	Scale	Socioeconomic and social fabric (population size)	Detrimental: variety of community indicators
Poole (1981)	Survey design study: 78 producers	Maryland	Scale	Social fabric (involvement in community organizations)	Detrimental: large farms related to less community involvement
Harris and Gilbert (1982)	Macro-social accounting: state-level data	Continental US	Scale/organization	Socioeconomic and social fabric (class structure)	Mixed: industrialized farming produces poorer community class structure but also greater local income
Swanson (1982)	Macro-social accounting: 520 communities	Pennsylvania	Scale	Social fabric (population size)	No detrimental: farm size has little effect on change in population size
Green (1985)	Macro-social accounting: 109 counties	Missouri	Scale/organization	Socioeconomic and social fabric (services, population size)	No detrimental: farm size/organization have little effect on community indicators

Appendix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Skees and Swanson (1988)	Macro-social accounting: 706 counties	Southern US, excluding Florida, Texas	Scale/organization	Socioeconomic	Mixed: large farms related to higher unemployment and also to poorer conditions over time, but cross-sectional models show some positive effects on income
MacCannell (1988)	Macro-social accounting: 98 counties	Arizona, California, Florida, Texas	Scale/organization/ capital intensity	Socioeconomic and social fabric (population size, local trade, local government)	Detrimental: variety of community indicators
Flora and Flora (1988)	Macro-social accounting: 234 counties	Great Plains and West	Scale	Socioeconomic and social fabric (local retail trade, population size)	Mixed: large farms related to lower retail sales and population decline but not related to poverty or income
Buttel et al. (1988)	Macro-social accounting: 105 counties	Northeast	Organization	Socioeconomic and social fabric (housing, retail trade, property taxes)	No detrimental: farm organization has little effect on community indicators
van Es et al. (1988)	Macro-social accounting: 331 counties	Corn belt	Scale/organization	Socioeconomic and social fabric (population size)	No detrimental: farm scale/ organization have little effect; in a few areas, large farms related to higher income
Gilles and Dalecki (1988)	Macro-social accounting: 346 counties	Corn belt and central Plains	Scale/organization	Socioeconomic	Mixed: farm organization (hired labor) related to poorer conditions but larger scale related to better conditions
Lobao (1990)	Macro-social accounting: 3037 counties	Continental US	Scale/organization	Socioeconomic and social fabric (teenage fertility, infant mortality)	Mixed: industrialized farming related to higher income inequality and births to teen agers, and over time to higher poverty and lower income, but other relationships not significant
Lobao and Schulman (1991)	Macro-social accounting: 2,349 rural counties	US and four regions	Scale/organization	Socioeconomic	No detrimental: industrial farming has little relationship to poverty

Appedix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Barnes and Blevins (1992)	Macro-social accounting: 2,000 rural counties	US	Scale	Socioeconomic	No detrimental: larger farms related to higher income and lower poverty, but controls for hired labor show detrimental impacts
Durrenberger and Thu (1996)	Macro-social accounting, 99 counties	Iowa	Scale, hog farms	Social fabric (food stamp need)	Detrimental: large farms related to greater need for food stamps
Seipel et al. (1998)	Hedonic price analysis: one county	Missouri	CAFOs (concentrated animal feeding operations)	Sales prices of farmland parcels with and without homes	Detrimental: reduction in property prices of $144 per hectare within 3.2 km of a hog CAFO
Schiffman et al. (1998)	Quasi-experimental design: 88 matched individuals who vary by residence near CAFOs	North Carolina	CAFOs	Social fabric (social-psychological distress)	Detrimental: residents living near hog CAFOs are more depressed due to psychological and physical effects of odors
Wing and Wolf (2000)	Survey design study: 155 residents, three communities	North Carolina	CAFOs	Social fabric (health status, quality of life)	Detrimental: residents of hog CAFO community report greater respiratory and gastrointestinal problems and eye irritations, poorer quality of life
NCRCRD (1999)	Comparative case study: 14 farm dependent counties, one which recruited a hog CAFO	Oklahoma	CAFOs	Socioeconomic, social fabric (population size, retail sales, school drop-out rates, crime, social conflict, property values, and other well-being indicators), and environment	Mixed: detrimental on most social fabric and environment indicators; no appreciable gains in per capita income and jobs; beneficial effects for a few indicators (increases in population size, retail sales, and property values)
Irwin et al. (1999)	Macro-social accounting: 3024 counties	Continental US	Organization	Social fabric (residential stability)	No detrimental: industrialized farming has little relationship to non-migration
Gomez and Zhang (2000)	Regional economic impact models: (1,106 towns and cities)	Illinois	Scale, focus on hog farms	Social fabric (retail spending)	Detrimental: larger farms related to less retail spending, weaker economic growth

Appendix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Lyson et al. (2001)	Macro-social accounting: 433 counties	US all agriculturally dependent counties	Scale/organization	Socioeconomic and social fabric (civically engaged middle class, crime, low birth weight babies)	Detrimental: industrialized farming related to a less civically engaged middle class, low birth weight babies, and greater crime; the civically engaged middle class also mediates other effects of industrialized farming
Wright et al. (2001)	Case study: six counties with CAFOs	Minnesota	CAFOs/scale	Social fabric: (quality of life, community interaction, social capital)	Mixed: for quality of life, negative effects for neighbors, younger and mid-sized producers; positive effects for those who expanded operations; no effects for those who are not neighbors or not expanding. Community social capital and interaction quality declines
Foltz et al. (2002)	Regional economic impact models: 100 dairy farms in three communities	Wisconsin	Scale	Social fabric (farm input purchases made locally)	Detrimental: larger farms related to less input purchases made locally
Peters (2002)	Macro-social accounting: all agriculturally dependent counties	Iowa, Kansas & Missouri	Organization	Social fabric (children-at-risk, composite index of health, education, and general welfare)	Detrimental: industrialized farming related to higher children-at-risk scores
Wilson et al. (2002)	Macro-social accounting: census blocks in rural counties with swine CAFOs	Mississippi	CAFOs	Social fabric (environmental injustice)	Detrimental: CAFOs more likely to be located census block with poor African Americans
Deller (2003)	Regional economic impact: 2249 nonmetro counties	Nonmetro US counties	Scale	Socioeconomic	Detrimental: large farms related to slower growth in per capita income

Appendix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Reisner et al. (2004)	Survey design study: 109 stakeholders in 52 counties with swine CAFOs	Illinois	CAFOs	Social fabric (perceptions of community problems caused by CAFOs)	Detrimental: residents reported greater dissatisfaction with CAFOs, odors, loss of values of homes, and water quality problems
Crowley and Roscigno (2004)	Macro-social accounting: 1054 counties	North Central States	Scale/ organization	Socioeconomic	Detrimental: industrialized farming related to higher poverty and income inequality
Smithers et al. (2004)	Survey design study: 120 farmers in two townships	North Huron County, Ontario	Scale	Social fabric (community involvement, purchasing behavior, perceptions of community)	Detrimental: farmers expanding in scale participated less in community activities and organizations and were less committed to sourcing locally
Lyson and Welsh (2005)	Macro-social accounting: 433 agriculturally dependent counties	US all agriculturally dependent counties	Scale/ organization	Socioeconomic	Detrimental: industrialized farming related to greater poverty and unemployment, with corporate farming laws mediating these effects. Counties in states with weak or no anti-corporate farming laws have poorer conditions
Constance and Tuinstra (2005)	Case study design: three clusters of rural communities with poultry CAFOs	East Texas	CAFOs	Social fabric (general quality of life, stress, odor, water quality, health, property values)	Detrimental: deterioration of quality of life along a variety of indicators experienced by those living closer to CAFOs
Whittington and Warner (2006)	Case study design: two communities with large-scale dairies	Ohio	Scale	Social fabric: (perceptions of local capacity to manage risks of large-scale dairies)	Detrimental: residents report weak capacity of local institutions, feelings of hopeless to address problems
Jackson-Smith and Gillespie (2005)	Survey design study: 836 residents from nine dairy-dependent rural areas in seven states	New York, New Mexico, Texas, Minnesota, Utah Wisconsin, and Idaho	Scale	Social fabric (farmers' and neighbors' relationships, community involvement, neighbors' complaints about odor, flies, and noise)	Mixed: dairy farm size has little relationship to most variables, but it is the strongest predictor of neighbors' complaints

Appendix A. continued

Study	Methodology	Region	Measures of industrialized farming	Community well-being indicators	Results
Foltz and Zueli (2005)	Survey design study: 141 dairy farmers in three dairy dependent Wisconsin towns	Wisconsin dairy dependent towns	Scale	Social fabric (farm input purchases made locally)	No detrimental: little evidence that large farms are less likely to buy locally. Purchasing patterns are commodity specific and not determined by farm size
McMillan and Schulman (2003)	Case study: two CAFO counties, four focus groups	North Carolina	CAFOs	Social fabric (relations with neighbors, health and environmental concerns, enjoyment of property, local democratic participation, community cohesiveness)	Detrimental: variety of community indicators

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Chairman Thomas

My name is Steve Perdue and I own and operate a farm near Ray, ND. I come before you this morning to express my opposition to HB 1371. The conversation around this bill is that supporters are looking for a small exemption with a limited scope to the current law which was implemented over 90 years ago by a measure initiated by the citizens of North Dakota.

There is nothing about HB 1371 that is small or limited. It is a full-fledged exemption to livestock and dairy production that will throw the door wide open to ownership and investment that can come from anyone and from anywhere. I feel the exemptions created by HB 1371 are disingenuous and misleading to the citizens of our state. Supporters of HB 1371, tired of complying with a law that a large majority of ND citizens have supported, have decided we will call ourselves something different and we then will no longer have to comply with the law. If HB 1371 becomes law, what will hog farmers, dairy farmers, cattle ranchers be called, since they can no longer be considered farmers or ranchers. I think most will recognize this as an end run around current law.

I am also concerned that favorable treatment in other parts of the century code that benefit farmers and ranchers will no longer be available, not only by these operations this exemption is hoping to attract, but our friends and neighbors currently engaged in these types of agriculture. Do current agricultural zoning regulations, property tax treatment of farmland, sales tax exemptions on parts and used equipment, BND programs offered to farm and ranch operations, etc., still apply to operations no longer considered farmers or ranchers?

There has been a lot of focus on the fact that numbers of hogs, poultry, cattle fed, and the number of cows milked has fallen behind neighboring states. I feel this is due to something that all sectors of our state's economy are hindered by, and not a function of business structure. Labor is a main ingredient in large scale livestock feeding and dairy operations and we don't have it!

I did some unofficial research, and I found the average salary of a dairy farm manager is around $52,000.00 about the same as a schoolteacher and an employee of a feedlot around $27000.00. A newcomer to the state is much more likely to go to the oilfields that surround where I live and earn a salary many times higher than these.

In closing, in my nearly 40 years of operating a farm that has been in my family for years I have witnessed several attempts to change the corporation farming law. Most have been rejected, there being a few tweaks along the way. However, I've seen very few meaningful attempts to incentivize livestock operations, beyond changing this law. Operations today can form family corporations and LLC's, non-family members can form several different types of partnerships, something elected officials untruthfully say isn't possible, and yet many have done this. Let's all sit down in North Dakota and come up with ways we can incentivize livestock, swine and dairy production and processing that will enable our state's citizens to benefit, not out of state corporations.

1/22/2023

TO: Ag Committee
FROM: Scott German
105 Front St
Oakes ND, 58474
RE: Support of HB 1371

Members of the Ag Committee,

Please accept this letter of support for HB 1371. My name is Scott German, an indebted 4th generation farmer from Dickey County. I currently farm with my father and my son. Together, we operate a row crop and livestock farm that includes a 4,000 head swine finishing site.

In 1998, my dad borrowed every cent he could to build a swine finishing site. His sacrifice and foresight allowed me to join and continue our family farm operations after earning a degree in Animal Science from NDSU. Diversifying with swine production has allowed our farm not only to grow but provided the opportunity for my son to come back and become *a* ***5th generation farmer***. This successful venture would not have occurred without the partnership of an out-of-state entity. I have experienced first-hand the great and sustainable opportunities that can be done with the partnerships allowed under HB 1371.

I am testifying in favor of HB 1371 as I know first-hand the importance of developing the livestock industry in North Dakota. Recently, I had the privilege of serving as chairman of the North Dakota Corn Council for three years. I also served as a founding board member of the North Dakota Livestock Alliance. In both organizations, our primary goals were to promote and enhance corn and livestock production and usage within the state. HB 1371 does just that by providing an excellent pathway for both corn and livestock production and utilization.

The agriculture sector in North Dakota has gone through significant changes over the last 20 years. Allowing North Dakota farmers to partner with out-of-state entities is essential for the successful future of livestock development within our great state. For those opposing this bill, I can say with certainty that out-of-state livestock entities are ***not*** interested in “buying up” our farmland. What they are interested in is ***investing*** and ***partnering*** with North Dakota family farmers to forge sustainable partnerships to produced finished animals. Large animal livestock entities willingly invest capital in animals and facilities while leaving the agriculture production to their in-state partners, ND family farms. I believe HB 1371 has the appropriate safeguards in place in the event this does not hold true.

With the construction of two new soybean processing plants and the existence of five ethanol plants, it only makes sense to capitalize on returning more value back to the ag sector. The meal and dried distillers’ grain (DGG) produced within the state from these plants is a viable source of cattle feed. I would challenge any opponent to find a better way to add value back to North Dakota agriculture. When a bushel of grain is loaded onto a train and sent out of state, that bushel is gone. That exported bushel generates very little, if any in-state revenue. However, every bushel that is fed to livestock in-state, generates revenue, including but not limited to the following: the processors, feed mills, livestock owners, veterinarians, truckers that haul livestock, livestock equipment businesses, and any in-state packers. And if this bill passes, an increase in in-state packers will occur.

Thank you for your diligent consideration of this testimony. I encourage you to vote **yes on HB 1371**. The future of my family farm and family farming operations within North Dakota will be impacted by your decision. Supporting HB 1371 will have a positive impact of family farming in North Dakota.

Respectfully Submitted,

Scott German
Fourth Generation ND Farmer
Rural Oakes, ND

Testimony on HB 1371
Sarah Vogel, Author, Attorney, Advocate and former North Dakota Commissioner of Agriculture
sarahvogellaw@gmail.com

Thank you for the opportunity to testify against the enactment of HB 1371.

I have written extensively about HB 1371. See, my essay, "***Is House Bill 1371 a Trojan Horse? Yes! And A Trojan Cow, Trojan Pig, Trojan Chicken*** … ." It can be found at sarahmvogel.com, under "essays".

This is a very abbreviated summary of the reasons why I think HB 1371 should be rejected, as laid out in greater detail in the essay referenced above.

1) Chapter 10-06.1 is not archaic. It has been amended over the years to adapt to modern business structures. It has repeatedly been upheld by the North Dakota Supreme Court and federal courts, up to and including the US Supreme Court.
2) The law is very popular with North Dakota voters; only six years ago it received overwhelming support by North Dakota voters.
3) While there are limitations on corporate ownership of farm and ranch land, and corporate operation of farms and ranches in North Dakota, it is not the case that "freedom applies to everyone and every industry, except our farmers and ranchers." What this law does is impose restrictions on foreign governments, billionaires, and certain corporations; it does not restrict family farmers and ranchers who have multiple avenues to grow and expand.
4) Cherry-picked statistics used by Governor Burgum in his State of the State message and Fargo Forum article are unpersuasive and misleading.
5) If the legislature believes that North Dakota's farmers and ranchers need additional capitol or resources, the legislature should improve the Bank of North Dakota's loan and investment programs. In recent years, hundreds of millions of profits of the BND have gone to balance the state budget. If even 25% of the profits from a typical biennium were diverted from balancing the budget and instead used to support livestock farmers and ranchers and the industries that they need (e.g., meat packing plants), there would be no plausible excuse to amend or repeal Chapter 10-06.1.
6) The state of North Dakota supports other industries with lavish grants and loan funds, even though they are not as central to North Dakota as its farmers and ranchers. A prime example is the Clean Sustainable Energy Authority, which has given $44 million in grants and $250 million in loans in its very short existence. Farmers and ranchers, in comparison, get a pittance and often have to pay high rates of interest and meet stiff repayment terms plus pay real estate taxes that support the infrastructure of North Dakota.
7) It is very difficult for North Dakota officials or citizens to force a corporate owner of farm and ranch land to divest itself of farm and ranch land, even if it was acquired in violation of the law or through deceptive means. The record of the Attorney General's enforcement of this law is miserably bad! Weakening the law is a terrible idea. It needs to be strengthened instead. It is notable too, that the Attorney General's budget does not indicate any desire to increase the rigor of its almost nonexistent enforcement of this law.
8) HB 1371 will benefit corporations and investment funds more than North Dakota family farmers and ranchers, who will be pushed out of access to affordable land. This competition will fall especially hard on North Dakota's most threatened "species" — young and beginning farmers and ranchers. How can they afford to compete with huge corporations and billionaires?

9) HB 1371 will not only have a terrible effect on beginning farmers and ranchers, it also creates competition for midsized and larger farmers and ranchers who would like to expand. They cannot compete with corporations such as Smithfield who are fronts for the Chinese Communist Party, or billionaires like Bill Gates and the many shell corporations where he invests his personal wealth.
10) The Bank of. North Dakota has many programs which could help, support and foster growth of the livestock sector in North Dakota, and that would keep North Dakota farmers and ranchers on the land and profitable. However, all of these programs need updating, lower interest rates, better terms, and more funding. The attention of the legislature should be on improving the services of the Bank of North Dakota for farmers and ranchers. These agriculture loans would also support local lenders throughout the state. Corporate agribusinesses (like Bill Gates' Cascade and Cottonwood) won't affiliate themselves with local lenders or have checking accounts in local banks.)
11) The oft-mentioned "limit" or "cap" "cap" of 160 acres in HB 1371is a cruel joke. Repeated references by the Governor to a 160-acre cap in his "cheerleading" for passage of this law is an outright deception. Any assertion that HB 1371 does limit acquisitions to 160 acres is propaganda, falsehood and deliberate double-speak. The plain language of HB 1371 shows it opens the door to every conceivable type of corporation, as well as governments, foreign or domestic corporations, business trusts, enterprises, estates, limited liability companies, limited liability partnerships, and any other legal or commercial entity. Any corporate lawyer who sees this language will laugh at the "barrier" of having only one "person" per 160 acres. It will be as easy for a corporate law department to form one thousand 160-acre livestock operations, as it is to form just one. Bill Gates, corporations owned or controlled by foreign governments, and US corporations looking for investments that are countercyclical to the stock market have the resources to hire lawyers to get this done, so that they can buy this land. These 160 acre units don't have to have fences between these parcels; the owners won't put homesteads on them, and the managers (who will likely be absentee) of these units won't be providing the types of volunteer activities that human beings typically provide (PTA's, FFA advisors, donations to country churches).
12) Nonprofits and conservation organizations — that now face rigorous review before they can acquire North Dakota farm and ranch land — will have free sailing to buy farm and ranch land in 160 acre units, if HB 1371 is adopted. Farm Bureau's long-fought battle to keep nonprofits and environmental organizations from buying farmland and ranch land in North Dakota will be over. Lawyers for these nonprofits can form 160 acre entities as easily as Bill Gates' lawyers at Cascade and Cottonwood Ag. These nonprofits can buy some cattle to put on the land (at least for a while) and voila, they are exempt.
13) Rather than a resurgence of the livestock sector under North Dakota farmers and ranchers, it is a more likely scenario that North Dakotans will become tenant farmers and hired hands, while the appreciated value of the land will go to corporations, government investors and billionaires. Farmland values are countercyclical to Wall Street returns, thus it makes sense for wealthy churches such as the Mormon Church (which is buying farm land at a massive scale), billionaires, investment firms and foreign governments to "park" their money in North Dakota farmland.
14) Will the livestock sector of North Dakota be improved by this law? There is no guarantee and no way to enforce the "expectation" that livestock will be placed on these 160 acre parcels or an expectation that resident North Dakota farmers will benefit from this law. The law appears to be a façade for the purchase of valuable farmland by entities that cannot now (for sound public

policy reasons) do so. Will there be cattle or pigs or chickens on that land in 2 years, in 5 years, in 10 years? Who will be monitoring that?

15) Who will force those corporations to divest themselves of that land if they don't incorporate livestock into the "farm"? Will the AG's office enforce the law? I doubt it because the now allow pipeline executives and Bill Gates' corporate officers to be the "owners" of farmland and ranch land. Whatever tatters of Chapter 10-06.1 will be left will be so weakened, that the remainder of the law will be almost nullified. A strong clue to expectation that no enforcement will occur is HB 1371's exemption for reporting to the Attorney General for any new entity that presents itself as a new entrant to livestock agriculture.

In summary, HB 1371 is a "Trojan Horse" that can cause untold harm to our state, our citizens, the farmers and ranchers of North Dakota. Instead of adopting HB 1371, the legislature should explore other ways to help and support North Dakota's farmers and ranchers and North Dakota's livestock sector. There is no need to dismantle protections that have well-served North Dakota for many decades.

Thank you for the opportunity to submit this written testimony. I would have testified in person or virtually, but for a prior commitment to present a keynote speech at the annual meeting of the Northern Plains Sustainable Agriculture Society in Fargo, at the same time and on the same day that this bill is being heard.

I would be happy to visit with any members of this committee or answer follow up questions. My email address is sarahvogellaw@gmail.com.

I urge committee members to recommend "***do not pass***" as to HB 1371.

Sarah Vogel

Testimony for 1371 in neutral position

Chairman Thomas and Committee, my name is Phil Murphy representing the ND Soybean Growers Association. Our board of directors has chosen to remain neutral at this time. The board is willing to have conversations with the bill sponsors and other advocates and remain open and willing to further the very important growth of animal feeding. I was asked to prompt further outreach to our board members via email available on our Association website at https://ndsoygrowers.com/contact-us/

Testimony HB1371

Scott Skokos
Executive Director
Dakota Resource Council
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Testimony in Opposition for HB 1371

Chairman Johnson and members of the House Agriculture Committee. DRC would like to submit the following comments regarding HB1371.

Chairman Johnson,

My name is Scott Skokos and I am the Executive Director of Dakota Resource Council, a family farm and conservation organization. Dakota Resource Council was founded in 1978 by farmers and ranchers that wanted to protect their way of life and interests in the face of widespread energy development. Dakota Resource Council is opposed to HB 1371 because the bill, if passed, would open North Dakota to industrialized corporate agriculture.

HB 1371 Will Hurt Family Farms
First, despite what the Governor and others will tell you, this legislation will not help family farms. In fact, the passage of this bill will threaten the environment and rural communities because it will allow out of state corporations to purchase agricultural land to build factory farms in North Dakota. It has been proven time and again that corporate agricultural interests do not take care of the land and communities as well as family owned farms. Look no further than a state like Iowa, which has massive corporate hog farms and you will see the result of corporate agriculture. For example Des Moines, Iowa's most populous city recently had to spend millions of dollars to clean up its drinking water after it was contaminated by manure spreading and runoff from corporate agriculture operations[1]. In addition, a recent study showed that the amount of sewage produced in Iowa is equivalent to the sewage that would be produced by 168 million people. Where does all that poop come from, you may ask? Corporately owned animal feeding operations.

HB 1371 is unnecessary
Second, If you've only been listening to the supporters of this bill, you'd swear that one of the major obstacles to animal agriculture that are keeping small farmers from making huge profits off of livestock production is the fact that they can't join forces with their neighbor across the street to get the Capital needed to develop an animal agriculture operation, and that state and local government are actively trampling on the plucky little livestock developers across the state. Our Governor has made statements saying that states like South Dakota, Minnesota, or Iowa

[1]https://www.circleofblue.org/2020/world/des-moines-river-essentially-unusable-for-drinking-water-due-to-algae-toxins/

are “kicking our butts” in livestock production. This may be true when looking at the numbers, but that thinking ignores the environmental and social externalities states like South Dakota, Minnesota, and Iowa have experienced as a result of widespread animal agriculture. Issues surrounding smell, air quality, and water quality caused by confined animal feeding operations are highly damaging. Counties in Iowa with massive animal agriculture operations have some of the worst air quality and highest rates of asthma in the United States[2].

HB 1371 will devastate rural communities

Third, beyond the environmental impacts CAFOs and other forms of corporate animal agriculture can be socially and economically devastating to rural communities. According to a Food and Water Watch Report, “Counties that sold the most hogs and those with the largest farms suffered declines across several economic indicators — including real median household income and total wage jobs — over roughly the same time period[3]. These counties also experienced significant population decline — twice the rate of Iowa’s more rural counties.” It might take people to run the animal farms, and there will be truckers, feed, and some support industries, but it’s all going to be from one company when they strongarm every competitor out of business. Continuing the process of vertical integration will kill what’s left of our small communities.

Incorporation Structures Already Exist

Fourth, this law change is unnecessary for North Dakotans because of the incorporation structures already available in North Dakota. Presently, North Dakota law allows two unrelated North Dakota resident farmers to partner with each other through general partnerships, limited partnerships, LLPs, LLLPs, and cooperatives. In fact, the current law even allows unrelated family corporations to farm or ranch together through any partnership structure. If farmers in North Dakota want to pool their resources, they can, and they already do through these structures.

It’s time to reject Gov. Burgum’s agenda

Fifth, it’s time to reject Governor Burgum’s misguided agricultural agenda for North Dakota. The Governor seems to think we need to get our animal agriculture numbers up, but he’s ignoring all of the other areas where North Dakota excels in agriculture. According to the USDA, North Dakota ranks number one in the production of 12 commodity crops. This is despite having what the Governor calls an archaic law. Rather than taking a major risk by letting corporate animal agriculture come to North Dakota, we should rather look for ways to continue to improve our current agricultural economy in a manner that benefits actual North Dakotans over out of state corporate interests.

If passed HB 1371 will be referred to the voters

Lastly, we want to make crystal clear that if this bill is passed it would not be the end of this argument. In 2015 a similar measure was passed in the North Dakota Legislature that exempted hog and dairy operations from the anti-corporate law. In response North Dakotans banded

[2] https://ehp.niehs.nih.gov/doi/full/10.1289/ehp.7240
[3] https://onlineacademiccommunity.uvic.ca/asri/tag/water/

together and referred the bill to the voters, where it was solidly rejected by 76% of North Dakota voters. If this bill is passed, it is almost certain that Dakota Resource Council and others will band together to refer it to the voters, and our guess is the voters will reject corporate farming once more.

We recommend a DO NOT PASS vote on this bill.

Testimony on HB 1371 Jan. 27, 2023

Chairmen Thomas and members of the committee, my name is Richard Roland from Crosby, ND.
This talk is more about a story than a testimony but the story will reveal the testimony. This story starts in the 80's in NW North Dakota where a 10 year drought was devastating the communities. This was the height of the demise of the small towns. Crosby lost all four of the car and implement dealerships plus several other businesses. Some days the dirt was blowing so bad it was like a snow storm. There was one year in the late 80's that the only green things in the county were the needles on the evergreens and the grasshoppers were eating those. You can see why the community was both mentally and financially devastated. Most farms and business lost most of their net worth in these years.

In response to these small towns dying, economic development became the buzz word. Like other towns, Divide County started an Economic Development program to evaluate our strengths and weaknesses in an effort to identify future business opportunities. One of the committees set up was the Agriculture Economic Development Committee which was composed of over 20 farmers and ag business people who met monthly to both support each other through these tough times and brain storm ideas to help the community.

Two ideas were adopted with one of these being an alternative crop study to find crops to replace summerfallow and add diversity, out of this came the introduction of the pulse crops (peas, lentils and chickpeas) which eventually lead to the elimination of summerfallow and the introduction of no-till to reduce future soil erosion.

The other idea adopted was to build a hog farrowing operation which became Quality Pork. The idea was to produce feeder pigs for sale to local hog finishers where they could add value to their barley and newly introduce field peas as a protein source. A Quality Pork board was set up and a long journey begin to bring this project to the community. Any one who has ever set up a project this size will understand the complexity of working with lenders, zoning authorities, investors, building designers, breeding stock selection plus developing the finisher base of growers. You can imagine the negativity that had to be overcome in the community that was bleeding financially already. Raising the capital for this

project from local farmers that were already hurting plus convincing bankers who were not familiar with large scale hog operations, was a big challenge.
In finding the best business model for this project we worked with the financial people and determined a corporate structure suited us best. With this structure we could raise money not only from farmers but also from main street and it also would allow for each group to be represented and rewarded according to their investment. This was not possible under our state anti-corporation laws.

Enter Senator John Andrist, one of our biggest community supporters, with an idea to sponsor a bill to make an exception to the anti-corporation farming bill for livestock units that wanted to raise money to finance these in their local communities. This bill was written with certain restraints including that 30% of the owners had to be local farmers. Well, if we didn't have enough road blocks, guess who was the Agriculture Commissioner at that time? The one and only Sara Vogel, for those who don't know her, her grandfather wrote the anti-corporation farm bill in the 30's. We knew this was going to be an uphill battle and I warned John about the onslaught he was about to on leash.

In a committee setting like this in the early 90's we faced off with John and I testifying. Then came the storm from the opposition with Sara leading the charge. The one highlight of this testimony was when Senator Bill Bowmen asked Sara an interesting question. I don't recall the exact words but it asked the question to Sara "if she would rather let all the feeder cattle and feed grains get shipped to Colorado to get fed out by a corporate feed lot then to change the anti-corporate farming law to allow ND communities to invest in this". Her answer, as she was sobbing, was YES and she couldn't understand how anyone could challenge this law and accused us of us of trying to undermine the whole law. I personally think we should not allow corporations to own farmland in ND. We have enough out of state landlords and now we have rich individuals setting up trusts to buy land. This probably already undermines the intent of the law? The Senate voted it down with a vote of 32-16. In this process, we also created a backlash by state government agency's that cost us additional expenses in legal fees and also set the project time table back. This was part of the reason for the future failure of Quality Pork.

As you see we weren't off to a good start. We finally did set up Quality Pork as a cooperative, which made the non-farmer money dry up and as a result we were

under financed going in to startup which was also exasperated by construction delays. In the end we were making payments before we even produced one feeder pig. To raise more money under the cooperative model was not possible with the farmers who were already in financial difficulty. In the end all our hard work and money went down drain. The financial lenders were more than anxious to shut us down. I often wondered why, sure we had a cash flow problem but we were meeting our production goals and starting to look profitable? I sometimes think this was a backlash from challenging this bill and an attitude by of Ag Commissioner who at the time promoted small family farms and wanted this project to fail.
So this is my story. I hope this helps you in decision on this legislation.

As a foot note: while serving on the SBARE I was a strong supporter of expanding the livestock industry. I'm going to leave you with a several recommendations for your consideration.

1. Please support the SBARE Livestock Development Initiative that is the number 2 priority in the Extension proposal, this will complement this bill. Help in financing the capital intense livestock industry is good but it is also going to take education, organization and research by NDSU to make this happen.

2. I also think we have a great opportunity to grass finish or condition some of our cattle in ND rather than in feedlots. My suggestion is to finance a study either through the Ag. Commissioner and/or NDSU to look at the potential for grass finishing and condition cattle in ND. In the future we are going see increased regulatory pressure against concentrated feedlots. Besides, one of the big soil health benefits is from grazing animals.

3. Lastly, we need the right infrastructure at the right location to add value to this livestock industry. This will take coordination and financial incentives from this legislature.

Richard Roland

North Dakota House Agriculture Committee

I support HB 1371.

My family has operated a Farm Corporation under the related shareholders exception since 1990, but this doesn't work for non-related owners.

I have watched North Dakota's dairy farm numbers shrink from 2800 to 36 in the last 50 years.

We need to encourage investment into North Dakota's dairy industry and these changes will help to open that door.

New dairy farms have challenges securing a market, transportation to a market, and financing for the startup. This often requires a larger dairy operation.

The exclusion for milk production if 160 acres or less are held by the corporation should safeguard the North Dakota farming industry and give an opportunity for growth in the dairy and other livestock sectors.

I also support the amendment to add a surviving spouse of a related shareholder.

We are concerned that in another twenty years our related shareholders will become an issue for our farm to maintain the farming corporation status.

Please consider voting for HB 1371.

Alan Qual

13407 73rd ST SE

Lisbon, N.D. 58054

701-680-1210

NORTH DAKOTA ETHANOL PRODUCERS ASSOCIATION

Testimony of Jeff Zueger
Director, North Dakota Ethanol Producers Association
In Support of HB 1371
January 27, 2023

Chairman Thomas and members of the House Agriculture Committee,

Thank you for the opportunity to testify before you today, I am Jeff Zueger. I am the CEO of Midwest Ag Energy which owns two plants in North Dakota, Blue Flint in Underwood and Dakota Spirit in Spiritwood. I am also a director on the North Dakota Ethanol Producers Association (NDEPA) board, which represents North Dakota's six ethanol plants, industry stakeholders and associated businesses. I am here today on behalf of NDEPA to voice support for HB 1371, which exempts several agricultural operations from North Dakota's corporate farming law with the intent of expanding livestock development within the state.

Thanks to North Dakota's innovative private sector and supportive state government, North Dakota's ethanol industry is strong and diverse. The industry converts 40-60 percent of the state's corn crop into more than 550 million gallons of ethanol, 1.5 million tons of high-value livestock feed (distillers grain) and 20 million gallons of corn oil used in renewable diesel. According to a recent study conducted by North Dakota State University, the ethanol industry contributes nearly $1.7 billion annually to the state's economy and provides thousands of direct and indirect jobs.

NDEPA identified livestock expansion in North Dakota as a top priority during its strategic planning in the spring of 2022. The state's ethanol industry produces 1.5 million tons of dried distillers grains (DDGs), a high-quality, protein-rich feed that is consumed by various livestock. Our plants currently export 90% of the distillers grain produced out of the state. As our industry makes investments to lower the carbon intensity of our renewable fuels the energy used to dry this feed has a negative impact to our primary product. Enhanced livestock development is essential to keeping more of the product in the state, and this bill provides a more favorable climate for investing in livestock development projects. We know there is no golden ticket to livestock expansion, so we are open to discussions with our agriculture industry partners regarding additional strategies to grow the state's livestock industry.

Thank you for your time, and I respectfully urge a 'Do Pass' recommendation on HB 1371. I stand for any questions.

1605 E. Capitol Avenue
PO Box 1091 • Bismarck, ND 58502
701.355.4458 • 701.223.4645 (fax) • www.ndethanol.org

Chairman Thomas and members of the committee,

Thank you for the opportunity to testify today. My name is Shelly Ziesch, I am a 4th generation farmer and rancher from Pettibone, ND. We run 600 cow/calf pairs and background our calves. We also raise corn, soybeans, wheat, oats and alfalfa. I stand opposed to HB 1371.

When my husband and I got married we had beef cattle and we also were dairy farmers. March 17, 1997, was the last day we milked cows. At the time, corn was $5 per bushel and the price of milk was $9 per hundredweight. We hung on as long as we could, but eventually, we just couldn't make it pencil out. We loaded the cows on a truck and shipped them away. It still bothers me to this day. It represents failure.

We have always felt that we got pushed out of dairy farming. Our inspector told us we weren't big enough. He was told to crack down on any dairy with fewer than 150 head, because his bosses didn't want that size of dairy anymore. We were written up for everything you can think of, including dust on light bulbs and mud on the driveway at the end of March. Our family's story is the same story for thousands of family dairies across the country. Every state is losing dairy farms, including states that don't have corporate farming laws.

When we got out of the dairy, we didn't declare bankruptcy. We worked hard to get out from underneath that debt through beef cattle. I am proud of how far we have come. Our family farm and ranch is proof that you can build a successful cattle business from the ground up, and you can do it under our current laws.

HB 1371 would allow corporations to come in and compete with my family's operation. That will only worsen the challenges we are already experiencing in the beef cattle markets. Currently, the Big 4 packers control 85% of the beef market. The lack of competition among the packers gives them a lot of control over price. In the last few years, we've seen three major black swan events where consumer beef prices skyrocketed, and cattle prices dropped.

The packers are also trying to reduce cash trades – the sales that happen on an open market at local sales barns. Cash trades serve as the basis for forward contract, formula and grid prices. As the cash market shrinks, our local sales barns are pushed out of business and cattle producers lose price transparency and price discovery.

HB 1371 would allow the packers to have even more influence over cattle production. This bill would allow the packers to vertically integrate in North Dakota. It doesn't even require them to partner with farms and ranches. That would kill our local sales barns and tip the scales even further against North Dakota ranchers. People tell me I shouldn't worry about packers owning feedlots in North Dakota. What in this bill prevents that?

I am frequently asked the question why isn't there more animal agriculture in ND? One big factor is our weather. I have ranching friends in many other states and they cannot believe what we have to go through to raise cattle in the northern climate. We are always either preparing for winter or working through winter. I don't know where you were all at this past April, but my family and I were fighting to save calves during one of the worst April blizzards and weather events we have ever seen. If I wasn't working for myself I would have quit, actually I felt like quitting many, many times, but that would have been failing those cattle that depended on us for help to survive. Some we saved and some we failed, it was heartbreaking. The weather will always put us at a disadvantage to other states with better climates so I really wish you wouldn't keep comparing our livestock numbers to theirs.

Another thing that would help lead to success of ND ranchers is we need processing in North Dakota, plain and simple. When we background our calves, we add value to our operation. But we just can't capitalize on finishing more cattle when we don't have the capacity to process more of them. We do finish out some cattle that are processed locally, but would like to be able to do more. Transportation costs and access to processors are a large part of the problem. We could finish more cattle on our operation, and we could do it well, if we had stronger local markets.

HB 1371 doesn't solve any problems for my family's farm and ranch. It would make our current challenges worse. Please vote no. Thank you. I will stand for questions.

HB 1371

Chairman Thomas and House Agriculture Committee Members,

As young producers who are trying to begin our livelihood farming and ranching, house bill 1371 brings fear to my future. Fearful that a corporation with more monetary power than I can imagine would have open, unrestricted access to control land values, assets, and much more. Because of this monetary and resource rich power, a small-scale family farm like the one my husband and I operate, could be in danger. If this law were to pass, we would not be able to remotely compete with the various foreign and alien corporations that could choose northern Kidder County as their place to operate on. We already face daily challenges with outside investors, large scale farming/ranching operations, Game and Fish Program Incentives, and CRP program payments. Because there are already many barriers to success, I am fearful to what door this bill has the potential to open. As far as I am concerned, corporations are not in the search to partner with young farm families, but instead doing what corporations do best, better their bottom dollar and destroying anything in sight to make their profits.

According to this bill, any existing or newly developed corporations, including foreign and alien, would be able to own cattle backgrounding farms, cattle feedlots, produce poultry, poultry products, milk and dairy products, swine, or swine products. There would be no limitations on how many acres of land a corporation would be able to obtain. Yes, the bill states 160 acres per corporation, but it does not limit the number of acres each entity/corporation could withhold. For example, they could purchase 160 acres of land with their seemingly endless corporation money and name that “Operation 1”. They then could then purchase an additional 160 acres and name that “Operation 2”. This process could be continued over and over as this bill has no limitations. There is also lack of reporting and record keeping within HB 1371. Family operated corporations currently have more stringent guidelines and reporting requirements compared to what this bill has to offer.

Being a young producer in a state I desire to reside in for many years to come, I am worried that this bill would destroy farms and the hearts of small communities. I am fearful that non-family corporations could own cattle, hogs, dairy farms, and produce poultry. I urge you to study what current corporations are available to those who desire to form partnerships within North Dakota. There are safe practices where people are able to create partnerships with family and non-family members.

Although the intent of this bill is to improve animal agriculture, there are many other ways that our state can accomplish this with local funding for local people.

I urge the committee to not pass or recommend HB 1371 as it would have a direct negative impact on my livelihood. Overall, it lacks structure and opens the door to all corporations where vertical integration has the opportunity to take out our agricultural life as we know it in North Dakota.

Cassidy Lyngaas

Farmer/Rancher

Mister Chairman and members of the committee, my name is JP Lueck and I farm with my dad and brother in Spiritwood ND. I'm here in opposition of HB 1371 in its proposed state.

I believe adding corporation as a business structure option is what may open the door to some unintended consequences for family farmers. Earlier this week I was visiting with a colleague about an upcoming conference in Omaha, Nebraska. One of the agenda items is to tour Lincoln Premium Poultry. I said I never heard of it. He replied it's a company that is owned by Costco and produces 1 in 4 chickens in the US.

Lincoln Premium Poultry's is owned by Costco and on their website and/or websites they reference, they will require 2 million birds weekly to supply the plant. That seems like it could be a good deal for farmers. However, LPP own the birds, the birds' genetics, the, feed mill and they have control of the processing plant. They spec out the land, the barns, everything is per their standards. The farmer pays for the construction, about a $1.5-2 million investment, and accepts a non-negotiable 15 year contract with LPP to raise the birds until it's time to process them. Is this farming? Is LPP just using the farmer for their land and labor?

An October article in Agweek, talked about an Oakes family farmer who opened a hog barn. He owns the barn, equipment, the land, and feeds the hogs. An integrator owns the hogs, provides the feed, and decides when to pick up the hogs. One thing to point out is that he didn't need the change in the law to enter into this business relationship. If this law changes, the integrator could now set up their own farm in North Dakota and could eliminate the need for the farmer all together.

It is these types of corporate farms that I'm concerned about. Do we as North Dakota family farmers want this model to be the future of animal agriculture in our state?

In 2020 when our country shut down for the pandemic, it really showed us how fragile our current food system is. It showed us how consolidation of our food processing can impact the entire country. During this time a Facebook page popped up called North Dakota Farm to Table. Real family farms and consumers joined the site and by-passed the corporate production agriculture model. Beef, hog, lambs, chickens, eggs, fruits, vegetables, jams, and the list goes on and on being sold directly to consumers! All of a sudden, the local meat locker had a demand they couldn't meet. Really amazing! This is where I think our elected officials could help North Dakotans. Help facilitate the development of more independent processing facilities so we can finish our animals in state. I believe more animals would be produced in North Dakota if we have more locally owned processors versus sending them to out of state to large meat packers or foreign own processing facilities. This approach may also revitalize our communities. As a family farmer, I believe this would be way more satisfying way to raise animals, see it processed at your local meat market or processing plant, and sold at a local or regional grocery store then to work for Costco and its shareholders.

Thanks,

JP. Lueck
Farmer
Spiritwood ND

House Agriculture Committee
Chairman – Representative Paul Thomas
HB 1371
January 27, 2023

Testimony of:
Mark Lyman
Minot Area Chamber EDC
mark@minotchamberedc.com
701-852-6000

Chairman Thomas, members of the House Agriculture Committee, my name is Mark Lyman and I am the economic development specialist for the Minot Area Chamber EDC, providing testimony on House Bill 1371.

As recently as March 2022, the Minot Chamber EDC was in early discussions with a Minnesota based company to develop, construct and run an Aquaponics facility in the Minot region. This 190,000 square foot facility had a minimal footprint on the land and would have fit best in a light manufacturing zone. The annual outputs of the project would have provided million of pounds of fresh, green produce and tomatoes – among other options. This produce has a 7 to 20 day grow cycle, and was targeted to be sold within a 4-hour truck drive of Minot – helping us mitigate the food desert realities within our state. The roadblock in the early stages was the law not allowing this innovative form of agriculture that would provide year-round, locally grown produce to be owned, in part, by a corporation.

Mr. Chairman, Member of the Committee,

For the record, I am testifying in opposition of HB 1371

My name is Ronda Throener, I am from Cogswell, ND. I am representing my Family owned Farm and ranch as well as our backgrounding and finishing feedlot. I am also testifying on behalf of my four kids ages 16-21, who are all very involved in all aspects of our first-generation farm. My husband Kevin and I started our own cow/calf operation 26 years ago. We were able to purchase 175 cows and 4 bulls from a bachelor who was wanting to cut down on his workload. We did not have a farm of our own to work into, so he rented us enough pasture and hay land to sustain our newly purchased herd. He also let us rent one of his houses and purchased an International M tractor and loader from him to feed our livestock. Kevin and I started our ranch on our own. The only thing we had was student loan debt, a couple of junky cars and a dream. We have since moved into raising corn, soybeans and alfalfa. In 2005, we built a permitted feedlot with the help of an Equip grant and our own money. We are proof that all of this an be accomplished without corporate investment. Yes, we had to be creative at times and adjust our operation dictated by markets and where the profit may be. We started out by doing heifer development for a couple of years, we then did some custom feeding for other producers, we now own all the livestock we feed weather it is backgrounding, finishing or fattening cull cows for market. Some of our biggest obstacles are labor, weather, and distance to processing facilities, not access to capital. Currently we have to ship our finished animals close to 400 miles away in Nebraska. The cost per head for shipping alone is 50 dollars. Due to the distance and the amount of time spent on a truck the cattle do not yield and grade as well, therefore further cutting into our profit. I believe our state should invest in processing facilities to provide more stable markets and easier access to processing, allowing family farms to feed more livestock. Everyone wants and need to remain profitable or they will not take the risk.

When visiting with other farmers and ranchers from other states, they are jealous of our laws that don't allow non family corporations from owning land and livestock facilities. They are jealous our laws don't allow Costco to build a chicken facility to raise their own chickens to sell in their stores, cutting out the farmer. There are a lot of examples of this. I think ND is a great place to farm and ranch and don't see anything wrong with how things are currently. Our state should invest in itself and provide opportunities for family farms, not corporate farms. Given the right opportunity, family farms will step up and produce. We need better infrastructure and markets to remain profitable.

I am very proud to be a family farmer and rancher and always introduce myself as such. I don't want to introduce myself as a laborer for a corporation, who is limited to what they will only allow me to do. Family Farms always keep the next generation in mind pertaining to any business decisions, corporations only have the best interests of their current members, nothing else.

I'm asking that you please vote NO on HB 1371, my family farm is counting on you.

Mr. Chairman and members of the committee,

My name is Mary Rude and I am a senior in high school at Dakota Prairie high school. I am a 4th generation family farmer and rancher. On my family's farm and ranch, we raise cattle and organic turkeys. We raise and sell around 30,000 turkeys each year. My parents could not be here today, so I agreed to represent our family at today's hearing. We stand in opposition to House Bill 1371.

My family has been in the turkey business for 60 years. We have evolved over the years. We also participate in the Global Animal Partnership, which means our farm is inspected more often than most. It also means we get a higher price for our turkeys. We sell our turkeys to Northern Pride, Inc., a grower-owned cooperative in Minnesota.

I am my dad's right hand gal when it comes to day-to-day work on our farm. For our turkey operation, I help out with pens for the babies when they enter the barn, help make sure the barns are the right temperature as the babies arrive in March. I work to ensure the shavings are evenly spread and that the right amount of turkey's are in each pen. It is a lot of work to make sure the turkeys don't trample each other and receive adequate food. We are proud of the fact that we only lose two to three percent of our turkeys each year, because of how well we take care of them.

Like all farms, we face our challenges. Drought and blizzards cause have been hard on our cattle the last couple years. For our turkeys our biggest problems are predators and the avian flu also know as the bird flu. Another challenge is that to we have to go all the way to a co-op in Wisconsin to get our organic feed. If we could get organic feed closer to home, that would be a big benefit to our farm.

Corporate farming would not solve our challenges. I think it would hurt our farm. We take great pride in our work, and we're glad we have neighbors we can rely on. One of our biggest concerns is that this bill does not even require shareholders to be farmers or have any connection to the community. Those corporate investors won't go to our church. Their kids won't go to our schools. They won't value our local community the same way that my family and our neighbors do.

Our farm is proof that you can have a successful family-owned poultry operation. It's a lot of work, but it's work we're proud to do.

Thank you for listening to my testimony. I will stand for any questions.

To: House Agriculture Committee
From: Jacy Schafer
Date: January 27, 2023
Re: Proponent Testimony for HB1371 – Relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, cattle backgrounding and feedlot operations, and raising or producing of livestock by persons that have limited landholdings.

Chairman Thomas, and members of the house agriculture committee, I am Jacy Schafer a fifth-generation cattle producer from Carson, ND. I write in favor of HB1371, North Dakota is falling behind in growing animal agriculture in our state. Our current statute is restricting us from being competitive.

Growing up on diverse agriculture operation, my family is involved in multiple segments of the beef industry. Looking at the opportunities available to the beef industry in North Dakota we desperately need cattle backgrounding and finishing facilities. My family currently operates a backgrounding feedlot but we have to ship our cattle to another state to be finished either in South Dakota, Minnesota, or Nebraska.

It is time that we add value to North Dakota agriculture and that is what this legislation does. While, North Dakota has done a great job at exporting by-product and product for our row crops out of state it is time to source it into growing animal agriculture. I believe that the future of North Dakota’s agriculture scene will be determined on loosening the restriction that are currently in place for these facilities to move into our state. We need to start adding value in North Dakota and not exporting it to our competitive states.

Thank you, Chairman Thomas, for seeing the importance of adding value to North Dakota’s Agriculture industry. I am looking forward to see where the future of animal agriculture will be in ten years. I would be happy to answer any questions via email or phone.

Thank you,

Jacy

Some of the great things about living in rural North Dakota include clean air, freedom, and the opportunity for small farmers and ranchers to prosper among other North Dakotans. HB 1371 opens the door to big agriculture and competition with local farmers and ranchers by out-of-state and foreign corporations. The clean, rural lifestyle myself and others enjoy in Emmons and other rural counties would become targets of large-scale confined animal feeding operations by investors outside of North Dakota. With these operations comes the stench that hangs in the air. Have you ever driven down rural highways in the Midwest and found yourself overcome with a terrible smell for miles on end? Do you think that ND needs Big Ag? I live in a small farming and ranching community—and not one of us believes that bringing in Big Ag would be good for our rural communities. Not one.

I have seen the impact of Big Ag moving into a state to set up hog farms while I was earning my degree in North Carolina. Rural communities east of the capital were rapidly turned from traditional agriculture to hog farms—many housing 10,000 animals in a facility. After allowing corporate farming through the legislature, there was a 'rush' by companies like Smithfield to submit thousands of permits to the state. The smell of hog farms hung over eastern NC for years from sewage ponds. Then, a flood occurred in this area, drowning thousands of hogs, contaminating the ground water, and ruining small homes with sewage. When legislatures tightened permitting requirements, these companies left NC and moved their operations to another state that had opened their doors to corporate ag.

I ask you to consider how many ND rural residents really want this bill. How many of us benefit? How many of us want our clean air polluted by outside operators? How many of us want Big Ag to buy up our land and push out the small farmer and rancher?

I urge a no pass vote on HB1371. I believe that these and other measures introduced to accelerate the development of Concentrated Animal Feeding Operations in North Dakota will be injurious to the health of North Dakotans.

I recently retired as an Internal Medicine Physician who served ND communities for over 30 years, as well as a tour in Worthington, Mn, the heart of pig farming and processing operations. The smell of pig manure on surrounding fields made outdoor activity that November, even in town, almost impossible. But in addition to the obvious odor problem from too much manure on the landscape, from a human health point of view, I would like you to consider the issues of

1. Antibiotic resistance
2. Viral pandemics
3. Risk to water resources

1.Antibiotic Resistance

We have taken for granted that there is always a safe and effective treatment for any infection. Unfortunately, because bacteria evolve to resist one or more often more than one drug(antibiotic resistance), we can no longer assume this is the case.

Antibiotic resistance occurs when a population of bacteria meets an antibiotic; most may be killed while a minority survive and pass this mutation on to not only its own descendants but also other types of bacteria around as well. Because more than one gene can be transferred at a time, multiple drug resistances can occur with one step. It's a numbers game: the more antibiotics are used, the higher the chance of mutation and the more bacteria there are in one place, the higher the chance the mutations spread.

The most recent CDC report on Antibiotics Resistance in 2019 reported in the US that at least 2.8 million antibiotic resistant infections occur with over 35,000 deaths. An Emory University Study in 2014 estimated the cost of antibiotic resistant infection to be 2.2 billion dollars annually. The January 17,2023 issue of the American Medical Association reported at least a 15% rise in global antibiotic resistant bacteria from 2017-2020.

The medical community strives to promote antibiotic stewardship- using them only when needed, using the right one and for the shortest time- while also promoting good infection control measures.

The agricultural community must also do the same but **Concentrated** Animal Feeding Operations by definition put a lot of animals (and their bacteria) in close proximity and CAFOS's use a lot of antibiotics. This is the perfect setup for developing antibiotic resistant bacteria among the workers, in the food produced, in the air, water and soil.

In 2017, low level antibiotic use in feed to promote growth was banned in the US. However, antibiotics are still allowable to prevent disease in food producing animals. This is like giving everyone a shot of Penicillin to prevent strep throat. 2015 was the high point of livestock antibiotic sales with 9.7 million kg sold; this decreased to 6 million kg in 2020, about twice the

amount sold for human use. There are more animals than people and they may weigh more but this is still a LOT of antibiotic that isn't used to treat illness, but to maximize profit.
Let's not make a serious problem worse.

2.Viral pandemics

The havoc wreaked by COVID 19 should be a real wakeup call to the amount of illness, death and disruption a viral pandemic can cause. Influenza A , like the SARS virus, mutates regularly, but usually in a small way so that annually adjusted vaccines are still at least somewhat effective. Periodically, a major shift develops to which there is no human immunity or effective vaccine and we know what that looks like.
Shifts occur when the influenza virus from different species end up in the same cell and swap genes. Swine can be infected by not only swine viruses but also bird and human strains so they are a potential mixing vessel for a novel strain.

Gregory Gray, director of the Center for Emerging Infectious Disease at the University of Iowa Public Health wrote the following about the swine flu pandemic of 2009 which caused 60 million infections, 274,000 hospitalizations and 12,500 in the US alone:"But the same economy-of-scale efficiencies that allow CAFOs to produce affordable meat for so many consumers also facilitate the mutation of viral pathogens into novel strains that can be passed on to farm workers and veterinarians..." According to Andrew Pekosz, an associate professor of microbiology and immunology at the Johns Hopkins Bloomberg School of Public Health, newly virulent strains emerge randomly, by chance. By concentrating so many viruses in one place, he explains, CAFOs increase the frequency at which more dangerous strains might appear. "This is all a numbers game," he says. "The more variants you're exposed to, the more likely it is that you'll be exposed to one with altered properties that allows for infection of a new host."

Do we want to press our luck?

3.Threat to water resources

Siting CAFO's away from precious water resources and preventing damage to ground and surface waters should be a given. I have no confidence, after reviewing the permits for new CAFO's, renewals for existing CAFO's and the Livestock Manual which may or may not have the force of law, that this is a priority. Allowing almost 10,000 head of cattle to be situated over an aquifer on land which has a water table within a foot of the surface seems risky at best. A CAFO which has been in existence since then late 70's has demonstrated repeated failures to adhere to the number of permitted animals, tardy responses to leaking tanks and unlined manure pits, poor required record keeping- all without penalty.

Why would we want to go whole hog into CAFO's without a regulatory system is concise, well funded and have clear penalties for violations. Protection of clean water should be the priority, not promoting profit at any cost.

References:

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CDC Antibiotic Threat Report 2019
2020 Summary Report on Antimicrobials Sold or Distributed for Use in Food-Producing Animals
Schmidt,Charles,-Environmental Health Perspectives vol 117 No 9, Sept 1 2009
North Dakota Livestock Program Design Manual, April 20,2020

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January 27,2023

Opposition to HB 1371

Chairman Johnson and members of the House Agriculture Committee,

Please oppose HB 1371. I humbly echo the valid points brought by many others who oppose this bill; HB 1371 presents an unnecessary risk to small and and mid-size producers and threatens the economic livelihood and public health of rural communities at large.

I am not a farmer, I come from a family of teachers and accountants. I understand the need for capital investment and innovative solutions to support farm business and economic livelihood. But the potential benefit of investment via the exemptions codified in HB 1371 do not outweigh the risks to rural communities.

Just less than a decade ago, voters made it clear North Dakotans oppose exemptions for animal operations in the anti-corporate farming law. Today, we can see past the shallow promises behind HB 1371. Rather than ushering in the next generation of agriculture, these exemptions set us up to repeat recent history and ignore lessons from other midwest states, where large-scale hog and dairy operations have pushed out smaller farms and have out-paced any safeguards for public health and water quality.

Diversified and value-added agriculture should be a part of a prosperous North Dakota, but paving the path forward should be a thoughtful process, rather than a hasty exemption poised to allow corporate takeover of land and communities.

As a resident, I value how historic protections have allowed small and mid-size producers to continue as a pillar of North Dakota’s heritage. As a consumer, I seek regional diversified food and other agriculture-based products that don’t threaten rural livelihood. As a neighbor, I trust the groups of producers and concerned rural constituents who urge you to uphold, not decrease the protections of the anti-corporate farming sections of the North Dakota Century Code. Please truly listen. Please oppose HB 1371.

Thank you for your consideration.

Olivia Johnson
Jamestown, ND
Resident and Dakota Resource Council Member

Testimony of Andrew Mauch, President

North Dakota Corn Growers Association

In SUPPORT of HB 1371

January 27, 2023

Chairman Thomas, Vice Chair Beltz, and members of the House Agriculture Committee,

Thank you for allowing me to share our support of House Bill 1371. For the record, my name is Andrew Mauch, and I am the President of the North Dakota Corn Growers Association (NDCGA), which is the voice of the more than 13,000 corn growers across the state at the grass roots level for issues that impact corn producers. I farm near Mooreton, ND with my family.

Last month, Governor Burgum joined NDSU at the Capitol to unveil a first of its kind comprehensive study of the economic contribution of agriculture in the state. For the year 2020, agriculture contributed nearly $31 billion to the economy and more than 110,000 jobs. Agriculture has an incredible impact on the economy and the lives of North Dakotans. We believe the future of agriculture in North Dakota is promising.

HB 1371 will expand opportunities to support and grow agriculture in North Dakota. We have seen the opportunities adding livestock to operations has provided for producers in neighboring states. HB 1371 lays out a process to expand livestock in the state while still maintaining reasonable restrictions on corporate ownership of these operations.

Promoting and growing the livestock industry in North Dakota is a top priority for NDCGA. Further developing livestock in the state will open opportunities for individual North Dakota producers, and will also provide an additional in-state market for the corn we grow in state. North Dakota annually produces about 400 million bushels of corn with about half dedicated to ethanol production throughout the state. Each bushel of corn processed by North Dakota ethanol plants produces about 15 pounds of livestock feed (dried distillers grains), yielding nearly 1.5 million total tons of livestock feed, including dry distillers grains, a high-protein feed sought after by livestock producers. Increasing the livestock in North Dakota would expand the currently small in state market for dry distillers grains, increasing opportunities for corn producers across the state.

The farmgate receipts for animal ag in the state is roughly a dismal 15 percent (85 percent crops), while our neighbors to the east and south of us have closer to 45 or 50 percent from animal agriculture. These are tremendous missed opportunities for value-added ag as you have heard today that are hurting our farmers and our communities, many of which are dwindling from the lack of economic development that animal ag could provide.

This bill is essential in expanding agricultural development which in turn aids producers of corn and other commodities in building valuable markets. We urge your support of HB 1371. Thank you for your time today and I stand for any questions you may have.

Scott Shively

Box 55

Towner, N.D.

Chairman Thomas and House Ag Committee.

My testimony is in opposition to HB#1371 and all attempts to gut or weaken the Anti Corporate Farming Law. I have been passionate about this issue for more than 40 years and am tired of the selfish attempts of those who undue what has protected and supported family farms and ranches in N.D. for almost 100 years. I am tired of politics and politicians so I won't waste my time trying to convince you of anything.

I defer to the written testimony of Sarah Vogel. While stupidity like 1371 is advocated for by people like Gov Burgum, NDSA and NDFB, Sarah testimony speaks to the need to protect the law. The one thing all the farm groups in ND and nationally is none of them ever saved a farm or ranch. That isn't true when it comes to Sarah Vogel.

I am embarrassed and appalled that two of the representatives in my district are champions of this nonsense. The people and the courts have spoken before in N.D. . I listened to all of the SD crap at the hearing for 1437 and went home to a call from a SD ag leader who told me ND can have all their Dutch dairies because they are fed up with industrial livestock.

Scott Shively

Testimony in Opposition to HB 1371
Karen Ehrens, RD, LRD
Bismarck, ND

Date: January 26, 2023

To: Members of the House Agriculture Committee

For over 90 years, North Dakota has had a law in place, passed through voter initiative, to help keep our family farms viable by not giving advantage to corporations. In 2016, I joined with 99,975 other North Dakotans to vote against relaxing the anti-corporate farming law. The message is clear: North Dakotans support family farming.

There are many questions I ask you to consider about the outcomes after such a bill would pass:

Will there be an increase in diversity of food sources, farm sizes, and kinds of operations?

Will there be an increase in food that is grown and eaten in the state, or more commodity ingredients leaving the state?

Will there be more people in the state who can access to enough healthy food every day?

Will there be more opportunities and support for new and beginning farmers?

Will this contribute to more locally based, self-reliant food economies?

Will the environmental health of the state be improved or degraded?

Will the social health of our communities be improved or continue to be stretched thin?

Please consider these questions when deciding how to vote on HB 1371.

Testimony to the House Agriculture Committee Re: HB 1371

January 27, 2023

Good morning,

The back door for corporations to come to North Dakota is already open. You need to shut it.

My name is Frank Matejcek. I'm a semi-retired farmer/rancher. I have owned cattle since I was six years old and still do. We have raised Black Angus cattle for over 40 years. I am a past president of the ND Angus Association. We originally had a dairy farm until my father sold the Holsteins due to a lack of available labor The same problem exists today, as you know. My farm was successful in part because we used Co-ops; from American Crystal Sugar to Thompson Farmers Elevator, Manvel Oil Co-op, Agri-Valley and others. And always using the ND Mill as our wheat market. Co-ops pay dividends to patrons and are managed by local farmers, as you know.

By letting corporations into our state, we will lose local control. We need local farmers and ranchers controlling our businesses, not meatpackers. Local farmers and ranchers have respect for their animals and the land. Corporations focus on the profits they can return to shareholders.

In a related issue, you probably heard about a Chinese corporation called Fufeng buying 370 acres of prime farmland just south of my farm to ostensibly build a wet corn mill. They paid $26,000 per acre. They wooed the city of Grand Forks with promises of jobs and a huge infusion of money. To help pay for the necessary infrastructure, the city used their powers of annexation over 400 acres of Falconer Township, including 40 businesses that have been there for over 60 years. A name change to "Fufeng USA" does not make them an American company.

I urge you to respect the will of the people of North Dakota who have already voted down corporate farming, on any level. I also urge you to adopt legislation forbidding foreign ownership of either agricultural or industrial land in subsequent legislation.

Thank you,

Frank Matejcek

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North Dakota Stockmen's Association
Testimony to the House Agriculture Committee on HB 1371
Jan. 27, 2023

Good morning, Chairman Thomas and members of the House Agriculture Committee. My name is Julie Ellingson and I represent the North Dakota Stockmen's Association, a 93-year-old beef cattle trade organization comprised of more than 3,100 cattle-ranching members.

The North Dakota Stockmen's Association appears in support of HB 1371, which provides some exemptions to North Dakota's anti-corporate farming law, allowing those in the animal agriculture space, including cattle feeders and finishers, to raise capital and manage risk with business tools available to entrepreneurs in other industries.

Interestingly, cattle feeding and its application under the anti-corporate farming law were the topics of two separate North Dakota Attorney General opinions – one in May 1960 and another in October 1962. In each of those opinions, the AG ruled that individuals may form a corporation to operate a feedlot without violating the provisions of Chapter 10-06, provided that the corporation does not raise any of the cattle or feed it will use and, instead, purchases all of its cattle and feed. HB 1371 simply codifies those determinations to make it clear that these allowances are available tools for those wishing to pursue that option.

As the committee dives into this bill, we would like to work with you on some minor language changes in the definitions of cattle backgrounding and finishing feedlot. Our aim is not to change the intent, but, instead, replace ambiguous terms such as "commercial" and "market" that have caused confusion in other areas of law.

Thank you for the opportunity to testify. We ask for your favorable consideration of this bill.

OPINION
60-39

May 17, 1960 (OPINION)

CORPORATIONS

RE: Corporate Farming Law - Corporate Feedlot

This in reply to your request for the further clarification on the question whether a corporation would be barred or prohibited from operating a "feedlot" under chapter 10-06 of the N.D.R.C. of 1943.

Basic facts are as follows: A group of local people contemplate an incorporated business venture for the purpose of owning and operating a feedlot. The principal operation would consist of buying range livestock for the purpose of feeding, upgrading, and then reselling in a few weeks or months. You further submit the additional information that the corporation would not raise any cattle or feed itself. All the feed would be purchased instead of raised by the corporation.

The term "farming" is not quite as broad as the term "agriculture." The term "agriculture" embraces in its general meaning many items, phases, and facets of the science of cultivating the ground, planting of seeds, raising and harvesting of crops, the raising, feeding and management of livestock, tillage, husbandry or farming. The term as used in chapter 10-06 I do not believe is used in its broadest sense. The view is supported when we consider the intent and purpose of said chapter.

The original act, an initiated measure, was entitled, "An act prohibiting corporation farming and relating to corporations acquiring and holding real estate not necessary in the operation of their business."

It is observed that the title refers to prohibiting corporation farming. Considering the title and the body of the act, it strongly appears that the intent and purpose of the act was to prohibit corporation farming. The term "agriculture" as used in the text of the act adds little if anything to the term "farming." The term "agriculture" apparently was used in its restricted sense.

The body of the act, chapter 10-06, except for section 10-0601 is devoted almost entirely to the conditions and provisions under which a corporation may acquire and hold farmland. It also sets out the length of time such land can be held and how the land must be disposed of after a certain time. This strongly supports the aforesaid intent and purpose of the act.

The operation of a feedlot is not farming in the common accepted meaning. The operators of the feedlot in question would not be raising livestock; neither would they be

OPINION
62-69

October 19, 1962 (OPINION)

CORPORATIONS

RE: Operation of Feed Lot as Corporation - Limitations

Your office has advised that you are confronted with a problem in filing articles of incorporation under chapter 10-06 of the North Dakota Century Code. The question which has arisen is whether or not a farmer in general agricultural pursuit may establish a feed lot for cattle as a separate corporate entity apart from his general cattle raising and grain farming activities. The question also has arisen on the operations of a similar nature, such as hog feeding, turkey raising, broiler operations and dairying. Your facts do not disclose how these other operations are to be conducted.

The original act, an initiated measure, was entitled "An act prohibiting corporation farming and related corporations acquiring and holding real estate not necessarily in the operation of their business." In examining the provisions of chapter 10-06, we come to the conclusion that it was primarily designed to prevent corporations from acquiring large tracts of farmland and farming same. It also appears from the title and body of the act that the intent and purpose of the act was to prohibit corporation farming.

The term "agriculture" is a broad comprehensive term which embraces, in its general meaning, many phases and operations of the science of cultivating the ground, planting seeds, raising and harvesting crops, raising feed and managing livestock. It also embraces tillage of the soil, husbandry and farming. The term "agriculture" is used in chapter 10-06 but it is in connection with the term "farming." This is indicative that the term is used as synonymous with the term "farming" and that it is not used in its broad general sense. The term "farming" is not as broad as the term "agriculture." Farming is a phase of agricultural pursuit.

The court in TOWN OF LINCOLN v. MURPHY, 40 N.E.2d., 453, held that premises devoted entirely to raising nearly 2100 hogs for which no food was purchased thereon and not equipped with farming implements or buildings for housing of livestock did not constitute a farm within the town zoning bylaws. The court observed that the premises were devoted entirely to the raising of hogs and that the food furnished to the hogs was not produced on the premises.

On May 17, 1960, this office issued an opinion to the Securities Commissioner on the question whether or not "feed lot" operations by a corporation were prohibited under chapter 10-06 of the North Dakota Century Code. In this opinion, it was held that where the feed lot operators (the corporation) bought the cattle and bought the feed and merely put the two together, it was not in violation of chapter 10-06. The crux of the opinion was that where the corporation did not raise the cattle or the feed, it was not, in the true sense, Testimony in Favor of HB 1371

Good morning, Chairman Rep. Thomas and members of the House Ag committee.

My name is Kenton Holle. I represent the North Dakota Milk Producers Association speaking in support of HB 1371. This would be the Ham and Cheese Bill 2.0!

I am a third generation Morton County Dairy man. My wife and I are transitioning our farm to our son Andrew, his wife Jennifer and there 4 children to pave the way for generation 5 to be Morton County dairy farmers.

We do not take this privilege of continuing the dairy tradition lightly. It is because of the generations before me that made the industry what it is to withstand the years and to continue to grow.

We are blessed to be a family that farms! We have seen the disappointment of families that for all the valid reasons are not able to continue on with the next generation. We also know the loss of a dream for a younger generation that is not able to operate a farm. Please don't take my comments as being conceited, or judgmental of any one no longer continuing the family traditions. I have nothing but compassion for those families!

What I am going to critical and judgmental of is those individuals who have risen to the cause of not allowing a diversification of ownership and management opportunities for our farm families.

Ham and Cheese Bill 1.0 was shot down by organizations and individuals that were flinging the word corporation around like the Boogie man of 2015! They still are boasting of the 75% of the people in the state who voted did not want corporate farming. What did this negative campaign accomplish? Virtually nothing, it did not pave the way for any new and unique methods of developing and financing livestock development. The campaign then and now is exploiting the negative impacts of developing farms in our communities!

But what has been done to strengthen those communities in the absences of the plan that was shot down! Nothing!

As I reflected on the lost opportunities of families to pass on the farm, why has that happened if our state is such a safe haven for family ownership. Why have our communities declined if we are safe from the influence of large corporate farms?

If our current laws and business structure is so good, why have we seen a decline in the states livestock industry?

We have a State-owned Bank that is not being utilized to provide for the growth of our number one industry. BND could be the difference that some of these families needed to keep the family on the farm. No solutions have been presented to better utilize our states Bank!

I am upset to be here again talking about the same thing! I am also upset that we have heard and will continue to hear the same rhetoric about corporations that we heard last time.

The claim is that this bill will push the cost of land out of reach for the local farmers.

Have you been to a farm land sale lately? If we don't have the influence of corporate farms on the sale of land than how come the 500-acre farm doesn't stand a chance against the 20,000-acre farm when it comes to adding that quarter of land adjacent to his farm. One thing about the size of some of the farms and the acre grab that is going on it makes it very easy for the average farmer to go to a land sale when the bidding starts at what he anticipated being his highest price and going up from there! I know first-hand that the room full of hopeful land buyers gets narrowed down to just a few in a hurry! So don't believe for a minute the corporate ownership of 160 acres is going to push the land price out of reach. It already is happening! Who is pushing out the smaller producer it is not the corporate structure that is not here!

It is assumed that the 160 acres will be bought, that is not necessarily so it could be the share of one of the owners.

About these 160 acres if this facility is a beef or dairy operation it is going to take almost every acre of that. Considering the housing for cattle, the storage of feed, a site for manure containment. Machine storage, a shop, owners and workers housing. A hog facility would have a smaller footprint not requiring the entire 160 in to the corporation.

This livestock facility would then be the hub for neighboring producers to be included in the ownership of the facility without a risk to their existing farm. They would have the benefit of adding value to the crops they produce by marketing it to the corporation. Enjoy the benefits of a profitable year. Also, they would have the ability to benefit form the application of the livestock manure on their land. Not just the farmer investor benefits but other farmers can do the same thing. These sorts of arrangements are happing now so it's nothing new, just the potential for more to benefit from it is real.

A cattle operation requires dedication, a desire to work with livestock, the resilience to make the good times hold over through the bad times. Those aren't the sort of things that a foreign owner or a corporate giant are interested in. 160 acres and a livestock facility in ND is probably not on the radar of a corporate GIANT.

The other scare tactic that is used is the corporate farm structure will kill the states dairy industry. We have enough time that our neighboring states have passed us by to look at their situation. Minnesota and South Dakota continue to add cows and farms. They develop in communities where they are welcomed. they build a spirit of cooperation and entrepreneurship.

South Dakota has 9 cheese or milk processing plants Minnesota has more than a dozen! That is not by accident!

I will sum this up by reflecting back on my opening remarks of the loss of our family traditions. Our states agriculture industry has many family farm success stories and there will continue to be.

We also cannot close our minds to the success that has been achieved by those farms that are able to use this tool to structure, manage, transfer and operate their farms. I wish the same thing for the great farmers in this our great home state of ND!

Thank you for the diligence you will put into making this decision.

Please send this bill HB1371 out of committee with a DO PASS!

THANK YOU

NORTH DAKOTA **Farmers Union**

Contact:
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Testimony of
Mark Watne
North Dakota Farmers Union
Before the
House Agriculture Committee
January 26, 2023

Chairman Thomas and members of the committee,

Thank you for the opportunity to testify on House Bill No. 1371. My name is Mark Watne, and I serve as the president of North Dakota Farmers Union (NDFU). NDFU opposes HB 1371.

NDFU firmly believes that food production should be in the hands of family farmers and ranchers. We believe family farmers and ranchers are the foundation of our rural communities, our economy, and our state's social fabric. Because of that, NDFU has always advocated for policies that ensure ownership, operation and management of farms and ranches is held by family farmers and ranchers.

First, I want to address comparisons between North Dakota and South Dakota. It is true that South Dakota has corporate farming law exemptions for livestock. It is also true that they have increased livestock production in recent years. But those changes have not saved family farms.

Attached to my testimony are some charts. As you can see, South Dakota has lost 615 licensed dairy herds since 2003. From 1997 to 2017, South Dakota lost 81% of their hog farms. North Dakota's rate of decline was exactly the same. The loss of livestock operations in North Dakota is a problem we need to fix. But changing the corporate farming law is not the right solution.

We talk about the surplus of soybean meal we will soon have in North Dakota. But we ignore the fact that North Dakota already has more livestock than we can process. In 2021, North Dakota had 49,000 cattle on feed.[1] That same year we commercially slaughtered only 12,300 cattle.[2] In 2021, North Dakota had inventory of 113,000 market hogs.[3] We commercially slaughtered just 3,700 that year.[4]

The reality is, if we want to create better opportunities for livestock production, we have to build out the supply chain. We have to provide better market opportunities for our farmers and ranchers.

Next, I will turn to the language of HB 1371. As you know, the legislature passed a bill to exempt swine and dairy farms from the corporate farming law in 2015. Shortly after that bill passed, NDFU's Board of Governors chose to refer that legislation. Ultimately, North Dakota voters rejected the exemptions with a 76% "No" vote. This bill provides those same exemptions but adds more sectors. I struggle to understand why our members, or the voters, would react to this bill any differently than they did six years ago.

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1 USDA-NASS. (2022). Quickstats.
2 *Id.*
3 *Id.*
4 *Id.*

NORTH DAKOTA
Farmers Union

Some have said we need this change to allow unrelated farmers to partner with each other. The current law already allows that. Unrelated farmers can already form general partnerships, limited partnerships, LLPs, LLLPs, and cooperatives. Our current law even allows multiple family corporations to come together through any partnership structure. This bill goes much further than allowing unrelated farmers to partner.

Others have said we need to allow farmers and ranchers to access investment from outside corporations or individuals. Our current law already allows non-farming individuals to invest in farms or ranches through any partnership structure. It also allows outside entities to invest in farming or ranching cooperatives. This bill goes much further than allowing farmers to access outside investment.

This bill allows outright ownership of cattle feedlots and hog, dairy and poultry farms by any corporation. The bill does not require that farmers or ranchers are shareholders in that corporation. It does not limit the number of shareholders involved. It does not require corporations to partner with farmers or ranchers. This bill would allow meatpackers to own cattle feedlots and hog barns.

We are also concerned that this bill lacks proper enforcement mechanisms. The 160-acre limit in this bill does nothing to prevent a corporation from using multiple subsidiaries to buy multiple quarters of land. Enforcing the 160-acre limit itself may also prove challenging. HB 1371 does not include any monitoring or reporting requirements for these new farms. These operations will not be subject to the same transparency requirements family corporations are subject to, including reporting land ownership.

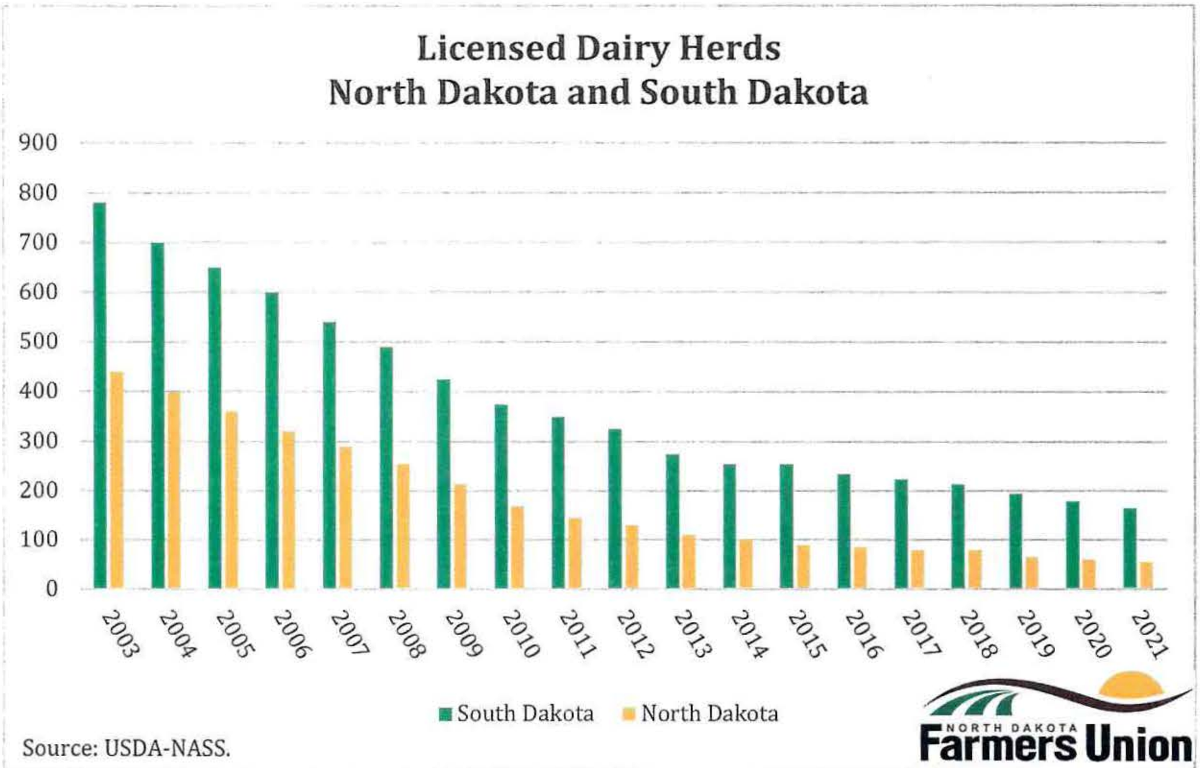
NDFU agrees with the committee's desire to support livestock development in our state. However, we do not believe this bill is the right answer. We would fully support an interim study to allow a more thoughtful, deliberative discussion on this issue. We also believe that study should address the four elements that were included in South Dakota's Coordinated Livestock Development Initiative in 2013:

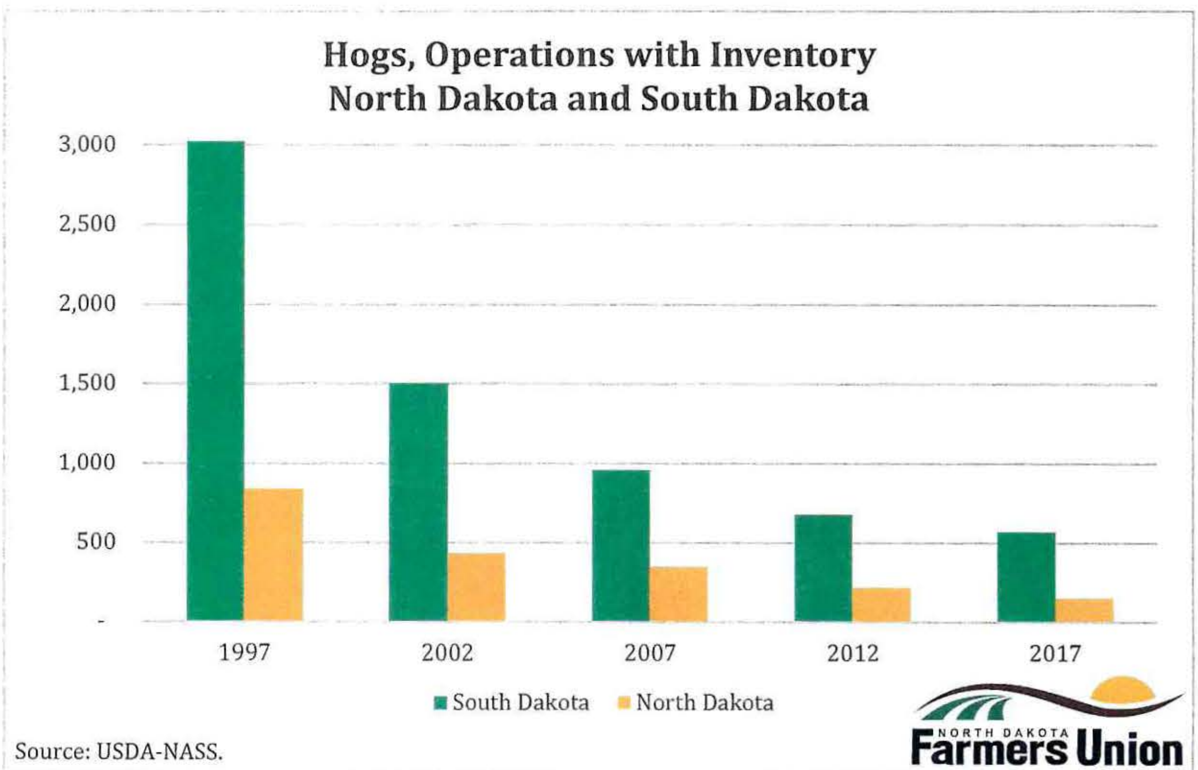
1. Develop and communicate a strategic vision for livestock development;
2. Support a local presence for agricultural development;
3. Provide resources and training for livestock producers; and
4. Explore ways to embrace local control when it comes to livestock development.[5]

Thank you for the opportunity to testify. We urge a "Do Not Pass" recommendation on this bill. I will stand for any questions.

[5] Aberdeen News (2013, Jan. 11). *S.D. governor's coordinated livestock development initiative, four goals set for animal industry*. Retrieved from https://www.aberdeennews.com/story/news/2013/01/11/sd-governors-coordinated-livestock-development-initiative-four-goals-set-for-animal-industry/117182082/.

NORTH DAKOTA
Farmers Union





#17472

Testimony Nicole Donaghy Regarding HB 1371
Executive Director, North Dakota Native Vote
House Agriculture Committee
January 27, 2023

The Impact of HB 1371 as it Relates to the Farming citizenry North Dakota

North Dakota Native Vote opposes the passage of HB 1371. As an enrolled member of Standing Rock Sioux Tribe, I question if North Dakota's legislature is willing to relinquish control of state's fee patent lands to foreign or domestic corporations for purchase. In doing so, it will also relinquish an irreplaceable asset that will destroy the livelihoods of thousands of North Dakotans impacted by these corporate purchases whose lands have been protected for over a century.

In 2016, a statewide vote rejected a weakening of the corporate farm law with 76% of the vote. That change would have exempted dairies and hog feeding operations. This attempt to again circumvent the will of voters is a direct action aimed at harming the citizens of North Dakota.

As others have testified, the 160 acre per person rule is simply a dishonest attempt to hide the lack of regulatory rules that will allow corporations to operate multiple 160 acre plots through creating simply an infinite number corporations to obtain fee patents that will circumvent any protections that at this time are unenforceable in regard to the dishonest spirit of the governor's one person, 160 acre only assurances.

Should this law take effect, it will undoubtedly impact the diversity of local producers that are reported in the USDA's 2017 North Dakota agricultural census. Corporations who have the ability to aggregate and analyze data for their benefit will first target small farms and the small diverse group of local producers that make up North Dakota's collective group of producers. This will create an irreversible loss of local land producers.

In addition, the revenue base that will be handed over to corporate interests will also have many irreversible impacts on the economy of North Dakota in agriculture.

I've consulted data scientist, Dr. Joseph Robertson on the potential impacts of HB 1371. Below is the summary of his research and the potential impact of possible corporate takeover of farms in North Dakota, based on the most recent agricultural census.

MATO OHITIKA

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I appreciate the opportunity to weigh in on House Bill 1371 regards your testimony on January 27, 2023. I have assessed some potential impacts of the proposed bill as it relates to the lack of oversight and the 160 acre per person rule. In reviewing some of the previous testimony already submitted to the North Dakota legislature, it is apparent that the impact of this bill provides no possible recourse exemptions are made to the anti-corporate laws that are in place in North Dakota.

Let us look at the numbers in a hypothetical scenario in the event that HB 1371 is passed in the possible average farm, farm size, producer numbers, and the diversity portfolio of those producers.

Exhibit B: Census of Agriculture: North Dakota Page 2

North Dakota, 2017
Page 2

2017 CENSUS OF AGRICULTURE *State Profile*

Market Value of Agricultural Products Sold

	Sales ($1,000)	Rank in U.S. [b]	States Producing Item
Total	**8,234,102**	**17**	**50**
Crops	**6,680,614**	**9**	**50**
Grains, oilseeds, dry beans, dry peas	6,075,358	6	50
Tobacco	-	-	18
Cotton and cottonseed	-	-	17
Vegetables, melons, potatoes, sweet potatoes	240,415	15	50
Fruits, tree nuts, berries	363	49	50
Nursery, greenhouse, floriculture, sod	8,443	50	50
Cultivated Christmas trees, short rotation woody crops	16	47	50
Other crops and hay	356,019	14	50
Livestock, poultry, and products	**1,553,488**	**34**	**50**
Poultry and eggs	17,568	40	50
Cattle and calves	1,295,654	14	50
Milk from cows	66,161	35	50
Hogs and pigs	79,242	22	50
Sheep, goats, wool, mohair, milk	10,449	27	50
Horses, ponies, mules, burros, donkeys	8,042	38	50
Aquaculture	942	47	50
Other animals and animal products	75,430	5	50

2 Percent of U.S. agriculture sales

Share of Sales by Type (%)

Crops	81
Livestock, poultry, and products	19

Land in Farms by Use (acres)

Cropland	27,951,676
Pastureland	9,871,762
Woodland	202,789
Other	1,315,364

Top Counties: Land in Farms (acres)

Stutsman	1,315,703
Morton	1,225,934
Ward	1,153,475
Cass	1,126,085
Mckenzie	1,119,275

Total Producers [c]	**41,904**
Sex	
Male	29,588
Female	12,316
Age	
<35	4,644
35 – 64	24,849
65 and older	12,411
Race	
American Indian/Alaska Native	315
Asian	21
Black or African American	8
Native Hawaiian/Pacific Islander	7
White	41,389
More than one race	164
Other characteristics	
Hispanic, Latino, Spanish origin	225
With military service	3,835
New and beginning farmers	8,771

Percent of farms that:

Have internet access	79
Farm organically	(Z)
Sell directly to consumers	1
Hire farm labor	31
Are family farms	96

Top Crops in Acres [d]

Soybeans for beans	7,085,740
Wheat for grain, all	6,385,595
Corn for grain	3,276,548
Forage (hay/haylage), all	2,580,672
Canola	1,583,502

Livestock Inventory (Dec 31, 2017)

Broilers and other meat-type chickens	6,439
Cattle and calves	1,835,682
Goats	6,631
Hogs and pigs	148,231
Horses and ponies	29,423
Layers	81,364
Pullets	(D)
Sheep and lambs	70,182
Turkeys	575,322

See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.
[a] May not add to 100% due to rounding. [b] Among states whose rank can be displayed. [c] Data collected for a maximum of four producers per farm.
[d] Crop commodity names may be shortened; see full names at www.nass.usda.gov/go/cropnames.pdf. [e] Position below the line does not indicate rank.
(D) Withheld to avoid disclosing data for individual operations. (NA) Not available. (Z) Less than half of the unit shown. (-) Represents zero.

USDA is an equal opportunity provider, employer, and lender.

As you can see on page two of the 2017 Census of Agriculture: North Dakota provides some important statistics for lawmakers to study and understand the long-term impact of HB 1371 based on these numbers.

Some other important trends to understand:

- As you can see from the market value of agricultural products sold, the ratio of crop sales versus livestock poultry and products is nearly 4:1. A net increase in investing in acreages in feedlots and other activities contained in HB 1371 will most likely never be able to match the profitability of the current land in farms by use.
- In examining the share of sales by type, there is no way that a 4:1 ratio of sales of crop versus livestock could ever replace the profitability of the current land use in North Dakota. This then becomes an issue of corporate takeover of landholdings for their future benefit and not for the citizens of North Dakota.

In addition, in examining the diversity portfolio of North Dakota producers, it is apparent that Native American, Asian, Black or African-American, and other underrepresented minorities will undoubtedly become targets of corporate takeover and thus divesting in the diversity of North Dakota producers.

It is imperative that lawmakers take stock in all of the unforeseen consequences of providing unlimited corporate fee patents on single 160 acre plots that will undoubtedly destroy thousands of livelihoods in North Dakota, Native and Non-Native.

For instance, if corporate interests were to use the lack of regulation and loopholes in HB 1371 and acquire 10% of the farms that are currently up to 160 acres, this would amount to approximately 2,600 farms under separate fee patents that could be used to gain a competitive advantage according to the per farm average shown in the table to the right.

Total and Per Farm Overview, 2017 and change since 2012

	2017	% change since 2012
Number of farms	26,364	-15
Land in farms (acres)	39,341,591	(Z)
Average size of farm (acres)	1,492	+18
Total	($)	
Market value of products sold	8,234,102,000	-25
Government payments	467,034,000	+22
Farm-related income	710,664,000	+37
Total farm production expenses	7,062,175,000	-3
Net cash farm income	2,349,624,000	-48
Per farm average	($)	
Market value of products sold	312,324	-12
Government payments (average per farm receiving)	22,770	+48
Farm-related income	38,140	+50
Total farm production expenses	267,872	+14
Net cash farm income	89,122	-39

Simply taking into account the amount of government payments for each of those plots we can see that approximately 416,000 acres could fall into corporate control and according to the numbers:

1. Each of those farms would receive government payments of $22,770 and collectively represent $59,202,000 of lost revenue to corporate greed.
2. If the net cash farm income were sustained than the corporate landholders of the 2,600 farms would benefit $89,122 and collectively $231,717,200 would be lost revenue to the citizens of North Dakota.
3. Thus, even with corporations taking over approximately 1% of the 39,300,000 acres of North Dakota lands would result in the transference of hundreds of millions of dollars to corporate interests over the interests of the citizens of North Dakota.

In conclusion, HB 1371 is a bill that will collectively harm the producers in North Dakota by transferring wealth to long-term corporate interests and family land ownership will be lost; therefore opposition to this bill is paramount.

HB 1371

Chairman Thomas and members of the House Agriculture Committee.

My name is Randy Melvin. I farm with my family near Buffalo, ND.

I appreciate the opportunity today to voice my support of House Bill 1371.

Why would this legislation be beneficial to a grain farmer in eastern North Dakota?

Our family farm has been looking at ways to expand our operation. We want to create opportunities for our 4 children to be able to return to production agriculture if they choose. We could always expand our crop acres but to be economically sustainable we would have to add 2,000 to 8,000 acres depending on how many of our children would potentially return to the farm. Expansion into animal agriculture allows for many benefits to our existing family operation.

The recent developments of the soybean crush plants and the current ethanol plants availability of distillers' grains has helped North Dakota have the ability to be a leader in the supply of feedstocks for this industry.

Expansion into this sector of agriculture is very capital intensive. The opportunity to partner with neighbors or other likeminded individuals is key to helping family farmers develop a business model for the success of this venture.

Currently Ag producers could make use of a Partnership business model. If partnerships were a viable business structure for many in the livestock industry, our livestock sector would be flourishing. We need to permit Ag producers the ability to capitalize on the benefits of an LLC or a corporation business structure that currently are not allowed by state law.

The main purpose of HB 1371 is to allow the agriculture sectors identified to have the same ability as every other business industry in this state to utilize a corporate business structure.

Consider this scenario. Imagine this hearing was in the Industry, Business and Labor committee. You were hearing a bill that would ban and not allow the use of LLCs or Corporations for every other industry in North Dakota. Would you as committee members be in favor of telling banks, trucking companies, businesses of the oil patch, or any business of main street North Dakota that they could not utilize this business structure?

Members of this committee, would you support a ban of this business structure for any other industry? The main purpose of HB 1371 is to allow some sectors of the agriculture industry the same opportunity to utilize these business models.

The passage of this legislation isn't about my generation. This is about creating an opportunity for the next generation to be successful in agriculture.

The time is now to untie the hands of the Ag producers of this great state and allow us to create a productive profitable agricultural business climate for our children.

I ask you for your support of HB 1371.

Thank you for your time today and ask for any questions.

Randy Melvin

23.0721.02001
Title.

Prepared by the Legislative Council staff for Representative Thomas
January 24, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1371

Page 1, line 1, after "to" insert "create and enact a new section to chapter 10-06.1 of the North Dakota Century Code, relating to animal feeding operations and concentrated animal feeding operations; to"

Page 1, line 4, after "landholdings" insert "; and to provide a penalty"

Page 2, line 14, after the underscored comma insert "which is an authorized animal feeding operation or concentrated animal feeding operation as determined by the department of environmental quality."

Page 3, after line 21, insert:

"**SECTION 3.** A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Animal feeding operations or concentrated animal feeding operations - Requirements - Divestiture of land.

1. Any person that has an agricultural landholding not exceeding one hundred sixty acres [64.75 hectares] for the purpose of operating a cattle backgrounding operation, a cattle finishing feedlot operation, or a facility for raising or producing poultry, poultry products, milk, dairy products, swine, or swine products, which is an authorized animal feeding operation or concentrated animal feeding operation as determined by the department of environmental quality, must:

   a. Begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding; and

   b. Have a fully operational animal feeding operation or concentrated animal feeding operation within three years of obtaining the agricultural landholding.

2. If the animal feeding operation or concentrated animal feeding operation is inactive for three consecutive calendar years, as determined by the agriculture commissioner, the person that has the agricultural landholding immediately must divest itself of the land. If the person fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24."

Renumber accordingly

North Dakota Pork Council
Tamra Heins, Executive Director
3320 45th Ave
New Salem, ND 58563
(701) 391-6431
director@ndpork.org

North Dakota
Pork Council

Chairman Thomas and members of the House Agricultural Committee,

My name is Tamra Heins, the Executive Director of the ND Pork Council. I am here on behalf of pig farmers of North Dakota, both large and small. Some of our members have 5 or 6 sows while some have 5 or 6 thousand sows.

I am here today, to ask you to support House bill 1371. North Dakota is the last frontier in pig farming. We have opportunity with our wide-open spaces that offer low population and low pig density. While diseases like PRSS and PED continue to ravage farmers in more highly populated pig areas these farmers are looking to raise high quality, healthy pigs in places like ours. We are known as a "sow state" and that is where we would see great opportunity if this bill should become law. In ND, our "sow state" is where we farrow the sows here and wean pigs and then we load those pigs on a truck and send them to mostly Southern Minnesota, Eastern South Dakota and Northwestern Iowa, closer to processing. We do this for the economic reason that is you can haul more small pigs on a semi than 280 lb finished pigs.

On any given day, it is estimated that there are a million hogs on our roads and highways in the United States. Many of these hogs are iso-weans that come from Manitoba down I-29 to the same destinations as previously mentioned to be finished and processed. I feel we could capture some of this market with ND grown pigs with changes in our law. I also know that many farmers in ND would like to diversify with pigs in their farms. Many want to capture the manure for fertilizer, which has seen even more interest with the rising cost and forecasted low availability of fertilizer.

The high cost of facilities is the biggest barrier to enter pig farming. The average cost to build a farrowing facility is between $3000 to $3500 per sow. Most sow farms are around 5-6000 head. A 4800 head finishing barn costs about $1.2 million. Allowing, corporations or forming corporations is a way to bring investment capital in for farmers to build such facilities.

As we have seen, the corporate farming law does nothing to stop rich people from buying farmland. The only thing corporate farming does stop is livestock development. We have seen that work incredibly effectively for 30 years.

Unfortunately, the discussion surrounding this bill, will not focus on the advantages and disadvantages of allowing corporations to farm but will become an attack on large scale animal agriculture. The opposition will bring out every "bad apple" that has raised a pig in the last 30 years or find the disgruntled contract grower that had a bad experience and try to make it seem like that is normal. Have those things, happened. Yes. Are they the norm. Absolutely not.

The double standard in this state when it comes to livestock versus crop farming is very real, and I see it magnified, when we talk about labor force. Large crop farmers have been using H2A workers for years, and I have not every heard anyone have concerns that those employees will drain their spray tank in streams and rivers, because they are not from here and therefore don't care about our environment or our communities in which they live. But the first reaction to large scale animal agriculture, is that the workers don't care about their community or the air and water quality that they live in. I am here to tell you that simply, isn't true. In fact, my board of directors, is made up of these employees, some of them foreign workers, and they constantly give of their time and work on the council to help make our industry better.

I look forward to working with everyone that continues to want to grow livestock development in our state. And I urge you to recommend a "do pass" on House Bill 1371.

Thank you.

Tamra Heins

COMMISSIONER
DOUG GOEHRING

ndda@nd.gov
www.nd.gov/ndda

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. – DEPT. 602
BISMARCK, ND 58505-0020

Testimony of Doug Goehring
Agriculture Commissioner
House Agriculture
Room 327C
January 27, 2023

Chairman Thomas and members of the House Agriculture Committee, I am Agriculture Commissioner Doug Goehring. I am here today in support of HB 1371, which will add exceptions to 10-6.1 for dairy, cattle finishing, poultry, and swine facilities that lease or own less than 160 acres. My office has worked with producers and grain farmers on multiple approaches to support animal agriculture. One thing that continues to be an issue is business structure restrictions. The bill before you address that and would support our dairy, swine, poultry, and beef feedlots industries. The proposed changes would allow shareholders to invest into livestock entities and provide support for producers starting these capital-intensive businesses. We need operations that will compliment grain farming, not compete. We have watched our numbers continue to shrink while our neighbors in every direction experience growth and continued excitement about animal agriculture.

Chairman Thomas and committee members, thank you for your time. I urge a do pass on HB 1371. I would be happy to answer any questions you may have.

House Bill 1371
Governor Burgum Testimony

House Agriculture Committee
Chairman Paul J. Thomas
Friday, January 27, 2023, at 9:30 a.m.
Room 327C, ND State Capitol

Chairman Thomas and members of the House Agriculture Committee, good morning and thank you for the opportunity to address you today.

Let me begin with gratitude for the work that the bill sponsors – many of them with agriculture backgrounds, including Chairman Thomas – and House and Senate leaders have put into House Bill 1371. This legislation is critical to the future success and survival of agriculture and our rural communities in North Dakota.

As our bedrock industry, North Dakota agriculture continues to lead the nation in several categories. We rank first in production of spring wheat, durum wheat, canola, flaxseed, all dry edible beans, pinto beans, dry edible peas and honey. We rank second in rye, sunflowers and lentils; third in sugar beets, oats and barley; and in the top dozen states for corn, soybeans, potatoes and chickpeas.

Despite our farmers' dedication and leadership in so many of these crops – including a growing abundance of feed for livestock from our many new value-added ag processing projects – North Dakota continues to experience a decades-long decline in animal agriculture.

In 1934, North Dakota had more than 700,000 dairy cows. Today that number is less than 12,000. We're importing milk for our school children. We rank 35th in milk cows; Minnesota is 7th, according to the U.S. Department of Agriculture's National Agricultural Statistics Service.

South Dakota ranks 7th and Minnesota 8th in cattle and calves on feed; North Dakota ranks 23rd.

Minnesota ranks 2nd and South Dakota is 10th in hogs and pigs; North Dakota ranks 24th.

Minnesota produces more turkeys in one month than we do in three years in North Dakota.

Why are these neighboring states so far ahead of us in animal agriculture? What do they have that we don't have? It's not available land. It's not available feed.

Their key advantage is that, unlike North Dakota, their states' corporate farming laws contain carve-outs that allow for alternative business structures in beef, dairy, swine and poultry operations. Unrelated parties interested in livestock production are allowed to form a corporate business structure and better protect their personal assets just as they would be allowed to do in every other industry.

North Dakota farmers and ranchers can compete with anyone in animal agriculture if they have a level playing field. House Bill 1371 gives them the same business tools available to entrepreneurs in every other industry so they can access the capital and risk protections they need to start or expand modern livestock operations.

I can't stress enough that this would apply only to animal agriculture. North Dakota's anti-corporate farming law as it pertains to crop farming would remain in place.

These narrowly defined changes to state law will take the handcuffs off our producers and allow animal agriculture and rural communities and schools to thrive in North Dakota once again. We can level the playing field, and we can do it wisely and with smart environmental stewardship.

Mr. Chairman, that concludes my testimony. Thank you for your time, and I would stand for any questions.

Chairman Thomas and ND House Ag Committee,

My name is Frank Tomac, a cattle rancher from Sioux County, Dist 31.
I am opposed to HB 1371, and here's why:

When I think of 'corporate' farming, I visualize vertical integration. Now, maybe some of the language in this bill will initially prohibit that, but it will work it's way into the North Dakota system somehow.

I was at the Press Conf held on Jan 26th with Gov Burgum, Ag Comm Goehring and yourself Representative Thomas. I heard that South Dakota is doing it and it's such a great system. How many of those hog confinements are vertically integrated? I've talked with farmers there, I have cattle in a feedlot which also feeds swine. They don't own the hogs, they only feed them and get paid on how well they feed them. It's the same with the poultry barns down there, vertically integrated. The farmers don't own anything except the barns to house them. They even have to buy the feed from a local mill that's pre-fabbed.

Now since I'm not into swine, poultry or dairy, none of that should concern me. But it does.
And the reason it does, is because if the corporate farming takes ahold in North Dakota, the chances of being vertical integration expands to the cattle industry.
Here's why:
The larger seedstock operators will be corporate farmers. It's highly possible that they won't allow any cattle into their feedlots unless they are with their genetics. with their shot records, with their target weights, with their complete program. If I don't fall into their protocol, I'll be forced to sell elsewhere out of state, or take a discount on the price of my cattle.
Now, this could be a worse case scenario, BUT….it could very well happen, and happen at an accelerated rate.

Another point brought up at the press conference, was how it enhanced their dying communities. Think about this; where would the work-force come from to work in these Confined Animal Feeding Operations (CAFO's)? They would come from south of the border. Do you think that would help the schools out? NO, it'll hinder them by forcing the school districts to impliment more programs for the non-English speaking employees children. And with an influx of people in a community comes all the bad habits along with it, like crime and drugs and more peace officers to deal with those problems. Does those costs get offset by the CAFO's? Who pays for those extra costs?

I would love to see a Do NOT Pass recommendation from the House Ag Committee for HB 1371,
Thank You

Frank Tomac

9999 57th Ave SW
Watauga, SD 57660-6901
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Testimony Nicole Donaghy Regarding HB 1371
Executive Director, North Dakota Native Vote
House Agriculture Committee
January 27, 2023

The Impact of HB 1371 as it Relates to the Farming citizenry North Dakota

North Dakota Native Vote opposes the passage of HB 1371. As an enrolled member of Standing Rock Sioux Tribe, I question if North Dakota's legislature is willing to relinquish control of state's fee patent lands to foreign or domestic corporations for purchase. In doing so, it will also relinquish an irreplaceable asset that will destroy the livelihoods of thousands of North Dakotans impacted by these corporate purchases whose lands have been protected for over a century.

In 2016, a statewide vote rejected a weakening of the corporate farm law with 76% of the vote. That change would have exempted dairies and hog feeding operations. This attempt to again circumvent the will of voters is a direct action aimed at harming the citizens of North Dakota.

As others have testified, the 160 acre per person rule is simply a dishonest attempt to hide the lack of regulatory rules that will allow corporations to operate multiple 160 acre plots through creating simply an infinite number corporations to obtain fee patents that will circumvent any protections that at this time are unenforceable in regard to the dishonest spirit of the governor's one person, 160 acre only assurances.

Should this law take effect, it will undoubtedly impact the diversity of local producers that are reported in the USDA's 2017 North Dakota agricultural census. Corporations who have the ability to aggregate and analyze data for their benefit will first target small farms and the small diverse group of local producers that make up North Dakota's collective group of producers. This will create an irreversible loss of local land producers.

In addition, the revenue base that will be handed over to corporate interests will also have many irreversible impacts on the economy of North Dakota in agriculture.

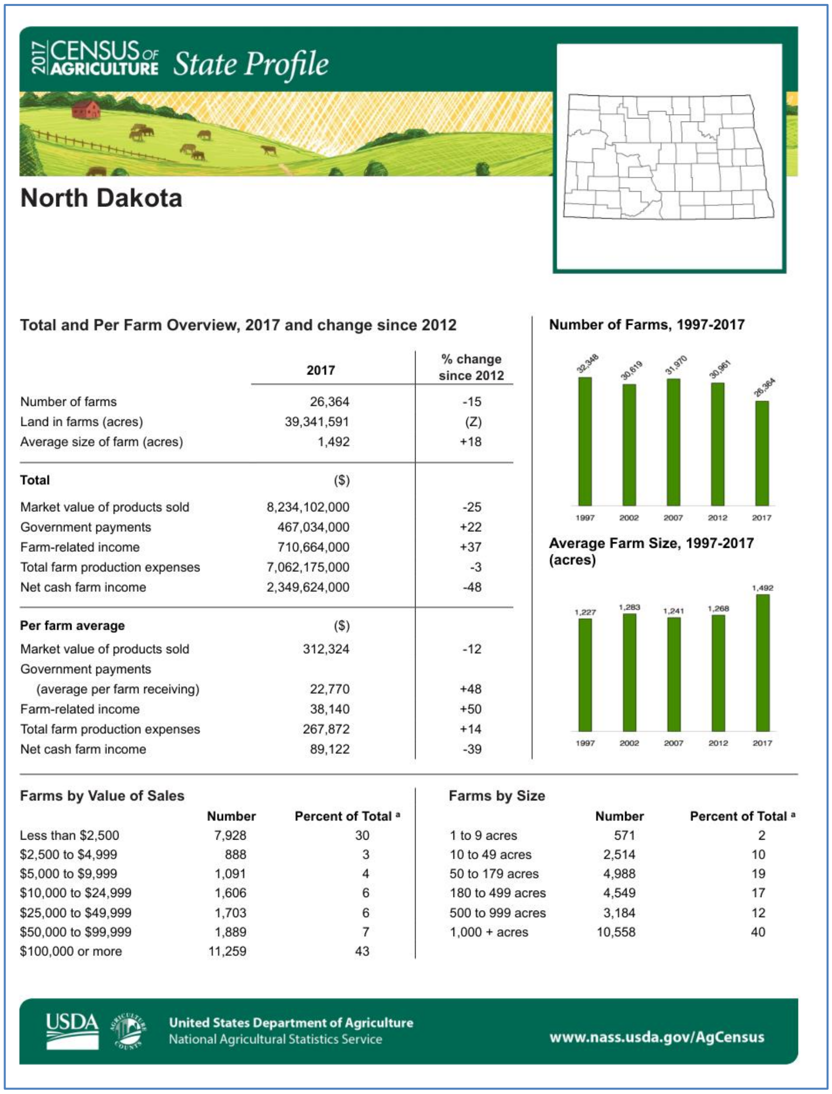
I've consulted data scientist, Dr. Joseph Robertson on the potential impacts of HB 1371. Below is the summary of his research and the potential impact of possible corporate takeover of farms in North Dakota, based on the most recent agricultural census.

Mato Ohitika Analytics LLC
Home of the Data Sovereignty Initiative
Joseph C. Robertson, PhD
Chief Data Scientist
Sioux Falls, SD 57103
(605) 691-2248
jrobertson@bravebearanalytics.com

I appreciate the opportunity to weigh in on House Bill 1371 regards your testimony on January 27, 2023. I have assessed some potential impacts of the proposed bill as it relates to the lack of oversight and the 160 acre per person rule. In reviewing some of the previous testimony already submitted to the North Dakota legislature, it is apparent that the impact of this bill provides no possible recourse exemptions are made to the anti-corporate laws that are in place in North Dakota.

Let us look at the numbers in a hypothetical scenario in the event that HB 1371 is passed in the possible average farm, farm size, producer numbers, and the diversity portfolio of those producers.

Exhibit A: Census of Agriculture: North Dakota Page 1



2017 CENSUS OF AGRICULTURE State Profile

North Dakota

Total and Per Farm Overview, 2017 and change since 2012

	2017	% change since 2012
Number of farms	26,364	-15
Land in farms (acres)	39,341,591	(Z)
Average size of farm (acres)	1,492	+18
Total	($)	
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Government payments	467,034,000	+22
Farm-related income	710,664,000	+37
Total farm production expenses	7,062,175,000	-3
Net cash farm income	2,349,624,000	-48
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Government payments (average per farm receiving)	22,770	+48
Farm-related income	38,140	+50
Total farm production expenses	267,872	+14
Net cash farm income	89,122	-39

Number of Farms, 1997-2017

1997	2002	2007	2012	2017
32,348	30,619	31,970	30,961	26,364

Average Farm Size, 1997-2017 (acres)

1997	2002	2007	2012	2017
1,227	1,283	1,241	1,268	1,492

Farms by Value of Sales

	Number	Percent of Total [a]
Less than $2,500	7,928	30
$2,500 to $4,999	888	3
$5,000 to $9,999	1,091	4
$10,000 to $24,999	1,606	6
$25,000 to $49,999	1,703	6
$50,000 to $99,999	1,889	7
$100,000 or more	11,259	43

Farms by Size

	Number	Percent of Total [a]
1 to 9 acres	571	2
10 to 49 acres	2,514	10
50 to 179 acres	4,988	19
180 to 499 acres	4,549	17
500 to 999 acres	3,184	12
1,000 + acres	10,558	40

USDA United States Department of Agriculture National Agricultural Statistics Service www.nass.usda.gov/AgCensus

As you can see on page one of the 2017 Census of Agriculture: North Dakota provides some important statistics for lawmakers to study and understand the long-term impact of HB 1371 based on these numbers.

Some important trends to understand:

- The number of farms has been on a steady decline since 1997 and the average size of farms per acre and been increasing.
- Although government payments in farm related income have been on the increase, it's clear that the market value of products sold and the net cash farm income had been on a steady decline since 2012.
- The number of farms by value sales represents a major gap between the smallest and biggest value sales that could create targeted attacks on small producers.
- Under the 160 acre rule, there are slightly over 8,000 farms that could be taken over totally and conglomerated for corporate takeover.

Exhibit B: Census of Agriculture: North Dakota Page 2

North Dakota, 2017
Page 2

2017 CENSUS OF AGRICULTURE *State Profile*

Market Value of Agricultural Products Sold

	Sales ($1,000)	Rank in U.S. [b]	States Producing Item
Total	**8,234,102**	**17**	**50**
Crops	**6,680,614**	**9**	**50**
Grains, oilseeds, dry beans, dry peas	6,075,358	6	50
Tobacco	-	-	18
Cotton and cottonseed	-	-	17
Vegetables, melons, potatoes, sweet potatoes	240,415	15	50
Fruits, tree nuts, berries	363	49	50
Nursery, greenhouse, floriculture, sod	8,443	50	50
Cultivated Christmas trees, short rotation woody crops	16	47	50
Other crops and hay	356,019	14	50
Livestock, poultry, and products	**1,553,488**	**34**	**50**
Poultry and eggs	17,568	40	50
Cattle and calves	1,295,654	14	50
Milk from cows	66,161	35	50
Hogs and pigs	79,242	22	50
Sheep, goats, wool, mohair, milk	10,449	27	50
Horses, ponies, mules, burros, donkeys	8,042	38	50
Aquaculture	942	47	50
Other animals and animal products	75,430	5	50

2 Percent of U.S. agriculture sales

Share of Sales by Type (%)

Crops	81
Livestock, poultry, and products	19

Land in Farms by Use (acres)

Cropland	27,951,676
Pastureland	9,871,762
Woodland	202,789
Other	1,315,364

Top Counties: Land in Farms (acres)

Stutsman	1,315,703
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- In examining the share of sales by type, there is no way that a 4:1 ratio of sales of crop versus livestock could ever replace the profitability of the current land use in North Dakota. This then becomes an issue of corporate takeover of landholdings for their future benefit and not for the citizens of North Dakota.

In addition, in examining the diversity portfolio of North Dakota producers, it is apparent that Native American, Asian, Black or African-American, and other underrepresented minorities will undoubtedly become targets of corporate takeover and thus divesting in the diversity of North Dakota producers.

It is imperative that lawmakers take stock in all of the unforeseen consequences of providing unlimited corporate fee patents on single 160 acre plots that will undoubtedly destroy thousands of livelihoods in North Dakota, Native and Non-Native.

In addition to the 2017 agricultural census, the US Department of Agriculture blog: North Dakota agriculture one word: diverse, outlined why HB 1371 in its current form will provide corporate opportunities to destroy the diversity that currently exists in the agricultural sector in North Dakota (https://www.usda.gov/media/blog/2019/08/23/north-dakota-agriculture-one-word-diverse).

North Dakota Market Value of Ag Products Sold, 2017

Item	Farms	Sales (Billions)	Percent of Total Sales
Soybeans	8,395	$ 2,113,612,000	25.7
Corn	6,103	$ 1,409,445,000	17.1
Wheat	8,197	$ 1,348,366,000	16.4
Cattle and Calves	8,335	$ 1,295,654,000	15.7
Other Crops and Hay	6,218	$ 356,019,000	4.3
Vegetables, Melons, and Potatoes	255	$ 240,415,000	2.9
Barley	1,468	$ 124,484,000	1.5
Hogs and Pigs	182	$ 79,242,000	1.0

Soybeans had the highest market value of agricultural products sold with nearly 26 percent of the total sales in 2017. All crops combined accounted for 81 percent of the total.

As described above, the ratio of crop and livestock sales even in the event of corporate takeover of multiple 160 acre plots to promote livestock use at the expense of crop land use will undoubtedly be tied to the environmental impacts of destroying crop lands for feedlots that will have a direct impact on decreasing not increasing percent totals of sales. This also does not take into account of the divestiture of ownership that will result in billions of dollars in land value loss that will be forever in corporation's control.

An examination by the numbers of the 2017 Census report

In the event that even a small amount of corporate takeover under the current rules will produce hundreds of millions of lost dollars that will into corporate bank accounts. In the event that the governor's creed of one person per 160 acres is circumvented by lack of enforceable mechanisms in the current bill, here is a small snapshot of what could possibly happen through this divestiture of land and money to corporate takeover.

Total and Per Farm Overview, 2017 and change since 2012

	2017	% change since 2012
Number of farms	26,364	-15
Land in farms (acres)	39,341,591	(Z)
Average size of farm (acres)	1,492	+18
Total	($)	
Market value of products sold	8,234,102,000	-25
Government payments	467,034,000	+22
Farm-related income	710,664,000	+37
Total farm production expenses	7,062,175,000	-3
Net cash farm income	2,349,624,000	-48
Per farm average	($)	
Market value of products sold	312,324	-12
Government payments		
(average per farm receiving)	22,770	+48
Farm-related income	38,140	+50
Total farm production expenses	267,872	+14
Net cash farm income	89,122	-39

Exhibit C: Census of Agriculture: North Dakota Page 1 Subset

For instance, if corporate interests were to use the lack of regulation and loopholes in HB 1371 and acquire 10% of the farms that are currently up to 160 acres, this would amount to approximately 2,600 farms under separate fee patents that could be used to gain a competitive advantage according to the per farm average shown in the table to the right.

Simply taking into account the amount of government payments for each of those plots we can see that approximately 416,000 acres could fall into corporate control and according to the numbers:

Total and Per Farm Overview, 2017 and change since 2012

	2017	% change since 2012
Number of farms	26,364	-15
Land in farms (acres)	39,341,591	(Z)
Average size of farm (acres)	1,492	+18
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Government payments (average per farm receiving)	22,770	+48
Farm-related income	38,140	+50
Total farm production expenses	267,872	+14
Net cash farm income	89,122	-39

1. Each of those farms would receive government payments of $22,770 and collectively represent $59,202,000 of lost revenue to corporate greed.
2. If the net cash farm income were sustained than the corporate landholders of the 2,600 farms would benefit $89,122 and collectively $231,717,200 would be lost revenue to the citizens of North Dakota.
3. Thus, even with corporations taking over approximately 1% of the 39,300,000 acres of North Dakota lands would result in the transference of hundreds of millions of dollars to corporate interests over the interests of the citizens of North Dakota.

In conclusion, HB 1371 is a bill that will collectively harm the producers in North Dakota by transferring wealth to long-term corporate interests and family land ownership will be lost; therefore opposition to this bill is paramount.

COMMISSIONER
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Testimony of Doug Goehring
Agriculture Commissioner
House Agriculture Committee
Room 327C
February 17, 2023

Chairman Thomas, and members of the House Agriculture Committee, I am Agriculture Commissioner Doug Goehring and I'm here today to support the revised version of HB 1371, allowing authorized livestock farm corporations and limited liability companies to promote animal agriculture in North Dakota.

I reviewed various proposed amendments to North Dakota's anti-corporate farming law. Most of these amendments, in my opinion, will permit animal agriculture producers more feasible business structure options for increased animal agriculture production in North Dakota.

Regarding the most recent proposed amendments to HB 1371, we were able to work with almost all of the proposed changes. We propose some further changes for your consideration, in order to clarify some wording, avoid issues regarding constitutionality, and to remove the potential for extraterritorial regulations of agricultural landholding outside of North Dakota.

Specifically, we replaced "cattle" with "livestock" in order to permit, for example, bison and sheep as well. This also better aligns with proposed term "authorized livestock farm corporation"

We also removed language that could make the amendment constitutionally problematic, based upon court cases in Nebraska, South Dakota and Iowa, who's anti-corporate farming laws were struck down by the federal courts.

Finally, we put in language to make the proposed amendment more understandable, to remove ambiguity, and to better clarify it for the regulated community.

Chairman Thomas, and committee members. Thank you for the opportunity to testify today. I'd be happy to answer any questions you may have.

23.0721.02002
Title.

Prepared by the Legislative Council staff for
Representative Thomas
February 15, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1371

Page 1, line 1, after "to" insert "create and enact four new sections to chapter 10-06.1 of the North Dakota Century Code, relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, replace the second "and" with ", 10-06.1-02, and 10-06.1-04,"

Page 1, line 2, after "10-06.1-12" insert ", and sections 10-06.1-13, 10-06.1-14, 10-06.1-17, 10-06.1-21, 10-06.1-22, 10-06.1-26, and 10-06.1-27"

Page 1, line 4, remove the second "and"

Page 1, line 4, after "landholdings" insert ", and required reporting for corporate farming; and to provide a penalty"

Page 1, line 6, remove ""Beekeeping" means the breeding or rearing of bee colonies or the owning,"

Page 1, line 17, replace "maintenance, or management of bee apiaries" with ""Authorized livestock farm corporation" means a corporation formed for livestock~~cattle~~ backgrounding, livestock~~cattle~~ finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter"

Page 1, after line 17, insert:

"4. "Authorized livestock farm limited liability company" means a limited liability company formed for livestock~~cattle~~ backgrounding, livestock~~cattle~~ finishing, or the production of poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter."

Page 1, replace lines 20 through 23 with:

"6. "Livestock~~Cattle~~ finishing" means the feeding or growing of livestock~~cattle~~ for the purpose of expeditiously preparing the livestock~~cattle~~ for harvest."

Page 2, line 1, replace "6." with "7."

Page 2, line 3, replace "7. a." with "8."

Page 2, line 3, remove the overstrike over "~~cultivating~~"

Page 2, line 3, remove the underscored colon

Page 2, line 4, remove "(1) Cultivating"

Page 2, line 4, remove the overstrike over the overstruck comma

Page 2, line 4, remove the underscored semicolon

Page 2, line 4, remove the overstrike over "~~the~~"

Page 2, line 5, remove "(2) The"

Page 2, line 6, remove the overstrike over "~~It~~"

Page 2, line 7, remove "b. Notwithstanding subdivision a, "farming or ranching""

Page 2, remove line 8

Page 2, line 9, replace "(2)" with "a."

Page 2, line 10, replace "(3)" with "b."

Page 2, line 11, replace "(4)" with "c."

Page 2, line 12, replace "(5)" with "d."

Page 2, line 12, remove "Cattle backgrounding or cattle finishing feedlot operations, or the raising or"

Page 2, remove lines 13 and 14

Page 2, line 15, replace "hundred sixty acres [64.75 hectares]" with "Custom harvesting"

Page 2, line 16, replace "(6)" with "e."

Page 2, line 19, replace "(7)" with "f."

Page 2, line 21, replace "8." with "9."

Page 2, line 24, replace "9." with "10."

Page 2, line 26, replace "10." with "11."

Page 2, remove lines 29 and 30

~~Page 3, line 13, after "in" insert "day-to-day"~~

~~Page 3, line 13, after the second "or" insert "day-to-day"~~

~~Page 3, line 14, after "contribute" insert "significantly"~~

Page 3, after line 14, insert:

"**SECTION 2. AMENDMENT.** Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. A corporation or a limited liability company may be a partner in a partnership that is in the business of farming or ranching only if that corporation or limited liability company complies with this chapter. ~~Notwithstanding any other provision, an authorized livestock farm corporation or authorized livestock farm limited liability company is prohibited from being a partner in a partnership owning or leasing land used for farming or ranching or engaging in the business of farming or ranching, a shareholder of an authorized livestock farm corporation, or a member of an authorized livestock farm limited liability company.~~

SECTION 3. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and section 11 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching."

Page 3, after line 21, insert:

"**SECTION 5.** A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or limited liability company - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing real estate and engaging in the business of farming or ranching if the authorized livestock farm corporation meets all the requirements of chapter 10-19.1 or the authorized livestock farm limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If an authorized livestock farm corporation, the corporation may not have more than fifteen shareholders. If an authorized livestock farm limited liability company, the limited liability company may not have more than fifteen members.

2. If an authorized livestock farm corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are ~~actively engaged in~~ operating the corporation, ~~a farm or ranch,~~ corporations that meet the requirements of ~~chapter~~ section 10-06.1-12, or limited liability companies that meet the requirements of ~~chapter~~ section 10-06.1-12. If an authorized livestock farm limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are ~~actively engaged in~~ operating the limited liability company, ~~a farm or ranch,~~ corporations that meet the requirements of ~~chapter~~ section 10-06.1-12, or limited liability companies that meet the requirements of ~~chapter~~ section 10-06.1-12.

3. If an authorized livestock farm corporation, all shareholders who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all shareholders that are persons

otherwise eligible under this chapter, and any controlling person of the corporation, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States or permanent resident aliens. If an authorized livestock farm limited liability company, all members who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all members that are persons otherwise eligible under this chapter, and any controlling person limited liability company, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States or permanent resident aliens.

4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~at any time, directly or indirectly,~~ own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of agricultural land holdings in this state.

5. If an authorized livestock farm corporation, the corporation is not a ~~none of its~~ shareholder~~s are shareholders~~ in other authorized livestock farm corporations, or ~~members~~ in other authorized livestock farm limited liability companies~~,~~ in this state that ~~directly or indirectly~~ in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state. If an authorized livestock farm limited liability company, the limited liability company~~none of its members are~~ is not a member~~s~~ in other authorized livestock farm limited liability companies or a shareholder~~s~~ in other authorized livestock farm corporations in this state that ~~directly or indirectly~~ in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of agricultural land holdings in this state.

6. If an authorized livestock farm corporation, the officers and directors of the corporation must be shareholders who are ~~actively engaged in~~ operating the ~~authorized livestock farm~~ corporation. If an authorized livestock farm limited liability company, the governors, managers, and officers must be members who are ~~actively engaged in~~ operating the ~~authorized farm~~ limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from the production of livestock~~cattle~~, poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the authorized livestock farm corporation or authorized livestock farm limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company.

9. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~directly or indirectly~~ engage in the cultivation of land for the production of crops or the grazing of livestock in this state.

10. If the authorized livestock farm corporation or authorized livestock farm limited liability company is intended to comprise an animal feeding

operation or concentrated animal feeding operation in this state:

a. ~~T~~the corporation or limited liability company must begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding.

b. The corporation or limited liability company must have a fully operational animal feeding operation or concentrated animal feeding operation within three years of obtaining the agricultural landholding.

c. An authorized livestock farm corporation or authorized livestock farm limited liability company violating this subsection ~~10 or 11~~, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

SECTION 6. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations and authorized livestock farm corporations, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 7. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1, except those sections which pertain to foreign limited liability companies, is applicable to farming or ranching limited liability companies and authorized livestock farm limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 8. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Applicability of restriction on alien ownership of land.

The provisions of chapter 47-10.1 supersede this chapter in the event of any conflict.

SECTION 9. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Initial report - Authorized livestock farm corporations and authorized livestock farm limited liability companies.

1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation or articles of organization. The report must be signed by the incorporators or organizers, and must contain the following:

   a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own

shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States; and

(7) As to individuals, a statement of whether each will be ~~actively engaged in~~ operating the authorized livestock farm corporation or authorized livestock farm limited liability company farm or ranch ~~and whether each will reside on the farm or ranch~~.

c. With respect to management:

(1) If an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors.

(2) If an authorized livestock farm limited liability company, the names and addresses of the managers, members of the board of governors, and officers.

d. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~and will not directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of agricultural land in this state.

e. If the purchase or lease of agricultural land is final at the time of the initial report, a statement listing the acreage and the number of hectares and location listed by section, township, range, and county of all agricultural land in thi~~se~~ state in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of agricultural land is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease agricultural land in thi~~se~~ state.

~~f. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].~~

~~g.~~f. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from authorized livestock farm~~farming or ranching~~ operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

~~h.~~g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company will not engage in the cultivation of land for the production of crops in this state.

~~i.~~h. If the authorized livestock farm facility is not operational, a statement as to the planned date of authorized livestock farm operations.

~~j.~~i. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company in this state that in combination with the authorized livestock farm corporation or authorized livestock farm limited liability company own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state..

2. An authorized livestock farm corporation or an authorized livestock farm limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation or articles of organization. The authorized livestock farm corporation or authorized livestock farm limited liability company shall furnish to the official county newspaper of each county or counties in which it has any interest in any land a legal notice reporting the following:

   a. The name of the authorized livestock farm corporation or limited liability company and its shareholders or members as authorized livestock farm listed in the initial report.

   b. A statement to the effect that the authorized livestock farm corporation or authorized livestock farm limited liability company has reported that it holds an interest in agricultural land in the county, the use of the land, and that a description of that land is available for inspection at the secretary of state's office.

   ~~c. A statement to the effect that each of the shareholders of the corporation or members of the limited liability company do not directly or indirectly in combination with interests in any other person own more than six hundred forty acres [259 hectares] of agricultural land.~~

SECTION 10. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

Except for the first annual report, the annual report of a corporation engaged in farming or ranching after June 30, 1981, and a limited liability company engaged in farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a corporation and subsection 49 of section 10-32.1-02 if a limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

3. With respect to each corporation:

   a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

   b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

4. <u>With respect to each limited liability company:</u>

a. A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

b. A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

5. With respect to each shareholder or member:

a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

b. The number of shares or membership interests or percentage of shares or membership interests owned by each;

c. The relationship of each;

d. A statement of whether each is a citizen or permanent resident alien of the United States; and

e. A statement of whether at least one is an individual residing on or operating the farm or ranch.

~~5.~~6. With respect to management:

a. If a corporation, then the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

b. If a limited liability company, then the name and address of each manager and member of the board of governors, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~7. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~8. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

~~8.~~9. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~10. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.

~~10.~~11. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

SECTION 11. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation or articles of organization. The annual report must be signed as defined in section 10-19.1-01 if an authorized livestock farm corporation or section 10-32.1-02 if an authorized livestock farm limited liability company and submitted on a form prescribed by the secretary of state. If the authorized livestock farm corporation or authorized livestock farm limited liability company is in the hands of a receiver or trustee, the annual report must be signed on behalf of the authorized livestock farm corporation or authorized livestock farm limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

   a. The name of the registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state.

   b. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.

   c. With respect to each authorized livestock farm corporation:

      (1) A statement of the aggregate number of shares the authorized livestock farm corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

      (2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

   d. With respect to each authorized livestock farm limited liability company:

      (1) A statement of the aggregate number of units the authorized livestock farm limited liability company has authority to issue, itemized by classes and series, if any, within a class.

      (2) A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

e. With respect to each shareholder or member:

(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States; and

(7) As to individuals, a statement of whether each will be ~~actively engaged in~~ operating the authorized livestock farm corporation or authorized livestock farm limited liability company~~farm or ranch and whether each will reside on the farm or ranch~~.

f. With respect to management:

(1) If an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors.

(2) If an authorized livestock farm limited liability company, the names and addresses of the managers and members of the board of governors.

g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of agricultural land in this state.

h. A statement providing the agricultural land description and listing the acreage, the total number of hectares and location listed by section, township, range, and county of all agricultural land in thise state in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest.

~~i. A statement that no investors are shareholders or members in any other authorized livestock farm corporation or authorized livestock farm limited liability company that directly or indirectly with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares].~~

~~j.~~i. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from authorized livestock farm ~~farming or ranching~~ operations, and that twenty percent or less of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

~~k.~~j. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not engage in the cultivation of land for the production of crops or the grazing of livestock in this state.

~~l.~~k. The first date of operations.

c. ~~A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.~~ A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company in this state that in combination with the authorized livestock farm corporation or authorized livestock farm limited liability company own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state..

~~m.~~

~~n. The statement also must designate which, if any, of the acreage and the total number of hectares is leased from or jointly owned with any~~

~~shareholder or member and list the name of the shareholder or member with that acreage and the total number of hectares.~~

~~o.~~l. A statement of the percentage of the annual average gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company which has been derived from authorized livestock farm~~farming or ranching~~ operations over the previous five years or for each year of existence if less than five years.

~~p.~~m. A statement of the percentage of gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

2. An authorized livestock farm corporation engaged in authorized livestock farm operations~~farming~~ which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required by this section.

3. An authorized livestock farm limited liability company engaged in authorized livestock farm operations~~farming~~ which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required by this section.

SECTION 12. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 or section 5 of this Act, the secretary of state shall transmit such information to the attorney general and the governor.

SECTION 13. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from farming or ranching operations and shall compare such returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 and section 11 of this Act and shall forward any apparent violations to the attorney general and the governor.

SECTION 14. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

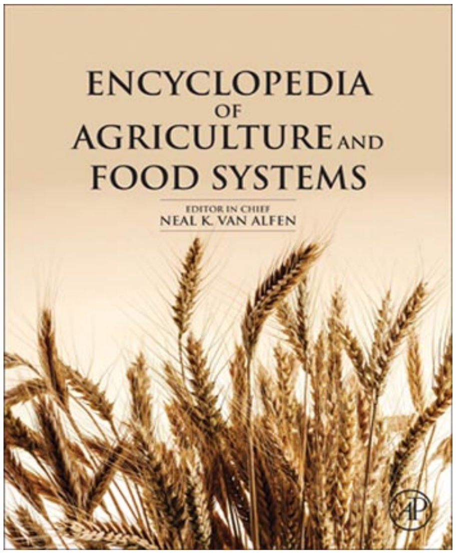
If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation or authorized livestock farm corporation doing business under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder. Any shareholder who desires to withdraw from the corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 15. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company <u>or authorized livestock farm limited liability company</u> doing business under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined by this section upon the withdrawal of the member. Any member who desires to withdraw from the limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code."

Renumber accordingly



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I

Industrialized Farming and Its Relationship to Community Well-Being

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Glossary

Community social fabric Refers to social organization, the features of a community that reflects its stability and quality of social life. Impacts on community social fabric are seen in social indicators such as population change; social disruption indicators; educational attainments and schooling quality; changes in social class structure; health status; and changes in local governance.
Family farm A farm operation where the farm household owns and controls the majority of farm production factors, land, labor, capital, technology, and management.
Industrial farm A nonhousehold-based farm production unit, with absentee ownership and control over production factors.
Marketing contracts The mechanism used by farm operators to reduce their exposure to market price swings; these contracts stipulate a commodity price or pricing mechanism for delivered goods and are used mainly for crop and dairy commodities.
Organizational changes in farming An increase in the relative proportion of hired to family labor, greater use of incorporation as a form of legal organization, and the movement toward a more integrated industry from farm to grocery, whose 'hallmark' is 'contract production and vertical integration.'
Organizational measures of industrialized farming Vertical integration of corporations into farming; contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers, as opposed to material operation by family members; and legal status as a corporation.
Production contracts Mechanisms that involve cost-sharing arrangements and payment for farm operators' services usually for livestock production except for dairying.
Socioeconomic well-being Refers to standard measures of economic performance (employment, income, and business activity) and to a broader range of socioeconomic indicators used by sociologists to tap material conditions of families and populations (family poverty rates and income inequality).
The industrialization of farming The transformation whereby farms have become larger-scale, declined in number, and integrated more directly into production and marketing relationships with processors through vertical or contractual integration.
Vertical integration Operation of farms by firms that also operate in at least one other stage of the food chain, such as input supply, processing, and marketing.

Introduction

Public concern about the consequences of nonfamily owned and operated, industrialized farms for communities dates back to the 1920s (Boles and Rupnow, 1979). (Boles and Rupnow (1979, p. 471) state that public concern about corporate influence in farming began in the 1920–30 period when concern about large, publicly held corporations centered on fears about the effect of mechanization, foreclosure of farm land mortgages held by corporations, and corporate monopoly of land.) The first published research on the topic appeared in the 1930s. Since then, government and academic researchers have produced numerous studies showing the potential for adverse impacts on community life. The bulk of evidence indicates that public concern about the detrimental community impacts of industrialized farming is warranted. This article summarizes results from more than five decades of research that has investigated the relationship between nonfamily industrialized farming and community well-being. The purposes of this article are: To document the types of studies that have been conducted on the topic; to delineate their results as to whether adverse consequences were found; and to document the aspects of community life that may be jeopardized by industrialized farming. This article is grounded in Lobao's (1990) longstanding research on farm change and its impacts on communities and families (Barlett *et al.*, 1999; Belyea and Lobao, 1990; Kenney *et al.*, 1989; Lasley *et al.*,1995; Lobao (Reif), 1987; Lobao, 1990; Lobao (Reif) and Jones, 1987; Lobao and Meyer, 1995a,b, Meyer and Lobao, 1997; Lobao and Schulman, 1991; Lobao *et al.*, 1993; Lobao and Thomas,

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1992, 1988) as well as her research on the broader topic of community development. (Lobao, 1993a,b,c, 1996, 1998; Lobao and Rulli, 1996; Lobao *et al.*, 1999). She updated this research in 2000 (Lobao, 2000), which was further updated in 2006 (Stofferahn, 2006), and which was updated and published in 2008 (Lobao and Stofferahn, 2008). This article further updates the research on the topic, and it is based on a systematic article of 56 studies on the topic of industrialized farming and community well-being.

The industrialization of farming refers to the transformation whereby farms have become larger-scale, declined in number, and integrated more directly into production and marketing relationships with processors through vertical or contractual integration (Drabenstott and Smith, 1996, p. 4). In the past two decades, farms in the farming-dependent Heartland states (The states forming the nation's farm heartland extend from the Mississippi River to the Rocky Mountains and from Texas to Canada. These states are Colorado, Iowa, Kansas, Minnesota, Missouri Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Wyoming (Barkema and Drabenstott, 1996, p. 1). More than two-thirds of the nation's farm-dependent counties are located in these states.) declined by roughly one-fourth, whereas average acreage grew by one-fourth to approximately 750 acres (Barkema and Drabenstott,1996, p. 62). As the number of farms declines, production becomes concentrated on larger farms. Nationally, small farms (defined here as those having annual gross sales of less than US$50 000) made up nearly three-quarters of the nation's farms in 1995 but they produced only approximately 8% of sales, whereas the top 2% of farms (those with sales of over a half million dollars annually) accounted for 44% of all sales (Sommer *et al.*, 1998, p. 10). Half of the nation's agricultural sales are produced by 3% of farms (Sommer *et al.*, 1998, p. 8).

Accompanying the growth of scale of operations are organizational changes in farming. These include an increase in the relative proportion of hired to family labor and greater use of incorporation as a form of legal organization. (In 1995, more than 98% of the nation's 2.07 million farms were classified as family operations. A total of 91% were sole proprietorships and 5% were partnerships. Only 3% of all farms were incorporated, and of these, 86% were considered family-held corporations by United States Department of Agriculture (USDA) as they had 10 or less stockholders (Sommer *et al.*, 1998, p. iv). Another organizational shift is the movement toward a more integrated industry from farm to grocery, whose 'hallmark' is "contract production and vertical integration that is linking farmers, food processors, seed companies, and other agribusiness" (Barkema and Drabenstott, 1996, p. 64). Vertical integration refers to operation of farms by firms that also operate in at least one other stage of the food chain – such as input, supply, processing, and marketing. In addition to their direct involvement in farm production, agribusiness firms contract with farmers for goods and services. Two types of contracting arrangements should be distinguished. Marketing contracts are used by independent operators to reduce their exposure to market price swings; these contracts stipulate a commodity price or pricing mechanism for delivered goods and are used mainly for crop and dairy commodities. Production contracts involve cost-sharing arrangements or payment for operators' services usually for livestock production except for dairying. On farms using production contracts, the largest share of farm sales accrues to the contractor (an agribusiness processor and/or producer), with the operator generally receiving a fixed fee for services (Sommer *et al.*, 1998, pp. 16–17). Production contracts extend agribusiness firms into direct farm production using the vehicle of the local farmer. To sociologists, production contract farms are an integral component of the agribusiness chain in which agribusiness firms, depending on corporate strategy, may enter farming through direct operation of their own units or through employing local farmers to participate in production homework. Sociologists are concerned with contract farming because of the risks it poses to agrarian social structure, communities, and families. (Sociologists are concerned with contract farming insofar that: it alters agrarian social structure by creating a segment of farmers who are the structural equivalent of factory production homeworkers; it extends the influence of industrialized farming in a community; and it erodes formally independent operators' autonomy in direct production, farm decision-making, and control over assets. Sociologists also are concerned with the general well-being of contractees (operators) and their families given their asymmetrical relationship in bargaining power with agribusiness firms.)

In classifying farms as 'industrialized' or 'family,' social scientists distinguish between the construct (an ideal-type concept) and its actual measurement (variables used to define the concept in practice). Different classifications of farms have been developed over the years because the structure of agriculture is continually changing. The term 'farm structure' or 'agricultural structure' refers to a broad set of characteristics that describe US farms, as well as the distribution of farm production resources and returns to those engaged in farm production activities (Sommer *et al.*, 1998, p. 6). Sommer *et al.* (1998, p. 6) provide a useful overview of the criteria used to classify farms. For sociologists, family farming is identified by whether the family unit owns a majority of capital resources, such as land, machinery, buildings, makes the majority of managerial decisions, and provides the bulk of labor (Goss *et al.*, 1980). Social scientists often use farm scale as a proxy measure to classify farms, because it is simple, clear, and often correlated with organizational characteristics of units. A recent USDA article classifies 'commercial farms' as those with US $50 000 or more in gross sales and 'small farms' as those with gross sales of less than US$250 000 (Sommer *et al.*, 1998, p. 69). Family farms (organized as sole proprietorships, partnerships, or family corporations) with gross sales of more than US$25 000 are classified as 'large-family farms,' whereas 'nonfamily farms' are any farms organized as nonfamily corporations, cooperatives, and farms operated by hired managers (Sommer *et al.*, 1998, p. 72). 'Family' farms and 'industrialized' farms are constructs at opposite ends of the farm continuum. To sociologists, the construct 'family farm,' is that where the farm household owns and controls the majority of farm production factors, land, labor, capital, technology, and management. At the other end of the farm continuum, the construct, 'industrial farm,' refers to a nonhousehold-based production unit, with absentee ownership and control over production factors. As with nonfarm firms, industrialized farms have a division of labor among owners, managers, and labor with different groups of people assigned to different positions in the production process. Industrial farms "...are owned by one group of people, managed on a daily basis by another person or group, and worked by yet another group" (Browne *et al.*, 1992, p. 30). Between these 'ideal-type' descriptions of family and industrialized farms are other arrangements in organizing farming, such as part-owner farming (a form of family farming where the operator both owns and rents the land). Again, these are 'ideal-type' constructs, whose specific definition and measurement must depend upon the time period and public context.

When social scientists refer to 'industrialized' farms, they invariably are referring to both scale and organizational characteristics of the farm unit. (Social scientists measure industrialized farming by both scale and organizational variables. Scale is usually measured by sales and sometimes by acreage and real estate and for livestock operations, animal inventory. The actual dollar value for scale indicators used by analysts to indicate a 'large-scale' farm will obviously vary by the time period of study. In addition, what is considered a 'large-scale farm' also varies by regional context and commodity. Organizational measures of industrialized farming include vertical integration of corporations into farming; production contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers, as opposed to material operation by family members; and legal status as a corporation (family or nonfamily) or syndicate.) In general, but not always, scale will coincide with organization. That is, large-scale farms (relative to smaller farms) are more dependent on hired labor and managers and more likely to have absentee owners, to be incorporated, and to be vertically integrated with agribusiness. For example, in 1995, mean gross sales of corporate farms were US$576 925 as compared with US$54 287 for sole proprietorship farms and US$218 795 for farms organized as partnerships (Sommer *et al.*, 1998, p. 15). Farms with production or marketing contracts also tend to be larger. In 1995, farms with marketing contracts (approximately 11% of all farms) had mean gross sales of US$242 888; whereas farms with production contracts (2.3% of all farms) had mean gross sales of US$617 858 (Sommer *et al.*, 1998, p. 12). For the purposes of this article, the umbrella term 'industrialized farm' is used to refer to both scale and operating characteristics of industrialized farms. Where it is useful and feasible to do so, a distinction is made between between scale and operating characteristics.

This article is organized into four sections. First, the article discusses the history of government and academic concern about the risks of industrialized farming for community well-being, from the 1930s to the present. Second, the article summarizes the findings from Lobao's research and that of her colleagues. Third, the article findings from five decades of social science research. It is divided into several subsections discussing, respectively, research issues involved in analyzing industrialized farming and community impacts, focusing on indicators of industrialized farming and types of consequences that a summary evaluation must consider; the various research designs used to assess the consequences of industrialized farming; and a summary of the results of past studies as to whether detrimental impacts were found. Eventually, the article ends with summary and conclusion.

It should be noted that public concern about industrialized farms extends beyond the well-being of states and their communities. Rather, public as well as academic concern extends to national food system issues, such as agribusiness concentration, consumer health, food safety, and sustainability of the national ecosystem. The immediate effects of industrialized farms, however, are on the day-to-day lives of people residing in the places where these farms are located. It is also at this level that social scientists have conducted a great deal of research over a long period of time. For these reasons, this article deals with the consequences of industrialized farming for well-being at the community level.

History of Public, Government, and Academic Concern with the Consequences of Industrialized Farming

More than a half century of research centers on the potential detrimental social consequences of industrialized farming. Since 1930s, the government and academic researchers have investigated the extent to which large-scale, industrialized farms adversely affect the communities in which they are located. One of the first series of studies was conducted by a sociologist, Tetreau (1938, 1940), who found that large-scale, hired labor-dependent farms were associated with poor social and economic well-being in rural Arizona communities.

In the early 1940s, the USDA sponsored a research project on the effects of industrialized farming using a matched-pair of two California communities, Arvin where large, absentee-owned, nonfamily operated farms were more numerous, and Dinuba, where locally owned, family operated farms were more numerous. The article on this project was prepared by Walter Goldschmidt, a USDA anthropologist. The purpose of the study was to assess the consequences of a California law with a provision placing acreage limitations on large farms located in California's Central Valley, so as to support family-size farms in the region. Goldschmidt (1978a, p. 458) notes that "The comparative study of Arvin and Dinuba was designed to determine the social consequences that might be anticipated for rural communities if the established law was applied or rescinded."

In this article, Goldschmidt (1978a) systematically documented is the relationship between large-scale farming and its adverse consequences for a variety of community quality of life indicators. Goldschmidt (1978a) observed that, relative to the family farming community, Arvin's population had a small middle class and high proportion of hired workers. Family incomes were lower and poverty was higher. There were poorer quality schools and public services, fewer churches, civic organizations, and retail establishments. Arvin's residents also had less local control over public decisions, or 'lack of democratic decision-making,' as the local government was prone to influence by outside agribusiness interests. By contrast, family farming Dinuba had a larger middle class, better socioeconomic conditions, high community stability, and civic participation. Goldschmidt's review was eventually published as Congressional Testimony (1968) and as a book (1978a). Goldschmidt's conclusion that large-scale industrialized farms create a variety of social problems for communities has been confirmed by a number of subsequent studies. One criticism of Goldschmidt's (1978a) research was published by agricultural economists Hayes and Olmstead (1984). They did not challenge Goldschmidt's (1978a) conclusion that large-scale, industrialized farms have adverse community impacts. Rather they argued that Arvin and Dinuba were not as closely matched research sites in the 1930s as Goldschmidt had intended. Nearly four decades after Goldschmidt's study, the state of California, through its Small Farm Viability Project (1977, pp. 229–230), affirmed Goldschmidt's conclusions by revisiting Arvin and Dinuba. They concluded that: "The disparity in local economic activity, civic participation, and quality of life between Arvin and Dinuba...remains today. In fact, the disparity is greater. The economic and social gaps have widened. There can be little doubt about the relative effects of farm size and farm ownership on the communities of Arvin and Dinuba."

As the US agricultural structure has evolved toward larger and fewer farms, government and academic researchers have continued to investigate the extent to which large-scale, nonfamily owned and operated industrialized farms adversely affect communities. Congress has conducted inquiries, such as that by the Senate Subcommittee on Monopoly dealing with Corporate Secrecy and Agribusiness, in which rural sociologists and agricultural economists provided testimony in 1973 about the dangers to communities posed by increasing corporate control of agriculture (Boles and Rupnow, 1979, pp. 468–469). The Office of Technology Assessment (OTA), concerned that the relative growth of large-scale industrialized farms might have adverse impacts on communities, commissioned a series of research papers on the topic. The OTA research came as a request from Congress and was published first as a review (OTA, 1986) and later as a book (Swanson, 1988). Federal and state funding has been directed to at least two Agricultural Experiment Station projects that assess the community consequences of large-scale, nonfamily farms: Project S-148 'Changing Structure of Agriculture: Causes, Consequences, and Policy Implications' (1982–86); and Project S-198 'Socioeconomic Dimensions of Technological Change, Natural Resource Use, and Agricultural Structure' (1986–90). The later project resulted in a monograph on the consequences of industrialized farming for communities (Lobao, 1990) among other publications.

In the 1990s, public concern with industrialized farming has centered particularly on large integrated livestock producer/processor enterprises. Recent studies supported by the NCRCRD (1999), the University of Missouri Agricultural Experiment Station (Seipel *et al.*, 1998, 1999) and Duke University Medical School (Schiffman, 1998) have documented a variety of adverse impacts of these enterprises on communities, households, and individuals.

In summary, there has been more than 50 years of public, academic, and government concern that large-scale, industrialized farms jeopardizes community well-being. This concern has resulted in numerous studies, in government-sponsored reviews, and in congressional hearings. In the 1990s, public concern with industrialized farming has increased due to the problems posed by large-scale animal confinement operations. Social scientists have responded to this increased public concern by initiating a number of recent projects, leading to a new generation of literature on the community consequences of industrialized farming.

Research by Lobao and Colleagues

The most recent, comprehensive sociological study on the effects of industrialized and family farming on communities was conducted by Lobao (1990). This study examined relationships across more than 3000 US counties. The study used both farm scale and organization to measure farm structure; examined direct and indirect consequences of farming patterns; and examined long-term and immediate relationships for two time periods, 1970–80. To measure community outcomes, the study focused mainly on socioeconomic well-being indicators (median family income, poverty, and income inequality between families measured by the Gini coefficient. The Gini coefficient is used by the federal government to document income inequality in the US and is the measure used most frequently in recent studies of economic development across spatial units such as counties (Lobao *et al.*, 1999)) but also included of community social disruption (births-to-teenagers) and health status (infant mortality). The study examined the effects of three different community farm structures: 'smaller family farming' (small, part-time family farms); 'larger family farming' (moderate-size, capital-intensive, family operated units using little hired labor), and industrialized farming (large-scale, hired-labor-dependent farms).

The community farming structures were constructed based on the research by Wimberley (1987). Each of the measures of farm structure was a composite of scale and organizational indicators, created through a statistical technique called factor analysis. Multivariate statistical methods, regression, and discriminant analysis, were used to analyze the effects of the three farm structures net of other community conditions, including nonfarm industrial employment, establishment size of local businesses, human capital, and demographic characteristics of the population (educational attainments, ethnicity), unemployment, social welfare payments, unionization, and spatial factors, such as region of the country.

The findings were the following. There was consistent support that moderate-sized family owned and operated farms benefit communities. Counties where these types of farms (i.e., larger family farming) predominated had better socioeconomic well-being (lower family poverty, higher median family income, lower unemployment, and lower infant mortality). The beneficial effects of this family farming were found across the US, for two time points, 1970 and 1980. Moreover, this type of farming continued to result in beneficial effects over time. Counties where larger family farming was greater in 1970 continued to have better socioeconomic well-being over time. This study indicates that the 'high road' to community development is a farming system based on moderate-sized family operations. Such farming not only increases aggregate well-being, as indicated by income levels, but it also sustains a larger middle class, as indicated by lower income inequality and poverty, and thus allows more families to benefit from the income produced.

Where industrialized farming was greater, however, there were mixed effects on community well-being, either detrimental or no statistically significant impacts. For example, industrialized farming had no relationship with family poverty or median family income at either of the two single time points (1970 and 1980). Industrialized farming, however, was related to higher income inequality at both time points, and also to lower family income, higher poverty, and higher income inequality across time, over the decade from 1970 to 1980 (i.e., counties with greater industrialized farming in 1970 experienced relative declines in socioeconomic well-being over the decade). The finding that industrialized farms are associated with high income inequality indicates that this farming segments social class structure by polarizing families into richer and poorer income groups. Income polarization is related to other social problems, such a crime and other breakdowns in the social fabric of the community. The study also found that where very small farms predominated, well-being was poorer. This indicates that researchers should distinguish between small and moderate family operated units in assessing consequences for well-being. Smaller family farming tends to predominate more in the South.

As would be expected in a postindustrial society, nonfarm manufacturing and service employment were stronger predictors of community well-being than farming. It is important to note, however, that the study found that farming, nonfarm industry, and other local characteristics were interrelated, mutually sustaining a population in a locale. (That farming has a smaller impact on community well-being than does nonfarm industry is expected even for communities highly dependent on farming. Farming is interrelated with local nonfarm industry and other sectors, forming a community livelihood strategy which sustains a population in a locale. Communities where larger family farming predominated had a much higher wage, durable manufacturing employment, and greater employment in local schools and retail industries. Communities where industrialized farming predominated had greater employment in lower wage manufacturing such as food processing, less employment in education, health, and retail services, a higher minority population, and provided relatively higher per capita benefits to welfare recipients.) Good quality farms and high quality local employment were interrelated, with 'larger family farming' associated with greater employment in high wage manufacturing and other beneficial sectors. The study offered consistent support that when farming is an economic development strategy of choice, moderate-sized family farms are best for communities.

This research on farming systems and community and regional well-being has been elaborated in other reviews (Kenney *et al.*, 1989; Lobao, 1987, 1993c, 1996, 1998; Lobao and Jones, 1987; Lobao and Schulman, 1991; Lobao *et al.*, 1993; Lobao and Thomas, 1992).

One of the most recent sociological analyses on industrialized farming and inequality is that conducted by one of Lobao's students (Crowley, 1999). The methodology used in the study is similar to that followed in Lobao (1990), but the indicators of farm structure differ. She analyzed the effects of farm concentration using several indicators (concentration of land, value of land and buildings, and the value of equipment and machinery, indicators measured by the Gini coefficient), and data for all (1053) counties in the North Central US (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, North Dakota, South Dakota, and Wisconsin). She analyzed consequences of these dimensions of farm-sector concentration for local levels of family poverty and family income inequality net of other community characteristics. In counties where farm-sector concentration was higher (i.e., a few large farms held a disproportionate share of local property in land and real estate), there was significantly higher poverty among families and significantly greater income polarization between families. Moreover, where farm concentration was higher, residents had lower education.

In the 2004 study, Crowley and Roscigno documented how concentration of agricultural resources shapes rural community stratification through the political economic process. In addition to measures of farm sector resource concentration, measured by the Gini coefficient, and labor endowment (percentage of county work force employed in core, extractive, competitive, and state sectors), they included measures of political process (proportion of votes in presidential election for Democratic Party, average household payment rates, average per farm county level spending on agricultural assistance), and worker power attributes (percentage of manufacturing employees that are unionized, proportion of population that are a minority, percentage of population, aged 25+ years with a high school diploma, and proportion of labor force unemployed). Using data for all (1053) counties in the North Central US, it was found that dimensions of farm sector concentration shape both poverty and inequality. Furthermore, they found that farm sector concentration is explained by political economic processes, and these processes mediate the negative effects of land concentration on economic well-being. In particular, they found that relative to large-scale farms, capital concentration promotes government spending that benefits large farms, whereas it blocks government or labor-market programs that assists farmers whose farms it consumes and farm workers it exploits. These attempts are evident by the increased funding for agricultural research which benefits large farms, decreased redistribution efforts through transfer payments to benefit small farms and workers, decreased political consciousness through lower levels of Democratic Party support, and reduced labor power through lower unionization rates and education and higher unemployment and minority representation.

To provide a balanced assessment of the consequences of industrialized farming, it is useful to review the past findings of other investigators, using different methodologies, for different time periods, and from different disciplines. In the Section Review of Past Research on Industrialized Farming and Well-Being, the types of studies conducted on the relationship between industrialized farming and community well-being and their conclusions are discussed. On balance, the social science evidence accumulated from these and other studies supports public, academic, and government concern about the potential risks of industrialized farming. Recent research indicates that the public's welfare is at risk in at least four major areas. Industrialized farming (1) has a detrimental impact on certain aspects of socioeconomic well-being; (2) disrupts the social fabric of communities; (3) poses environmental threats where livestock production is concentrated; and (4) is likely to create a new pattern of 'haves and have nots' in terms of agricultural production, whereby some communities gain large, industrialized farms (and attendant social problems), and others lose their farming base as production becomes concentrated elsewhere in the state and regional economy. (Drabenstott and Smith, 1996, p. 4)

Review of Past Research on Industrialized Farming and Well-Being

Over the past half century, numerous studies, spanning different time periods and regions of the county have tended to find that large-scale industrial farming has detrimental community impacts. This does not mean that every study has produced these results, but rather that empirical evidence accumulated over the years shows a repeated trend that large-scale industrialized farms have adverse impacts on a number of different indicators of community well-being and that this trend is sufficiently established in the social sciences, to the point that almost all sociological studies begin with the working hypothesis (research expectation) that large-scale industrial farms will have adverse community effects. The extent to which past research supports this hypothesis is discussed in the Section Research Issues Involved in Analyzing Industrialized Farming and Its Community Impacts. It should be stressed that no single study can provide a definitive answer as to whether large-scale industrialized farming will or will not adversely affect public well-being in any particular region or state. This is due both to the complexity of the research question and to the lack of existing data required to fully analyze it. At best, a single study can assess the extent to which certain indicators of industrialized farming have adverse affects on certain indicators of community well-being in certain places and time periods. Therefore, the most comprehensive answer to the question of whether industrialized farming adversely affects public well-being comes not from a single study but from assessing the conclusions of decades of past research.

Research Issues Involved in Analyzing Industrialized Farming and Its Community Impacts

To adequately assess the consequences of large- scale industrial farming, the following issues about indicators of industrialized farming and types of consequences must be considered.

Industrialized farming should be analyzed using scale as well as indicators of farm organization. Scale is usually measured by sales or sometimes acreage. As a measure of industrialized farming, scale is limited for several reasons: Family owned and operated farms may be large scale owing to technology; scale alone does not capture organizational features of industrialized farming, such as absentee ownership and nonfamily control over production, that are thought to put communities at risk. Organizational measures of industrialized farming include: Vertical integration of corporations into farming; contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers, as opposed to material operation by family members; and legal status as a corporation. With regard to legal status, family and nonfamily-held corporations should be distinguished. (It should also be recognized that farms may be incorporated because of family farmers' interests in estate planning, greater assurance of business continuity, limited liability, and income tax advantages.)

To adequately assess consequences for community well-being, the full array of outcomes should be considered. Research points to three major sets of consequences of industrialized farming in a community: impacts on socioeconomic well-being, community social fabric, and environment.

Socioeconomic well-being refers to standard measures of economic performance (essentially employment, income, and business activity) and to a broader range of socioeconomic indicators used by sociologists to tap material conditions of families and populations (family poverty rates and income inequality).

Community social fabric refers to social organization – the features of a community that reflects its stability and quality of social life. Impacts on community social fabric are seen in social indicators such as population change; social disruption indicators (crime rates, births-to-teenagers, social-psychological stress, community conflict, and interference with enjoyment of property); educational attainment and schooling quality; changes in social class structure (decline of local middle class and in-migration of low-wage workers); health status, such as mortality rates; civic participation (e.g., declines in church attendance, voluntary organizational membership, and voting); and changes in local governance, such as loss of local control over community decision-making, and resource/fiscal pressures on local government, such as those due to increased need for social services and diversion of public funds to subsidize agribusiness development.

Environmental indicators include quality of water, soil, and air, energy usage, and environmentally related health conditions.

Industrialized farming has both direct and indirect consequences for community well-being. Both sets of consequences should be considered. Industrialized farms directly influence community well-being: Through the quantity of jobs produced and the earnings' quality of those jobs; by the extent to which these farms purchase inputs and sell outputs locally; by affecting the quality of local environmental conditions; and by affecting local decision-making about economic development and other public-interest areas relevant to community quality of life.

First-order, indirect effects on local economic performance and general socioeconomic conditions occur because the quantity and quality of jobs plus purchases affect total community employment, earnings, and income (e.g., economic multiplier effects), the local poverty rate, and income inequality. First-order, indirect effects on local social fabric occur because the quantity of jobs created by industrial farms affects total community population size; the quantity and quality of jobs affect social class composition, such as a when an increase in hired farm workers reduces the proportion of the local middle class; local control over community decision-making may erode or become conflictual, as the interests of industrialized farmers and absentee owners are detached from those of local residents.

Second-order, indirect effects on local social fabric work through first-order effects cited above. Population size and social class composition are related to indicators of community social disruption, such as crime, family instability, the high school dropout rate, and conflict resulting in civil suits; local demand for schooling, public assistance, health, and other social services; and the property tax base (Boles and Rupnow, 1979; Freudenburg and Jones, 1991; Murdock *et al.*, 1988;

NCRCRD, 1999 (Rapid increases in population size and poorer social class composition tend to be related to the indicators of social disruption noted and also place increased demands on local schooling and other social services. Population decline reduces local demand for services and the property tax base.). Decline of local control over community decision-making creates problems associated with poor governance, such as the potential for diversion of public resources toward financial incentives supporting the interests of agribusiness developers over the community at large; and the loss of public and private revenues to support local schools, community services, and infrastructure, which contributes to a downward spiral of community social and economic conditions.

The direct and indirect paths by which industrialized farming may affect community well-being are delineated in various studies, including Boles and Rupnow (1979), Lasley *et al*. (1995), Lobao (1990), MacCannell (1988), and the NCRCRD (1999).

Differences in impacts for diverse social groups within the community must be considered. Changes in farming affect social groups differently, depending upon their age, class position, and residents' proximity to industrialized farms. The elderly and poor are affected by rising costs of housing and services whenever large corporations migrate to a rural community (Summers *et al*., 1976). Within communities with large confined animal-feeding operations (CAFOs), residents who live closer to the operation review inability to enjoy their properties and physical and psychological problems associated with odor (Schiffman *et al*., 1998; Wing and Wolf, 1999; Reisner *et al*., 2004; Constance and Tunistra, 2005). Property closer to CAFOs has been found to fail to appreciate in value relative to places further away (Seipel *et al*., 1998). Income generated by industrialized farming (relative to family farming and over time) also appears less likely to filter down to families of different social classes. As noted, Lobao (1990) and Crowley (1999) observed that income inequality was higher in communities where industrialized farming was greater.

There are long-term as well as short-term consequences of industrialized farming for communities and for regional development within a state. Industrialized farming puts a community on a path of development whose consequences are not fully manifest in the short term of 1 or 2 years. Lobao (1990) observed that some impacts were manifest a decade later. As noted earlier, counties with greater industrialized farming in 1970 had a significantly poorer well-being a decade later: These counties had a lower median family income, higher family poverty rates, and higher income inequality relative to other counties and net of past county conditions. For the heartland states, economists at the Federal Reserve Board of Kansas City (Drabenstott and Smith, 1996, p. 4) indicate that differences in communities will widen over time. According to these economists, industrialized agriculture will have two effects on rural communities. Industrial agriculture production and processing will cluster in some communities resulting in an increase in jobs and income. The economic links between industrial agriculture and communities, however, will be different than they were under commodity production because more production inputs are purchased from nonlocal sources, and more of the profits go to nonlocal owners of the firm.

Types of Studies Conducted on the Effects of Industrialized Farming: Research Designs and Methodology

Analysts have used primarily four different types of research designs to assess whether industrialized farms have detrimental impacts on communities. Each design has inherent strengths and limitations in being able to comprehensively analyze industrialized farming and its many potential impacts. (The author has outlined the strengths and limitations that are intrinsic to each research design. An individual study will vary as to how the analysts have exploited the strengths or overcome the limitations of the design.)

Case-study designs provide indepth analysis of the consequences of industrialized farming in a single or multi-community site. Usually, a comparative case-study design is implemented whereby a community or communities characterized by industrialized farming are contrasted with a community or communities with a different farming pattern (usually moderate-sized, family owned and operated farms). A comparative case-study design allows communities to be matched on similar background characteristics, such as location near cities and dependency on farming as an economic base, which helps to 'control' (or exclude) extraneous factors that influence the relationship between farming type and community well-being.

Macrosocial accounting designs involve statistical analysis of secondary or precollected data from government and other sources, such as the Census of Agriculture and Census of Population, to document relationships found in regional social structure (MacCannell, 1988). Community units, such as counties and townships, and states are the research focus. To assess the consequences of industrialized farming, analysts usually compare its effects relative to other farming (usually smaller or moderate-sized family farm units) and over time, while controlling for other, nonfarm factors known to affect community well-being. Multivariate statistical techniques, such as regression procedures and discriminant analysis, are used so that the effects of farm structure are assessed net of other community conditions.

Regional economic impact models use linear programming methods to estimate impacts on employment and income for regions, states, and smaller units such as counties and cities. These studies focus on the integration of business enterprises in markets and use programs, such as variants of input–output analysis, to model the backward and forward linkages with enterprises in other industries and to estimate resulting local impacts. The costs and benefits of varying different firm-level practices can be estimated.

Survey-design studies use samples of populations from any number of communities. These studies use interviews or questionnaires to document how industrialized farming affects residents or a particular social group exposed to industrialized farming as compared with those who are not (such as those residing in family farming communities). In contrast to macrosocial accounting and economic impact models which are based usually on secondary or precollected data, the researchers using a survey design collect primary data directly from individuals or families. Multivariate statistical procedures such as regression are used to assess the consequences of farm variables net of other community and individual characteristics.

Conclusions of Studies Examining Industrialized Farming and Community Well-Being

As noted, to assess the consequences of industrialized farming, it is useful to examine the body of past work conducted by researchers from various social science disciplines, over time, and using different methodologies. This analysis is built upon a metaanalysis by Lobao (1990), who examined research from 1930 to 1988. A metaanalysis is a quantitative assessment across individual studies that allows for comparison and integration of empirical findings (Cooper, 1989). Metaanalyses are useful for drawing systematic conclusions when many empirical studies by different researchers exist that examine the same research question. To develop the pool of empirical studies used in the analysis, the literature from 1988 to the present was surveyed. (This table has been updated from Lobao (2000) by adding all empirical studies published on the topic in *Rural Sociology* (the major scholarly journal in this field) since 2000. A review of reviews in the *American Journal of Agricultural Economics* (the major scholarly journal in this field) over the past 5 years was undertaken but no empirical studies were found on the topic. In addition, the following journals were surveyed for reviews relevant to the topic: *Agriculture, Food and Human Values, Culture and Agriculture, Sociologia Ruralis, Southern Rural Sociology, American Journal of Alternative Agriculture* (now the *Renewable Agriculture and Food Systems* journal), *Journal of Rural Studies* and the *International Journal of the Sociology of Agriculture and Food.* Two scholarly search engines – *Google Scholar* and *Agricola* were also used to find relevant reviews. Some reviews were located serendipitously. The programs and abstracts for the 2000–05 Annual Meetings of the Rural Sociological Society also were reviewed.) **Table 1** shows the classification of findings by research design of 56 studies conducted since the 1930s on the effects of industrialized farming on community well-being. In most studies (all of the sociological studies), the authors hypothesize that where farms are of larger- scale or industrialized in terms of organizational characteristics, they have a detrimental impact on the indicator(s) of community well-being, relative to family owned and operated farms. These relationships are expected to be found across communities and over time.

Types of Detrimental Impacts Reviewed by Social Scientists

Social scientists review that industrialized farms are related to relatively worse conditions for the following community impacts:

Socioeconomic Well-Being

- Lower relative incomes for certain segments of the community: Greater income inequality (income polarization between the affluent and the poor) or greater poverty (Tetreau, 1940; Goldschmidt, 1978a; Heady and Sonka, 1974; Rodefeld, 1974; Flora *et al.*, 1977; Wheelock, 1979; Lobao, 1990; Crowley, 1999; Deller, 2003; Crowley and Roscigno, 2004; Peters, 2002; Lyson and Welsh, 2005; Durrenberg and Thu, 1996).
- Higher unemployment rates (Skees and Swanson, 1988; Lyson and Welsh, 2005).
- Lower total community employment generated (Marousek, 1979; Thompson and Haskins, 1998).

Social Fabric

- Population: Decline in local population size where family farms are replaced by industrialized farms; smaller population sustained by industrialized farms relative to family farms (Goldschmidt, 1978a; Heady and Sonka, 1974; Rodefeld, 1974; Wheelock, 1979; Swanson, 1980).
- Class composition: Social class structure becomes poorer (increases in hired labor) (Gilles and Dalecki, 1988; Goldschmidt, 1978a; Harris and Gilbert, 1982).
- Social disruption:
  - increases in crime rates and civil suits NCRCRD (1999);
  - general increase in social conflict (Seipel *et al.*, 1999);
  - greater childbearing among teenagers (Lobao, 1990);
  - increased stress, social-psychological problems (Martinson *et al.*, 1976; Schiffman *et al.*, 1998);
  - swine CAFOs located in census blocks with high poverty and minority populations (Wilson *et al.*, 2002);
  - deterioration of relationships between hog farmers and neighbors (Jackson-Smith and Gillespie, 2005; McMillan and Schulman, 2003); and
  - more stressful, less neighborly relations (Constance and Tuinstra, 2005; Smithers *et al.*, 2004).
- Civic participation: deterioration in community organizations, less involvement in social life (Goldschmidt, 1978a; Heffernan and Lasley, 1978; Poole, 1981; Rodefeld, 1974; Lyson *et al.*, 2001; Smithers, 2004).
- Quality of local governance: less democratic political decision-making, public becomes less involved as outside agribusiness interests increase control over local decision-making (Tetreau, 1940; Rodefeld, 1974; Goldschmidt, 1978a; McMillan and Schulman, 2003).
- Community services: fewer or poorer quality public services, fewer churches (Tetreau, 1940; Fujimoto, 1977; Goldschmidt, 1978a; Swanson, 1980).
- Retail trade: Decreased retail trade and fewer, less diverse retail firms (Goldschmidt, 1978a; Heady and Sonka, 1974; Rodefeld, 1974; Fujimoto, 1977; Marousek, 1979; Swanson, 1980; Skees and Swanson, 1988; Foltz *et al.*, 2002; Foltz and Zueli, 2005, Smithers, 2004; Gomez and Zhang, 2000).
- Reduced enjoyment of property: Deterioration of landscape, odor in communities with hog CAFOs (Schiffman *et al.*, 1998; Wing and Wolf, 1999, 2000; Constance and Tuinstra, 2005; Reisner *et al.*, 2004; Wright *et al.*, 2001; Kleiner, 2003; McMillan and Schulman, 2003).
- Health: neighbors of hog CAFOs review upper respiratory, digestive tract disorder, eye problems (Wing and Wolf, 1999, 2000; Constance and Tuinstra, 2005; Reisner *et al.*, 2004; Wright *et al.*, 2001; Kleiner, 2003).
- Real estate values: residences closest to hog CAFOs experience declining values relative to those more distant

NCRCRD, 1999, p.46; Seipel *et al.*, 1998; Constance and Tuinstra, 2005; Reisner *et al.*, 2004; Wright *et al.*, 2001).

Environment

- Ecosystem strains: depletion of water, other energy resources (Tetreau, 1940; Buttel and Larson, 1979; NCRCRD, 1999).
- Environmental consequences of CAFOs: increase in Safe Drinking Water Act violations, air quality problems, and increased risks of nutrient overload in soils (NCRCRD, 1999).

The studies indicate the types of community conditions associated with industrialized farming. To what extent do the studies overall provide evidence of detrimental impacts? With regard to the public policy interest in the topic, a count of studies where any detrimental impacts were found was conducted. The studies were classified according to whether the researchers review: Largely detrimental impacts; mixed findings (i.e., researchers review only some detrimental impacts were found); and no detrimental effects. Classifying the studies is somewhat complex because each may test a number of relationships about industrialized farming. The studies were placed into detrimental/no detrimental outcome categories based on whether the findings for the majority of relationships tested consistently fell into either of these two categories. Remaining studies are those in which the researchers found some detrimental impacts but other relationships were mixed, as described further below.

Out of the total 56 studies, researchers review largely detrimental impacts in 32, some detrimental impacts in 14, and no evidence of detrimental impacts in 10. Thus, 82% (46 out of 56) of the studies review finding some negative impacts of industrialized farming. This analysis provides quantitative evidence of the consistency in past research which has led to the working hypothesis that industrialized farming jeopardizes community well-being.

Of the 32 studies where social scientists found predominantly detrimental impacts, the following points should be noted. First, these studies use the four major types of research designs described earlier, comparative case study, macrosocial accounting, regional economic impact models and surveys. Studies reviewing detrimental impacts exist across all time periods and regions of the country. These studies review adverse outcomes for socioeconomic well-being, social fabric, and environmental conditions, using both scale and organizational measures of industrialized farming. In sum, the studies provide a great deal of evidence, produced over many years by researchers using different research designs, on the negative impacts of industrialized farming.

Of the 14 studies where social scientists review some, but not consistently negative impacts of industrialized farming, the following points should be noted. These studies provide mixed findings, in that though adverse effects on some community indicators were found, at least one of the following also occurred: Industrialized farming had no statistical relationship with other indicators (i.e., there was an absence of any relationship); industrialized farming had a trade-off effect, with beneficial effects on certain indicators; industrialized farming did not consistently produce negative impacts for all time periods or regions; or industrialized farming produced beneficial effects for some groups but detrimental to other groups. Mixed findings are evident to a greater degree in regional economic impact and macrosocial accounting studies (**Table 1**).

Regional impact studies tend to show costs–benefits for economic performance indicators, with larger farms injecting greater total income into the community, but also producing less employment relative to smaller farms (e.g., Heady and Sonka, 1974; Marousek, 1979). Macrosocial accounting studies often test a number of relationships, adding to the greater potential of mixed findings. Lobao's (1990) study is an example. For counties in the 48 contiguous states, industrialized farming had no relationship with poverty and median family income at either of the two single time points (1970 and 1980); however, industrialized farming was related to higher income inequality at both time points and also to lower family income, higher poverty, and higher income inequality over the 1970–80 decade (i.e., counties with greater industrialized farming in 1970 experienced relative declines in socioeconomic well-being over the decade).

Other research designs also provide examples of mixed findings. An example of a case study showing mixed effects is Wright *et al.* (2001) conducted in six counties with CAFOs in Minnesota. This study found that CAFOs had positive effects for farmers who expanded their operations; detrimental effects for neighbors to CAFOs whose ability to enjoy their property deteriorate; detrimental effects for younger and midsized producers unable to expand because expansion by others had restricted their access to markets; and no effects for those who were not neighbors or who were not expanding. A survey (Jackson-Smith and Gillespie, 2005) also found mixed effects for the impacts of large-scale, hired–labor–dependent dairies on community social relations. Farm size was the strongest predictor of neighbors' complaints about dairy operations, but demographic attributes of dairy farm owners had a greater affect on their relationships with neighbors than did farm size or use of hired labor.

The 10 studies that found no detrimental impacts of industrialized farming used mainly macrosocial accounting designs and tended to analyze only indicators of socioeconomic well-being. Lobao's and Schulman's (1991) study is an example. They examined whether industrialized farming was related to higher family poverty across agricultural regions in the US for the period 1970–80. They found no significant relationship in any of the four regions analyzed. Finally, a recent survey design study (Foltz and Zueli, 2005) found no evidence that large farms are unlikely to purchase locally once the presence of local suppliers was taken into consideration. Instead, they demonstrated that purchasing patterns are commodity specific and determined by community attachment, and local supply considerations.

Summary and Conclusion

Social scientists often debate whether empirical research should be oriented around disciplines' accumulated body of

Table 1 Summary of studies examining the effects of industrialized farming on community well-being

Research design	*Findings with regard to detrimental effects*		
	Detrimental	*Some detrimental*	*No detrimental*
Case-study	5[a]	2[f]	0
Macrosocial accounting	13[b]	7[g]	8[j]
Regional economic impact	3[c]	3[h]	1[l]
Survey	9[d]	2[i]	1[k]
Other design	2[e]	0	0
Total ($N=56$)	32 (57%)	14 (25%)	10 (18%)

[a]Goldschmidt, 1944, 1968, 1978a, original; Small Farm Viability Project, 1977; Constance and Tuinstra, 2005; Whittington and Warner, 2006; McMillan and Schulman, 2003.
[b]Fujimoto, 1977; Goldschmidt, 1978b; Buttel and Larson, 1979; Swanson, 1980; MacCannell, 1988; Durrenberg and Thu, 1996; Lyson *et al*., 2001; Peters, 2002; Wilson *et al*., 2002; Crowley and Roscigno, 2004; Smithers *et al*., 2004; Lyson and Welsh, 2005; Crowley, 1999.
[c]Gomez and Zhang, 2000; Foltz *et al*., 2002; Deller, 2003.
[d]Tetreau, 1938, 1940; Heffernan, 1972; Rodefeld, 1974; Martinson *et al*., 1976; Poole, 1981; Wing and Wolf, 1999, 2000; Reisner *et al*., 2004; Seipel *et al*., 1999; Kleiner, 2003.
[e]Seipel *et al*., 1998; Schiffman *et al*., 1998.
[f]North Central Regional Center for Rural Development (NCRCRD), 1999; Wright *et al*., 2001.
[g]Flora *et al*., 1977; Wheelock, 1979; Harris and Gilbert, 1982; Skees and Swanson, 1988; Flora and Flora, 1988; Gilles and Dalecki, 1988; Lobao, 1990.
[h]Heady and Sonka, 1974; Marousek, 1979; Thompson and Haskins, 1998.
[i]Heffernan and Lasley, 1978; Jackson-Smith and Gillespie, 2005.
[j]Heaton and Brown, 1982; Swanson, 1982; Green, 1985; Buttel *et al*., 1988; van Es *et al*., 1988; Lobao and Schulman, 1991; Barnes and Blevins, 1992; Irwin *et al*., 1999.
[k]Foltz and Zueli, 2005.
[l]Otto *et al*., 1998.

knowledge or, conversely, address the public interest and provide critical knowledge to build civil society (Burawoy 2005). Social science research on industrialized farming accomplishes both objectives. This study addresses the long-standing question, does industrialized farming jeopardize the well-being of communities, through systematically evaluating the findings of studies from the 1930s to the present. On the basis of a sample of 56 studies, 82% provide evidence of adverse impacts (57% reviewing largely detrimental effects and 25% some detrimental effects). These impacts were reviewed in studies using various research designs and across different time periods and regions.

The types of community impacts reviewed by social scientists were detailed earlier and are seen in the following general relationships. For socioeconomic well-being, researchers noted that industrialized farming was related to higher income inequality and to lower community employment, relative to moderate-sized family farming. Higher income inequality indicates that industrialized farming is less likely to sustain middle-class communities. Places with higher income inequality also are prone to other social problems because the gap between the affluent and the poor is greater. With regard to other socioeconomic impacts, such as total income injected into the community, regional economic impact models were likely to review beneficial impacts. The findings for income inequality, however, suggest that income growth is impeded in trickling down to families.

Studies assessing consequences for the social fabric of communities were likely to find detrimental impacts. Industrialized farming affects the social fabric of communities through altering population size and social composition which affect crime, social conflict, family stability, the local class structure, community participation, and local shopping patterns. Case studies reviewed the loss of local autonomy, in which communities become increasingly subject to the influence of external business owners, whose interests may not be compatible with their own. More recent studies reviewed environment impacts. As large animal confinement operations house densely concentrated livestock, they are prone to a host of negative environmental impacts on water, air, and human health.

Given the relative consistency of past research, four sets of impacts of industrialized farming for farming-dependent communities in Heartland states can be anticipated: Impacts on socioeconomic well-being, social fabric, the environment, and regional imbalances. Communities that receive industrialized farming are likely to increase population relative to other communities (i.e., if local family farmers are not displaced). These communities may increase employment and per capita income, but as shown by the NCRCRD (1999) study, this may not be at a rate significantly different from comparison locales. Communities with industrialized farms are likely to experience greater income inequality; government services for the poor and other disadvantaged groups are likely to be needed in these locales. Communities that gain new industrialized farming will encounter stresses in the social fabric; community decision-making is likely to be more subject to corporate farm interests; and in the case of large livestock confinement operations, communities will be at risk for environmental and health problems, entailing the need for state and local government intervention. Communities that lose moderate-sized family farms, in part because of transaction cost advantages (e.g., volume buying–selling) and public incentives given to industrialized farms, will lose a base of middle class producers and experience rifts in social fabric, including population decline. These communities are likely to have declines in other businesses and in the local property tax base and may require government aid for social and public services.

Not discussed in this review are alternative economic development strategies that farming-dependent communities can pursue. Notwithstanding arguments that vertical integration into farming and production contracts are the only options left to keep American farmers farming, there are alternatives and some working examples are discussed in NCRCRD (1999). Deller (2003) suggested that if the results of their analyses held true for other time periods, then policies aimed at preserving family farms in the name of economic growth might be misplaced. Instead, policy should be aimed at the promotion of alternative sources of income for farm families.

During the time frame in which previous studies have been conducted, Welsh (2009) notes that the structure of agriculture has changed dramatically toward a bimodal distribution of large and small farms each operating in different market structures. He recommends that new studies examining the relationship between agriculture and community should examine the impacts of changed market structure as well as how public policies can mitigate the negative impacts of agricultural industrialization.

From a sociological standpoint, government plays a role in the types of consequences that industrialized farming will have for community well-being. It establishes the legal–institutional framework for regulating these farms. It establishes the incentive structure offered to agribusiness firms in their location decisions. It provides the public services needed to mop up the destabilizing impacts of industrialized farming, such as a rising crime rate, increased social conflict, and the need for social services to cope with a changing population. Moreover, government will need to provide the social services related to population decline and poverty alleviation in communities which lose family farming. (In nonfarm-dependent communities, government intervenes in a number of ways when paid employment, such as in manufacturing and mining declines: through programs such as unemployment insurance, various income transfers, such as welfare payments, for which independent farm operators are generally not eligible due to property ownership; through retraining programs, such as for workers who lose jobs because of North American Free Tree Agreement; and through enforcement of community rights in plant closure laws. Owing to their farming base, farm-dependent communities usually cannot make as full use of these social safety nets as can other communities.)

The role that laws regulating corporate farms have in countering detrimental community impacts of industrialized farming had only been alluded to by some researchers. Lobao and Schulman (1991, p. 596) postulated that one of the reasons why a few studies have found that industrialized farming has had less adverse effects in the North Central Heartland Region (relative to the South and West) is due to its agrarian history of protection of family farming and regulation of corporate farming. NCRCRD (1999) also indicated that 'relatively lax anticorporate farming laws, weak environmental regulations and permissive groundwater access laws' not surprisingly encouraged large, animal confinement operation to locate in Kansas.

The role that corporate farming laws play in protecting rural communities has been alluded to in past research NCRCRD (1999) but only recently addressed by Lyson and Welsh (2005). When they examined states with anticorporate farming laws (Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Oklahoma, and Wisconsin), they found that agriculture-dependent counties in states with such laws fare better on economic measures, that is, less families in poverty, lower unemployment, and higher percentages of farms realizing cash gains. In the comparison of states with less restrictive versus states with more restrictive laws, they generally found the same results as with the comparison of states with anticorporate farming laws and states without such laws. Additional research is needed to explain these findings, such as whether corporate farming laws *per se* or broader aspects of the institutional regulatory environment are protecting the fortunes of local communities.

It is clear, however, that within states, remote communities distant from metropolitan centers particularly need state-level protection. Remote rural counties appear to be targeted as recent operating sites by large animal confinement operations. Research by Wilson *et al.* (2002) demonstrated that census blocks in Mississippi with high percentages of African Americans or people in poverty were much more likely to be the locations of swine CAFOs. Of all local governments, remote rural counties have the least resources (staff, economic development, and social service budget) to cope with industrialized farming. They are in weak positions to bargain successfully with external corporations, to regulate their operations once they are in place, and to protect community social life and environment overall. State protection from industrialized farming is most critical in remote communities due, in part, to the fragility of local government (Lobao and Kraybill, 2005). From a social science standpoint, the farming system in place today has been created from both market forces and government policy and programs. It is thus logical that government can also be an instrument in transforming this system toward greater public accountability.

See also: Agribusiness Organization and Management. Agricultural Mechanization. Changing Structure and Organization of US Agriculture. Government Agricultural Policy, United States. Rural Sociology

Disclaimer

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Agricultural industrialization, anticorporate farming laws, and rural community welfare

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Abstract. The effect on rural communities of shifts in US agriculture toward a system dominated by large-scale industrial production is a central problematic in the sociology of agriculture. Despite the importance of agriculture structure and practice to US society, most research on this topic has been confined to specialized journals. And though research in this area has found negative effects on rural communities from agricultural industrialization, there is a dearth of inquiry into public policy remedies. Using data on 433 agriculture-dependent counties in the USA, we find that counties in states with laws that limit nonfamily corporate entry into farming score higher on important welfare indicators, and that the laws mitigate negative impacts on rural communities from industrial farming.

Introduction

Since early in the 20th century US agriculture has been increasingly characterized by a loss in farm numbers, increasing average farm scale, increases in the use of hired labor on farms, vertical integration of farming with off-farm businesses, and upsurges in contract farming (Lobao, 1990; Lobao and Meyer, 2001; Welsh, 1997a). These changes have been uneven across time and place, but in general they have characterized the development of US agriculture in the 20th and early-21st centuries, and have caused some observers to argue that agriculture is 'industrializing' (Lobao and Meyer, 2001; Welsh, 1997a). The potential for industrial farming to displace the traditional family-labor farm has caused public concern within and outside rural USA.

Today, as US agriculture turns down the path of a new century, a more tightly choreographed food system is emerging. According to Mark Drabenstott, an economist with the Federal Reserve Bank of Kansas City, in a speech given in San Francisco on 8 November 1999: "The key component in this choreography is a business alliance known as a supply chain. In a supply chain, farmers sign a contract with a major food company to deliver precisely grown farm products on a pre-set schedule". For farmers in the USA, continued industrialization of the food system will mean that a much smaller number of producers will articulate with a small number of processors in a highly integrated business alliance. Drabenstott estimates that "40 or fewer chains will control nearly all US pork production in a matter of a few years, and that these chains will engage a *mere fraction* [italics added] of the 100 000 hog farms now scattered across the nation." In a similar vein, the Chief Executive Officer of Dairy Farms of America (the USA's largest dairy cooperative), Gary Hanman, recently noted that "We would need only 7468 farms [out of over 100 000 today] with 1000 cows if they produced 20 857 pounds of milk which is the average on the top four milk producing states" (Northeast Dairy Business, 1999, page 11). The consequences are clear: "supply chains

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will locate in relatively few rural communities. And with fewer farmers and fewer suppliers where they do locate, the economic impact will be different from the commodity agriculture of the past" (Drabenstott speech, San Francisco, 8 November 1999).

Large multinational food corporations are increasingly taking on the task of organizing and coordinating the production, processing, and distribution of food. Today, mass-production food processors and distributors along with mass market retailers are becoming dominant fixtures in the US food economy. The degree of concentration has reached the point at which the ten largest US-based multinational corporations control almost 60% of the food and beverages sold in the United States (Lyson and Raymer, 2000). The sheer size of the multinational food giants also has important consequences for farmers and their farms. "Size brings economic power and this is particularly significant when set against the structure of the farming industry with its large number of relatively small producers. Some of the most dramatic recent changes in agricultural marketing reflect the power of these new markets to extract their requirements from the farming industry" (Hart, 1992, page 176). Large processors and retailers centralize their purchases of farm products. Because they seek large quantities of standardized and uniform products they have considerable power in dictating how and where agricultural production takes place. And in some instances, the corporate reach of the multinational corporations extends inside the farmgate.

Data from the US Census of Agriculture show that corporate farms account for a small but growing share of all farms and a significant and growing share of farm sales. Whereas most corporate farms are family-based organizations, nonfamily corporations are a significant player. Census data show that nonfamily corporations with more than ten stockholders operated 1075 farms in 2002. These farms are unusually large with sales per farm of over \$5 million per year. In comparison, family farm corporations averaged only \$670 000 in sales per year in 2002.

In this paper we examine the impact on communities of state-level public policy attempts to limit, in a number of ways, the corporate penetration of agriculture. Such public policies have been described as 'anticorporate farming laws' because they place restrictions, or even prohibitions, on the ability of nonfamily corporations to engage in agricultural production. We situate our research within a broader social science framework that is anchored to the early theoretical and empirical works of C Wright Mills and Melville Ulmer (1946; 1970) and Walter Goldschmidt (1946; 1978), who documented the corrosive effects of corporate capitalism on the social and economic well-being of urban and rural communities. We also describe, and then examine empirically, how some states are establishing anticorporate farming laws in an attempt to mute the negative social and economic consequences of corporate agriculture (see Welsh and Lyson, 2001).

The Goldschmidt hypothesis

In the mid-to-late 1940s a US Senate Special Committee commissioned two reports in order to explore the potential relationship between the concentration of economic power at the community level and the social and economic well-being of local residents and communities.

Mills and Ulmer (1946) studied three matched pairs of small-to-medium-size US cities. Two pairs provided big-business–small-business contrasts, and the third provided an intermediate case. Mills and Ulmer were particularly interested in evaluating the "effects of big and small business on city life". In the foreword to their report, Senator James E Murray, Chairman of the Special Committee that commissioned the study, noted that "for the first time objective scientific data show that communities in which small businesses predominate have a higher level of civic welfare than comparable communities dominated by big business" (cited in Mills and Ulmer, 1946, page v).

In particular, Mills and Ulmer (1946, pages 1–2) found that small-business communities provided a more balanced economic life than did big-business cities. They also found that levels of social and economic welfare were appreciably higher in small-business cities.

Goldschmidt (1946) focused his comparison on two "communities of large and small farms" in California: Arvin and Dinuba. According to Goldschmidt's description, Arvin was a community dominated by farms substantially larger than those found in Dinuba, which was a community surrounded by small farms. However, Arvin and Dinuba were similar in other characteristics, including population size, shared value systems, and social customs, and were "part of a common system of agricultural production, best understood as industrialized" (Goldschmidt, 1978, page 393; see also Lyson et al, 2001). Therefore, Goldschmidt believed that a comparison of the relationship between the agricultural structure and the community welfare of the two communities would be informative.

Goldschmidt concluded from his research findings that residents of Arvin realized a lower standard of living and quality of life than did residents in Dinuba—a fact attributable to the difference in the agricultural structure surrounding the two communities. To Goldschmidt, the scale of farming was directly linked with stratification patterns in the two communities (Lobao and Meyer, 2001). In his words: "The reported differences in communities may properly be assigned confidently and overwhelmingly to the scale of farming factor" (Goldschmidt, 1978, page 284; Lyson et al, 2001).

Analysts in the Goldschmidt tradition argue that increasing farm scale coupled with a decrease in the number of farms has the potential to negatively impact communities through a number of mechanisms. The primary vehicles for negative impacts are the concentrated control of critical productive assets and the selling of labor by substantial numbers of workers in order to subsist, as opposed to running their own small farming operations. Communities dominated by large numbers of small-to-moderate-size farms manifest broad-based control over productive assets and an increased economic independence of their citizens. The latter situation results in dispersed political power and an increased well-being of community residents (see Goldschmidt 1946; 1978; Lobao, 1990; and Lyson et al, 2001).

Linda Lobao and Katherine Meyer (2001) find that research in the Goldschmidt tradition can be separated into three generations, with the first generation being the original study. The original study's findings were very controversial and led to the closing of the Bureau of Economic Analysis of the US Department of Agriculture (USDA). This backlash explains why the second generation of Goldschmidt studies did not develop until years later in the 1970s. These studies picked up the original arguments and attempted to discern, usually through quantitative methods, whether farm scale and community welfare were negatively or positively associated (Buttel et al, 1990). This cohort of research was criticized for, among other things, not containing sufficient control variables and this led to a third generation of quantitative models that were more completely specified (Lobao and Meyer, 2001).

Thomas Lyson et al (2001) recently altered the traditional approach to understanding the relationship between farm scale and community welfare. They argued that although negative relationships can be discerned between the increasing dominance of large-scale farming and rural community welfare, the relationship can be mediated by the presence of a "civically-engaged and economically independent middle-class". By taking account of variables such as voting rates, church attendance, and the percentage of self-employed, Lyson et al were often able to reduce the negative impacts of large-scale farming variables on measures of rural community welfare. In addition, the civic engagement variables, which tended to be more reliable and stronger predictors of positive rural community welfare than the large-scale farming variables that tended to have negative associations with community welfare.

However, Lyson et al (2001) did not specify any intervening mechanism that might account for the moderating influence of an engaged citizenry. Nor did they consider the extent to which groups of farmers and their allies may take measures, such as developing and implementing public policy, to impede or mitigate potential negative outcomes from the overarching structural shift to fewer, larger farming operations. And farmers and farmer groups have a history of organizing to petition national and sub-national governments around a number of issues including perceived threats from structural shifts toward large-scale and corporate-oriented agriculture (Mooney and Hunt, 1996; Welsh, 1997a). State anticorporate farming laws constitute one public-policy intervention that might reflect the outcome of the efforts of a citizenry concerned about the potential negative impacts of structural change in US agriculture on rural communities.

Anticorporate farming laws

Nine Midwestern states have adopted laws that restrict corporate involvement in agriculture. The nine states are Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin (Pedersen and Meyer, 1995). The laws were put into place between 1974 and 1975 for all states but Nebraska. Nebraska's constitutional amendment (Initiative 300 or I-300) restricting corporate agriculture was put into place in 1982. The laws, called anticorporate farming laws, vary from state to state but in general are intended to restrict corporate involvement in agriculture in order to protect family-farm agriculture (Powers, 1993; Welsh et al, 2001). For example, Minnesota's anticorporate farming law specifically states that it is in the interests of the state to promote and protect:

> "the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family." (Welsh, 1997b, page 9).

Anticorporate farming laws are not necessarily intended to slow down or impede many of the changes occurring in US agriculture. For example, the laws do not address issues concerning hired labor or the increasing scale of the farming units in general. Rather, the laws are designed to regulate or proscribe the entry of particular types of organizational forms based on ownership arrangements, most commonly nonfamily corporations, into production agriculture. This is accomplished through actions such as restrictions or regulations on ownership of farmland or downward vertical integration of livestock processing with production (Welsh, 1998). The principal idea here is that unincorporated farming units might find it difficult to compete with incorporated farming units because the latter enjoy liability advantages and possibly enjoy advantages in other areas such as acquiring financing and paying taxes (Welsh, 1998).

Primarily, anticorporate farming laws restrict corporations and other investment-type organizations from engaging in farming. The restrictions are generally applied to nonfamily corporations and limited partnerships (Pedersen and Meyer, 1995). Family corporations are often exempted from the laws if they have certain characteristics. These characteristics might include a maximum number of unrelated (that is, nonkindred) shareholders or the presence of at least one shareholder living and working on the farm (Pedersen and Meyer, 1995). Additionally, family-farm corporations might have to earn a minimum percentage of their gross income from farming in order to be permitted to engage in farming (Welsh, 1998). If a farm is the type of corporation that is not proscribed, or is not a scrutinized entity (for example, general partnership, sole proprietorship), then there are no restrictions placed on the farm (Pedersen and Meyer, 1995).

If a business is not authorized to engage in farming then a number of restrictions can apply. For example, there may be restrictions on the amount of farmland that can be owned (Dahl, 1991). In addition, other activities could be restricted under the laws. For example, Iowa's anticorporate farming law bans packer feeding of livestock (Hamilton, 1995). Generally the laws limit the flexibility of corporations to vertically integrate and expand operations. The laws may even limit the ability of nonfamily corporations to coordinate production and processing through contract production, though this constraint is uneven across states and commodity systems and is highly contested (Hamilton, 1995; Pedersen and Meyer, 1995). The intent of the laws is to discourage the development of a nonfamily-based corporate agriculture and to retain an agricultural industry that is dominated by family-owned, family-operated and family-controlled production units.

However, over time there have been efforts to relax or rescind the laws (see Hamilton, 1995; Pedersen and Meyer, 1995; Powers, 1993). Structural change in US agriculture, especially livestock agriculture, has brought with it pressure to allow more flexibility for agribusiness firms in Midwestern states to move toward greater integration and coordination between agriculture production operations and firms in the processing and/or input supply sectors. The poultry industry has led the way in establishing these arrangements (Thu and Durrenberger, 1998). Efforts to convince the legislatures, or the citizens, of states with anticorporate farming laws to relax such laws have often been met with resistance by individuals and groups (Welsh, 1998). Because of these conflicting interests and desires, the outcome of efforts either to relax the laws or to strengthen them has been mixed. In 1991 Oklahoma clarified its laws in order to allow corporations to have more flexibility. Missouri exempted three counties from its law in 1993 and Kansas allowed for county exemptions to its law beginning in 1995. On the other hand, South Dakota strengthened its law in 1988 (Hamilton, 1995) and again in 1998 through popular referendum (WORC, 1998). Welsh et al (2001) have demonstrated that making changes in the laws can influence outcomes such as changes in the percentage of acres owned by nonfamily-farm corporations.

What is apparent from the various efforts to change the laws is that those parties in favor of, and those who are opposed to, corporate involvement in agriculture believe that the laws have some relevant impacts. Otherwise it would not be a rational action either to oppose or to support the laws. In addition, it is clear from the complexity of the laws, and from the detail in which those entities to be regulated or proscribed are defined and described, that they are constructed carefully and with a great degree of purpose. Incorporation is allowed but only under certain conditions. Likewise, absentee ownership is permitted but limited. The architects of the laws have attempted to allow economic flexibility on the part of firms to grow and expand, but have attempted to limit the degree to which production agriculture departs from the family-farm model (Welsh, 1998).

The mere existence of laws that prohibit nonfamily corporate participation in a central and important economic activity is probably surprising to sociologists not familiar with agriculture. However, the existence of these laws can be explained by several factors. The anticorporate farming zone comprises states that have traditionally depended on agriculture as a major source of economic activity. Also, aspects peculiar to agriculture have historically impeded the ability of investor-held corporations to enter into agricultural production. These aspects have included: barriers to capital to make sufficient returns on investment in agriculture as a result of seasonality and other biological barriers; farm family members providing a knowledgeable and productive workforce; and family farms providing a legitimization function for the industry with respect to optimizing state subsidies to agriculture (Lobao and Meyer, 2001, pages 110–111). These factors, combined with a persistent agrarian ideology which insists that household-based production is preferable to corporate production (Mooney and Hunt, 1996; Welsh, 1997a), help to explain the persistence of household-based production in agriculture long after it disappeared in other sectors (Buttel et al, 1990). Such factors also explain the presence of a constituency for the establishment of public policy that shields family-farm agriculture from corporate penetration.

The laws do not proscribe large-scale farming. Rather, they establish parameters within which farms of all sizes operate. By restricting nonfamily corporations from entering production agriculture, and by regulating absentee ownership and shareholder arrangements, the laws attempt to keep control over decisionmaking at the farm level. Farm owners and operators are more likely to be the same people if the farm is family owned, if the numbers of nonfamily shareholders are limited, and if those shareholders tend to be present on the farm. With these restrictions, large-scale farming may be less detrimental to rural communities.

Data and analysis

We examine agriculture-dependent counties (compare Cook and Mizer, 1995), which we define on the basis of two criteria: first, at least 75% of the total land in a county must have been farmland in 1982 and 1992; second, at least 50% of total gross receipts for goods and services in the county must have originated from agricultural sales in 1982 and 1992. These measures were derived from the 1982 and 1992 Censuses of Agriculture and from variables contained in the 1982 and 1992 Economic Censuses.[(1)] There are 433 counties that fit these criteria (see Lyson et al, 2001). Of the 433 counties, 292 are in states with anticorporate farming laws.

In addition, we use data from the 1982 and 1992 Censuses of Agriculture to construct a measure of large-scale, absentee-owned farming in a county. For 1982 we combine the following three variables: (1) the percentage of agricultural sales in a county accounted for by farms with sales of $500 000 or more; (2) the percentage of farm operators in a county that reside off-farm; and (3) the percentage of tenant farms in a county. A principal-components analysis shows that the three variables together form one factor that accounts for over 50% of the variance, with an eigenvalue of 1.51. Eigenvalues of greater than 1.0 indicate that a factor is statistically significant (table 1).

For the 1992 cross-sectional analysis, we use the same three variables, but add a fourth variable (not available in the 1982 Census of Agriculture) that taps the percentage of hired farm labor (with respect to all hired farm labor) on the largest farms in the county. This variable adds a labor-intensity component to the factor scale. The factor accounts for 52.35% of the variance and has an eigenvalue of 2.1. For both scales, a high factor score is associated with counties characterized by large-scale, industrial-like farm operations, whereas a low factor score is associated with counties in which smaller-scale, family-type farms predominate (Lyson et al, 2001). We chose these variables in order to construct an index that reflects the rhetoric of family-farm advocates. That is, individuals and groups that are likely to favor anticorporate farming laws and family-based agriculture, are also likely to hold Jeffersonian ideals regarding the primacy of small-to-moderate-sized family-*owned* and family-*operated* farms (see Hamilton, 1996; Welsh, 1998).

[(1)] The USDA has constructed a typology of US counties in which 'farming dependent' is one type. The USDA defines farming-dependent counties as nonmetropolitan counties in which farming contributed a weighted annual average of 20% or more of the total labor force and population income over the three years from 1987 to 1989. Because farm-related incomes are generally low, we felt that a better measure of agricultural dependency should focus more on the economic and geographic scope of the farming enterprise and not on the income which farming generates.

Table 1. Indices of large-scale agriculture [source: US Census of Agriculture (Census Bureau)].

Large scale agriculture variables	Factor loading (1990/1992)	Factor loading (1980/1982)
Farms with sales over $500 000 share of total sales (%)	0.751	0.768
Operators residing off farm (%)	0.722	0.772
Tenant farms as a percentage of all farms	0.636	0.632
Hired labor on largest farms as a percentage of all hired labor	0.777	na
Eigenvalue	2.1	1.585
Percentage of variance	52.350	52.80

na—not available.

To probe for differences between large-farm and small-farm communities, Goldschmidt identified a variety of measures of socioeconomic welfare, including income distribution, housing conditions, and a general-level-of-living index. To measure rural community welfare we use two frequently employed measures that reflect aspects of community economic health (Horn, 1993; OECD, 1997), and a third variable that measures overall farm economic performance in a county. The community economic health measures relate to years (circa) 1980 and (circa) 1990 and come from machine-readable data files—County Statistics File 4 (US Bureau of the Census, 1992). The two measures are (1) the percentage of families in poverty; and, (2) the unemployment rate (three-year average).[(2)] The farm economic performance variable is the percentage of farms reporting cash gains in the county, and is derived from the Census of Agriculture for 1992 (see Lyson et al, 2001).

Our analysis differs from Goldschmidt's in a number of important ways. For example, Goldschmidt reported differences in mean percentages or absolute levels in order to discern the impacts of farm scale on community welfare. However, we attempt to parallel Lobao (1990) and use both cross-sectional and lagged-panel linear regression analyses.

The *cross-sectional analyses* regress the set of community welfare variables circa 1990 on a measure of farm scale derived from the 1992 Census of Agriculture, anticorporate farming law variables and important control variables, taken from the Census of Agriculture and the US Census.

In a *lagged-panel design*, independent variables are measured at an earlier time than are the dependent measures. Additionally, lagged-panel models also include dependent variables measured at an earlier time as explanatory variables. The inclusion of a lagged-panel design in conjunction with a cross-sectional analysis is more rigorous than cross-sectional analysis alone because lagged-panel analysis provides an assessment of the effects of farm scale and anticorporate farming laws on *changes* in community welfare over time. For the lagged-panel analyses, we use dependent variables from the 1990 cross-sectional analyses and regress them on independent measures circa 1980 (see Lyson et al, 2001).

To assess the impact of the anticorporate farming laws we construct a binary variable which denotes whether a county is within a state with an anticorporate farming law (1 = anticorporate state; 0 = otherwise). In addition, a number of control variables are included to account for other possible factors influencing the community

[(2)] The three-year averages for this and subsequent variables concern the years 1991, 1992, and 1993 for the cross-sectional and lagged-panel dependent variables and years 1981, 1982, and 1983 for the lagged-panel regressors.

Table 2. Sources of dependent and control variables.

	Source
(a) *Dependent variables*	
Percentage of family poverty	Census
Percentage of unemployed (three-year average)	Bureau of Labor Statistics [a]
Percentage of farms with cash gains	Census of Agriculture [b]
(b) *Control variables*	
Personal income ($)	Census [a]
Percentage of college graduates	Census [a]
Percentage of ethnic group	Census [a]
Percentage of state workforce unionized	Statistical Abstract of the United States
Percentage of farms of all types	Census of Agriculture [b]
Region	US Department of Agriculture/Economic Research Service

[a] US Bureau of the Census (1992).
[b] US Bureau of Census (1984; 1994).

welfare variables. All control variables are measured at the county level unless otherwise indicated. The control variables included in the analysis are the percentage of the population that are college educated; the mean personal income; the natural logarithm of the percentage of the population that are Native Americans; the natural logarithm of the percentage of the population that are Black Americans; the percentage of the state workforce that is unionized; and the agricultural region. The sources both of the dependent and control variables used are provided in table 2.

The natural logarithms of several independent variables are calculated to correct for skewness in the data. Control variables are included in an attempt to isolate the effects of the variables of interest: in this case the farm-scale variable and the anti-corporate-farming-law variable. Controls are included that may potentially influence both poverty and unemployment rates at the county level and the percentage of farms earning cash gains. For example, it is often found that Native American and Black American populations endure higher poverty rates and higher unemployment rates than other groups. Therefore, controlling for these variables adds confidence that it is the impact of the laws that has been measured and not other influences that might be contained within states with anticorporate farming laws.

Regarding the 'agricultural region', the Economic Research Service of the US Department of Agriculture has developed county-level region variables. These regional variables have been developed to identify "areas with similar types of farms intersected with areas of similar physiographic, soil, and climatic traits, as reflected in USDA's Land Resource Regions" (Economic Research Service, 2000). We control for two regions: (1) the 'Heartland' region, which primarily consists of the 'corn belt'; and, (2) the 'Prairie Gateway' region, which primarily comprises Texas, Oklahoma, and Nebraska. Controlling for agricultural region is necessary for studies that investigate outcomes related to agricultural structure. And by taking account of agricultural region, we can have more confidence that we are measuring the effects of the laws within the states rather than merely measuring regional impacts. In addition, by considering the percentage of the state workforce that is unionized, we not only account for a potential important predictor of the dependent variables, but we also partially control for other state-level effects. Again this gives us more confidence that the effects are a result of the anticorporate farming laws and are not consequences of other state and regional effects.

We use structural equation modeling that incorporates both measurement and structural models (see Lyson et al, 2001). The latent variable representing the farm-scale factor (table 1) represents the measurement models. Standardized regression coefficients are reported from maximum likelihood estimation (Arbuckle and Wothke, 1999). The normed fit index assesses how well the model fits the data. Scores range from zero (no fit) to unity (perfect fit), with an acceptable fit generally being a score above 0.90 (Bentler and Bonnett, 1980). Structural equation modeling is an appropriate technique to use for studies that attempt to describe outcomes such as 'community welfare' through proxy variables. Taking into account the potential for multiple paths of association and for relationships between independent variables is an approach which can probably be recommended for investigating how rural communities fare under particular social and economic relationships through necessarily partial measures.

For both the cross-sectional and lagged-panel analyses, we construct three models. The first model includes all variables *except* the anticorporate-farming dummy variable. The second model adds this dummy variable but deletes the industrial-farming latent variable. The third is the full model that incorporates all variables. In this way we can discern the initial relationship between the large-scale farming variable and rural community welfare. We can then measure the association between anticorporate farming laws and rural community welfare, and discover if adding the anticorporate dummy influences the initial relationship between farm scale and rural community welfare.

Results

We turn first to family poverty (table 3). In model A the farm-scale variable is positive and statistically significant and in model B the anticorporate-state binary variable is negative and significant. In the full model, model C, the farm-scale variable remains positive, but is substantially reduced in magnitude. The coefficient of the anticorporate dummy variable is slightly reduced in magnitude. The same relationships are evident in the lagged-panel analyses (models D, E, and F). The results indicate that large-scale

Table 3. Standardized coefficients for the regression of family poverty on farm scale, anticorporate-farming binary variable, and control variables using cross-sectional and lagged-panel analyses.

Explanatory variables	Cross-sectional analysis (1990)			Lagged-panel analysis (1980–90)		
	A	B	C	D	E	F
Anticorporate state	–	−0.219†	−0.180†	–	−0.111†	−0.103†
Farm scale	0.253†	–	0.096*	0.131**	–	0.051
Family poverty 1979				0.771†	0.756†	0.753†
Personal income	−0.639†	−0.645†	−0.645†	0.019	0.020	0.012
Percentage of college graduates	−0.034	0.000	−0.006	−0.012	−0.005	−0.008
Ln (percentage of Native Americans)	0.216†	0.187†	0.202†	0.223†	0.216†	0.218†
Ln (percentage of Black Americans)	0.140†	0.143†	0.123†	0.120***	0.133†	0.121†
Percentage of workforce unionized	0.008	−0.103†	−0.075**	0.089***	0.034	0.047
Heartland region	−0.088**	−0.058*	−0.053*	−0.077**	−0.058**	−0.058*
Prairie Gateway region	−0.154†	−0.071**	−0.106***	−0.048	−0.007	−0.024
Normed fit index	0.969	0.984	0.960	0.983	0.986	0.982

* Significant at $p < 0.10$; ** significant at $p < 0.05$; *** significant at $p < 0.01$, † significant at $p < 0.001$.

farming is associated with higher poverty levels in farming-dependent counties; and that farming-dependent counties in states with anticorporate farming laws have lower relative poverty levels than farming-dependent counties in states that do not have anticorporate farming laws. But the results also suggest that large-scale farming in states with anticorporate farming laws has much less of an impact on county-level poverty than in states without such laws. The anticorporate farming law seems to mitigate the negative impact of large-scale farming.

A similar set of results is obtained regarding the percentage of farms earning cash gains (table 4). However, in this case the farm-scale variable actually changes signs after the anticorporate dummy variable is added to the full model (models C and F). The initial effect of large farm scale is negative. However, it becomes positive after taking into account whether or not a county is located in a state with an anticorporate farming law. In both the cross-sectional and lagged-panel analyses the farm-scale variable is not significant.

Table 4. Standardized coefficients for the regression of the percentage of farms earning cash gains on farm scale, anticorporate-farming binary variable, and control variables using cross-sectional and lagged-panel analyses.

Explanatory variables	Cross-sectional analysis (1990)			Lagged-panel analysis (1980–90)		
	A	B	C	D	E	F
Anticorporate state	–	0.249†	0.270†	–	0.211†	0.244†
Farm scale	−0.123	–	0.065	−0.010	–	0.131
Percentage of farms earning cash gains 1987[a]				0.381†	0.363†	0.363†
Personal income	−0.010	0.003	0.003	0.023	0.039	0.022
Percentage of college graduates	0.043	0.009	0.005	0.008	0.007	0.000
Ln (percentage of Native Americans)	−0.117**	−0.117**	−0.099**	−0.038	−0.053	−0.032
Ln (percentage of Black Americans)	−0.101*	−0.060	−0.071	−0.094	−0.021	−0.065
Percentage of workforce unionized	−0.082	0.024	0.042	−0.012	0.036	0.068
Heartland region	0.168***	0.117**	0.117**	0.042	−0.005	−0.002
Prairie Gateway region	−0.218†	−0.252†	−0.269†	−0.228†	−0.237†	−0.272†
Normed fit index	0.972	0.985	0.973	0.979	0.987	0.980

[a] Cash gains data are not available before 1987.
* Significant at $p < 0.10$; ** significant at $p < 0.05$; *** significant at $p < 0.01$, † significant at $p < 0.001$.

Concerning unemployment (table 5), the same patterns are repeated. Farm scale is associated with higher unemployment, but the anticorporate variable seems to mediate this relationship. In the cross-sectional analysis (models A, B, and C), the size of the farm-scale effect is reduced in the full model. In the lagged-panel analysis (models D, E, and F), the sign on the farm-scale variable is again changed after adding the anticorporate variable. This suggests an interactive effect between anticorporate farming laws and large-scale farming. Anticorporate farming laws seem to mitigate negative impacts on farming-dependent communities from large-scale farming.

Table 5. Standardized coefficients for the regression of the percentage of unemployed on farm scale, anticorporate-farming binary variable, and control variables using cross-sectional and lagged-panel analyses.

Explanatory variables	Cross-sectional analysis (1990)			Lagged-panel analysis (1980–90)		
	A	B	C	D	E	F
Anticorporate state	–	−0.295†	−0.198†	–	−0.173†	−0.095†
Farm scale	0.430†	–	0.250***	0.433†	–	−0.310†
Percentage of unemployed 1980				0.571†	0.592†	0.581†
Personal income	−0.231†	−0.245†	−0.237†	−0.116***	−0.54*	−0.98***
Percentage of college graduates	−0.259†	−0.208†	−0.226†	−0.138†	−0.100†	−0.128†
Ln (percentage of Native Americans)	0.305†	0.257†	0.282†	0.252†	0.184†	0.221†
Ln (percentage of Black Americans)	0.224†	0.274†	0.223†	0.044	0.172†	0.075
Percentage of workforce unionized	0.387†	0.210†	0.291†	0.212†	0.091**	0.178†
Heartland region	0.045	0.065	0.076*	−0.089**	−0.082**	−0.071*
Prairie Gateway region	−0.220†	−0.076*	−0.165***	−0.128**	0.027	−0.076
Normed fit index	0.970	0.983	0.971	0.971	0.984	0.981

* Significant at $p < 0.10$; ** significant at $p < 0.05$; *** significant at $p < 0.01$, † significant at $p < 0.001$.

Discussion and conclusions

It is critical that we recognize and address the fact that control of today's food system rests primarily with powerful and highly concentrated economic interests, and not with local communities or even government (Heffernan, 1999; Lyson and Raymer, 2000). Corporate interests are likely to continue to influence the food system in the direction of increased economic globalization. However, states have many tools which can be used to prevent corporate interests from gaining complete control of the food system from plow to plate. And, as we have demonstrated here, there are important social and economic reasons to do so.

The Goldschmidt hypothesis maintains that large-scale, industrial farming has negative effects on rural communities. Although our findings support this assertion in some respects, they also indicate that a large farm scale is not inherently negative for rural communities. Rather, the impact often depends on the public policy environment. That is, the primary concern regarding agriculture structure and rural community welfare is not farm scale, but rather, it is corporate integration and coordination of farming with food manufacturing. The authors of anticorporate farming laws appear to have realized this because the focus of the laws is on limiting the reach of nonfamily corporations into agricultural production (for example, banning packer feeding of livestock). Regarding their effect, we find that the laws are likely to have been beneficial to rural communities. Agriculture-dependent counties in states that restrict or regulate corporate agriculture are more likely to score higher on the measures of community well-being than are states without such laws. In addition, the laws seem to mirror the effects of the "civically-engaged and economically independent middle-class" of Lyson et al (2001). That is, the laws act as mediators for farm scale and mitigate potential negative impacts of large-scale farming on rural communities. It may be that such laws are intervening mechanisms that enable the beneficial impacts of a civically engaged and economically independent middle class.

There are of course other models for regulating industrial agriculture, and for providing sheltering institutions for less industrialized forms of agricultural production (Castle, 1998). However, for US agriculture, anticorporate farming laws appear to have had the beneficial impacts that their authors and proponents intended. Our findings should provide starting points for public policy development and debate concerning the realization of widespread and sustainable benefits from US agriculture.

Another important question to be answered with future data is the impact that changes in the laws have had on the community health indicators we investigated. Our analysis is historical in that we have only been able to consider data from circa 1980 and circa 1990. Throughout the 1990s the laws have been altered and more recent Census data should reveal the impacts of those changes.

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Putting Meat on the Table: Industrial Farm Animal Production in America

A Report of the Pew
Commission on Industrial
Farm Animal Production

CONTENTS

Foreword by

**John Carlin,
Former Governor
of Kansas**

I have witnessed dramatic changes in animal agriculture over the past several decades. When I was growing up, my family operated a dairy farm, which not only raised cows to produce milk, but crops to feed the cows and wheat as a cash crop. When I took over management of the farm from my father in the mid-sixties, on average we milked about 40 cows and farmed about 800 acres. We were one of some 30 such dairy operations in Saline County, Kansas. Today in Saline County and most Kansas counties, it is nearly impossible to find that kind of diversified farm. Most have given way to large, highly specialized, and highly productive animal producing operations. In Saline County today, there is only one dairy farm, yet it and similar operations across the state produce more milk from fewer cows statewide than I and all of my peers did when I was actively farming.

Industrial farm animal production (IFAP) is a complex subject involving individuals, communities, private enterprises and corporations large and small, consumers, federal and state regulators, and the public at large. All Americans have a stake in the quality of our food, and we all benefit from a safe and affordable food supply. We care about the well-being of rural communities, the integrity of our environment, the public's health, and the health and welfare of animals. Many disciplines contribute to the development and analysis of IFAP—including economics, food science, animal sciences, agronomy, biology, genetics, nutrition, ethics, agricultural engineering, and veterinary medicine. The industrial farm has brought about tremendous increases in short-term farm efficiency and affordable food, but its rapid development has also resulted in serious unintended consequences and questions about its long-term sustainability.

I initially hesitated to get involved in the work of the Commission, given that the nature of partisan politics today makes the discussion of any issue facing our country extremely challenging. In the end, I accepted the chairmanship because there is so much at stake for both agriculture and the public at large. The Pew Commission on Industrial Farm Animal Production (PCIFAP) sought to develop recommendations that protect what is best about American agriculture and to help to ensure its sustainability for the future. Our work focuses on four areas of concern that we believe are key to that future: public health, environment, animal welfare, and the vitality of rural communities; specifically, we focus on how these areas have been impacted by industrial farm animal production.

The Commission consists of a very diverse group of individuals, remarkably accomplished in their fields, who worked together to achieve consensus on potential solutions to the challenge of assuring a safe and sustainable food supply. We sought broad input from stakeholders and citizens around the country. We were granted the resources needed to do our work, and the independence to ensure that our conclusions were carefully drawn and objective in their assessment of the available information informed by the Commissioners' own expertise and experience. I thank each and every one for their valuable service and all citizens who contributed to the process.

Finally, we were supported by a group of staff who worked tirelessly to ensure that Commissioners had access to the most current information and expertise in the fields of concern to our deliberations. We thank them for their hard work, their patience, and their good humor.

John W. Carlin
Chairman

Preface by

**Robert P. Martin,
Executive Director,
Pew Commission
on Industrial Farm
Animal Production**

Over the last 50 years, the method of producing food animals in the United States has changed from the extensive system of small and medium-sized farms owned by a single family to a system of large, intensive operations where the animals are housed in large numbers in enclosed structures that resemble industrial buildings more than they do a traditional barn. That change has happened primarily out of view of consumers but has come at a cost to the environment and a negative impact on public health, rural communities, and the health and well-being of the animals themselves.

The Pew Commission on Industrial Farm Animal Production (PCIFAP) was funded by a grant from The Pew Charitable Trusts to the Johns Hopkins Bloomberg School of Public Health to investigate the problems associated with industrial farm animal production (IFAP) operations and to make recommendations to solve them. Fifteen Commissioners with diverse backgrounds began meeting in early 2006 to start their evidence-based review of the problems caused by IFAP.

Over the next two years, the Commission conducted 11 meetings and received thousands of pages of material submitted by a wide range of stakeholders and interested parties. Two hearings were held to hear from the general public with an interest in IFAP issues. Eight technical reports were commissioned from leading academics to provide information in the Commission's areas of interest. The Commissioners themselves brought expertise in animal agriculture, public health, animal health, medicine, ethics, public policy, and rural sociology to the table. In addition, they visited broiler, hog, dairy, egg, and swine IFAP operations, as well as a large cattle feedlot.

There have been some serious obstacles to the Commission completing its review and approving consensus recommendations. The agriculture industry is not monolithic, and the formation of this Commission was greeted by industrial agriculture with responses ranging from open hostility to wary cooperation. In fact, while some industrial agriculture representatives were recommending potential authors for the technical reports to Commission staff, other industrial agriculture representatives were discouraging those same authors from assisting us by threatening to withhold research funding for their college or university. We found significant influence by the industry at every turn: in academic research, agriculture policy development, government regulation, and enforcement.

At the end of his second term, President Dwight Eisenhower warned the nation about the dangers of the military-industrial complex—an unhealthy alliance between the defense industry, the Pentagon, and their friends on Capitol Hill. Now, the agro-industrial complex—an alliance of agriculture commodity groups, scientists at academic institutions who are paid by the industry, and their friends on Capitol Hill—is a concern in animal food production in the 21st century.

The present system of producing food animals in the United States is not sustainable and presents an unacceptable level of risk to public health and damage to the environment, as well as unnecessary harm to the animals we raise for food.

The story that follows is the Commission's overview of these critical issues and consensus recommendations on how to improve our system of production.

Robert P. Martin

Robert P. Martin
Executive Director

How the Current System Developed

Industrial farm animal production (IFAP) encompasses all aspects of breeding, feeding, raising, and processing animals or their products for human consumption. Producers rely on high-throughput production to grow thousands of animals of one species (often only a few breeds of that species and only one genotype within the breed) and for one purpose (such as pigs, layer hens, broiler chickens, turkeys, beef, or dairy cattle).

IFAP's strategies and management systems are a product of the post–Industrial Revolution era, but unlike other industrial systems, IFAP is dependent on complex biological and ecological systems for its basic raw material. And the monoculture common to IFAP facilities has diminished important biological and genetic diversity in pursuit of higher yields and greater efficiency (Steinfeld et al., 2006).

The origins of agriculture go back more than 10,000 years to the beginning of the Neolithic era, when humans first began to cultivate crops and domesticate plants and animals. While there were many starts and stops along the way, agriculture provided the technology to achieve a more reliable food supply in support of larger human populations. With agriculture came concepts of personal property and personal inheritance, and hierarchical societies were organized. In short, crop cultivation led to a global revolution for humankind, marked by the emergence of complex societies and the use of technology.

The goal of agriculture then, as now, was to meet human demand for food, and as the population grew, early agriculturalists found new ways to increase yield, decrease costs of production, and sustain productivity. Over the centuries, improved agricultural methods brought about enormous yield gains, all to keep up with the needs of an ever-increasing human population. In the 18th century, for example, it took nearly five acres of land to feed one person for one year, whereas today it takes just half an acre (Trewavas, 2002)—a tenfold increase in productivity.

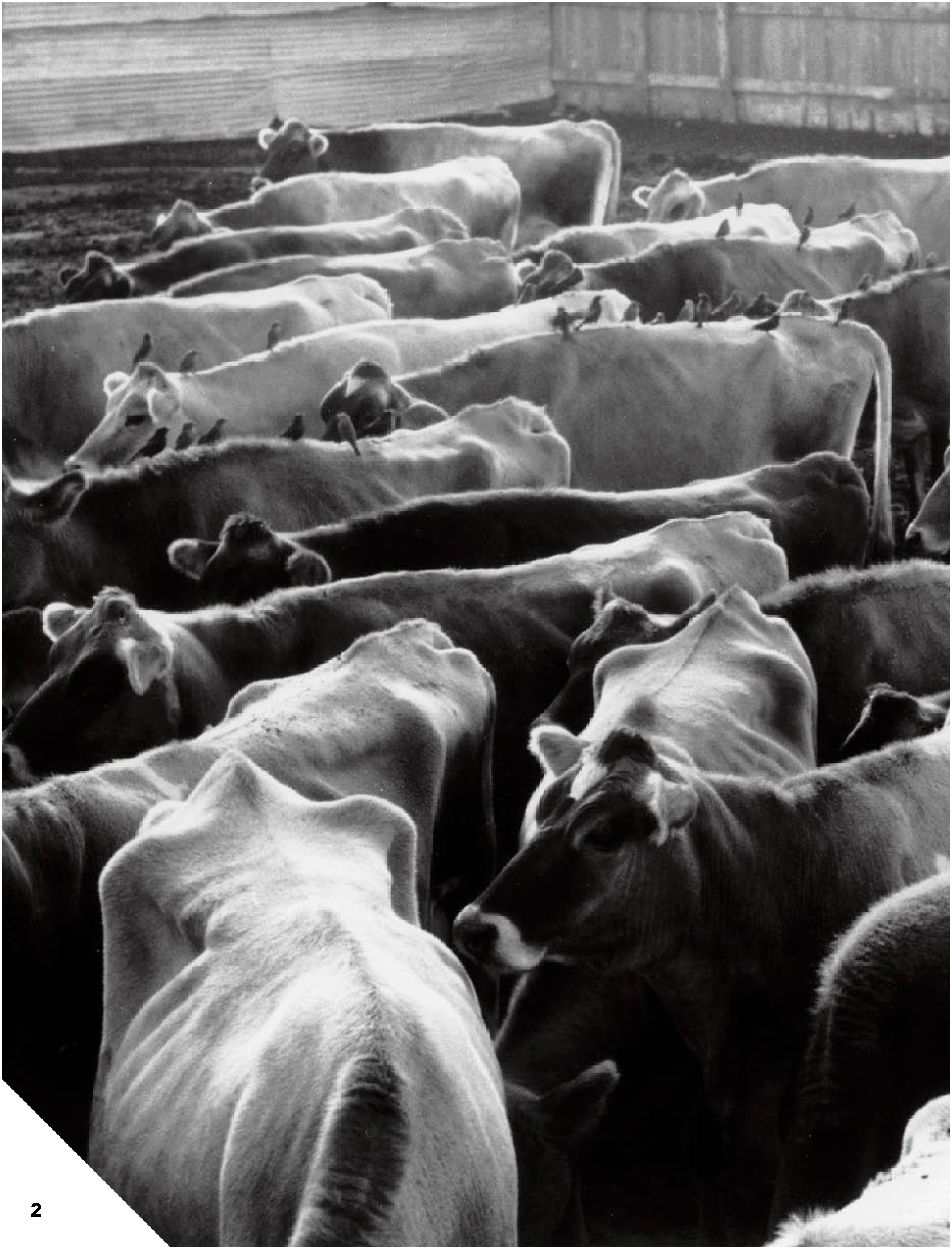
There is reason to wonder, however, whether these dramatic gains, and particularly those of the last 50 years, can be sustained for the next 50 years as the world's human population doubles, climate change shifts rainfall patterns and intensifies drought cycles, fossil fuels become more expensive, and the developing nations of the world rapidly improve their standards of living.

Enormous Yield Gains

Agriculture in North America predated the arrival of the first Europeans. The peoples of the Americas had long been cultivating crops such as corn, tobacco, and potatoes—crops that even today represent more than half of the value of crops produced in the United States. They developed the technology to fertilize crops as a means to meet the nutrient needs of their crops in the relatively poor soils of much of the Americas. The first European settlers—often after their own crops and farming methods failed—learned to grow crops from the original peoples of the Americas.

Subsistence farming was the nation's primary occupation well into the 1800s. In 1863, for example, there were more than six million farms and 870 million acres under cultivation. The mechanization of agriculture began in the 1840s with Cyrus McCormick's invention of the reaper, which increased farm yields and made it possible to move from subsistence farming to commercial agriculture. McCormick's reaper was a miracle—it could harvest five to six acres daily compared with the two acres covered by farmers using the most advanced hand tools of the day. In anticipation of great demand, McCormick headed west to the young prairie town of Chicago, where he set up a factory and, by 1860, sold a quarter of a million reapers. The development of other farm machines followed in rapid succession: the automatic wire binder, the threshing machine, and the reaper-thresher, or combine. Mechanical planters, cutters, and huskers appeared, as did cream separators, manure spreaders, potato planters, hay driers, poultry incubators, and hundreds of other inventions.

New technologies for transportation and food preservation soon emerged. The railroad and refrigeration systems allowed farmers to get their products to markets across great distances to serve the rapidly growing cities of the day. Locomotives carried cattle to stockyards in Kansas City and Chicago where they were sold and slaughtered. The growing urban centers created large



and growing markets, which benefited from the railroads and refrigerated railcars that made year-round transport of fresh and frozen meat products feasible. Expanding production to meet growing demand was facilitated by the agriculture policy of the federal government, which focused on increasing crop yields.

Agriculture in the Twentieth Century

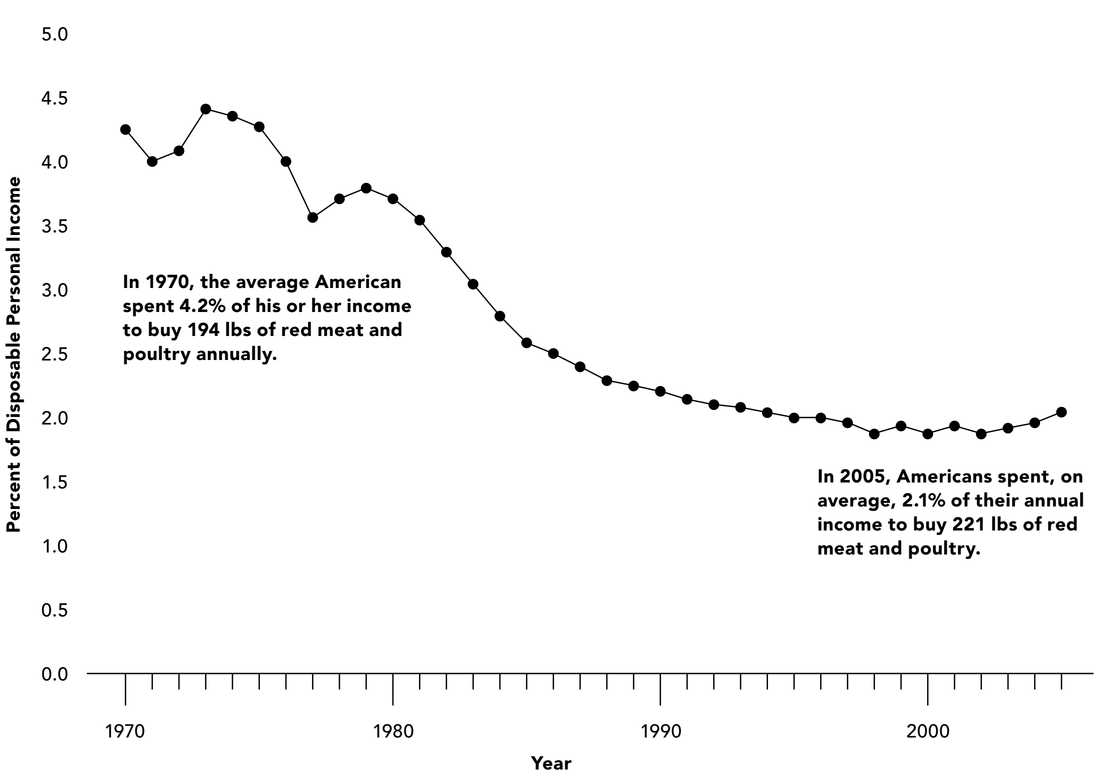
Farm yields reached a plateau in the first half of the 20th century, slowed by global conflict, the Dust Bowl, and the Great Depression. After World War II, America's new affluence and growing concern for feeding the world's poor led to the "Green Revolution," the worldwide transformation of agriculture that led to significant increases in agricultural production from 1940 through the 1960s. This transformation relied on a regime of genetic selection, irrigation, and chemical fertilizers and pesticides developed by researchers such as Norman Borlaug and funded by a consortium of donors led by the Ford and Rockefeller foundations.

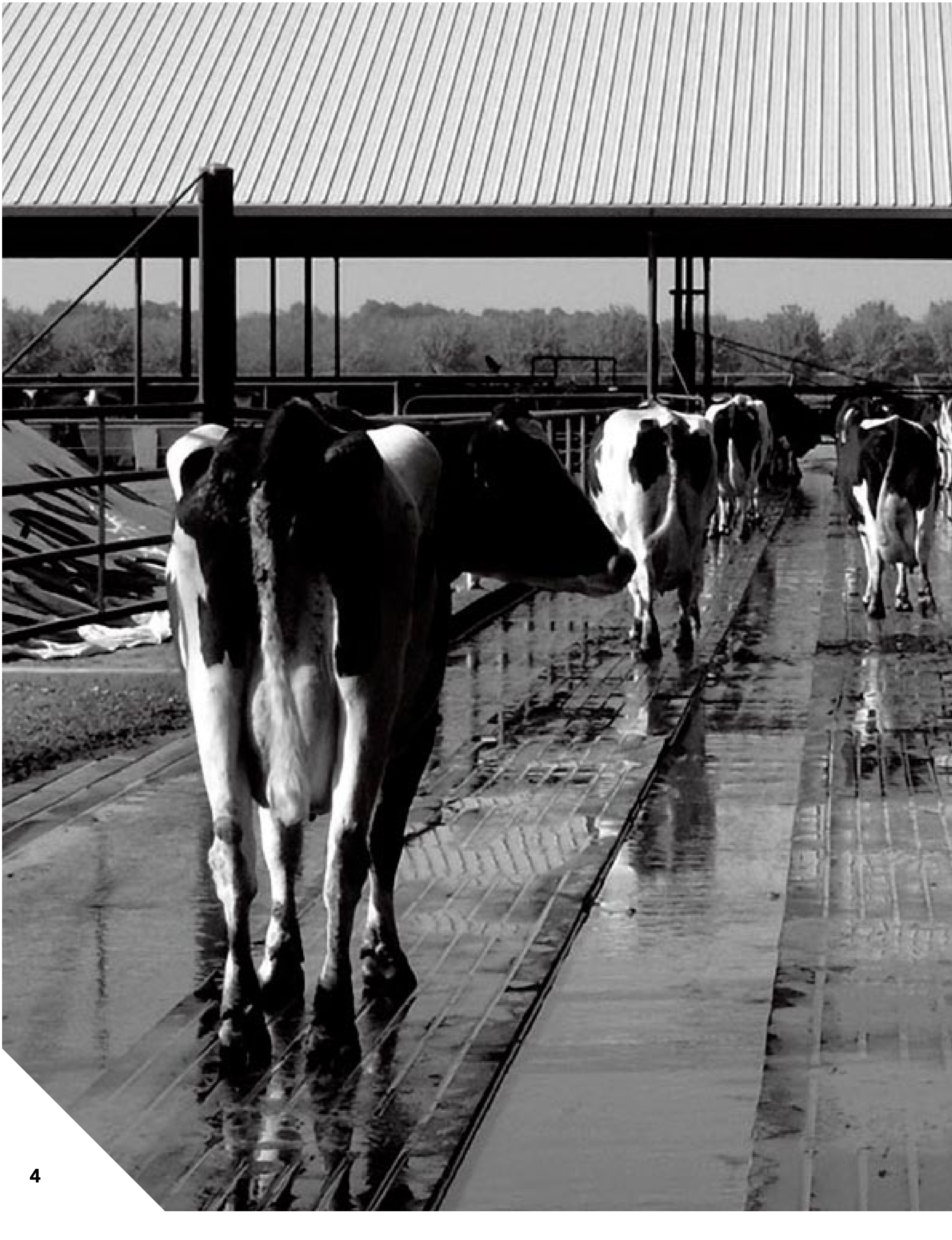
The Green Revolution dramatically increased agricultural productivity, even outpacing the demands of the rapidly growing world population. The massive increase in corn yields from the 1940s through the 1980s provides a case in point: a farmer in 1940 might have expected to get 70–80 bushels of corn per acre, whereas by 1980, farms routinely produced 200 bushels per acre, thanks to genetic selection, chemical fertilizer and pesticides, and irrigation regimes developed by Green Revolution scientists. Similarly, the developing world has seen cereal production—not only corn, but also wheat and rice—increase dramatically, with a doubling in yields over the last 40 years.

As a result of these significant increases in output, corn and grains became inexpensive and abundant, suitable as a staple to feed not only humans but animals as well. Inexpensive corn thus made large-scale animal agriculture more profitable and facilitated the evolution of intensive livestock feeding from an opportunistic method of marketing corn to a profitable industry.

The Green Revolution would later prove to have unwanted ecological impacts, such as aquifer depletion, groundwater contamination, and excess nutrient runoff, largely because of its reliance on monoculture crops, irrigation, application of pesticides, and use of nitrogen and phosphorous fertilizers (Tilman et al., 2002). These unwanted environmental consequences now threaten to reverse many of the yield increases attributed to the Green Revolution in much of North America.

American Meat Expenditures, 1970–2005 (Source: Livestock Marketing Information Center)





The Animal Production Farm as Factory

Intensive animal production began in the 1930s with America's highly mechanized swine slaughterhouses. Henry Ford even credited the slaughterhouses for giving him the idea to take the swine "disassembly" line idea and put it to work as an assembly line for automobile manufacturing. Later, the ready availability of inexpensive grain and the rapid growth of an efficient transportation system made the United States the birthplace for intensive animal agriculture.

Paralleling the crop yield increases of the Green Revolution, new technologies in farm animal management emerged that made it feasible to raise livestock in higher concentrations than were possible before. As with corn and cereal grains, modern industrial food animal production systems resulted in significant gains in production efficiency. For example, since 1960, milk production has doubled, meat production has tripled, and egg production has increased fourfold (Delgado, 2003). While some of these increases are due to greater numbers of animals, genetic selection for improved production, coupled with specially formulated feeds that include additives of synthetic compounds, have contributed significantly as well. The measure of an animal's efficiency in converting feed mass into increased body mass—the feed conversion ratio—has improved for all food animal species. The change has been most dramatic in chickens: in 1950, it took 84 days to produce a 5-pound chicken whereas today it takes just 45 days (HSUS, 2006a).

Intensive animal production and processing have brought about significant change in American agriculture over the last two decades. The current trend in animal agriculture is to grow more in less space, use cost-efficient feed, and replace labor with technology to the extent possible. This trend toward consolidation, simplification, and specialization is consistent with many sectors of the American industrial economy. The diversified, independent, family-owned farms of 40 years ago that produced a variety of crops and a few animals are disappearing as an economic entity, replaced by much larger, and often highly leveraged, farm factories. The animals that many of these farms produce are owned by the meat packing companies from the time they are born or hatched right through their arrival at the processing plant and from there to market. The packaged food products are marketed far from the farm itself.

These trends have been accompanied by significant changes in the role of the farmer. More and more animal farmers have contracts with "vertically integrated"[1] meat packing companies to provide housing and facilities to raise the animals from infancy to the time they go to the slaughterhouse. The grower does not own the animals and frequently does not grow the crops to feed them. The integrator (company) controls all phases of production, including what and when the animals are fed. The poultry industry was the first to integrate, beginning during World War II with War Department contracts to supply meat for the troops. Much later, Smithfield Farms applied the vertical integration model to raising pork on a large scale. Today, the swine and poultry industries are the most vertically integrated, with a small number of companies overseeing most of the chicken meat and egg production in the United States. In contrast, the beef cattle and dairy industries exhibit very little or no vertical integration.

Under the modern-day contracts between integrators and growers, the latter are usually responsible for disposition of the animal waste and the carcasses of animals that die before shipment to the processor. The costs of pollution and waste management are also the grower's responsibility. Rules governing waste handling and disposal methods are defined by federal and state agencies. Because state regulatory agencies are free to set their own standards as long as they are at least as stringent as the federal rules, waste handling and disposal systems often vary from state to state. Because the integrators are few in number and control much if not all of the market, the grower often has little market power and may not be able to demand a price high enough to cover the costs of waste disposal and environmental degradation. These environmental costs are thereby "externalized" to the general society and are not captured in the costs of production nor reflected in the retail price of the product.

Accompanying the trend to vertical integration is a marked trend toward larger operations. Depending on their size and the operator's choice, these industrial farm animal production facilities may be called animal feeding operations (AFOs) or concentrated animal feeding operations (CAFOs) for US Environmental Protection Agency (EPA) regulatory purposes. The EPA defines an AFO as a lot or facility where (1) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in a 12-month period; and (2) crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility. CAFOs are distinguished from the more generic AFOs by their larger number of animals or by either choosing or having that designation imposed because of the way they handle their animal waste. A facility of a sufficient size to be called a CAFO can opt out of that designation if it so chooses by stating that it does not discharge into navigable waters or directly into waters of the United States. For the purposes of this report, the term industrial farm animal production (IFAP) refers to the most intensive practices (such practices include gestation and farrowing crates in swine production, battery cages for egg-laying hens, and the like) regardless of the size of the facility. Facilities of many different sizes can be industrial, not just those designated as CAFOs by the EPA.[2]

Regardless of whether a farm is officially listed as a CAFO, IFAP has greatly increased the number of animals per operation. To illustrate, over the last 14 years, the average number of animals per swine operation has increased 2.8 times, for egg production 2.5 times, for broilers 2.3 times, and for cattle 1.6 times (Tilman et al., 2002). More animals mean greater economies of scale and lower cost per unit. In addition, IFAP facility operators, in many cases, gain greater control over the factors that influence production such as weather, disease, and nutrition. Thus, production of the desired end product typically requires less time.

But the economic efficiency of IFAP systems may not be entirely attributable to animal production efficiencies. Nor are the economies of scale that result from the confinement of large numbers of animals entirely responsible for the apparent economic success of the IFAP system. Rather, according to a recent Tufts University study, the overproduction of agricultural crops such as corn and soybeans due to US agricultural policy since 1996 has, until recently, driven the market price of those commodities well below their cost of production (Starmer and Wise, 2007a), resulting in a substantial discount to IFAP facility operators for their feed. The Tufts researchers also point out that, because of weak environmental enforcement, IFAP facilities receive a further subsidy in the form of externalized environmental costs. In total, the researchers estimate that the current hog IFAP facility receives a subsidy worth just over $10 per hundredweight, or just over $24 for the average hog, when compared with the true costs of production (Starmer and Wise, 2007a; Starmer and Wise, 2007b).

Despite their proven efficiency in producing food animals, IFAP facilities have a number of inherent and unique risks that may affect their sustainability. While some CAFOs have been sited properly with regard to local geological features, watersheds, and ecological sensitivity, others are located in fragile ecosystems, such as on flood plains in North Carolina and over shallow drinking water aquifers in the Delmarva Peninsula and northeastern Arkansas. The waste management practices of IFAP facilities can have substantial adverse affects on air, water, and soils. Another major risk stems from the routine use of specially formulated feeds that incorporate antibiotics, other antimicrobials, and hormones to prevent disease and induce rapid growth. The use of low doses of antibiotics as food additives facilitates the rapid evolution and proliferation of antibiotic-resistant strains of bacteria. The resulting potential for "resistance reservoirs" and interspecies transfer of resistance determinants is a high-priority public health concern. Finally, IFAP facilities rely on selective breeding to enhance specific traits such as growth rate, meat texture, and taste. This practice, however, results in a high degree of inbreeding, which reduces biological and genetic diversity and represents a global threat to food security, according to the Food and Agriculture Organization (FAO) of the United Nations (Steinfeld et al., 2006).

The potential health and environmental impacts of IFAP take on more urgent concern in the context of the global market for meat and meat products, considering that world population is expected to increase from the current four to five billion to nine to ten billion by 2050. Most of that growth will occur in low- and middle-income countries, where rising standards of living are accelerating the "nutrition transition" from a diet of grains, beans, and other legumes to one with more animal protein. The demand for meat and poultry is therefore expected to increase nearly 35% by 2015 (Steinfeld et al., 2006). To meet that rising demand, the CAFO model has become increasingly attractive. The spread of IFAP to the developing world brings the benefit of rapid production of meat, but at the cost of environmental and public health, costs that may be exacerbated by institutional weaknesses and governance problems common in developing countries.

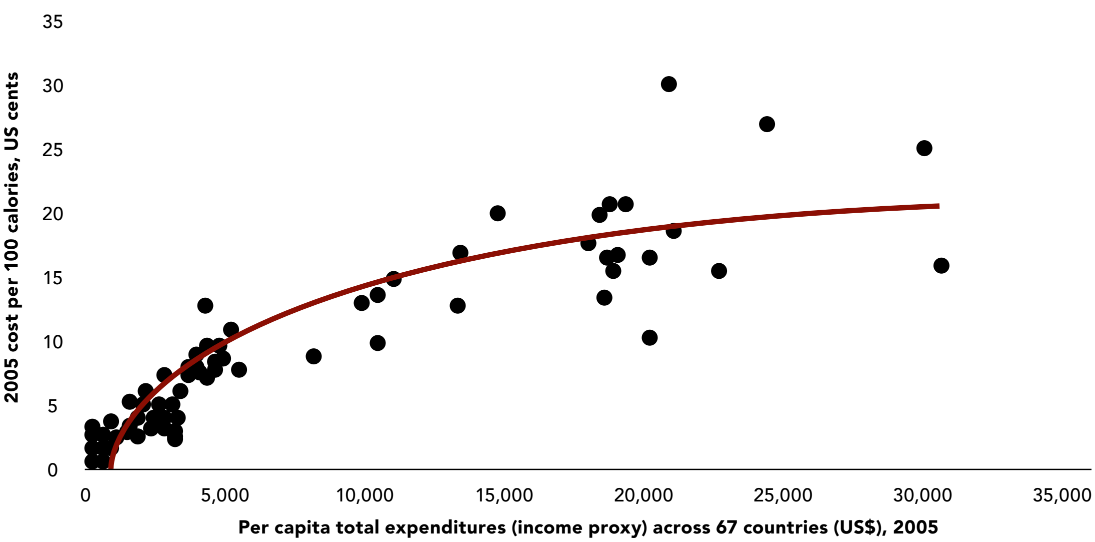
Commissioners' Conclusions

Animal agriculture has experienced "warp speed" growth over the last 50 years, with intensification resulting in an almost logarithmic increase in numbers. The availability of high-yield and inexpensive grains has fueled this increase and allowed for continually increasing rates of growth in order to feed the burgeoning human population. However, diminished fossil fuel supplies, global climate change, declining freshwater availability, and reduced availability of arable land all suggest that agricultural productivity gains in the next 50 years may be far less dramatic than the rates of change seen over the last 100 years.

As discussed, the transformation of traditional animal husbandry to the industrial food animal production model and the widespread adoption of IFAP facilities have led to widely available and affordable meat, poultry, dairy, and eggs. As a result, animal-derived food products are now inexpensive relative to disposable income, a major reason that Americans eat more of them on a per capita basis than anywhere else in the world. According to the US Department of Agriculture (USDA), the average cost of all food in the United States is less than ten percent of the average American's net income, even though on a cost-per-calorie basis Americans are paying more than the citizens of many other countries (Frazão et al., 2008).

While industrial farm animal production has benefits, it brings with it growing concerns for public health, the environment, animal welfare, and impacts on rural communities. In the sections that follow, we examine the unintended consequences of intensive animal agriculture and its systems. The Commission's goal is to understand those impacts and to propose recommendations to address them in ways that can ensure a safe system of animal agriculture while satisfying the meat and poultry needs of a nation that will soon reach 400 million Americans.

Cost per calorie rises as income levels rise (Source: consumption expenditure data from Euromonitor International 2006; cost per calorie calculated based on calorie consumption data from FAOSTAT 2007 [Frazão et al., 2008])



The Global Impact of the US Industrial Food Animal Production Model

The concentrated animal feeding operation (CAFO) model of production in the United States has developed over the years into a fine-tuned factory operation. Recently, the CAFO model has begun to spread to all corners of the world, especially the developing world. This spread brings many of the benefits that made it successful in the developed world, but also the problems. Those problems are often magnified by structural deficiencies that may exist in a country where law and government cannot keep pace with the country's adoption of animal production and other new technologies.

Developing countries adopt the CAFO model for two reasons. The first is that as people become wealthier, they eat more meat. From the 1970s through the 1990s, the consumption of meat in the developing world increased by 70 million metric tons (Delgado et al., 1999). These countries therefore need to produce more animal protein than ever before. And as populations grow, especially in Asia, land becomes scarce and the CAFO model becomes more attractive (Tao, 2003). Second, multinational corporations involved in the animal protein industry scour the world looking for countries with cheap labor and large expanses of land available to cultivate feed for food animals (Martin, 2004). When they find these areas, they bring along the production model that served them well in developed countries.

This all sounds well and good if the CAFO model allows a country to increase its level of development and feed its citizens, but often these countries are not equipped to deal with the problems that can be associated with CAFOs. For example, CAFOs produce large amounts of pollution if they are not managed and regulated properly. Even in many areas of the United States, we are barely able to deal with the harmful effects of CAFOs. In the developing world, governments and workers often do not have the ability or resources to enforce environmental, worker safety, or animal welfare laws, if they even exist (Tao, 2003). Or if a country does have the capacity, it often chooses not to enforce regulations in the belief that the economic benefits of a CAFO offset any detrimental impacts (Neirenberg, 2003).

But unregulated CAFO facilities can have disastrous consequences for the people living and working around them. Rivers used for washing and drinking may be polluted. Workers may be exposed to diseases and other hazards that they neither recognize nor understand because of their limited education.

As the Commission looks at the impact of the industrial model in the United States, we must not forget that these types of operations are being built all around the globe, often on a larger scale and with less regulation.

A villager locks the truck barrier after pigs loaded in a pig farm on January 17, 2008, in the outskirts of Lishu County of Jilin Province, northeast China. Jilin Provincial government earmarks 5.9 million yuan toward sow subsidies; each sow will gain 100 yuan, in a bid to curb the soaring pork price, according to local media.

Public Health

The potential public health effects associated with IFAP must be examined in the context of its potential effects on individuals and the population as a whole. These effects include disease and the transmission of disease, the potential for the spread of pathogens from animals to humans, and mental and social impacts. The World Health Organization (WHO) defines health as "a state of complete physical, mental and social well-being" (WHO, 1992). This definition is widely recognized in the developed world and is increasingly being adopted by American employers.

In IFAP systems, large numbers of animals are raised together, usually in confinement buildings, which may increase the likelihood for health issues with the potential to affect humans, carried either by the animals or the large quantities of animal waste. The IFAP facilities are frequently concentrated in areas where they can affect human population centers. Animal waste, which harbors a number of pathogens and chemical contaminants, is usually left untreated or minimally treated, often sprayed on fields as fertilizer, raising the potential for contamination of air, water, and soils. Occasionally, the impact can be far worse. In one recent example, farm animal waste runoff from IFAP facilities was among the suspected causes of a 2006 *Escherichia coli* outbreak in which three people died and nearly 200 were sickened (CDC, 2006).

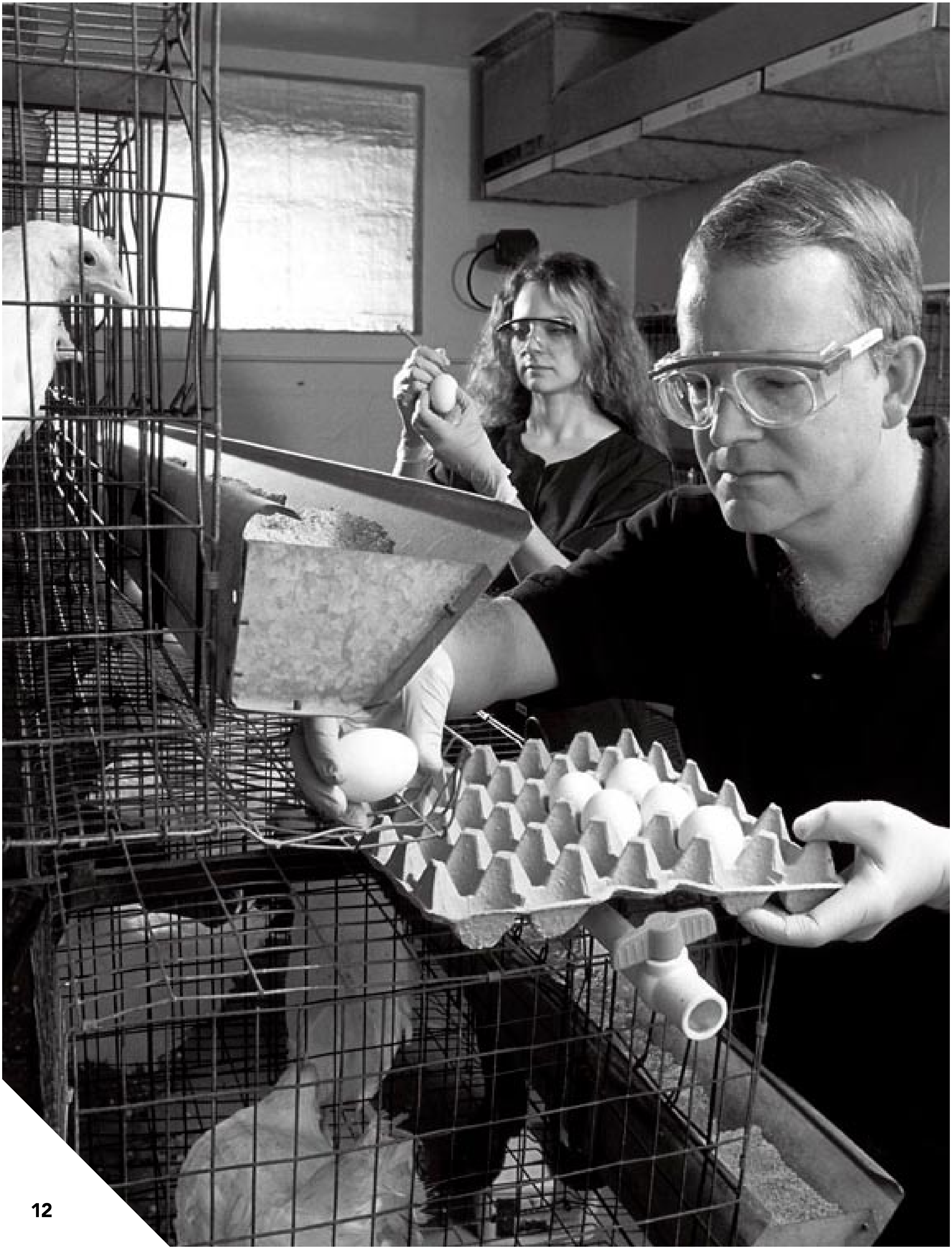
Affected Populations

Health risks increase depending on the rate of exposure, which can vary widely. Those engaged directly with livestock production, such as farmers, farm workers, and their families, typically have more frequent and more concentrated exposures to chemical or infectious agents. For others with less continuous exposure to livestock and livestock facilities, the risk levels decline accordingly.

Direct exposure is not the only health risk, however; health impacts often reach far beyond the IFAP facility. Groundwater contamination, for example, can extend throughout the aquifer, affecting drinking water supplies at some distance from the source of contamination. Infectious agents, such as a novel (or new) avian influenza virus, that arise in an IFAP facility may be transmissible from person to person in a community setting and well beyond. An infectious agent that originates at an IFAP facility may persist through meat processing and contaminate consumer food animal products, resulting in a serious disease outbreak far from the IFAP facility.

Monitoring is a basic component of strategies to protect the public from harmful effects of contamination or disease, yet IFAP monitoring systems are inadequate. Current animal identification and meat product labeling practices make it difficult or impossible to trace infections to the source. Likewise, IFAP workers, who may serve as vectors carrying potential disease-causing organisms from the animals they work with to the larger community, do not usually participate in public health monitoring, disease reporting, and surveillance programs because, as an agricultural activity, IFAP is often exempt. Furthermore, migrant and visiting workers, many of whom are undocumented, present a particular challenge to adequate monitoring and surveillance because their legal status often makes them unwilling to participate in health monitoring programs.

In general, public health concerns associated with IFAP include heightened risks of pathogens (disease- and nondisease-causing) passed from animals to humans; the emergence of microbes resistant to antibiotics and antimicrobials, due in large part to widespread use of



antimicrobials for nontherapeutic purposes; food-borne disease; worker health concerns; and dispersed impacts on the adjacent community at large.

Pathogen Transfer

The potential for pathogen transfer from animals to humans is increased in IFAP because so many animals are raised together in confined areas. IFAP feed and animal management methods successfully maximize the efficiency of meat or poultry production and shorten the time it takes to reach market weight, but they also create a number of opportunities for pathogen transmission to humans. Three factors account for the increased risk: prolonged worker contact with animals; increased pathogen transmission in a herd or flock; and increased opportunities for the generation of antibiotic-resistant bacteria or new strains of pathogens. Stresses induced by confinement may also increase the likelihood of infection and illness in animal populations.

Fifty years ago, a US farmer who raised pigs or chickens might be exposed to several dozen animals for less than an hour a day. Today's confinement facility worker is often exposed to thousands of pigs or tens of thousands of chickens for eight or more hours each day. And whereas sick or dying pigs might have been a relatively rare exposure event 50 years ago, today's agricultural workers care for sick or dying animals daily in their routine care of much larger herds and flocks. This prolonged contact with livestock, both healthy and ill, increases agricultural workers' risks of infection with zoonotic pathogens.

Infectious Disease

Numerous known infectious diseases can be transmitted between humans and animals; in fact, of the more than 1,400 documented human pathogens, about 64% are zoonotic (Woolhouse and Gowtage-Sequeria, 2005; Woolhouse et al., 2001). In addition, new strains and types of infectious and transmissible agents are found every year. Among the many ways that infectious agents can evolve to become more virulent or to infect people are numerous transmission events and co-infection with several strains of pathogens. For this reason, industrial farm animal production facilities that house large numbers of animals in very close quarters can be a source of new or more infectious agents. Healthy or asymptomatic animals may carry microbial agents that can infect and sicken humans, who may then spread the infection to the community before it is discovered in the animal population.

Generation of Novel Viruses

While transmission of new or novel viruses from animals to humans, such as avian or swine influenza, seems a rather infrequent event today (Gray et al., 2007; Myers, Olsen et al., 2007), the continual cycling of viruses and other animal pathogens in large herds or flocks increases opportunities for the generation of novel viruses through mutation or recombinant events that could result in more efficient human-to-human transmission. In addition, as noted earlier, agricultural workers serve as a bridging population between their communities and the animals in large confinement facilities (Myers et al., 2006; Saenz et al., 2006). Such novel viruses not only put the workers and animals at risk of infection but also may increase the risk of disease transmission to the communities where the workers live.

Food-Borne Infection

Food production has always involved the risk of microbial contamination that can spread disease to humans, and that risk is certainly not unique to IFAP. However, the scale and methods common to IFAP can significantly affect pathogen contamination of consumer food products. All areas of meat, poultry, egg, and dairy production (e.g., manure handling practices, meat processing, transportation, and animal rendering) can contribute to zoonotic disease and food contamination (Gilchrist et al., 2007). Several recent and high-profile recalls involving *E. Coli* O157:H7 and *Salmonella enterica* serve as dramatic reminders of the risk.

Food-borne pathogens can have dire consequences when they do reach human hosts. A 1999 report estimated that *E. Coli* O157:H7 infections caused approximately 73,000 illnesses each year, leading to over 2,000 hospitalizations and 60 deaths each year in the United States (Mead et al., 1999). Costs associated with *E. Coli* O157:H7–related illnesses in the United States were estimated at $405 million annually: $370 million for deaths, $30 million for medical care, and $5 million for lost productivity (Frenzen et al., 2005). Animal manure, especially from cattle, is the primary source of these bacteria, and consumption of food and water contaminated with animal wastes is a major route of human infection.

Because of the large numbers of animals in a typical IFAP facility, pathogens can infect hundreds or thousands of animals even though the infection rate may be fairly low as a share of the total population. In some cases, it may be very difficult to detect the pathogen; *Salmonella enterica* (SE), for example, is known to colonize the intestinal tract of birds without causing obvious disease (Suzuki, 1994), although the infected hen ovaries then transfer the organism to the egg contents. Although the frequency of SE contamination in eggs is low (fewer than 1 in 20,000 eggs), the large numbers of eggs—65 billion—produced in the United States each year means that contaminated eggs represent a significant source for human exposure. Underscoring this point, the Centers for Disease Control and Prevention (CDC) estimated that SE-contaminated eggs accounted for approximately 180,000 illnesses in the United States in 2000 (Schroeder

Zoonotic disease:
A disease caused by a microbial agent that normally exists in animals but that can infect humans.

et al., 2005). The potential advantage of IFAP in this circumstance is that concentrated production and processing in fewer, larger facilities can result in improved product safety if regulations are properly instituted and vigilantly enforced.

Feed and Pathogen Risk

Feed formulation further influences pathogen risk because the feeds for confined animals are significantly different from the forage traditionally available to poultry, swine, or cattle. These feeds have been modified to:

- Reduce the time needed to reach market weight;
- Increase the efficiency of feed conversion—the amount of food converted to animal protein (rather than manure); and
- Ensure the survivability and uniformity of animals.

Other changes in modern animal feeds are the extensive recycling of animal fats and proteins through rendering and the addition of industrial and animal wastes as well as antimicrobials (AMs), including arsenic-derived compounds (arsenicals). In some cases, these additives can be dangerous to human health, as illustrated by the bovine spongiform encephalopathy (BSE) crisis in Britain in the early 1990s—scientists discovered that it resulted from the inclusion of brain and brainstem parts in the renderings that went into animal feeds. Since that discovery, great care has been taken to eliminate brain and spinal cord material from animal renderings. However, the ongoing addition of antimicrobial agents to IFAP livestock foodstuffs to promote growth also promotes the emergence of resistant strains of pathogens, presenting a significant risk to human health.

Nontherapeutic Antimicrobial Use and Resistance

The use of antibiotics for growth promotion began in the 1940s when the poultry industry discovered that the use of tetracycline fermentation byproducts resulted in improved growth (Stokstad and Jukes, 1958–1959). Though the mechanism of this action was never fully understood, the practice of adding low levels of antibiotics and, more recently, growth hormones to stimulate growth and improve production and performance has continued over the ensuing 50 years.

In the 1990s, the public became aware of the threat of antimicrobial resistance as the number of drug-resistant infections increased in humans. However, antimicrobial resistance has been observed almost since the discovery of penicillin. In 2000, a WHO report on infectious diseases expressed alarm at the spread of multidrug-resistant infectious disease agents and noted that a major source of antimicrobial-resistant bacteria was food:

> Since the discovery of the growth-promoting and disease-fighting capabilities of antibiotics, farmers, fish-farmers and livestock producers have used antimicrobials in everything from apples to aquaculture. Currently, only half of all antibiotics are slated for human consumption. The other 50% are used to treat sick animals, as growth promoters in livestock, and to rid cultivated foodstuffs of various destructive organisms. This ongoing and often low-level dosing for growth and prophylaxis inevitably results in the development of resistance in bacteria in or near livestock, and also heightens fears of new resistant strains "jumping" between species… (WHO, 2000)

Despite increased recognition of the problem, the Infectious Disease Society of America (ISDA) recently declared antibiotic-resistant infections to be an epidemic in the United States (Spellberg et al., 2008). The CDC estimated that 2 million people contract resistant infections annually and, of those, 90,000 die. A decade ago, the Institute of Medicine estimated that antimicrobial resistance costs the United States between $4 and $5 billion annually, and these costs are certainly higher now as the problem of resistance has grown and intensified worldwide (Harrison et al., 1998).

Antimicrobial resistance: **The result of microbial changes that reduce or eliminate the effectiveness of drugs.**

Because bacteria reproduce rapidly, resistance can develop relatively quickly in the presence of antimicrobial agents, and once resistance genes appear in the bacterial gene pool, they can be transferred to related and unrelated bacteria. Therefore, increased exposure to antimicrobials (particularly at low levels) increases the pool of resistant organisms and the risk of antimicrobial-resistant infections. Consider the following:

- Antimicrobials are readily available online or through direct purchase from the manufacturer or distributor, allowing unrestricted access by farmers to pharmaceuticals and chemicals without a prescription or veterinarian's oversight; and
- Some classes of antibiotics that are used to treat life-threatening infections in humans, such as penicillins and tetracyclines, are allowed in animal feeds to promote animal growth.

Groups attempting to estimate the amount of antimicrobials used in food animal production are often thwarted by varying definitions of "therapeutic," "nontherapeutic," and "growth-promoting." For example, the Union of Concerned Scientists estimated that 70% of antimicrobials in the United States are used in food animal production, whereas the Animal Health Institute estimated closer to 30% (AHI, 2002; Mellon et al., 2001). Others have not bothered with an estimate because of the lack of both clear definitions and data (Mellon et al., 2001; WHO, 2000). A universally accepted definition of the various types of use is necessary to estimate antimicrobial use and to formulate policy governing the use of antimicrobials in food animals. The lack of publicly available validated information on the volume of antimicrobial use as a feed additive leaves policymakers uninformed about the true state of antimicrobial use in food animal production and its relationship to the growing problem of antimicrobial resistance.

Supporters of the use of antibiotics as growth

Endotoxin:
A toxin that is present in a bacteria cell and is released when the cell disintegrates. It is sometimes responsible for the characteristic symptoms of a disease, such as botulism.

promoters maintain that their use, along with other technologies, results in more affordable meat products for consumers, decreased production costs, and less impact on the environment as fewer animals are required to produce a unit of meat product. However, it is not clear that the use of antimicrobials in food is cost-effective, either in terms of increased health care costs as a result of resistant infections, or for the facility itself (Graham et al., 2007). Antimicrobial-resistant bacteria have been found both in and downwind of IFAP facilities (e.g., swine) but not upwind (Gibbs et al., 2004). Several groups have reviewed the association between the use of low-level antimicrobials in food animal production and the development of antimicrobial resistance in humans (Teuber, 2001; Smith, Harris et al., 2002).

Whatever the direct evidence, it is certain that the exposure of bacteria to antimicrobial agents selects resistant bacteria that can replicate and persist. Such bacteria from IFAP facilities can reach humans through many routes, both direct (through food, water, air, or contact) and indirect (via transmission of resistance in the environmental pool of bacteria).

Occupational Health Impacts of Industrial Farm Animal Production

IFAP facilities generate toxic dust and gases that may cause temporary or chronic respiratory irritation among workers and operators. IFAP workers experience symptoms similar to those experienced by grain handlers: acute and chronic bronchitis, nonallergic asthma–like syndrome, mucous membrane irritation, and noninfectious sinusitis. An individual's specific response depends on characteristics of the inhaled irritants and on the individual's susceptibility. In general, the symptoms are more frequent and severe among smokers (Donham and Gustafson, 1982; Markowitz et al., 1985; Marmion et al., 1990) and among workers in large swine operations (who work longer hours inside IFAP buildings) or in buildings with high levels of dusts and gases (Donham et al., 2000; Donham et al., 1995; Reynolds et al., 1996). Evidence also suggests that increasing exposure to IFAP irritants leads to increased airway sensitivity (Donham and Gustafson, 1982; Donham et al., 1989).

Another, more episodic, bioaerosol-related problem experienced by about 30% of IFAP facility workers is organic dust toxic syndrome (ODTS) (Do Pico, 1986; Donham et al., 1990), which is thought to be caused mainly by inhaled endotoxin and usually occurs in workers exposed to high levels of dust for four or more hours (Rylander, 1987). Although its onset may be delayed, the symptoms are more severe than those described above: fever, malaise, muscle aches, headache, cough, and tightness of the chest.

In addition to dust, irritants such as gases are generated inside farm buildings from the decomposition of animal urine and feces (ammonia, hydrogen sulfide, and methane, among others) (Donham and Gustafson, 1982; Donham and Popendorf, 1985; Donham et al., 1995). The combination of dusts and gases in IFAP facilities can rise to concentrations that may be acutely hazardous to both human and animal health (Donham and Gustafson, 1982).

Decomposing manure produces at least 160 different gases, of which hydrogen sulfide (H_2S), ammonia, carbon dioxide, methane, and carbon monoxide are the most pervasive (Donham et al., 1982a; Donham and Gustafson, 1982; Donham et al., 1982b; Donham and Popendorf, 1985; Donham et al., 1988). These gases may seep from pits under the building or they may be released by bacterial action in the urine and feces on the confinement house floor (one study showed that the latter accounted for 40% of the ammonia measured in-building [Donham and Gustafson, 1982]).

Possibly the most dangerous gas common to IFAP facilities is hydrogen sulfide. It can be released rapidly when liquid manure slurry is agitated, an operation commonly performed to suspend solids so that pits can be emptied by pumping (Donham et al., 1982b; Osbern and Crapo, 1981). During agitation, H_2S levels can soar within seconds from the usual ambient levels of less than 5 ppm to lethal levels of over 500 ppm (Donham et al., 1982b; Donham et al., 1988). Generally, the greater the agitation, the more rapid and larger amount of H_2S released. Animals and workers have died or become seriously ill in swine IFAP facilities when H_2S has risen from agitated manure in pits under the building. Hydrogen sulfide exposure is most hazardous when the manure pits are located beneath the houses, but an acutely toxic environment can result if gases from outside storage facilities backflow into a building (due to inadequate gas traps or other design faults) or if a worker enters a confined storage structure where gases have accumulated.

Antimicrobial Resistance
Life-threatening bacteria are becoming more dangerous and drug resistant because of imprudent antibiotic use in humans as well as animals, yet the federal government response to protect the efficacy of these drugs has been limited. For instance, the Food and Drug Administration (FDA) is moving ahead with approval of cefquinome, a highly potent antibiotic, for use in cattle despite strong opposition from the Centers for Disease Control and Prevention (CDC), the American Medical Association, and FDA's own advisory board. Health experts are concerned about the approval of drugs from this class of medicines for animal use because they are one of the last defenses against many grave human infections. Moreover, in this instance, the drug proposed is to combat a form of cow pneumonia for which several other treatment agents are available.

Community Health Effects and Vulnerable Populations

Communities near IFAP facilities are subject to air emissions that, although lower in concentration, may significantly affect certain segments of the population. Those most vulnerable—children, the elderly, individuals with chronic or acute pulmonary or heart disorders—are at particular risk.

The impact on the health of those living near IFAP facilities has increasingly been the subject of epidemiological research. Adverse community health effects from exposure to IFAP air emissions fall into two categories: (1) respiratory symptoms, disease, and impaired function, and (2) neurobehavioral symptoms and impaired function.

Respiratory Health

Four large epidemiological studies have demonstrated strong and consistent associations between IFAP air pollution and asthma. Merchant and colleagues, in a countywide prospective study of 1,000 Iowa families, reported a high prevalence of asthma among farm children living on farms that raise swine (44.1%) and, of those, on the farms that add antibiotics to feed (55.8%) (Merchant et al., 2005). Most of the children lived on family-owned IFAP facilities, and many either did chores or were exposed as bystanders to occupational levels of IFAP air pollution.

Mirabelli and colleagues published two papers describing a study of 226 North Carolina schools ranging from 0.2 to 42 miles from the nearest IFAP facility (Mirabelli et al., 2006a; Mirabelli et al., 2006b). Children living within three miles of an IFAP facility had significantly higher rates of doctor-diagnosed asthma, used more asthma medication, and had more asthma-related emergency room visits and/or hospitalizations than children who lived more than three miles from an IFAP facility. Their research also showed that exposure to livestock odor varied by racial and economic characteristics, indicating an environmental justice issue among the state's swine farms (Mirabelli et al., 2006a).

Sigurdarson and Kline studied children from kindergarten through fifth grade in two rural Iowa schools, one located half a mile from an IFAP facility and the other distant from any large-scale agricultural operation (Sigurdarson and Kline, 2006). Children in the school near the facility had a significantly increased prevalence of doctor-diagnosed asthma, but there was no difference between the two populations in the severity of asthma. Potential biases among children living close to the IFAP included children who were more likely to live on a farm (direct IFAP exposure was not assessed) and who more often lived in houses where parents smoked, but neither of these confounders explained the increase in asthma prevalence. The authors noted that physicians responsible for the medical care of these two groups of children differed and, therefore, did not rule out physician bias in asthma diagnosis.

Radon and colleagues conducted a 2002–2004 survey among all adults (18 to 45) living in four rural German towns with a high density of IFAP (Radon et al., 2007). Questionnaire data were available for 6,937 (68%) eligible adults. Exposure was estimated by collecting data on odor annoyance and by geocoding data on the number of IFAP facilities within 1,530 feet of each home. To control for occupational health effects, the researchers limited their analyses to adults without private or professional contact with farming environments. The prevalence of self-reported asthma symptoms and nasal allergies increased with self-reported odor annoyance, and the number of IFAP facilities was a predictor of self-reported wheeze and decreased FEV1 (forced expiratory volume in the first second; see definition). Although odor varied from day to day, the study reported reasonable test-retest reliability of the question on odor annoyance in the home environment. Sources of bias in this study include a somewhat dated (2000) registry of IFAP facilities and possible exposure misclassification.

FEV1 (forced expiratory volume in the first second): **The volume of air that can be forced out in one second after taking a deep breath, an important measure of pulmonary function.**

These recent, well-controlled studies are consistent in finding associations between proximity to IFAP facilities and both asthma symptoms and doctor-diagnosed asthma, although they all use proxies for environmental exposure to IFAP emissions. Taken together, however, they provide reason to increase awareness of asthma risks in communities near IFAP facilities, to better inform rural doctors of standards for asthma diagnosis and of the reported association with IFAP facilities, and to pursue local and state environmental measures to minimize risks to children and adults living near IFAP facilities.

Neurobehavioral Outcomes

Volatile organic compounds are important components of the thousands of gases, vapors, and aerosols present in IFAP facilities. More than 24 odorous chemicals (often referred to as odorants) have been identified in IFAP emissions (Cole et al., 2000). Valeric acids, mercaptans, and amines are particularly odorous, even in minuscule concentrations; ammonia and hydrogen sulfide are also pungently aromatic. Many of these compounds are known to be toxic to the nervous system in sufficient concentration. It is thus not surprising that the few studies that have examined neurobehavioral issues among residents living near IFAP facilities have documented increased rates of neurobehavioral symptoms such as depression.

Schiffman and colleagues studied North Carolina residents who lived in the vicinity of intensive swine operations and then compared findings from this group to matched control subjects who did not live near IFAP facilities (Schiffman et al., 1995). They found more negative mood states (e.g., tension, depression, anger, reduced vigor, fatigue, and confusion) among those living close to IFAP facilities. In a study of chronic (non-IFAP or IFAP) occupational exposures to hydrogen sulfide, Kilburn found that such exposures might lead to neuropsychiatric abnormalities, including impaired balance, hearing,

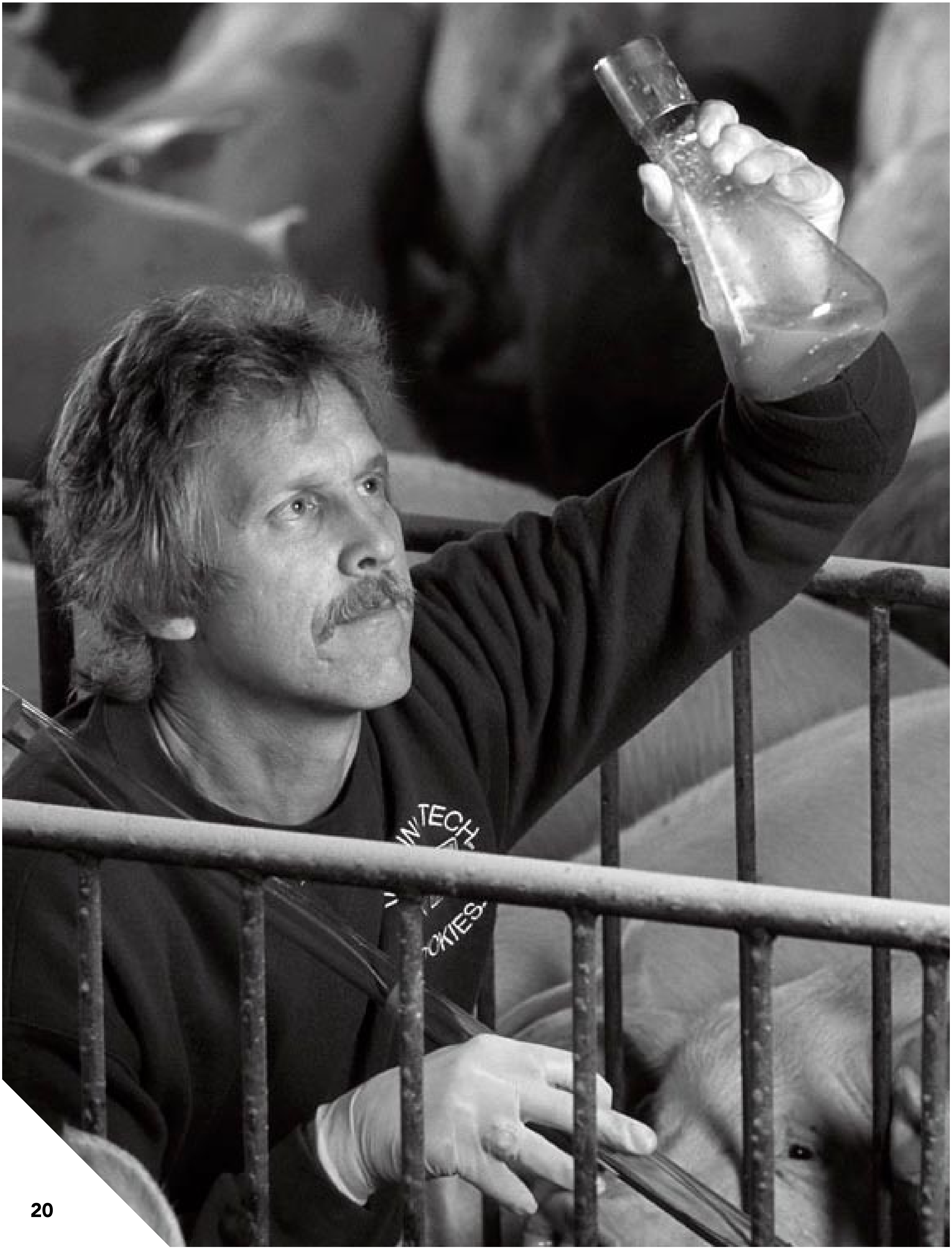
memory, mood, intellectual function, and visual field performance (Kilburn, 1997).

Reports have documented that there is great variability among odors from IFAP facilities, that odorous gases may be transformed through interactions with other gases and particulates between the source and the receptor (Peters and Blackwood, 1977), and that there is variability in odor persistence (the "persistence factor"), defined as the relative time that odorous gases remain perceptible (Summer, 1971). There remains a need to combine quantitative measures of odors with environmental measures of a suite of odorants in well-designed, controlled studies of neurobehavioral symptoms and signs in community-based studies.

Conclusions

The Commissioners note that the same techniques that have increased the productivity of animal agriculture have also contributed to public health concerns associated with IFAP. These concerns—antimicrobial resistance, zoonotic disease transfer to humans, and occupational and community health impacts that stem from the dusts and gases produced by IFAP facilities—are not unique to industrial farm animal production or even agriculture. The industrial economy causes significant ecological disruption, and that disruption is a major cause of disease. Microbes have always existed, will continue to exist, and will learn to adapt faster. It is the size and concentration of IFAP facilities and their juxtaposition with human populations that make IFAP a particular concern.

The Commission recommends that the federal government and animal agriculture industry address the causes of these public health concerns, particularly in the area of antimicrobial resistance, in order to reduce risks to the general public. The headlines from the fall of 2006 when *E. Coli* contaminated spinach made its way to the consumer market are fresh in the public's mind (CDC, 2006). The Commission's recommendations in this area are intended to bring about greater public protection without imposing an undue burden on the animal agriculture industry.


TECH

Methicillin (Antibiotic)-Resistant Staphylococcus aureus (MRSA)

Staphylococcus aureus is a common bacterium that causes superficial infections and occasionally invasive infections that can be fatal. Strains of *S. aureus* that are resistant to the antibiotic methicillin and related antibiotics commonly used to treat it are referred to as methicillin-resistant *Staphylococcus aureus* (MRSA). MRSA and other staphylococci may be found on human skin, in the nose (where it can reside without causing symptoms), and on objects in the environment, and can be passed from person to person through close contact. MRSA is usually subcategorized as either hospital-acquired or community-acquired, not only because of where the infection was acquired, but also because different strains of the bacteria appear to be responsible for the different types of infections.

MRSA has become the most frequent cause of skin and soft tissue infections in patients seeking care in US emergency rooms (Moran et al., 2006). It can also cause severe and sometimes fatal invasive disease (Zetola et al., 2005). A recent study from the Centers for Disease Control and Prevention (CDC), reported in the *Journal of the American Medical Association* (*JAMA*), showed a rise in invasive MRSA infections both within and outside of health care settings in the United States in 2005. In particular, the authors noted a rise in community-acquired invasive MRSA, although it is still less prevalent than the hospital-acquired strain (Klevens et al., 2007). They cite MRSA as a major emerging public health problem.

Pigs and some other animals can also carry staphylococci (including MRSA) on their bodies (known as "colonization"). MRSA colonization in pigs was first studied in the Netherlands, where it was found that pig farmers were 760 times more likely to be colonized with MRSA than people in the general population (Voss et al., 2005). In addition, the study documented transmission of MRSA between pigs, pig farmers, and their families (Huijsdens et al., 2006; Voss et al., 2005). A separate study in the journal *Veterinary Microbiology* looked at the prevalence of MRSA in pigs and pig farmers in Ontario, Canada (Khanna et al., 2007). This study found that MRSA is common in pigs on farms in Ontario: it was present in 24.9% of all pigs sampled and in 20% of the farmers (the prevalence in the study was 45%). In addition, there was a significant correlation between the presence of MRSA in pigs and humans on farms (Khanna et al., 2007). The strains found in both pigs and farmers in Ontario were mainly of a type that has been found in pigs in Europe, as well as a strain commonly found in US health care facilities.

S. aureus has also been isolated, at varying levels, from meat in Egypt (Bakr et al., 2004), Switzerland (Schraft et al., 1992), and Japan (Kitai et al., 2005). Analysis of the strains of bacteria isolated from these meat products suggested that they were of human origin, probably due to contamination during processing. A recent study from the Netherlands, however, found low levels of MRSA strains in meat that were probably of animal (farm) origin (van Loo et al., 2007). Proper cooking of the meat kills the bacteria, but there is a risk of transmission to workers in processing plants and to consumers before the meat is cooked.

The growing importance of MRSA as a public health problem in the United States and elsewhere, as well as the growing body of evidence suggesting transmission between farm animals and humans and among humans, makes it particularly relevant to the discussion of antimicrobial use in food animals (Witte et al., 2007).

Environmental Risks

Industrial farm animal production (IFAP) stands in sharp contrast to previous animal farming methods because of its emphasis on production efficiency and cost minimization. For most of the past 10,000 years, agricultural practice and animal husbandry were more or less sustainable, as measured by the balance between agricultural inputs and outputs and ecosystem health, given the human population and rate of consumption. IFAP systems, on the other hand, have shifted to a focus on growing animals as units of protein production. Rather than balancing the natural productivity of the land to produce crops to feed animals, IFAP imports feed and medicines to ensure that the animals make it to market weight in the shortest time possible. Animals and their waste are concentrated and may well exceed the capacity of the land to produce feed or absorb the waste. Not surprisingly, the rapid ascendance of IFAP has produced unintended and often unanticipated environmental and public health concerns.

Storage and disposal of manure and animal waste are among the most significant challenges for IFAP operators. By any estimate, the amount of farm animal waste produced annually in the United States is enormous; the United States Department of Agriculture (USDA) estimates around 500 million tons of manure are produced annually by operations that confine livestock and poultry—three times the EPA estimate of 150 million tons of human sanitary waste produced annually in the US (EPA, 2007b). And in comparison to the lesser amount of human waste, the management and disposal of animal wastes are poorly regulated.

Until the late 1950s, manures typically were either deposited directly by animals on pastures or processed in solid form and collected along with bedding (usually hay or straw) from animal housing facilities for application to the land as a crop nutrient. There were no regulated rates of application, seasonal restrictions, or requirements for the reporting, analysis, or monitoring of applied manures. This lack of protection may have been without consequence before IFAP because animal farmers managed fewer animals, widely dispersed among agricultural lands, and relied on natural ecosystems for attenuating pathogens and absorbing or diluting nutrients. But as the number of animals on individual farms increased, the need for more efficient and regulated methods of manure management grew in importance.

As in large human settlements, improper management of the highly concentrated feces produced by IFAP facilities can and does overwhelm natural cleansing processes. Because of the large concentrations of animals and their manure, what was once a valuable byproduct is now a waste that requires proper disposal. As a result, animal feeding operations in the United States, whether IFAP or not, now use a number of manure management strategies depending on the type of operation and state and federal regulations.

Nutrient and Chemical Contaminants in the Water

Ground application of untreated manure is a common disposal method and a relatively inexpensive alternative to chemical fertilizers because nitrogen and phosphorus, essential nutrients for plant growth, are present in high concentrations in animal waste. Ground application of IFAP waste can exceed the ecological capacity of the land to absorb all the nutrients (Arbuckle and Downing, 2001). Application of untreated animal waste on cropland can contribute to excessive nutrient loading, contaminate surface waters, and stimulate bacteria and algal growth and subsequent reductions in dissolved oxygen concentrations in surface waters (Rabalais et al., 1996).

Nutrient load in water supplies is commonly assessed by biochemical oxygen demand (BOD), a measure of organic and inorganic substances subject to aerobic microbial metabolism. Very high BOD levels indicate significant waterborne contamination and difficulties for aquatic life. Highly concentrated manure, such as swine waste slurries, exhibit a BOD of 20,000 to 30,000 mg per liter (Webb and Archer, 1994), which


asso
Monsant

is about 75 times more concentrated than raw human sewage and more than 500 times more concentrated than the treated effluent from the average municipal wastewater treatment facility. Algal blooms, a common response to the high nutrient loads in agricultural runoff, rapidly deplete oxygen as the algae die and decompose aerobically.

Agricultural runoff laden with chemicals (synthetic fertilizers and pesticides) and nutrients is suspected as a major culprit responsible for many "dead zones" in both inland and marine waters, affecting an estimated 173,000 miles of US waterways (Cook, 1998). Animal farming is also estimated to account for 55% of soil and sediment erosion, and more than 30% of the nitrogen and phosphorus loading in the nation's drinking water resources (Steinfeld et al., 2006).

IFAP facilities in high-risk areas such as floodplains are particularly vulnerable to extreme weather events that increase the risk, and quantity, of runoff. Flood events overwhelm the storage capacity of IFAP liquid manure lagoons and cause catastrophic contamination that results in very large fish kills.

Beyond nitrogen and phosphorus, waterborne chemical contaminants associated with IFAP facilities include pesticides, heavy metals, and antibiotics and hormones. Pesticides control insect infestations and fungal growth. Heavy metals, especially zinc and copper, are added as micronutrients to the animal diet. Antibiotics are used not only to prevent and treat bacterial infections for animals held in close quarters, but also as growth promoters. Pharmaceuticals, such as tylosin, a macrolide antibiotic widely used for therapeutics (disease treatment) and growth promotion in swine, beef cattle, and poultry, decays rapidly in the environment but persists in surface waters of agricultural watersheds (Song et al., 2007).

Nitrate is another important drinking water contaminant, regulated under EPA's Safe Drinking Water Act. Its effects on humans include diseases such as hyperthyroidism (Seffner, 1995; Tajtakova et al., 2006) and insulin-dependent diabetes (Kostraba et al., 1992), as well as increased risk of adverse reproductive outcomes and neurodevelopmental defects (Arbuckle et al., 1988; Burkholder et al., 2007). The US EPA sets allowable limits for nitrate of 10 mg/l in public drinking water supplies and requires tertiary treatment or amendment with groundwater before distribution (EPA, 2006).

The presence of agricultural chemicals in surface waters contributes to the growth of cyanobacteria and other microorganisms that may be especially harmful to people with depressed or immature immune systems (Rao et al., 1995; Shi et al., 2004).

It is also recognized that ammonia emissions from livestock contribute significantly to the eutrophication and acidification of soils and waters. Eutrophication is an excessive richness of nutrients in a body of water, mostly nitrates and phosphates from erosion and runoff of surrounding lands, that causes a dense growth of plant life and the death of animal life due to lack of oxygen. Some level of eutrophication occurs naturally, but this process can be accelerated by human activities. Acidification can put stress on species diversity in the natural environment. Reduction of ammonia emissions from CAFOs requires covering of manure storage tanks and reservoirs and the direct injection of controlled quantities of manure slurry into soil only during the growing season. Land application of manure during winter months or rainy weather leads to significant runoff into surface waters.

Legislating Animal Waste Management: North Carolina

As the numbers of large industrial livestock and poultry farms increase across the country, so do concerns about animal waste disposal and its effects on public health and the environment. To address these concerns, several state and local lawmakers have passed or proposed laws aimed directly at concentrated animal feeding operations (CAFOs) in hopes of protecting local waters and limiting the risks of pollution.

Lawmakers in North Carolina, the nation's second-largest hog producer—producing almost 10 million swine a year—struggled for years to pass legislation that would help reduce the water and air pollution caused by IFAP operations. Most of the state's hog farmers are concentrated in a few counties in the coastal plain region; according to the *Raleigh News & Observer,* there are more than 2,300 farms registered in the state, most of them in rural eastern North Carolina.

In the late 1990s, state lawmakers were the first in the nation to institute a temporary statewide moratorium on the construction of new hog waste lagoons and spray fields as primary methods of waste management, and in September 2007, they made the ban permanent ("Senate enacts ban on new hog-waste lagoons," *The News & Observer*, April 19, 2007). The law not only bans the construction of new lagoons but requires that new waste management systems meet strict environmental performance standards. It does not change requirements for existing lagoons, but provides monetary assistance for farmers to voluntarily convert to alternative waste management systems. However, Deborah Johnson, chief executive officer of the North Carolina Pork Council, told the *National Hog Farmer*, "Unless some new technological breakthrough happens, we will have lagoons and spray fields for the foreseeable future" ("North Carolina Keeps Swine Lagoons," *National Hog Farmer*: July 26, 2007).

The new law also established a pilot program that helps farmers convert methane emissions from covered lagoons to electricity. Some environmental and community advocates are concerned, however, that the methane program will discourage farmers who use lagoons from investing in alternative waste disposal systems.

Water Stress

Like other aspects of IFAP (such as manure disposal), crop production for animal feed places enormous demand on water resources: 87% of the use of freshwater in the US is used in agriculture, primarily irrigation (Pimentel et al., 1997). For example, it takes nearly 420 gallons of water to produce one pound of grain-fed broiler chicken (Pimentel et al., 1997). IFAP operations in arid or semiarid regions are thus of particular concern because of their high water demand on the limited supply of water, much of it from aquifers that may have limited recharge capacity. The 174,000-square-mile Ogallala aquifer, for example, is a fossil aquifer that dates back to the last ice age and underlies parts of Nebraska, Kansas, Colorado, Oklahoma, New Mexico, and Texas. Irrigation has reduced the Ogallala by more than half, and current depletion rates exceed 3.3 feet per year of water table level (McMichael, 1993; Soule and Piper, 1992). Because the aquifer's very slow recharge rate is vastly outstripped by irrigation and other human needs, the aquifer is at risk of being fully depleted, threatening not only agriculture but drinking water supplies for a huge area of the United States.

Greenhouse Gases and Other Air Pollutants

Globally, greenhouse gas emissions from all livestock operations account for 18% of anthropogenic greenhouse gas emissions, exceeding those from the transportation sector (Steinfeld et al., 2006). Agriculture accounts for 7.4% of the total US release of greenhouse gases (EPA, 2007a). Animals produce greenhouse gases such as methane and carbon dioxide during the digestion process. Other greenhouse gases, primarily nitrous oxide, arise mainly from the microbial degradation of manure. Additional emissions result from degradation processes in uncovered waste lagoons and anaerobic digesters. The global warming potential of these emissions, compared to a value of one for carbon dioxide, is 62 for methane and 275 for nitrous oxide on a 20-year time horizon. The US EPA Greenhouse Gas Inventory Report data for agricultural inputs are summarized below.

Emission control solutions are now being examined by the EPA, along with possible opportunities for carbon credits and credit trading (Jensen, 2006).

Air quality degradation is also a problem in and around IFAP facilities because of the localized release of significant quantities of toxic gases, odorous substances, and particulates and bioaerosols that contain a variety of microorganisms and human pathogens (further discussed in the public health section of this report). These compounds arise from feed, animals, manure, and microorganisms. Highly noxious odors are associated with vapor phase chemicals and compounds adherent to particles. These agents emanate from livestock facilities, waste storage reservoirs, and manure application sites, and all can be transported aerially from IFAP facilities to neighbors or neighboring communities.

Some of the most objectionable compounds are the organic acids, which include acetic acid, butyric acids, valeric acids, caproic acids, and propanoic acid; sulfur-containing compounds such as hydrogen sulfide and dimethyl sulfide; and nitrogen-containing compounds including ammonia, methyl amines, methyl pyrazines, skatoles, and indoles. Smells associated with these compounds are described as similar to those of rotten eggs or rotting vegetables (hydrogen sulfide, dimethyl sulfide), rancid butter (butyric acids), and feces (valeric acid, skatole, indole).

Biofilters

Biofilters are a method for reducing air emissions from IFAP facilities. They are fairly simple to construct and operate, successfully mitigate air emissions, and they are cost effective.

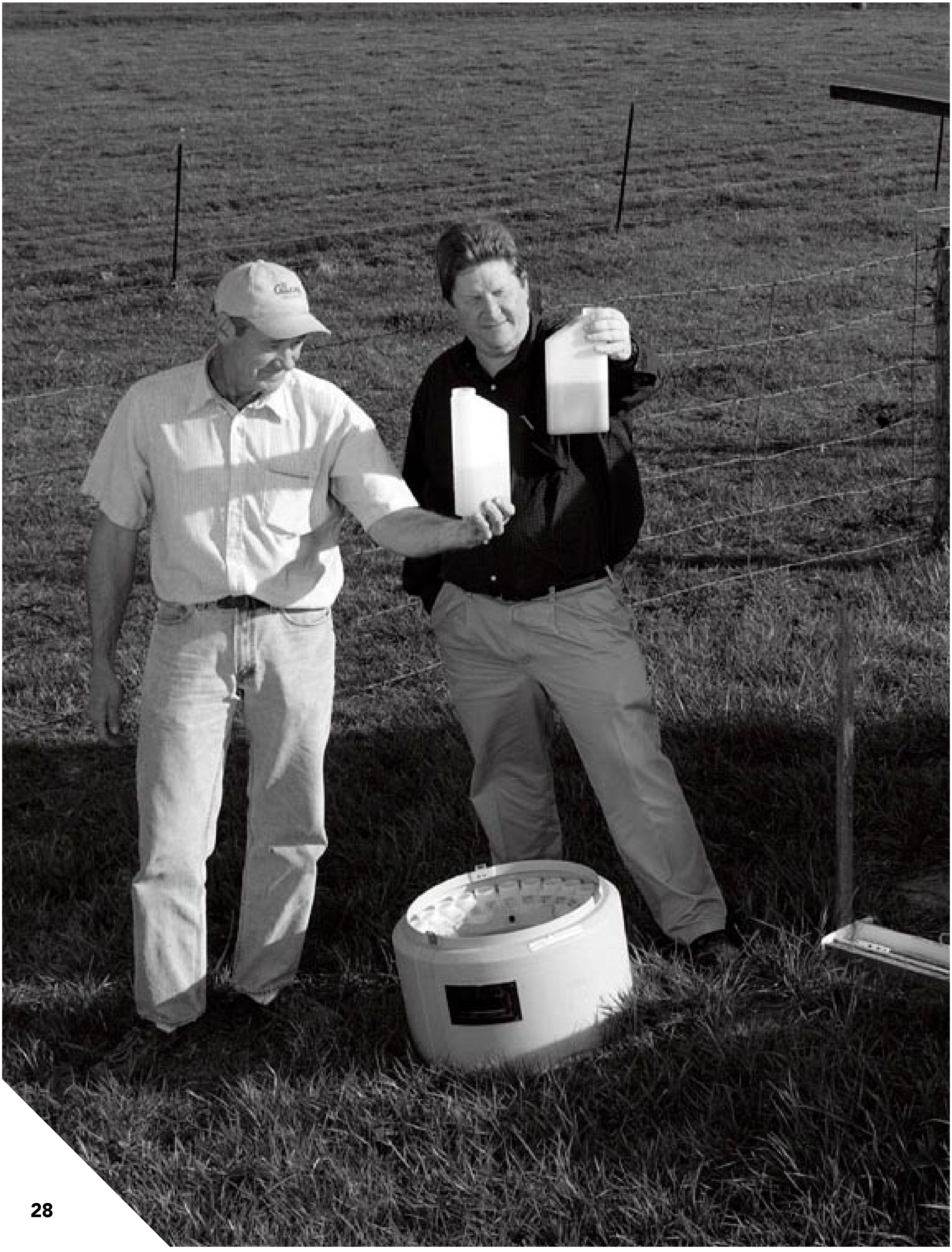
The filters can be made from several kinds of material, but they are most often a mixture of compost and woodchips wrapped in a fabric. The fabric keeps the filter from clogging and must be replaced periodically. Most biofilters operate in conjunction with a system to sprinkle water on the filter and fans to blow air through it.

The filters work by converting the compounds in the air into water and carbon dioxide. Air from inside the pit or barn is forced through the filter and then out into the atmosphere.

Biofilters can reduce odor and ammonia emissions by over 80%.

US Greenhouse Gas Inventory for Agricultural Emissions (Source: EPA, 2007a)

Greenhouse Gas	Source	Thousand Tons	Thousand Tons CO_2 Equivalent
Methane (CH_4)	Total	8,459.14	17,770
	Enteric fermentation	5,886.34	12,360
	Manure management	2,167.14	4,550
	Other	406.75	860
Nitrous Oxide (N_2O)	Total	1,333.80	41,350
	Agriculture soil management	1,298.52	40,250
	Manure management	34.17	1,050
	Other	2.20	60



Energy

IFAP is more energy intensive than the traditional practice of raising food animals (e.g., cows grazing on pastures), requiring disproportionately large inputs of fossil fuel, industrial fertilizers, and other synthetic chemicals. For example, the ratio of fossil fuel energy inputs per unit of food energy produced—not including food processing and distribution—averages 3:1 for all US agricultural products combined, but for industrially produced meat products the ratio can be as high as 35:1 (beef produced in feedlots generally has a particularly unfavorable energy balance) (Horrigan et al., 2002).

Commissioners' Conclusions

The number of farms that raise livestock has fallen dramatically while the total number of farm animals raised in the US each year has remained relatively constant (Gollehon et al., 2001). IFAP has made this possible with significant gains in production efficiency by most measures: on a per animal basis, today's farm animal requires less feed, produces less manure, and reaches market weight much faster than farm animals produced on the small family farm of 50 years ago. The result is that the price consumers pay for meat, poultry, dairy, and egg products at the grocery store or in restaurants is cheaper in real terms (adjusted for inflation) than it was even several years ago.

The downside of IFAP practices is that they have produced an expanding array of deleterious environmental effects on local and regional water, air, and soil resources. Those effects impose costs on the society at large that are not "internalized" in the price paid at the retail counter for meat, poultry, dairy, or egg products.

The large concentration of animals on the typical industrial farm presents a major waste management problem. The volumes of manure are so large that traditional land disposal methods can be impractical and environmentally threatening. Excess nutrients in manure contaminate surface and groundwater resources. Today, over a million people are estimated to take their drinking water from groundwater that shows moderate or severe contamination with nitrogen-containing pollutants (Nolan and Hitt, 2006), mostly due to the heavy use of agricultural fertilizers and high rates of application of animal waste.

The location of IFAP facilities near each other and the waste they discharge untreated into the environment exacerbate their environmental impact. A single hog IFAP facility, for example, produces manure in an amount equivalent to the sewage flow of an entire American town. Pound for pound, pigs produce four times the waste of a human. Consequently, a single IFAP housing 5,000 pigs produces the same volume of raw sewage as a town of 20,000, but the IFAP facility does not have a sewage treatment plant (Walker et al., 2005). The Commission believes that to protect against further environmental degradation, there is a need for better management practices, more protective zoning, and improved monitoring and enforcement of IFAP facilities. In addition, the Commission recommends a full life cycle analysis to fully assess the ecological impacts of IFAP facilities.

Impacts of Animal Agriculture in Yakima Valley, Washington

The state of Washington has some of the toughest environmental protection laws in the country, but you wouldn't know it if you live in Yakima Valley, says longtime resident and family farmer, Helen Reddout. Reddout is credited by many as one of the first environmentalists to bring national attention to the issue of industrialized animal agriculture and its effects on the environment and public health.

Reddout has called Yakima Valley home for more than 50 years. She raised her family, tended her cherry trees, and taught at the local school for most of that time. It wasn't until a large dairy operation opened near her family farm that Reddout became an outspoken critic of what she calls "factory farms."

Reddout remembers the first time she was directly affected by a concentrated animal feeding operation. It was 2:00 in the morning when she was awakened by what she describes as a "hideous smell oozing from the window." Her neighbor was using nearby land as a spray field to dispose of manure. The next morning, "There in the middle of the field was a manure gun spraying huge streams of gray-green sewage onto the already oversaturated field … the ammonia smell was so strong it made me gasp." When she noticed much of the liquid manure was running off into a drainage ditch, Reddout began to worry about her well water. Subsequent tests revealed her drinking well was contaminated with nitrates, although whether her neighbor is directly to blame has not been proved.

In Washington, as in many other parts of the United States, the number of dairies is shrinking while their size is increasing. Between 1989 and 2002, the number of dairies in western Washington dropped from more than 1,000 to about 500 while the average herd grew from 30 cows in the 1950s to 350 today. As of 2002, there were just 160 dairies in eastern Washington, 71 of them in Yakima County alone.

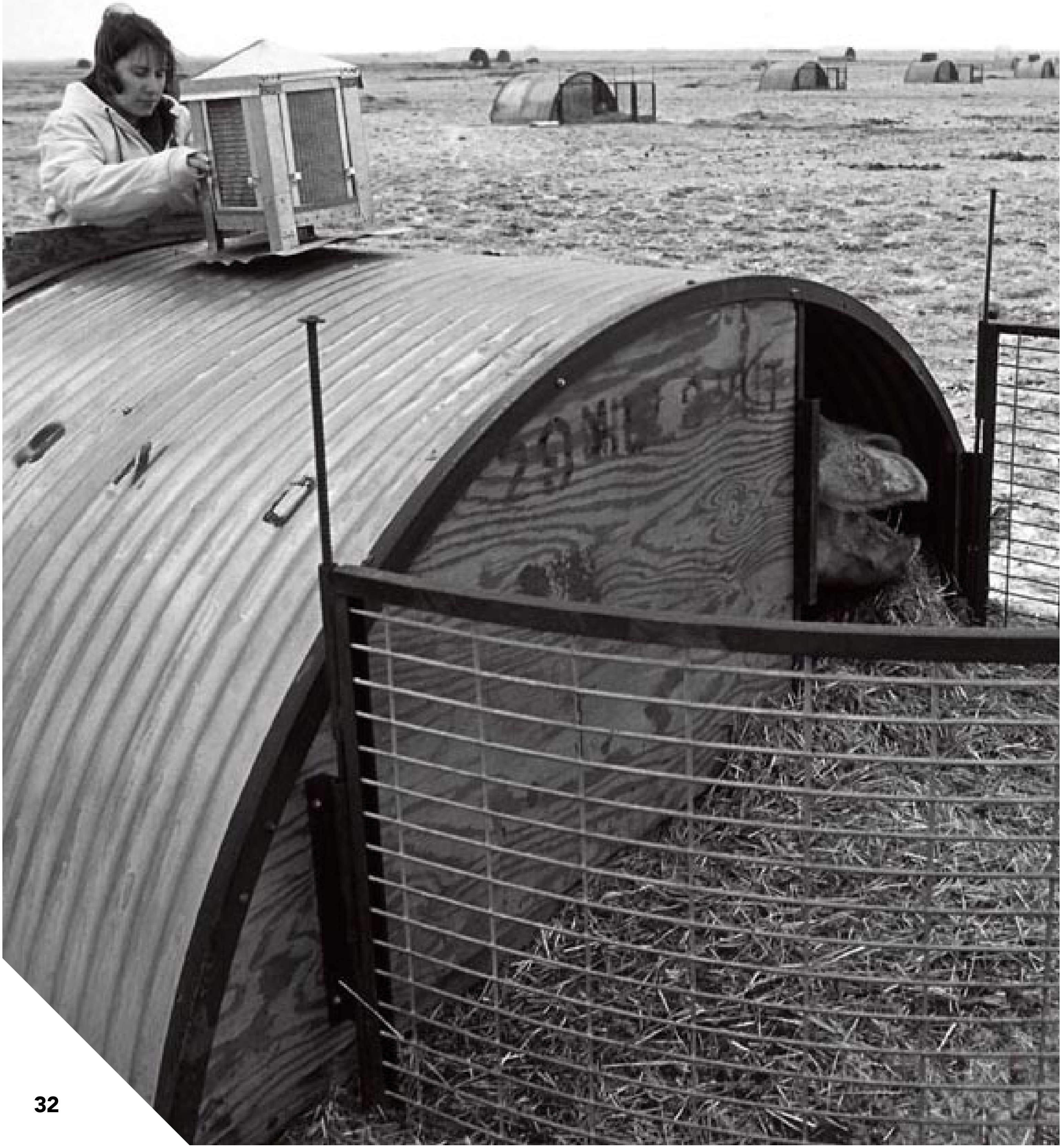
Dairy industry leaders point out that most Washington dairies are run in accordance to the law, arguing that a small number of "bad actors" are unfairly used to demonize the industry.

Animal Welfare

Before the emergence of industrial farm animal production systems, the ethic of animal husbandry held that good care of animals was wholly consistent with the interests of the farmer. Most animals were raised on diversified farms that produced both crops and several species of animals, which generally had access to the pasture or barnyard whenever weather conditions permitted. For the most part, husbandry was considered the responsibility of the producer.

More than 100 years later, farms in the 21st century have become highly specialized systems and no longer produce more than one crop and several species of livestock. Farms producing both crops and livestock still exist, but they are no longer the norm. Now, crop growers sell to feed mills that formulate engineered feeds to sell to farmers who raise and feed livestock. The supply chain has thus evolved to a series of distinct production processes connected through economic transactions. Consumers are now at the extreme end of this supply chain, yet they are increasingly concerned that farm animals are afforded a decent life. Unfortunately, it can be difficult to define what actually constitutes a decent life for animals because doing so includes both ethical (value-based) and scientific (empirical) components.

Increasing public awareness of the conditions prevalent in confinement agriculture (e.g., gestation and farrowing crates for swine, battery cages for layers) has led to consumer demand for changes in animal treatment. A poll conducted by Oklahoma State University and the American Farm Bureau Federation found that 75% of the public would like to see government mandates for basic animal welfare measures (http://asp.okstate.edu./baileynorwood/aw2/aw2main.htm). Possibly as a defensive response, the food animal industry has made changes that are easily marketed and that are aimed at changing public perception. Smithfield, for example, announced recently that it would eliminate the use of gestation crates in its hog-rearing operations, and the United Egg Producers have published standards for the treatment of laying hens.



An Alternative Hog Production System

Alternatives to the present concentrated animal feeding operation (CAFO) model of raising hogs vary widely by region. But although they differ in design, alternative systems share one common element: they all increase both labor and animal husbandry required to manage the animals, whereas the traditional CAFO is designed to require as little animal husbandry training as possible.

This sidebar focuses on the hoop barn, the most prevalent alternative system for raising hogs in the United States. It is similar to a traditional CAFO in that the hogs are kept in a confined space to facilitate management and speed up growth compared to the pigs in a natural, feral environment, but it differs in important ways.

A hoop barn, whether it is used for gestation, farrowing, or finishing, is a semipermanent structure that sits on sidewalls 4 to 6 feet high and made of wood or concrete. On top of the wall, a UV-resistant tarp stretched over a hoop-shaped metal frame forms the roof of the structure. The floor is concrete or a combination of dirt and concrete. The minimalist nature of the structure makes it appealing to producers for several reasons: it costs much less than a traditional wood truss building; it can be used for other purposes, such as equipment storage; and it can be removed relatively easily if need be. A hoop barn can last up to 10 years, versus a traditional confinement barn, which lasts about 15 years.

Ventilation systems in hoop barns are much simpler than in traditional confinement structures. Rather than mechanical fans to control temperature and ventilation, the hoop barn uses natural ventilation by leaving the ends of the barn open during the summer months. Hoop barns also have a space between the side wall and the tarp, which acts as a natural ventilator to bring in fresh air. In winter, electric heaters (often suspended from the metal frame) provide heat. Deep bedding also helps insulate the pigs by allowing them to nest and burrow. The aerobic process that occurs when the bedding mixes with the hogs' dung also creates heat. However, given the relatively lightweight nature of the tarp, hoop barns are not appropriate for extremely cold climates because it is difficult to keep the temperature inside at or near either a comfortable temperature for the animals or the ideal temperature for their weight gain.

Deep bedding is used to handle manure instead of liquid or scrape handling systems. Hoop barns are generally separated into two sections, one for feeding and one for watering. The dirt floor section is bedded with straw, cornstalks, or some other bedding material often derived from crop or field residue materials. The bedding helps insulate the animals in winter and also absorbs moisture from urine and binds with feces. The combined bedding and manure product is then either composted and stored or cast on fields to dry. After drying, it is spread and often disked into the field, so the possibility of manure runoff into streams is reduced.

Hoop barn systems are much cheaper to build than a fixed structure, but there are other costs, such as bedding and animal management, that are not incurred in a traditional confinement system.

The information in this piece is adapted from, *Hoop Barns for Grow-Finish Swine, Midwest Plan Service*, September 2004, page 20.

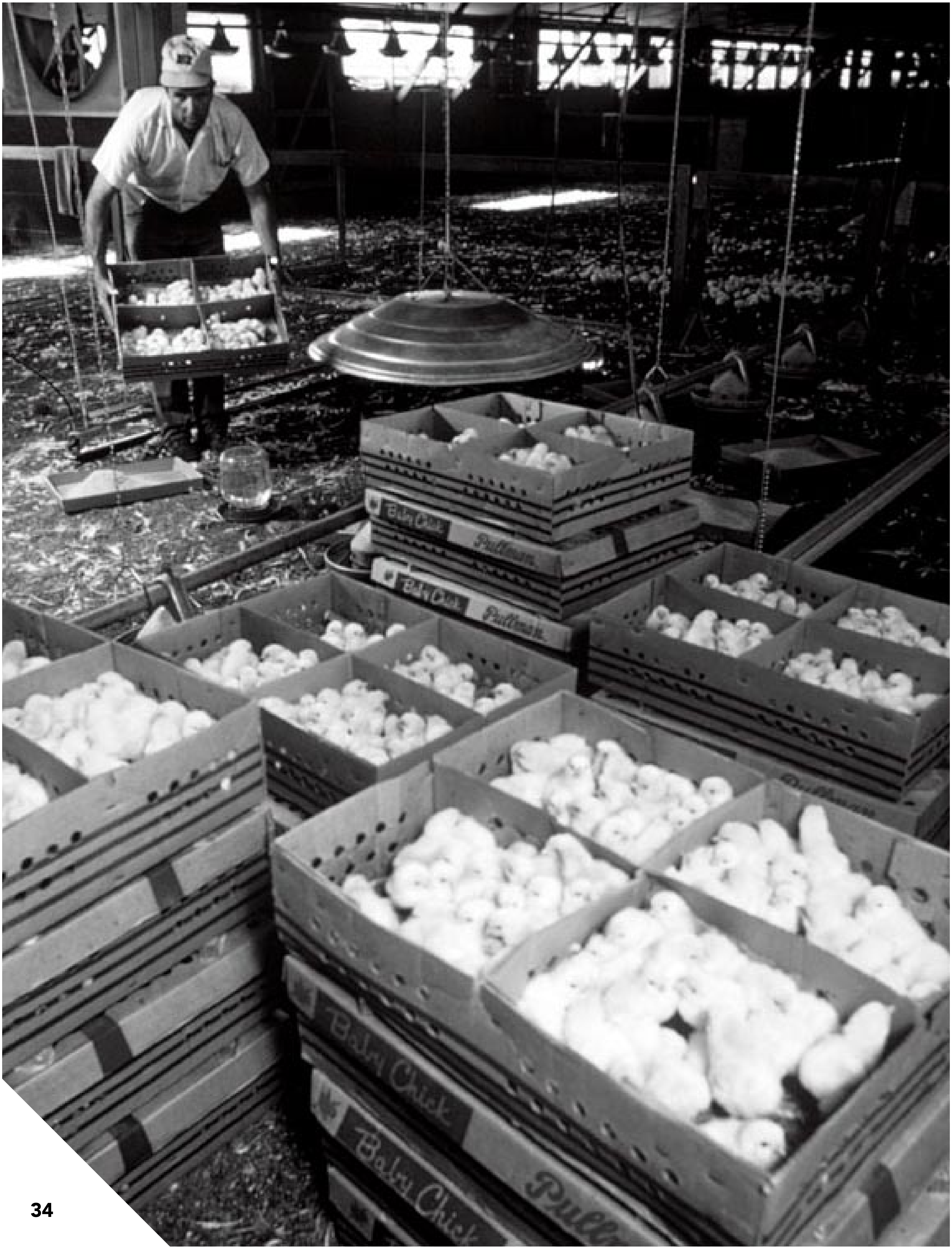
Impacts of Confinement on Animal Welfare

Today's concentrated animal production systems are dedicated to producing meat as cheaply as possible while achieving certain standards of taste, texture, and efficiency. Confinement systems are designed to produce animals of marketable weight in less time and with a lower incidence of some diseases. When the animals are confined indoors, discomfort due to weather is reduced. The downside is that animals are kept in more crowded conditions, are subject to a number of chronic and production-related diseases, and are unable to exhibit natural behaviors. In addition, the animals are often physically altered or restrained to prevent injury to themselves or IFAP workers.

Confinement animals are generally raised indoors and, in some cases (e.g., poultry, laying hens, hogs), the group size when raised indoors is larger than outdoors. In other cases (e.g., veal crates or gestation crates for sows), animals are separated and confined to spaces that provide for only minimal movement. The fundamental welfare concern is the ability of the animal to express natural behaviors—for example, having natural materials to walk or lie on, having enough floor space to move around with some freedom, and rooting (for hogs). Crates, battery cages, and other such systems fail to allow for even these minimal natural behaviors.

Other animal management practices that have been questioned include feeding and nutrition. For example, beef cattle finished in feedlots are typically fed grains rather than forage (grass, hay, and other roughage), even though their digestive systems are designed to metabolize forage diets. The result is that beef cattle put on weight faster, but they also often experience internal abscesses. Some laying hens still have their feed restricted at regular intervals in order to induce molting to encourage egg laying (although this practice is mostly phased out, according to United Egg Producers (UEP) standards).

Most animals are physically altered without pain relief when raised in concentrated, confined production systems (as well as in some more open systems), even though it is widely accepted that such alteration causes pain. For example, hogs have their tails docked to avoid tail biting by other hogs in close proximity. Laying hens and broilers have their toenails, spurs, and beaks clipped. Dairy cows may have their horns removed or their tails docked. The purpose of such alteration is to avoid injury to the animal,


Baby Chick
Pullman
Baby Chick
Pullman

or to make it easier to handle, or to meet market demands on alteration, such as castration of bulls raised for beef, and so these practices are common throughout animal agriculture, not just in CAFOs and IFAP.

The Five Freedoms

Contemporary concerns about the welfare of intensively farmed animals are generally considered to have originated with the 1964 publication of *Animal Machines* by Ruth Harrison of the United Kingdom. The book is widely regarded as having the same formative effect on the animal welfare movement as Rachel Carson's 1962 book, *Silent Spring*, had on the modern environmental movement. Harrison described what she called a "new type of farming …[with] animals living out their lives in darkness and immobility without the sight of the sun, of a generation of men who see in the animal they rear only its conversion to human food."

A year after Harrison's book was published, the Brambell Committee Report (1965) described criteria for the scientific investigation of farm animal welfare. The committee, made up of leading veterinarians, animal scientists, and biologists in the United Kingdom (UK), defined welfare as including both physical and mental well-being (Command Paper 2836). The report emphasized that the evaluation of animal welfare must include "scientific evidence available concerning the feelings of the animals that can be derived from their structure and functions and also from their behavior."

The emphasis on behavior and feelings was radical for its time (even in 2007, debate continues on this subject among animal scientists), but in 1997 the Farm Animal Welfare Council (FAWC), an independent advisory body established by the British government in 1979, adopted the principles of the Brambell report as the "Five Freedoms," which became the basis for guidelines and codes of practice for various organizations around the world. These five freedoms are described as follows:

> The welfare of an animal includes its physical and mental state and we consider that good animal welfare implies both fitness and a sense of well-being. Any animal kept by man must, at least, be protected from unnecessary suffering.
>
> An animal's welfare, whether on farm, in transit, at market or at a place of slaughter, should be considered in terms of the *'five freedoms.'* These freedoms define ideal states rather than standards for acceptable welfare. They form a logical and comprehensive framework for analysis of welfare within any system together with the steps and compromises necessary to safeguard and improve welfare within the proper constraints of an effective livestock industry.
>
> 1 *Freedom from Hunger and Thirst*—by ready access to fresh water and a diet to maintain full health and vigor.
> 2 *Freedom from Discomfort*—by providing an appropriate environment including shelter and a comfortable resting area.
> 3 *Freedom from Pain, Injury or Disease*—by prevention or rapid diagnosis and treatment.
> 4 *Freedom to Express Normal Behavior*—by providing sufficient space, proper facilities, and company of the animals' own kind.
> 5 *Freedom from Fear and Distress*—by ensuring conditions and treatment that avoid mental suffering.

Source: (FAWC, 2007) at http://www.fawc.org.uk/freedoms.htm

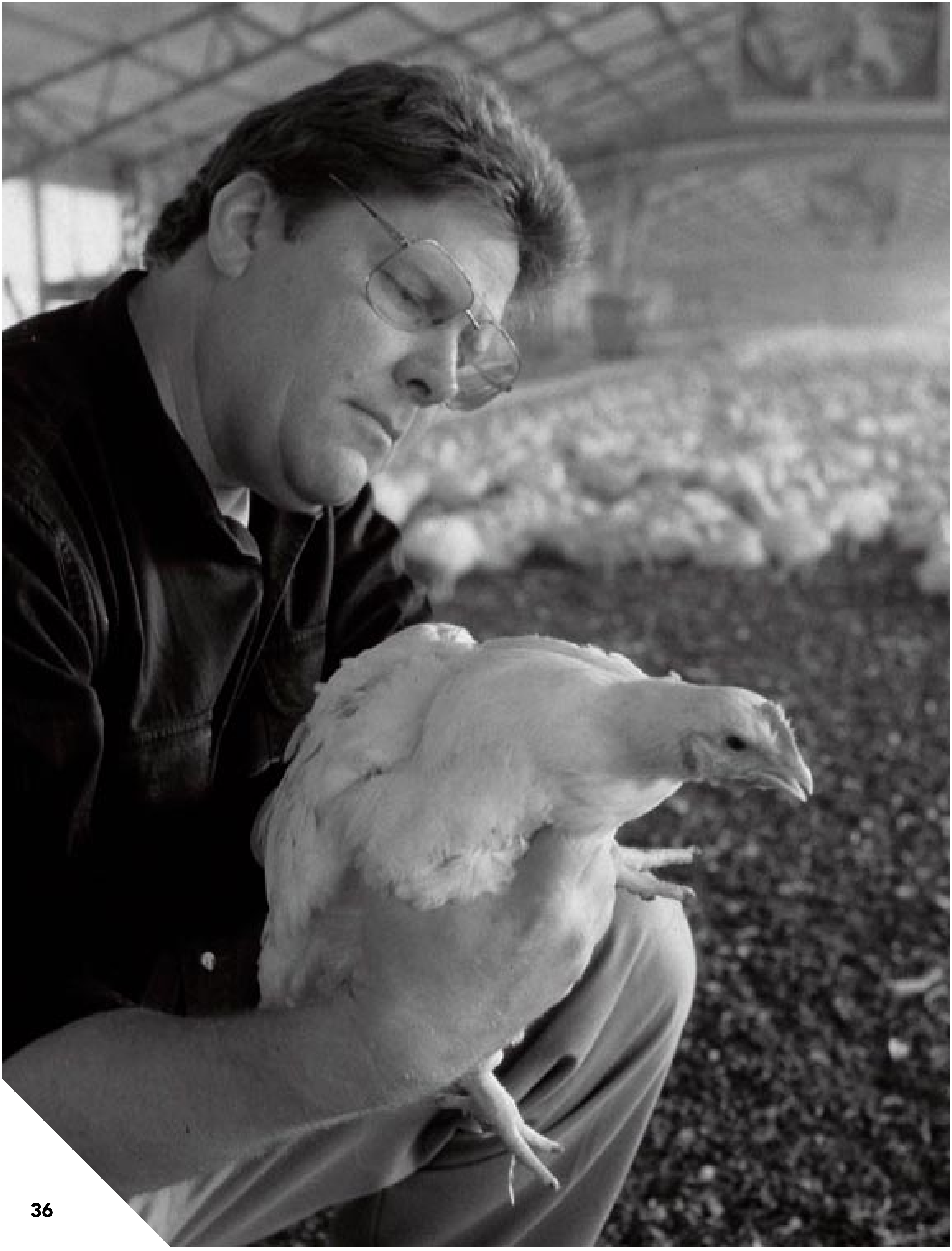
Animal husbandry methods designed to accommodate these five freedoms, particularly when it comes to housing characteristics, result in minimal cost to the consumer. More recently, scientists and advocates in the European Union have refined the five freedoms and further clarified the requirements for basic animal well-being. These are listed in the table on page 37.

Theses criteria are intended to be taken in their entirety. Consequently, animals raised in conditions that meet the "Good Feeding" criteria but not the "Appropriate Behavior" criteria would not be considered to have good welfare. In the United States, the "Appropriate Behavior" criteria seem to be the hardest to satisfy and generally are not met for food animals. Fully implementing these criteria will require the education of both consumers and producers.

Voluntary Standards and Certification

Consumer concern for humane treatment of food-producing animals is growing and has prompted change in the industry. Retailers and restaurateurs are particularly sensitive to consumer concerns and have begun insisting on minimal animal welfare standards that they can report to their customers. Consolidation in the grocery and restaurant industries—10 grocery and 15 restaurant companies control the majority of sales in animal products—has brought those sectors the market power to demand change from their suppliers.

McDonald's and Wal-Mart are among those calling for at least minimal standards for animal well-being from their suppliers. McDonald's, for example, began auditing packing plants several years ago to ensure that cattle were handled and killed humanely according to the voluntary standards developed by the American Meat Institute[4] (see table on page 37). Later, McDonald's appointed an animal welfare committee of outside experts and established on-farm standards for their suppliers, beginning with laying hens. Other retailers, such as Whole Foods, adopted more stringent standards to accommodate the interests of their customer base. Their competitors quickly followed suit, and in 2000 the trade associations of supermarkets (the Food Marketing Institute, FMI) and chain restaurants (National Council of Chain Restaurants, NCCR) consolidated their recently established animal welfare expert committees to create a coordinated and uniform



program. Following their lead, other retailers and food animal producers have adopted standards of their own (see table on page 39).

However, when an affected industry defines, monitors, and enforces voluntary standards, it is vulnerable to charges of "the fox guarding the hen house." So in the spirit of Ronald Reagan's "trust but verify" admonition, third-party certification and labeling (in which the label is granted by an independent organization) have become increasingly common. Such labels allow consumers both in the United States and abroad to know that the products they buy are consistent with their concerns for environmental sustainability, social equity, and/or humane animal treatment. Some examples of third-party certification and labeling include Fair Trade certification of commodities, a designation that indicates sustainably grown coffee, for example, and the payment of a just wage to growers; and the Forest Stewardship Council's Certified Sustainable Forest Products have made significant inroads into the marketplace for lumber. Consumer preference for such labeling has been strong enough that many commodity producers and retailers seek out certification to protect their market share and increase market penetration.

Several third-party certification programs focus primarily on animal welfare. The largest of these is Certified Humane Raised and Handled. This International Standards Organization (ISO) Guide 65 certified labeling program, modeled on the Freedom Foods program established by the Royal Society for Prevention of Cruelty to Animals in the United Kingdom, has the support of 27 humane organizations around the world. Since its inception in 2003, it has grown to cover more than 14 million animals produced by 60 meat, poultry, dairy, or egg suppliers as well as 20 restaurants and supermarket chains that feature certified products.

All of these standards seek to address consumer concerns for the humane treatment of animals. Advocacy by animal protection groups has been effective in raising awareness in this area, and sensitivity to issues that affect animal well-being continues to grow.

European Union Criteria for Animal Well-Being (Source: European Union Animal Welfare Quality Program: http://www.welfarequality.net/everyone/36059)

Welfare Criteria	Welfare Principles	Meaning
Good feeding	Absence of prolonged hunger	Animals should not suffer from prolonged hunger
	Absence of prolonged thirst	Animals should not suffer from prolonged thirst
Good housing	Comfort around resting	Animals should be comfortable, especially within their lying areas
	Thermal comfort	Animals should be in good thermal environment
	Ease of movement	Animals should be able to move around freely
Good health	Absence of injuries	Animals should not be physically injured
	Absence of disease	Animals should be free of disease
	Absence of pain induced by management procedures	Animals should not suffer from pain induced by inappropriate management
Appropriate behavior	Expression of social behaviors	Animals should be allowed to express natural, non-harmful, social behaviors.
	Expression of other behaviors	Animals should have the possibility of expressing other intuitively desirable natural behaviors, such as exploration and play
	Good human-animal relationship	Good human-animal relationships are beneficial to the welfare of animals
	Absence of general fear	Animals should not experience negative emotions such as fear, distress, frustration, or apathy

Legislation

Reliance on voluntary standards alone is not likely to fully meet the public's concern for the welfare of industrial farm animals. Voluntary standards applied in other industries (forestry, for example) have been limited by the loopholes allowed in the standards. Similarly, because the food animal industry has an economic stake in ensuring that such voluntary standards result in the least cost, and consequently, additional measures are likely to be needed to ensure a decent minimally life for animals raised for food. Surveys such as those conducted by the Humane Society and the Farm Bureau (reported earlier in this chapter) clearly reveal a growing social ethic among consumers that compels the animal agriculture industry to address public concerns about animal welfare.

At the present time, federal regulation of the treatment of farm animals is minimal, consisting of only two major laws. The first is the Twenty-Eight Hour Law, which was passed in 1873 and requires that, after 28 hours of interstate travel by rail, steam, sail, or "vessels of any description," livestock be unloaded and fed, watered, and rested for at least five consecutive hours before the resumption of transport. While generally thought of as a law to address animal cruelty, its motivation was in large part to reduce animal losses in transit. Strengthened in 1906 after publication of Upton Sinclair's *The Jungle*, the law was amended again in 1994 to apply to animals transported by "rail carrier, express carrier, or common carrier (except by air or water)." However, USDA did not agree to regulate truck transport (the major means of transport for livestock) until 2006, after animal protection groups protested (HSUS, 2006b) and the courts ruled that USDA could no longer apply "regulatory discretion" to truck transport. The second federal law is the Humane Methods of Slaughter Act (HSA), which was passed in 1958 and stipulated that livestock be rendered insensible to pain before slaughter. The HSA did not cite poultry, however, so poultry processing plants are excluded from USDA enforcement.

All other attempts to pass federal laws setting standards for farm animal housing, transport, or slaughter have been unsuccessful, with the exception of the federal standards for the transport of slaughter horses, authorized under the 1996 Farm Bill. Indeed, few bills dealing with on-farm animal welfare regulation have been introduced in Congress and most have failed. This absence of regulation stands in sharp contrast to the federal oversight of certain mammals (including farm animals) used in biomedical research, teaching, and testing, the use and care of which are extensively regulated under the provisions of the 1966 Animal Welfare Act.[5]

Perhaps because of the lack of federal regulation, there has been increasing emphasis on the introduction of state and local regulation. All states have some form of animal cruelty legislation and enforcement is becoming stricter, with more significant fines for violations. However, 25 states specifically exempt farm animals from animal cruelty laws, and in 30 states certain "normal" farm practices are exempted. Concerned citizens and advocates are therefore using mechanisms other than cruelty charges in an attempt to regulate or outlaw certain practices. For example, several states now have laws banning sow gestation crates: a voter referendum on a constitutional amendment banned them in Florida in 2002, a similar initiative (which also banned the use of veal crates) passed in Arizona in 2006, and the Oregon legislature also recently passed a state law banning crates. The production of foie gras was outlawed in California by legislative vote in 2004, and the city of Chicago in 2006 banned the sale of foie gras in restaurants. Several states have referendums on their ballots in 2008 that propose banning the use of battery cages to house laying hens.

In 1996, New Jersey became the first (and only) state to require its Department of Agriculture to write comprehensive standards for the "humane raising, keeping, care, treatment, marketing, and sale of domestic livestock." But the department's proposed regulations were not issued until 2004, and animal protection groups immediately criticized them as endorsing the status quo, although the preface to the standards makes it clear that the intent was to provide minimal requirements for the prosecution of animal cruelty cases. Animal protection groups have filed suit against the state of New Jersey, and it is unclear whether or not (or when) the proposed regulations will be finalized and enforced.

Commissioners' Conclusions

The Pew Commission on Industrial Farm Animal Production considers animal well-being an essential component of a safe and sustainable production system for farm animals. Food animals that are treated well and provided with at least minimum accommodation of their natural behaviors and physical needs are healthier and safer for human consumption. After reviewing the literature, visiting production facilities, and listening to producers themselves, the Commission believes that the most intensive confinement systems, such as restrictive veal crates, hog gestation pens, restrictive farrowing crates, and battery cages for poultry, all prevent the animal from a normal range of movement and constitute inhumane treatment.

Growing public awareness and concern for the treatment of food animals has brought increased demands for standards to ensure at least minimal protection of animal welfare. These demands have been expressed through pressure on retail and restaurant operators for standards that can be audited and certified. The Commissioners believe that the demand for such standards will increase in the next several years and that it will be incumbent upon meat, poultry, egg, and dairy producers to meet that demand and demonstrate that food animals are treated humanely throughout their lifetimes, up to and including the method of slaughter. Further, producers who are able to incorporate animal husbandry practices that assure better treatment for animals are likely to benefit in increased profit and market share as consumers express their preference at the grocery store.

Major US Animal Welfare Standards (Source: Mench et al., 2008)

Source	Scope	Program/Document	Purpose
American Meat Institute	Livestock slaughter plants	*Recommended Animal Handling Guidelines	Guidelines
		Audit Guide	Voluntary audit
American Sheep Industry	Sheep	Sheep Care Guide	Guidelines
Animal Welfare Institute	Pigs, beef cattle and calves, rabbits, ducks, sheep	Animal Friendly Standards (for each species)	Voluntary guidelines for small family farmers
Certified Humane Raised and Handled	Egg-laying hens, broilers, turkeys, beef, dairy, sheep, swine	(detailed standards for each species)	ISO-certified third-party labeling program
Free Farmed (AHA)	Egg-laying hens, broilers, turkeys, beef, dairy, sheep, swine	(detailed standards for each species)	third-party labeling program
Milk and Dairy Beef Quality Assurance Program	Dairy	*Caring for Dairy Animals Technical Reference Guide	Guideline and self-evaluation; voluntary certification
		On-The-Dairy Self-Evaluation Guide	
National Cattlemen's Beef Association	Beef Cattle	*Guidelines for Care and Handling of Beef Cattle	Voluntary guidelines
National Chicken Council	Broiler chickens	*Animal Welfare Guidelines	Voluntary guidelines
		Audit Checklist	Voluntary audit
National Organic Standards	All livestock and poultry	National Organic Standards and Guidelines	USDA labeling program; main focus is organic although includes some animal husbandry standards
Pork Board	Pigs	Swine Welfare Assurance Program, which includes the *Swine Care Handbook	Self-education program for producers; auditing program to be developed
United Egg Producers	Caged layers	*Animal Husbandry Guidelines for US Egg Laying Flocks	Guidelines for caged hens
		UEP Certified Program	Third-party auditing and labeling program

*Approved by FMI-NCCR as guidelines appropriate for the development of retail auditing programs. Individual retailers may also have their own standards and/or auditing programs, which may differ significantly from the programs approved by the FMI-NCCR committee.

Rural America

Asked to describe rural life, people are likely to talk of pastoral landscapes, open spaces, a slower pace of life, a place where people are friendlier. In short, "rural" evokes an idyllic image of life, a counterpoint to the intense pace of urban life.

But the realities of rural life are somewhat different. A dominant feature of life in much of rural America is persistent poverty. In 2005, more than 15% of the rural population (73 million people) earned family incomes of less than $19,800, which is below the official poverty line. Most of the nearly 400 US counties that are classified as poor are also rural (USDA-ERS, 2008).

The Rural Economy

Rural America has long been this country's main supplier of raw materials. In the past few decades, however, global trade liberalization has made American manufacturing less competitive vis-à-vis developing world manufacturing centers resulting in less demand for raw materials and fewer rural jobs. US manufacturing employment peaked in 1979 at nearly 20 million jobs and fell to 14 million by 2004 as increased substitution of capital for labor and labor productivity gains, as well as consumers' continuing appetite for goods made more cheaply abroad, took their toll.

But persistent rural poverty is the result of many factors, not only a lack of employment opportunities. Rural poverty rates have always been higher than urban rates. And rural poverty is more enduring: federally designated "persistent" poverty areas, defined by the USDA Economic Research Service as areas with consistently high poverty rates for at least 30 years, are all rural. Analysts suggest the following causes of rural poverty:

- *Educational attainment:* Adults in rural America are less likely to have a college degree than urban residents, and the quality of rural educational systems often falls short, especially in low-wealth counties; both factors limit the ability of rural workers to secure good jobs and of rural counties to attract and create quality jobs.
- *Lack of opportunity:* Rural areas often lack economic diversity and rely on a limited number of industries (e.g., extractive industries), which can limit job advancement and make rural jobs more vulnerable to market forces and corporate restructuring.
- *Infrastructure:* From child care facilities to public transportation to information technology, rural infrastructure is often inadequate and serves as a barrier to the recruitment of companies and jobs.
- *Discrimination:* Whether on the basis of race or ethnicity, social class, or gender, discrimination persists in some rural areas, blocking access to opportunity among underserved population groups.

Given the lack of economic opportunity in rural America, it is not surprising that local policymakers have looked to IFAP facilities as an opportunity to promote economic development. Many such facilities were sited in poor counties as a job creation strategy, often lured to those locations with promises of significant tax abatement and other benefits. But higher rates of poverty are equally prevalent in areas of high IFAP concentration, an association confirmed by Durrenberger and Thu's finding of higher rates of food stamp use in Iowa counties with industrialized hog production (Durrenberger and Thu, 1996).

The economic disparity between industrial farm communities and those that retain locally owned farms may be due, at least in part, to the degree to which money stays in the community. Locally owned and controlled farms tend to buy their supplies and services locally, thus supporting a variety of local businesses. This phenomenon is known as the economic "multiplier" effect, estimated at approximately seven dollars per dollar earned by the locally owned farm. In contrast, IFAP facilities under contract to integrators have a much lower multiplier effect because their purchases of feed, supplies, and services tend to leave the community, going to suppliers and service providers mandated by the integrators. Researchers in Michigan documented the magnitude of this difference by tracking local purchases of supplies for swine production. Abeles-Allison and Connor found that local expenditures per hog were $67 for the small, locally owned farms and $46 for the larger, industrialized farms (the $21 difference is largely due to the larger farms' purchases of bulk feed from outside the community) (Abeles-Allison and Connor, 1990).

The IFAP trend toward consolidation among meat packing companies and meat packer control of livestock production through contracts with farmers to grow the animals, rather than buying the animals at the slaughterhouse, has put the farmer at a disadvantage. The incentive for both meat packers and farmers is to gain control of markets and thus reduce the fluctuation and uncertainty of prices. But the high degree of consolidation in the meat packing industry has created a near monopoly in that sector. According to the Organization for Competitive Markets, a national nonprofit public policy research organization headquartered in Lincoln, Nebraska, the falling numbers of farmers across the country are due, in large part, to the growth of food-processing monopolies.

The combination of meat packers' ownership of livestock and rigid contract relationships with the farmers who raise the livestock eliminates open market competition and drives down prices paid to growers. Often, a producer without a contract with a packer cannot sell livestock at all; and the packers' high degree of market control allows them to exert market pressure that drives down prices. The farmers, who now need contracts to sell the animals they produce, are in the position of being price takers. According to a USDA report, only nine percent of hogs were sold on the open market from 2002 to 2005, while 62% of cattle were sold on the open market during the same period. The price decline attributable to that degree of control by packers was estimated (for cattle) to be approximately $5.75 per hundredweight, or $69 less per head (on a 1,200-pound animal) than the free market price (USDA-ERS, 2001). For hogs, the picture is decidedly more dismal.

Industrial Agriculture and Quality of Life

As long ago as the 1930s, government and academic researchers began investigating the extent to which large industrialized farms affect their communities. One of the first studies was conducted by sociologist E.D. Tetreau, who found that large-scale, hired labor–dependent farms were associated with poor social and economic well-being in rural Arizona communities (Tetreau, 1940).

In the early 1940s, the United States Department of Agriculture (USDA) sponsored a research project on the effects of industrialized farming using a matched pair of California communities: Arvin, where large, absentee-owned, nonfamily farms were more numerous, and Dinuba, where locally owned, family-operated farms were more numerous. The research was led by Walter Goldschmidt, a USDA anthropologist who systematically documented the relationship between large-scale farming and its impact on a variety of community quality of life indicators such as size of the middle class, family income levels and poverty rates, quality of public schools, and strength of civil society organizations (such as churches and civic organizations).

Across the board, the indicators measured by Goldschmidt showed that Arvin's quality of life was lower than Dinuba's. Arvin's residents also had less local control over public decisions, what he called a "lack of democratic decision making," as local government was susceptible to influence by outside agribusiness interests (Goldschmidt, 1946; Goldschmidt, 1978). Goldschmidt concluded that large-scale industrialized farms create a variety of social problems for communities, a finding that many other studies have confirmed. Decades later, California revisited Arvin and Dinuba in its Small Farm Viability Project and concluded that the disparity between the two communities observed by Goldschmidt had increased—the economic and social gaps had widened (1977).

Similar effects have been reported in other studies, such as a 1988 study of family-farm and industrial agricultural communities in 98 industrial-farm counties in California, Arizona, Texas, and Florida. The study found that farm size (in acres), gross farm sales, and high levels of mechanization "significantly predict declining community conditions not merely at the local agricultural community level, but in the entire county" (MacCannell, 1988).

A further significant IFAP impact on quality of life is the smell, which can have dramatic consequences for surrounding communities, where lives are rooted in enjoying the outdoors (Thu, 2002). The siting of large-scale livestock facilities near homes disrupts rural life as the freedom and independence associated with life oriented toward the outdoors gives way to feelings of violation, isolation, and infringement. Social gatherings are affected through the disruption of routines that normally provide a sense of belonging and identity—backyard barbecues, church attendance, and visits with friends and family (Donham et al., 2007).

Contract Broiler Production System

Most broiler chickens (also called fryers or frying chickens) raised in the United States are produced under contract arrangements with integrated poultry producing companies. These companies typically control almost every aspect of production—they own the breeder flocks, hatcheries, chickens, feed mills, processing plants, and marketing arrangements.

Contract growers produce the chickens from hatchlings to marketable size in broiler houses using equipment that meets the specifications of the integrator. The producer owns or leases the land and the facilities to raise the broilers, and the integrator owns the chickens and feed. Growers are also responsible for management of the litter (the combination of manure and bedding materials) as well as for the taxes, utilities, and insurance. The amount of litter produced annually for a broiler facility can be substantial; for example, a broiler farm that has four houses (each containing between 28,000 and 30,000 chickens) and that markets 4-pound broilers could generate approximately 340 tons of manure per year (Dozier III et al., 2001). The litter can be stored using several methods depending on the length of storage and quantity of litter produced. Covered or uncovered stockpile, stockpile with ground liner, and roofed storage structures are the three basic options for litter storage. The primary goals of storing broiler litter are to prevent nutrient runoff and leaching and to minimize insect and odor problems.

Capital costs are high for growing broilers, and lenders typically offer 10- to 12-year loans with terms that result in payments as high as 60% of the grower's gross income, making it impossible for them to decide to grow other crops once they take out the loan (Mississippi State University Extension Service, 1997).

IFAP Impacts on Rural Social Capital

Sociologists consider social capital—mutual trust, reciprocity, and shared norms and identity—the foundation of community and an important ingredient in measuring quality of life. Communities with higher levels of social capital tend to have better indicators of quality of life—lower poverty rates, fewer incidents of violent crime, and stronger democratic institutions. Social capital also emerges as an internal resource in instances of controversy.

The social fabric of communities undergoes significant change as industrialized farms replace family farms. These changes are consistent with those seen in communities with high concentrations of poverty regardless of whether they are rural or urban. Because capital-intensive agriculture relies more on technology than on labor, there are fewer jobs for local people and more low-paid, itinerant jobs, which go to migrant laborers who are willing to work for low wages (Gilles and Dalecki, 1988; Goldschmidt, 1978; Harris and Gilbert, 1982). Other indicators of social disruption include increases in stress, sociopsychological problems, and teen pregnancies.

For these and other reasons, IFAP facilities frequently generate controversy and thus threaten community social capital—and the rifts that develop among community members can be deep and long-standing (DeLind et al., 1995). For example, there have been reports of threats to IFAP facility neighbors in North Carolina (Wing and Wolf, 2000). In an in-depth study of six rural counties in southern Minnesota, Wright and colleagues (Wright et al., 2001) identified three patterns indicative of the decline in social capital that accompanied the siting of IFAP facilities in these communities:

- widening gaps between IFAP and non-IFAP producers;
- harassment of vocal opponents of IFAP facilities; and
- perceptions by both CAFO supporters and opponents of hostility, neglect, or inattention by public institutions that resulted in perpetuation of an adversarial and inequitable community climate.

All sides involved in controversies over IFAP facilities tend to frame their issues and identities in terms of rights and entitlements, as described in McMillan and Schulman's research on the hog industry in North Carolina (McMillan and Schulman, 2003). Producers defend their property rights, including the right to earn a living from their land, while neighbors defend their right to enjoy their own property. DeLind reports that in response to local opposition to corporate IFAP facilities in Parma Township, Michigan, agriculture industry advocates such as the American Farm Bureau and the National Pork Producers Council defended the right of IFAP facilities to exist without regulation by appealing to the "right to farm" (DeLind et al., 1995).

Such controversy, cast in stark terms of rights, pits neighbor against neighbor and threatens core rural values of honesty, respect, and reciprocity. IFAP facility neighbors consider it a violation of respect when their concerns are labeled emotional, perceptual, and subjective, or are dismissed as invalid or unscientific. Recent findings presented by Kleiner, Rikoon, and Seipel are illustrative. Their study reports that in two northern Missouri counties where large, corporate-owned swine IFAP facilities dominate, citizens expressed more negative attitudes about trust, neighborliness, community division, networks of acquaintanceship, democratic values, and community involvement. In contrast, a county dominated by independently owned swine operations had the most positive attitudes about trust, neighborliness, community division, and networks of acquaintanceship (et al., 2000).

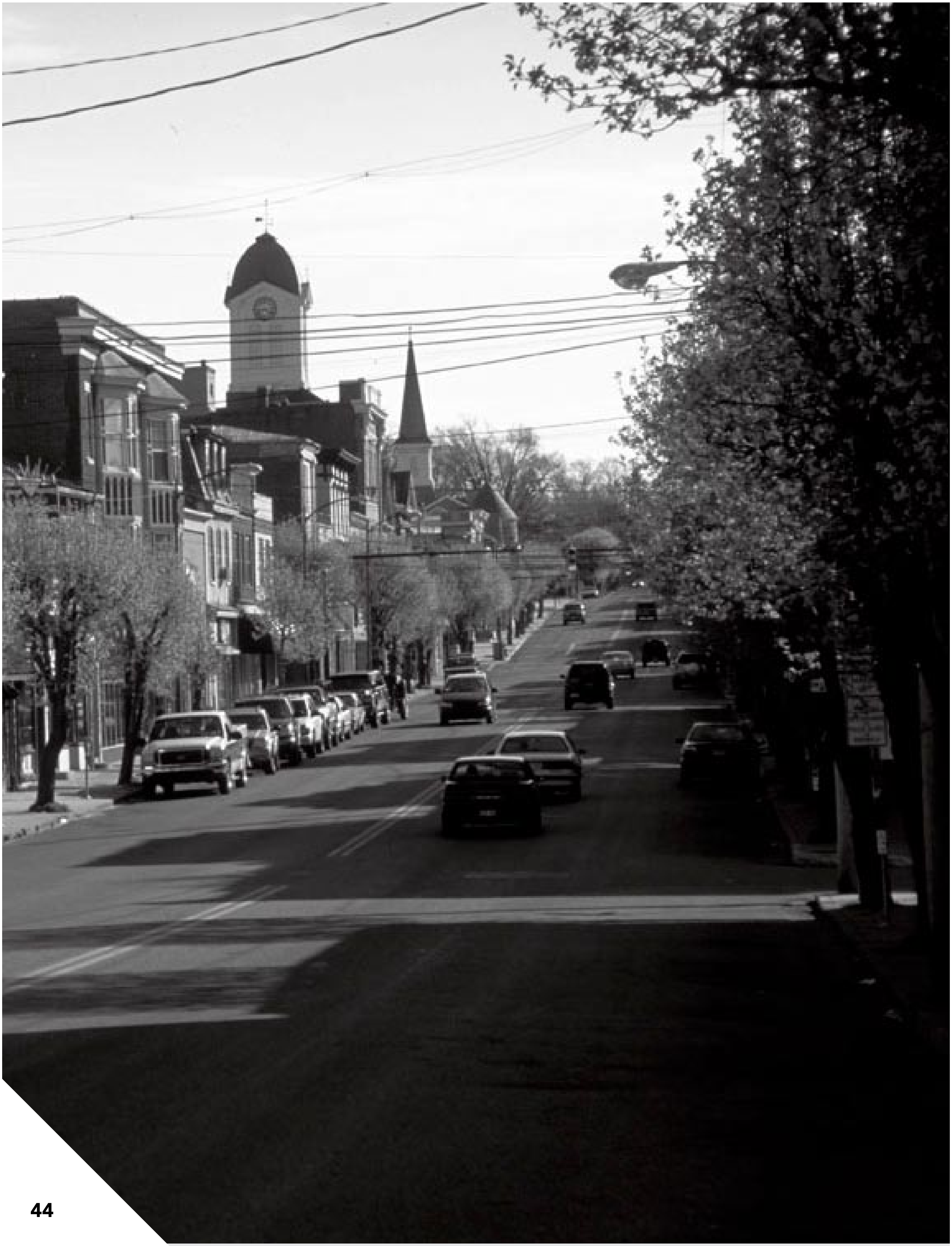
Clash of Values Between Family Farmers and IFAP Facility Owners

In the small town of Bode, Iowa, two couples, Clarence and Caroline Bormann (both age 78) and the late Leonard and Cecilia (age 70) McGuire, were lifelong Iowa family farmers—row crop and livestock producers—and neighbors. When a neighboring farm constructed an industrial hog facility to be run jointly with Land O' Lakes, the two couples grew concerned about the potential public health and environmental implications of such a facility, with a liquid manure lagoon, so close to their homes. In 1994, they took action against the farm to prevent its designation as an "Agricultural Area," which afforded protection from "nuisance suits."

Despite numerous meetings and discussions, construction continued. The facility operators refused to limit or reduce the facility's potential impact on the neighbors or the surrounding environment. Instead, they sought statutory protection by having the land designated an "Agricultural Area" by the County Board of Supervisors. After two applications, more than three public hearings, and two district court rulings, the "Agricultural Area" status was approved.

But this approval was short-lived. The couples appealed the legality of the designation to the Iowa Supreme Court, arguing that it violated the Constitutional prohibition against the taking of private property by the government without payment of just compensation. In a strongly worded opinion, the Iowa Supreme Court agreed and declared the nuisance protection portion of the statute "flagrantly unconstitutional."

The hog farm owner and corporate partner, together with state and national agricultural industry associations, sought to have the decision of the Iowa Supreme Court overturned by the United States Supreme Court. For more than four years, the Bormanns and McGuires pursued their cause (at their own expense). On December 21, 1998, an appeal was filed, with the backing of various Iowa and national production groups, to the US Supreme Court. Finally, in 1999, the United States Supreme Court denied the pork groups' appeal and allowed the Iowa Supreme Court ruling in favor of the farmers to stand.



An Alternative: Community-Supported Agriculture*

Community-supported agriculture (CSA) is a way to connect local farmers with local consumers, develop a regional food supply, and strengthen local economies.

The roots of CSA go back 30 years to Japan, where a group of women grew concerned about increasing imports and decreasing farm population, and so initiated a direct growing and purchasing relationship with local farms. They called this relationship "teikei" or "putting the farmer's face on food." By the 1980s, the concept had traveled to Europe, and then to the United States, where in 1985 it was called community-supported agriculture at the Indian Line Farm in Massachusetts. By 2005, there were more than 1,500 CSA farms in the United States and Canada.

CSA is a commitment between a farm and a community of supporters that provides a direct link between the production and consumption of food. CSA members cover a farm's yearly operating budget by purchasing a share of the season's harvest, supporting the farm throughout the season, sharing both the costs and the bounty with the farmer. The farmer or grower (often with the assistance of a core group of the community) creates a budget for the annual production costs (e.g., salaries, distribution costs, investments for seed and tools, land payments, machinery maintenance), and this budget is allocated among the people for whom the farm will provide. This calculation determines the cost of each "share" of the harvest. One share usually provides for the weekly vegetable needs for a family of four, but CSA farms may also offer flowers, fruit, meat, honey, eggs, and dairy products.

Community members sign up and pay for their share either in a lump sum in the early spring (before planting) or over the course of the growing season. They then receive a weekly "bounty" from the farm throughout the growing season. The types of products received vary depending on both the region and the type of farm(s) involved, but crops are planted in succession in order to ensure a weekly delivery to each member. The week's harvest is measured or counted and divided equally among the members. The produce is usually delivered to a specific location in the community at a specific time, although some farms may provide home delivery for an extra fee and some members go to the farm(s) to pick up their share. Arrangements vary by the type of CSA.

Most CSA farms/groups strive for sustainability, both economically and ecologically. The farms are typically more diversified in order to provide a variety of products over the growing season, an explicit goal of some CSA networks. The direct marketing of CSA allows farmers to get the fairest price for their product while enabling the consumers to know what farmer grew their food and how it was grown. In some cases, CSA farms may offer apprenticeships to community members who wish to learn about farming and help in the production of their own food.

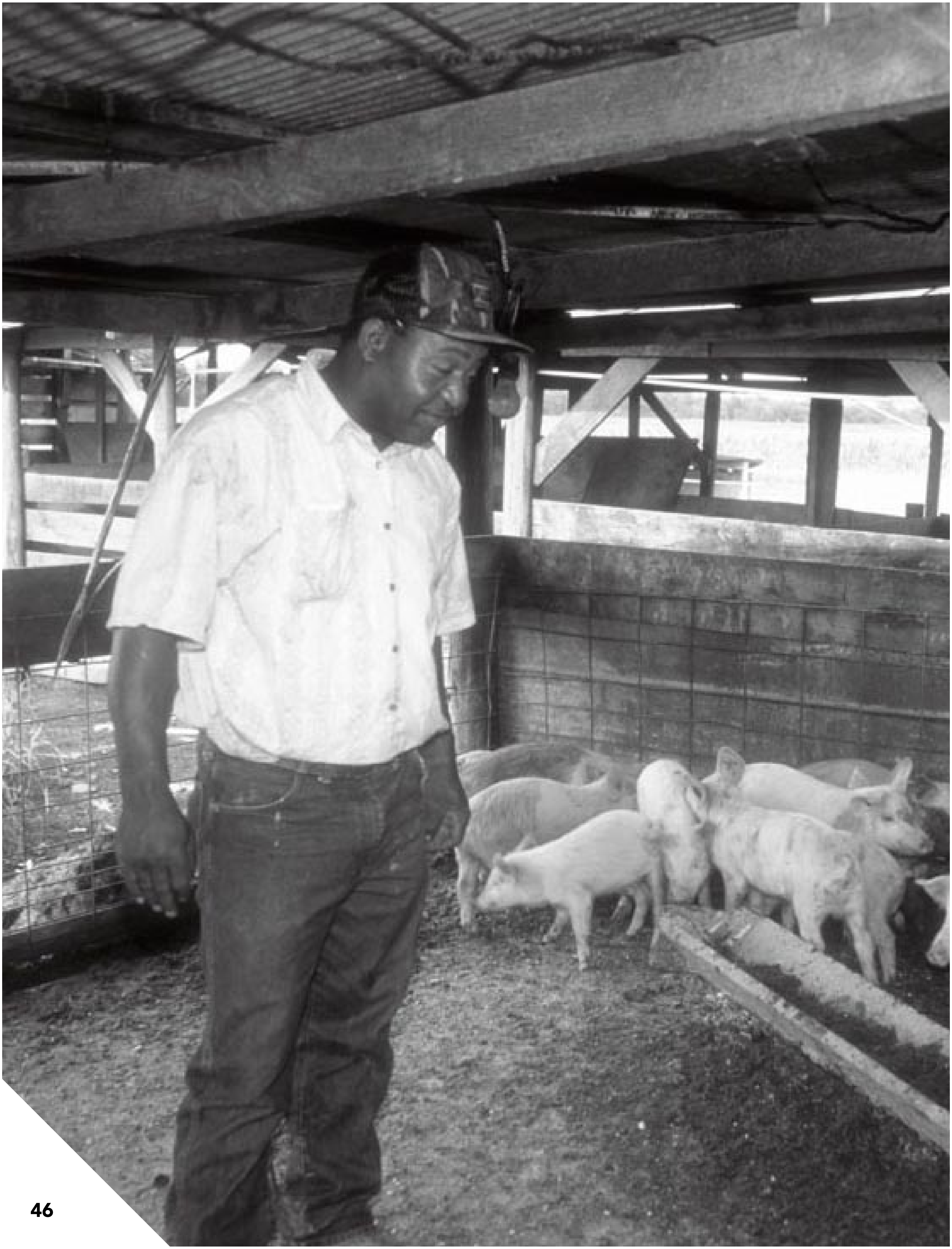
The popularity of CSA has increased in the last five years as interest in eating food from sources closer to home has been spurred by Alisa Smith and James MacKinnon's *Hundred Mile Diet* (and associated website and movement), food contamination problems in imported foods, and books like *Animal, Vegetable, Mineral: A Year in the Life of Food* by Barbara Kingsolver. With the rising demand for local food, many restaurants and cafeterias have begun entering into agreements with local farms as well. CSA may also provide products for farmers' markets, roadside stands, or independent grocers in order to build farm sales and bolster the farms' economic viability.

Both farmers and communities benefit from CSA because it:

- keeps local food dollars in the local economy;
- encourages communication among farmers;
- creates a dialogue between farmers and consumers;
- promotes a shared sense of social responsibility and land stewardship among farmers and consumers;
- supports an area's biodiversity; and
- fosters the diversity of agriculture through the preservation of both small farms and a wide variety of crops.

And, not least, the "guaranteed market" of a CSA allows farmers to invest their time in doing the best job they can raising their crops instead of searching for buyers.

*The information in this piece is adapted from the writings of Robyn Van En, CSA of North America (CSANA); Liz Manes, Colorado State University Cooperative Extension; and Cathy Roth, University of Massachusetts Extension Agroecology Program.



The True Cost of Meat

Much has been written about the social costs—environmental, social, and human health—of our huge appetite for meat versus other sources of protein. One thing is clear, Americans eat more meat per person than any other society on the planet, and part of the reason for that is its apparent low cost. Whether that low cost at the grocery store actually represents the full cost to society of producing that steak or chicken cutlet has been the subject of numerous scholarly papers and much public advocacy. This sidebar examines one dimension of that controversy, the externalities associated with industrial hog production.

Externalities are costs or benefits resulting from a decision or activity that is not reflected in the transaction cost (price). The price for a pound of hamburger reflects the direct cost to the grocery store, including their allowance for profit (mark-up), the cost the store paid to the distributor, the distributor's cost for buying the meat from the slaughterhouse, and so on down the line to the farmer who raised the animal. Along the way, there are a number of costs that may not be fully "internalized" or reflected in the price paid by the consumer. Those are the subject of this essay.

Economists at Tufts University's Global Development and Environment Institute looked at two kinds of externalities, crop subsidies and environmental impact, associated with industrialized swine production. The 1996 Farm Bill established a system of crop subsidies intended to support high production levels while holding commodity prices down. According to the Tufts researchers, from 1997 until 2005, market prices for soybeans and corn were less than the cost to produce the crop, but federal subsidies more than made up for the difference (Starmer and Wise, 2007a). The emergence of the corn ethanol market in 2005 erased the disparity between production costs and market price for corn, thus eliminating the subsidy.

Corn and soybeans are the principal ingredients in commercial feed for hogs. The low cost of corn and soybeans made possible by federal subsidies saved industrialized swine producers $947 million annually from 1997 through 2005, or $8.5 billion over that entire period. Non-industrialized swine producers did not enjoy the same savings because they grew crops to produce their own feed and did not receive the subsidy. With about 60 million hogs produced annually and more than 70% of those produced in industrialized operations, the value of the subsidy through 2005 was more than $22 per animal each year. The bottom line? American taxpayers paid industrial hog producers nearly 12 cents per pound, dressed weight, for every hog produced each year from 1997 through 2005.

When looking at the environmental externalities, the Tufts researchers found that the numbers of animals on the typical industrial farm produced far more manure than the agronomic capacity of the land to absorb the nutrients contained in the manure. The result is that land application of the manure often results in surface and groundwater contamination, placing the burden of cleanup on the adjacent communities. Waste treatment, beyond lagoon storage, would add costs ranging from $2.55 to $4 per hundred weight on a typical industrial hog farm (Starmer and Wise, 2007b). Those environmental costs are currently born by society as a whole.

None of the external costs discussed above are reflected in the price paid at the retail counter for a pound of pork. The story would be similar if we were to look at the cost of chicken, eggs, or beef. The appeal of industrial farm animal production systems may wane, however, as the increasing demand for alternative energy places upward pressure on commodity prices.


ORGANIC, SUSTAINABLE,
PASTURE-RAISED MEATS
ORGANIC DRY-AGED BEEF
GRASS-FED, FREE-RANGE BUFFALO (BISON),
100% PASTURE-RAISED HERITAGE PORK,
GRASS-FED LAMB, NITRITE FREE SAUSAGE,
JERKY, MEAT STICKS AND BACON
WITH SMALL, LOCAL RANCHERS AND FARMERS TO OFFER THE
MOST SUSTAINABLY RAISED MEATS AVAILABLE

Commissioners' Conclusions

The industrialization of American agriculture has transformed the character of agriculture itself and, in so doing, the social fabric of rural America. The family-owned farm producing a diverse mix of crops and food animals is largely gone as an economic entity, replaced by large farm factories that produce just one animal species or crop.

Research consistently shows that the social and economic well-being of rural communities benefits from larger numbers of farmers rather than fewer farms that produce increased volumes. In rural communities where fewer, larger farms have replaced smaller, locally owned farms, residents have experienced lower family income, higher poverty rates, lower retail sales, reduced housing quality, and persistent low wages for farm workers.

The food animal industry's shift to a system of captive supply transactions controlled by production contracts has shifted economic power from farmers to livestock processors. Farmers have relinquished their once autonomous animal husbandry decision-making authority in exchange for contracts that provide assured payment but require substantial capital investment. Once the commitment is made to such capital investment, many farmers have no choice but to continue to produce until the loan is paid off. Such contracts make access to open and competitive markets nearly impossible for most hog and poultry producers, who must contract with integrators (meat packing companies) if they are to sell their product.

Quality of life in rural communities has also declined, partly because of the entrenched poverty and lack of economic opportunity, but also because the linkages that once bound locally owned farms with the community have dissolved in many places and the social fabric of many communities has begun to fray. These changes are evident in negative attitudes about trust, neighborliness, community division, networks of acquaintanceship, democratic values, and community involvement, as well as increased crime and teen pregnancy rates, civil suits, and stress.

Although proponents of the industrialization of livestock agriculture point to its increased economic efficiency and hail IFAP as the future of livestock agriculture, the Commission is concerned that the benefits may not accrue in the same way to affected rural communities. In fact, industrialization actually draws investment and wealth away from communities with IFAP facilities. Along with the adverse social and economic impacts, individual farmers often find themselves with fewer options because of the capital investment required to meet specifications and terms dictated by their production contracts.

Conclusion: Toward Sustainable Animal Agriculture

On behalf of the Commission by Fred Kirschenmann, PhD, Distinguished Fellow at the Leopold Center for Sustainable Agriculture, Iowa State University, and North Dakota rancher

Sustainability is a futuristic concept. *Webster's* dictionary defines the verb "sustain" as "to maintain," "to keep in existence," "to keep going." By definition, then, sustainability is a journey, an ongoing process, not a prescription or a set of instructions. So when we ask, "How do we sustain animal agriculture?" we are asking how to manage animal agriculture so that it can be maintained indefinitely and what changes are necessary to accomplish that goal.

Sustainable animal agriculture requires that we envision the challenges and changes the future will bring. In his extensive studies of past civilizations, Jared Diamond has observed that civilizations that correctly assessed their current situations, anticipated changes, and started preparing for those changes were the ones that thrived—they were sustainable. Civilizations that failed in these efforts were the ones that collapsed—they were not sustainable (Diamond, 1999; Diamond, 2005).

What is true for civilizations is likely also true for business enterprises. So this report would not be complete without an assessment of some of the changes likely to emerge in the decades ahead and recommendations to address those changes.

To begin, it is important to recognize that our food production system today operates in the general framework of the industrial economy, which begins from the assumptions that natural resources and other inputs to fuel economic activities are unlimited and that nature provides unlimited sinks to absorb the wastes thrown off by that economic activity. Our modern food system, including industrial animal agriculture, is part of that economy.

Herman E. Daly has warned for some time that this economy is not sustainable, that we must recognize that human economies are *subsystems* of larger ecosystems and must adapt to function within ecosystem constraints (Daly, 1999).[6] Because the natural resources that have fueled our food and agriculture systems are now in a state of depletion and nature's sinks are saturated, Daly's prediction may soon be realized.

This insight is not new, however. As early as 1945, Aldo Leopold recognized both the attractiveness and vulnerability of industrial agriculture (Leopold, 1999):

> It was inevitable and no doubt desirable that the tremendous momentum of industrialization should have spread to farm life. It is clear to me, however, that it has overshot the mark, in the sense that it is generating new insecurities, economic and ecological, in place of those it was meant to abolish. In its extreme form, it is humanly desolate and economically unstable. These extremes will some day die of their own too-much, not because they are bad for wildlife, but because they are bad for the farmers.

In these early years of the 21st century, the insecurities Leopold perceived are beginning to manifest themselves and compel us to reevaluate current crop and animal production methods.

Among the many changes likely in the next 50 years, we believe the following three will be especially challenging to the US industrial food and agriculture system: the depletion of stored *energy* and *water* resources, and changing *climate*. These changes will be especially challenging because America's successful industrial economy of the past century was based on the availability of *cheap* energy, a relatively *stable* climate, and *abundant* fresh water, and current methods have assumed the continued availability of these resources.

The end of cheap energy may well be the first limited resource to force change in industrial food animal production as IFAP systems are almost entirely dependent on fossil fuels. The nitrogen used for fertilizer to produce animal feed is derived from natural gas. Phosphorus and potash are mined, processed, and transported to farms with petroleum energy. Pesticides are manufactured from petroleum resources. Farm equipment is manufactured and operated with petroleum energy. Feed is produced and trucked to concentrated animal operations with fossil fuels. Manure is collected and hauled to distant locations with fossil fuels.

When fossil fuels were cheap, these inputs to the process of agricultural production were available at very low cost. But independent scholars agree that oil

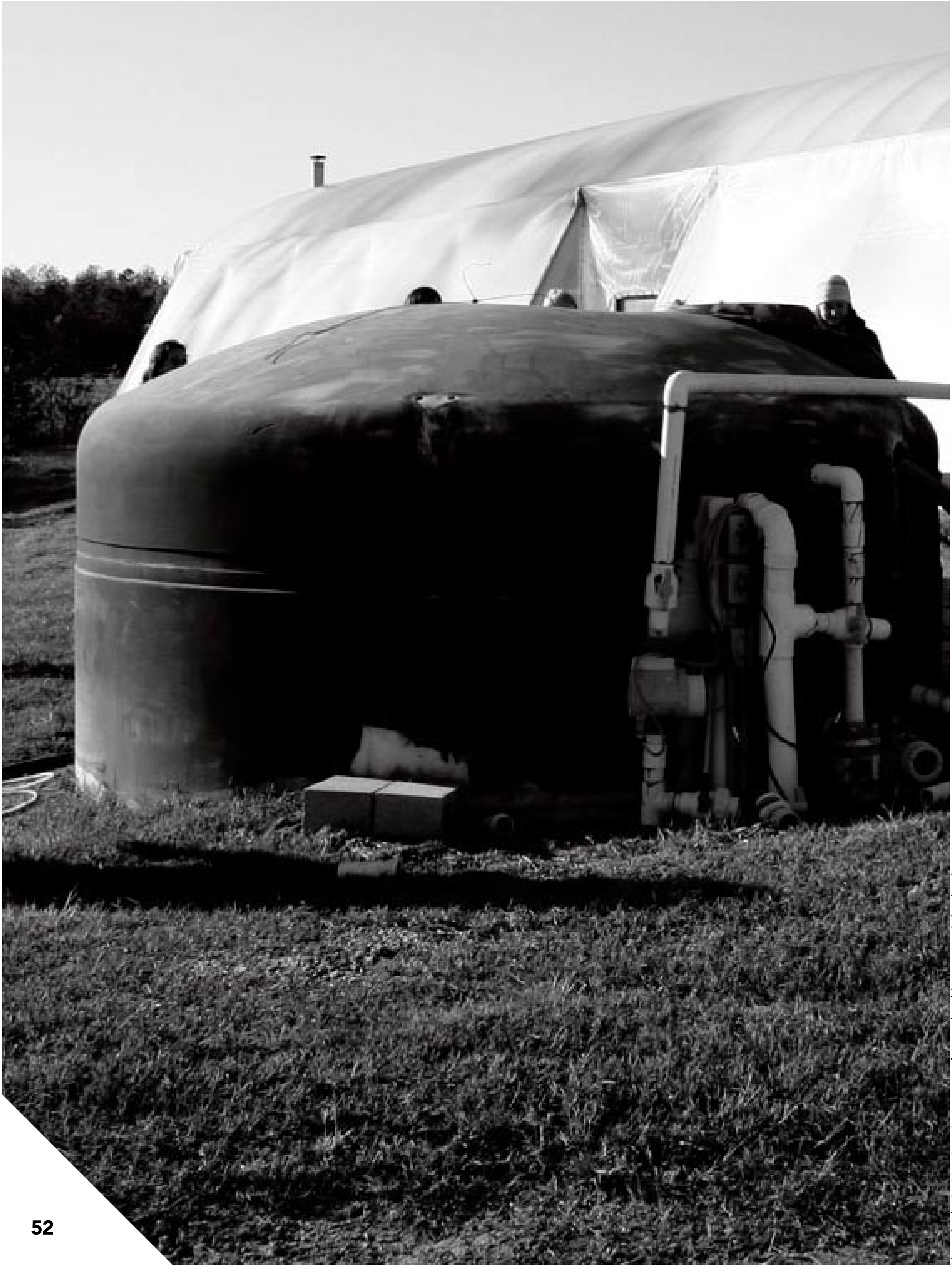


Photo Credit: Dr. Mary Peet, Department of Horticultural Science, North Carolina State University production either already has peaked or will shortly do so (Heinberg, 2004; Roberts, 2004).

Of course, there are alternatives to fossil fuel energy—wind, solar, and geothermal energy as well as biofuels—so it's possible that oil and natural gas could be replaced with alternative sources of energy to keep industrial animal agriculture viable. But the US industrial economy was created on a platform of *stored, concentrated energy* that produced a very favorable energy *profit ratio* (the amount of energy yield less the amount of energy expended to make it available). Alternative energies, on the other hand, are based on *current, dispersed* energy, which has a much lower energy profit ratio. Consequently, economies that depend on cheap energy are not likely to fare well in the future. This is why the depletion of fossil fuel resources will require that America transition not only to *alternative* fuels to produce food but to a new energy *system*.

The real energy transition will have to be from an energy *input* system to an energy *exchange* system, and this transition is likely to entail significant system changes in the US production of crops and livestock. For example, future agricultural production systems are less likely to be specialized monocultures and more likely to be based on biological diversity, organized so that each organism exchanges energy with other organisms, forming a web of synchronous relationships, instead of relying on energy-intensive inputs.

A second natural resource that has been essential to industrial agriculture is a relatively *stable climate*. We often mistakenly attribute the yield-producing success of the past century entirely to the development of new production technologies. But those robust yields were due at least as much to unusually favorable climate conditions as they were to technology.

A National Academy of Sciences (NAS) Panel on Climatic Variation reported in 1975 that "our present [stable] climate is in fact highly *abnormal*" and that "the earth's climate has always been changing, and the magnitude of … the changes can be catastrophic" (emphasis added). The report went on to suggest that climate change might be exacerbated by "our own activities" and concluded that "the global patterns of food production and population that have evolved are *implicitly dependent* on the climate of the present century" (emphasis added) (NAS, 1975). In other words, according to the NAS, it is this *combination* of "normal" climate variation *plus* the changes caused by industrial economies (greenhouse gas emissions) that could have a significant impact on future agricultural productivity.

While most climatologists acknowledge that it is impossible to predict exactly how climate change will affect agricultural production in the near term, they agree that greater climate fluctuations—"extremes of precipitation, both droughts and floods"—are likely. Such instability can be especially devastating for the highly specialized, genetically uniform, monoculture systems characteristic of current industrial crop and livestock production.

A third natural resource that may challenge our current agricultural production system is *water*. Lester Brown points out that although each human needs only four liters of water a day, the US industrial agriculture system consumes 2,000 liters per day to meet US daily food requirements (Brown, 2006). A significant amount of that water is consumed by production agriculture: over 70% of global fresh water resources is used for irrigation.

As discussed earlier in this report, the Ogallala Aquifer, which supplies water for one of every five irrigated acres in the United States, is now half depleted and is being overdrawn at the rate of 3.1 trillion gallons per year,[7] according to some reports (Soule and Piper, 1992). Furthermore, a recent *Des Moines Register* article reported that the production of biofuels is putting significant additional pressure on US water resources, and that climate change is likely to further stress these resources (Beeman, 2007). According to the *Wall Street Journal*, "Kansas is threatening to sue neighboring Nebraska for consuming more than its share of the Republican River" as farmers consume more water for irrigation[8] (that suit has since been filed); Kansas had previously sued Colorado over Arkansas River water diverted in Colorado, in part, for agriculture irrigation and use by the city of Denver.

Reduced snowpacks in mountainous regions due to climate change will decrease spring runoff, a primary source of irrigation water in many parts of the world, further intensifying water shortages.

These early indications of stress indicate that energy, water, and climate changes will intersect and affect each other in many ways and will make industrial production systems increasingly vulnerable.

But new soil management methods can make major contributions to the sustainability of future US farming systems. Research and on-farm experience have shown that the management of soils in accordance with closed recycling systems that build soil organic matter significantly enhances the soil's capacity to absorb and retain moisture, reducing the need for irrigation. On-farm experience (as well as nature's own elasticity) also indicates that: (1) diverse systems are more resilient than monocultures in the face of adverse climate conditions; (2) energy inputs can be dramatically reduced when recycling systems replace input/output systems; and (3) management of soil health based on recycling systems requires more mixed crop/livestock systems. Furthermore, new insights from studies in modern ecology and evolutionary biology applied to nutrient recycling and humus-based soil management could provide additional information that can help in the design of postindustrial farming systems.

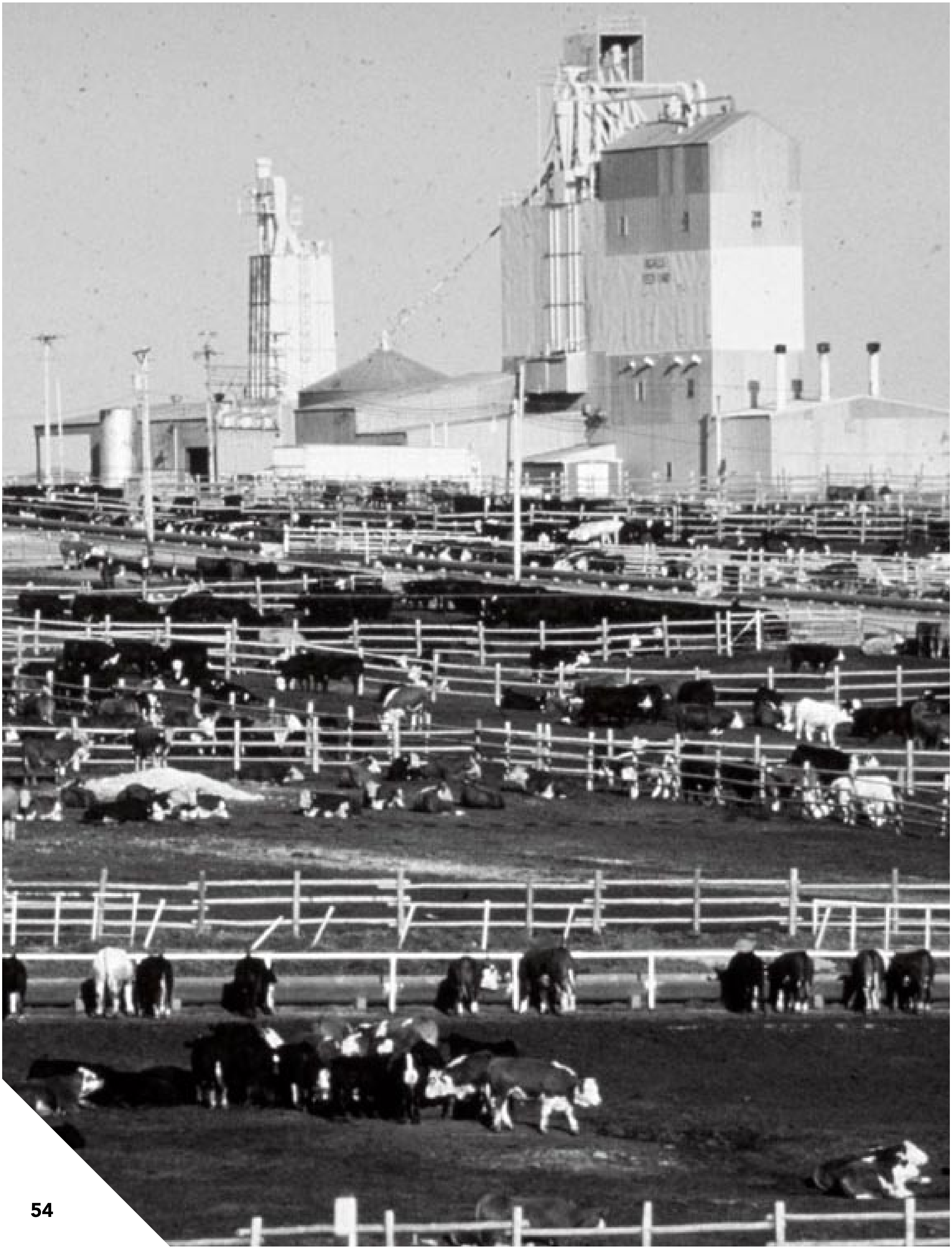
Scientists have recognized for some time that the single-tactic, specialized, energy-intensive approach of industrial agriculture which relies on technology to intervene in a system to solve a specific problem, such as eliminating a single pest species, is not sustainable. Joe Lewis and his colleagues, for example, wrote that, while it may seem that an optimal corrective action for an undesired entity is to use a pesticide to eliminate the pest, in fact "such interventionist actions never produce sustainable desired effects. Rather, the attempted solution becomes the problem." The alternative, they propose, is

Converting Methane to Energy

Methane digesters are a relatively new technology used on a few farms to process animal waste. The technology allows the farmer to capitalize on the natural process of organic waste decomposition by capturing the methane that is produced and put it to work as a fuel source. The digester is essentially a large, sealed manure container that captures the methane gas produced by the manure as it decomposes. The captured methane can power an on-farm electrical generator or heat the digester vessel itself, because the digestion process works more efficiently at warmer temperatures.

Untreated, methane is a potent greenhouse gas, but also, just as importantly, a good source of energy. Manure left in a lagoon or spread on a field emits methane into the atmosphere. Capturing the methane and using it for energy reduces the fossil fuel demand for a typical animal feeding operation, helps to reduce greenhouse gas emissions, and reduces both the odor from the manure and the total volume of manure that requires disposal.

Although the benefits of methane digesters have been widely promoted, serious challenges remain when it comes to the large volumes of IFAP waste and its components such as nitrogen, phosphorus, pathogens, arsenic, and other heavy metals.



"an understanding and shoring up of the full composite of inherent plant defenses, plant mixtures, soil, natural enemies, and other components of the system. These natural 'built in' regulators are linked in a web of feedback loops and are renewable and sustainable" (Lewis et al., 1997). Unfortunately, IFAP is built on the so-called single tactic model, which seeks to maximize production and simplify management needed to get there.

The management of pests, weeds, or animal diseases from such an ecological perspective involves a web of relationships that require more biologically diverse systems. "For example, problems with soil erosion have resulted in major thrusts in use of winter cover crops and conservation tillage. Preliminary studies indicate that cover crops also serve as bridge/refugia to stabilize natural enemy/pest balances and relay these balances into the crop season" (Lewis et al., 1997). In short, natural system management can revitalize soil health, reduce weed and other pest pressures, eliminate the need for pesticides, and support the transition from an energy-intensive industrial farming operation to a self-regulating, self-renewing one. A diversified crop/animal system enhances the possibilities for establishing a self-regulating system.

Other benefits, such as greater water conservation, follow from the improved soil health that results from closed recycling systems. As research conducted by John Reganold and his colleagues has demonstrated, soil managed by such recycling methods develops richer top soil, more than twice the organic matter, more biological activity, and far greater moisture absorption and holding capacity (Reganold et al., 1987; Reganold et al., 2001).

Such soil management methods illustrate the path to an energy system that operates on the basis of energy *exchange* instead of energy *input*. But more innovation is needed. Nature, for example, is a very efficient energy manager; all of its energy comes from sunlight, which is processed into carbon through photosynthesis and becomes available to various organisms that exchange energy through a web of relationships. Bison on the prairie obtain their energy from the grass, which gets its energy from the soil. Bison deposit their excrement on the grass and thus provide energy for insects and other organisms, which, in turn, convert it to energy that enriches the soil to produce more grass. These are the energy exchange systems that must be explored and adapted for use in postindustrial farming systems. But very little research is currently devoted to exploring such energy exchanges for farms.

Fortunately, a few farmers have already developed energy exchange systems and appear to be quite successful in managing their operations with very little fossil fuel input (Kirschenmann, 2007). But converting farms to this new energy model on a national scale will require a major transformation. The highly specialized, energy-intensive monocultures will need to convert to complex, highly diversified operations that function on energy exchange. Research has established the practicality and multiple benefits of such integrated crop-livestock operations, but further research is needed to explore how to adapt this new model of farming to various climates and ecosystems (Russelle et al., 2007).

In the meantime, current intensive confined animal feeding operations, can take steps to begin transitioning to a more sustainable future. In our visits to many such operations, we saw innovative adaptations of some of these principles. For example, a large feedlot we visited, which holds 90,000 head of cattle in confinement, composts all of its manure and sells it in a thriving compost market, thus improving its bottom line. As fertilizer costs go up due to increased energy costs, more farmers may turn to such sources of fertilizer to reduce their costs. The Commission visited an integrated producer of 90,000 dozen eggs a day, that composts its manure, mixing it with wood chips from ground-up wooden pallets, and sells the compost as garden and landscaping mulch, again generating additional income for the company. A 4,500-cow confinement dairy operation recycles its bedding sand and plastic baling wire. Both the dairy and the feedlot also cover their silage piles to reduce pollution.

Farmers in many parts of the world are adopting deep-bedded hoop barn technologies for raising their animals in confinement. As explained earlier in this report, hoop barns are much less expensive to construct, have demonstrated production efficiencies comparable to those of nonbedded confinement systems, and are more welfare-friendly for animals (Lay Jr. et al., 2000). The deep-bedded systems allow animals to exercise more of their natural functions, absorb urine and manure for composting and building soil quality on nearby land, and provide warmth for the animals in cold weather. Such hoop structures are used in hog, beef, dairy, and some poultry operations and have demonstrated reduced environmental impact and risk.[9]

Tweaking the current monoculture confinement operations with such methods will be very useful in the short term, but as energy, water, and climate resources undergo dramatic changes, it is the Commission's judgment that US agricultural production will need to transition to much more biologically diverse systems, organized into biological synergies that exchange energy, improve soil quality, and conserve water and other resources. As Herman Daly said, long-term sustainability will require a transformation from an industrial economy to an ecological economy.

The Recommendations of the Commission

The Pew Commission on Industrial Farm Animal Production was charged with examining the current US system of food animal production and its impact on public health, the environment, animal welfare, and rural communities. The Commission's recommendations are intended to ensure that the system is able to provide safe, affordable meat, dairy, and poultry products in a sustainable way. Commissioners recognize that the current system, like agriculture as a whole, has achieved a remarkable record of increasing productivity and lowering prices at the supermarket, with the result that Americans' expenditures for meat, poultry, dairy, and eggs as an inflation-adjusted share of their disposable income were lower in 2007 than in 1950.

But as industrial farm animal production (IFAP) systems have increased cost-efficient agricultural food production, they have also given rise to problems that are beginning to require attention by policymakers and the industry. Given the relatively rapid emergence of the technologies for industrial farm animal production, and the dependence on chemical inputs, energy, and water, many IFAP systems are not sustainable environmentally or economically.

Much of the basis for concentrated animal production originally derived from inexpensive corn and other plentiful feed grain crops, cheap energy, and free, abundant water. Inexpensive corn, for example, allowed the development of specially formulated feeds that increase growth rates and shorten the time required to get animals to market. But the emerging market for biofuels has changed that equation because the value of corn and other commodity crops is now tied to their energy value, often resulting in higher prices. Similarly, IFAP systems also depend on abundant freshwater resources and on inexpensive fossil fuels for energy. As supplies of both become scarce, their rising costs raise questions about the sustainability of the current production process. Sustainability will require new approaches that use less water and energy.

Industrial farm animal production systems are also highly dependent on intensive animal confinement, which commonly requires the use of antimicrobials to prevent disease, not just to treat it. Together with the use of antimicrobials to promote animal growth, these practices accelerate the emergence of resistant microbes, with obvious risks for both animals and humans.

In addition, intensive confinement systems increase negative stress levels in the animals, posing an ethical dilemma for producers and consumers. This dilemma can be summed up by asking ourselves if we owe the animals in our care a decent life. If the answer is yes, there are standards by which one can measure the quality of that life. By most measures, confined animal production systems in common use today fall short of current ethical and societal standards.

Furthermore, the concentrated animal waste and associated possible contaminants from IFAP systems pose a substantial environmental problem for air quality, surface and subsurface water quality, and the health of workers, neighboring residents, and the general public.

Finally, the costs to rural America have been significant. Although many rural communities embraced industrial farming as a source of much-needed economic development, the results have often been the reverse. Communities with greater concentrations of industrial farming operations have experienced higher levels of unemployment and increased poverty. Associated social concerns—from elevated crime and teen pregnancy rates to increased numbers of itinerant laborers—are problematic in many communities and place greater demands on public services. The economic multiplier of local revenue generated by a corporate-owned farming operation is substantially lower than that of a locally owned operation. Reduced civic participation rates, higher levels of stress, and other less tangible impacts have all been associated with high concentrations of industrial farm production.

The Commissioners have taken all these issues into account in developing the recommendations that follow.

The Recommendations of the Commission

Public Health

Numerous known infectious diseases can be transmitted between humans and animals; in fact, of the more than 1,400 documented human pathogens, about 64% are zoonotic.

Recommendation #1. Restrict the use of antimicrobials in food animal production to reduce the risk of antimicrobial resistance to medically important antibiotics.

a. Phase out and ban use of antimicrobials for nontherapeutic (i.e., growth promoting) use in food animals[10] (see PCIFAP definition of "nontherapeutic").
b. Immediately ban any new approvals of antimicrobials for nontherapeutic uses in food animals[10] and retroactively investigate antimicrobials previously approved.
c. Strengthen recommendations in FDA Guidance #152 to be enforceable by FDA, in particular the investigation of previously approved animal drugs.
d. To facilitate reduction in IFAP use of antibiotics and educate producers on how to raise food animals without using nontherapeutic antibiotics, USDA's extension service should be tasked to create and expand programs that teach producers the husbandry methods and best practices necessary to maintain the high level of efficiency and productivity they enjoy today.

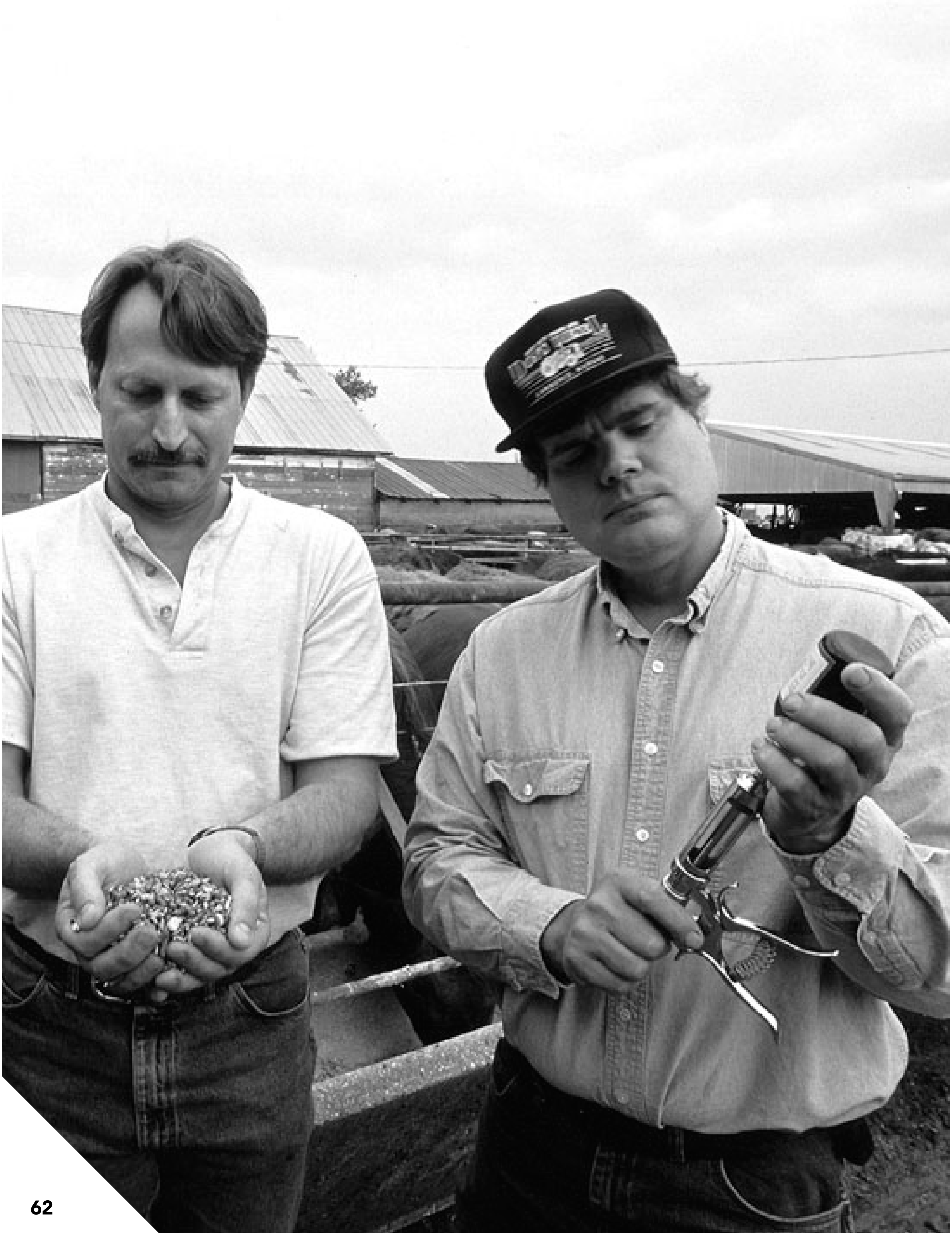
Background

In 1986, Sweden banned the use of antibiotics in food animal production except for therapeutic purposes and Denmark followed suit in 1998. A WHO (2002) report on the ban in Denmark found that "the termination of antimicrobial growth promoters in Denmark has dramatically reduced the food animal reservoir of enterococci resistant to these growth promoters, and therefore reduced a reservoir of genetic determinants (resistance genes) that encode antimicrobial resistance to several clinically important antimicrobial agents in humans." The report also determined that the overall health of the animals (mainly swine) was not affected and the cost to producers was not significant. Effective January 1, 2006, the European Union also banned the use of growth-promoting antibiotics (Meatnews.com, 2005).

In 1998, the National Academy of Sciences (NAS) Institute of Medicine (IOM) noted that antibiotic-resistant bacteria increase US health care costs by a minimum of $4 billion to $5 billion annually (IOM, 1998). A year later, the NAS estimated that eliminating the use of antimicrobials as feed additives would cost each American consumer less than $5 to $10 per year, significantly less than the additional health care costs attributable to antimicrobial resistance (NAS, 1999). In a 2007 analysis of the literature, another study found that a hospital stay was $6,000 to $10,000 more expensive for a person infected with a resistant bacterium as opposed to an antibiotic-susceptible infection (Cosgrove et al., 2005). The American Medical Association, American Public Health Association, National Association of County and City Health Officials, and National Campaign for Sustainable Agriculture are among the more than 300 organizations representing health, consumer, agricultural, environmental, humane, and other interests supporting enactment of legislation to phase out nontherapeutic use in farm animals of medically important antibiotics and calling for an immediate ban on antibiotics vital to human health.

The Preservation of Antibiotics for Medical Treatment Act of 2007 (PAMTA) amends the Federal Food, Drug, and Cosmetic Act to withdraw approvals for feed-additive use of seven specific classes of antibiotics[11] —penicillins, tetracyclines, macrolides, lincosamides, streptogramins, aminoglycosides, and sulfonamides—each of which contains antibiotics also used in human medicine (2007a). The PAMTA provides for the automatic and immediate restriction of any other antibiotic used only in animals if the drug becomes important in human medicine, unless FDA determines that such use will not contribute to the development of resistance in microbes that have the potential to affect humans. FDA Guidance #152 defines an antibiotic as potentially important in human medicine if FDA issues an Investigational New Drug determination or receives a New Drug Application for the compound.

Most antibiotics currently used in animal production systems for nontherapeutic purposes were approved before the Food and Drug Administration (FDA) began giving in-depth consideration to resistance during the drug approval process. FDA has not established a schedule for reviewing existing approvals, although Guidance #152 notes the importance of doing so. Specifically, Guidance #152 sets forth the responsibility of the FDA Center for Veterinary Medicine (CVM), which is charged with regulating antimicrobials approved for use in animals: "prior to approving an antimicrobial new animal drug application, FDA must determine that the drug is safe and effective for its intended use in the animal. The Agency must also determine that the antimicrobial new



The Infectious Disease Society of America (ISDA) recently called antibiotic-resistant infections an epidemic in the United States.

animal drug intended for use in food-producing animals is safe with regard to human health" (FDA-CVM, 2003). The Guidance also says that "FDA believes that human exposure through the ingestion of antimicrobial-resistant bacteria from animal-derived foods represents the most significant pathway for human exposure to bacteria that has emerged or been selected as a consequence of antimicrobial drug use in animals." However, it goes on to warn that the "FDA's guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, the guidance describes the Agency's current thinking on the topic and should be viewed only as guidance, unless specific regulatory or statutory requirements are cited. The use of the word 'should' in Agency guidance means that something is suggested or recommended, but not required" (FDA-CVM, 2003).

The Commission believes that the "recommendations" in Guidance #152 should be made legally enforceable and applied retroactively to previously approved antimicrobials. Additional funding for FDA is required to achieve this recommendation.

Recommendation #2. Clarify antimicrobial definitions to provide clear estimates of use and facilitate clear policies on antimicrobial use.

a. The Commission defines as *nontherapeutic*[10] any use of antimicrobials in food animals in the absence of microbial disease or known (documented) microbial disease exposure; thus, any use of the drug as an additive for growth promotion, feed efficiency, weight gain, routine disease prevention in the absence of documented exposure, or other routine purpose is considered nontherapeutic.[12]
b. The Commission defines as *therapeutic* the use of antimicrobials in food animals with diagnosed microbial disease.
c. The Commission defines as *prophylactic* the use of antimicrobials in healthy animals in advance of an expected exposure to an infectious agent or after such an exposure but before onset of laboratory-confirmed clinical disease as determined by a licensed professional.

Background

In 2000, the WHO, United Nations Food and Agriculture Organization (FAO), and World Organization for Animal Health (OIE, *Fr.* Office International des Épizooties) agreed on definitions of antimicrobial use in animal agriculture based on a consensus (WHO, 2000). Government agencies in the United States, including USDA and FDA, govern aspects of antimicrobial use in food animals but have varying definitions of such use. Consistent definitions should be adopted for the use of all US oversight groups that estimate types of antimicrobial use and for the development of law and policy. Congress recently revived a bill to address the antimicrobial resistance problem: the Preservation of Antibiotics for Medical Treatment Act of 2007 (PAMTA) defines nontherapeutic use as "any use of the drug as a feed or water additive for an animal in the absence of any clinical sign of disease in the animal for growth promotion, feed efficiency, weight gain, routine disease prevention, or other routine purpose" (2007a). If the bill becomes law, this will be the legal definition of nontherapeutic use for all executive agencies and, therefore, legally enforceable.

Recommendation #3. Improve monitoring and reporting of antimicrobial use in food animal production in order to accurately assess the quantity and methods of antimicrobial use in animal agriculture.

a. Require pharmaceutical companies that sell antimicrobials for use in food animals to provide a calendar-year annual report of the quantity sold. Companies currently report antibiotic sales data on an annual basis from the date of the drug's approval, which makes data integration difficult. FDA is responsible for oversight of the use of antimicrobials in food animals and needs consistent data on which to report use.
b. Require reporting of antimicrobial use in food animal production, including antimicrobials added to food and water, and incorporate the reported data in USDA's National Animal Identification System (NAIS).[13] The FDA-CVM regulates feed additives but does not have the budget or personnel to oversee their disposition after purchase. In addition, CVM and USDA are responsible for monitoring the use of prescribed antimicrobials in livestock production but rely on producers and veterinarians to keep records of the antibiotics used and for what purpose.
c. Institute better integration, monitoring, and oversight by government agencies by developing a comprehensive plan to monitor antimicrobial use in food animals, as called for in a 1999 National Research Council (NRC) report (NAS, 1999). An integrated national database of antimicrobial resistance data and research would greatly improve the organization, amount, and types of data collected and would facilitate necessary policy changes by increasing data cohesion and accuracy. Further, priority should be given to linking data on both antimicrobial use and resistance in the National Antimicrobial Resistance Monitoring System (NARMS). This could be accomplished by full implementation of Priority Action 5 of *A Public Health Action Plan to Combat Antimicrobial Resistance*, which calls for the establishment of a monitoring system and the assessment of ways to collect and protect the confidentiality of usage data (CDC/FDA/NIH, 1999). Since USDA already provides antimicrobial use data in fruit and vegetable production, it seems logical that usage information can be obtained from either agricultural producers and/or the pharmaceutical industry without undue burden.

Background

There are no reliable data on antimicrobial use in US food animal production. Rather, various groups have reported estimates of use based on inconsistent standards. For example, in 2001, the Union of Concerned Scientists (UCS) estimated that 24.6 million pounds of antimicrobials were used per year for nontherapeutic purposes (Mellon et al., 2001) in animal agriculture (only cattle, swine, and poultry), whereas the Animal Health Institute (AHI) figure for the same year was only 21.8 million pounds for *all* animals and uses (therapeutic and nontherapeutic) (AHI, 2002). These disparities make it difficult to get a true picture of the state and extent of antimicrobial use and its relationship to antimicrobial resistance in industrial farm animal production.

The potential for pathogen transfer from animals to humans is increased in IFAP because so many animals are raised together in confined areas.

Recommendation #4. Improve monitoring and surveillance of antimicrobial resistance in the food supply, the environment, and animal and human populations in order to refine knowledge of antimicrobial resistance and its impacts on human health.

a. Integrate, expand, and increase the funding for current monitoring programs.
b. Establish a permanent interdisciplinary oversight group with protection from political pressure, as recommended in the 1999 NRC report *The Use of Drugs in Food Animals: Risks and Benefits*. The group members should represent agencies involved in food animal drug regulation (e.g., FDA, the CDC, USDA), similar to the Interagency Task Force (CDC/FDA/NIH, 1999). In order to gather useful national data on antimicrobial resistance in the United States, the group should review progress on data collection and reporting, and should coordinate both the organisms tested and the regions where testing is concentrated, in order to better integrate the data. Agency members should coordinate with each other and with the NAIS to produce an annual report that includes integrated data on human and animal antimicrobial use and resistance by region. Finally, the group should receive appropriate funding from Congress to ensure transparency in funding as well as scientific independence.
c. Revise existing programs and develop a comprehensive plan to incorporate monitoring of the farm environment (soils and plants) and nearby water supplies with the monitoring of organisms in farm animals.
d. Improve testing and tracking of antimicrobial-resistant infections in health care settings. Better tracking of AMR infections will give health professionals and policymakers a clearer picture of the role of antimicrobial-resistant organisms in animal and human health and will support more effective decisions about the use of antimicrobials.

Background

Monitoring and surveillance of antimicrobial resistance in the United States are covered by the National Antimicrobial Resistance Monitoring System (NARMS), a program run by FDA in collaboration with CDC and USDA. CDC is responsible for monitoring resistance in humans, but other federal agencies also conduct antimicrobial resistance research activities. For instance, USDA's National Animal Health Monitoring System (NAHMS) compiles food animal population statistics, animal health indicators, and antimicrobial resistance data. USDA's Collaboration in Animal Health and Food Safety Epidemiology (CAHFSE) is a joint effort of the department's Animal and Plant Health Inspection Service (APHIS), Agricultural Research Service (ARS), and Food Safety and Inspection Service (FSIS) to monitor bacteria that pose a food safety risk, including AMR bacteria. The United States Geological Survey (USGS) studies the spread of antimicrobial-resistant organisms in the environment. To achieve a comprehensive plan for monitoring and responding to antimicrobial resistance in the food supply, the environment, and animal and human populations, these agencies should work together to create an integrated plan with independent oversight, and should upgrade from a passive form of monitoring to an active, comprehensive, uniform, mandatory approach.

The US and state geological surveys (Krapac et al., 2004; USGS, 2006) as well as several independent groups (Batt, Snow et al., 2006; Centner 2006; Peak, Knapp et al., 2007) have looked closely at the spread of antimicrobial-resistant organisms in the environment, specifically in waterways, presumably from runoff or flooding. A recent study by the University of Georgia suggested that even chickens raised without exposure to antibiotics were populated with resistant bacteria. The authors suggested that an incomplete cleaning of the farm environment could have allowed resistant bacteria to persist and reinfect naïve hosts (Idris, Lu et al., 2006; Smith, Drum et al., 2007). In Denmark, it took several years after the withdrawal of antimicrobials for antimicrobial resistance to diminish in farm animal populations. These experiences emphasize the importance of monitoring the environment for antimicrobial contamination and responding with careful and comprehensive planning.

Recommendation #5. Increase veterinary oversight of all antimicrobial use in food animal production to prevent overuse and misuse of antimicrobials.

a. Restrict public access to agricultural sources of antimicrobials.
b. Enforce restricted access to prescription drugs. By law, only a veterinarian may order the extralabel use of a prescribed drug in animals, but, in fact, prescription drugs are widely available for purchase online, directly from the distributors or pharmaceutical companies, or in feed supply stores without a prescription. Without stricter requirements on the purchase of antimicrobials, extralabel (i.e., nontherapeutic) use of these drugs is possible and even probable. For that reason, *no* antibiotics should be available for over-the-counter purchase.
c. Enforce veterinary oversight and authorization of all decisions to use antimicrobials in food animal production. The extralabel drug use (ELDU) rule under the Animal Medicinal Drug Use Clarification Act (AMDUCA) permits veterinarians to go beyond label directions in using animal drugs and to use legally obtained human drugs in animals. However, the rule does not permit ELDU in animal feed or to enhance production. ELDU is limited to cases in which the health of the animal is threatened or in which suffering or death may result from lack of treatment. Veterinarians should consider ELDU in food-producing animals only when no approved drug is available that has the same active ingredient in the required dosage form and concentration or that is clinically effective for the intended use (1994). North Carolina State University, the University of California-Davis, and the University of Florida run the Food Animal Residue Avoidance Databank (FARAD) (http://www.farad.org/), which includes useful information for food animal veterinarians, including vetGRAM, which lists label information for all food animal drugs. To be effective, AMDUCA and ELDU must be enforced. In addition, as technology allows, the FDA-CVM should compel veterinarians to submit prescription and treatment information on farm animals to a national database to allow better tracking of antibiotic use as well as better oversight by veterinarians. Veterinary education for food animal production should teach prescription laws and reporting requirements.
d. Encourage veterinary consultation in these decisions. AMDUCA requires the veterinarian to properly label drugs used in a manner inconsistent with the labeling (i.e., extralabel) and to give the livestock owner complete instructions about proper use of the drug. Further, ELDU must take place in the context of a valid, current veterinarian-client-patient relationship—the veterinarian must have sufficient knowledge of the animal to make a preliminary diagnosis that will determine the intended use of the drugs. The producer should be encouraged to work with the veterinarian both to ensure the health of the animal(s) and to conform to antibiotic requirements. For example, the National Pork Board Pork Quality Assurance program encourages consultation with veterinarians to maintain a comprehensive herd health program (NPB, 2005).

Background

Presenters at a 2003 NRC workshop concluded that unlike human use of antibiotics, nontherapeutic uses in animals typically do not require a prescription (certain antimicrobials are sold over the counter and widely used for purposes or administered in ways not described on the label) (Anderson et al., 2003). Before AMDUCA, veterinarians were not legally permitted to use an animal drug in any way except as indicated on the label. After the passage of AMDUCA, veterinarians gained the right to prescribe/dispense drugs for "extralabel" use, but FDA limits such use to protect public health (1994). ELDU occurs when the drug's actual or intended use is not in accordance with the approved labeling. For instance, ELDU refers to administration of a drug for a species not listed on the label; for an indication, disease, or other condition not on the label; at a dosage level or frequency not on the label; or by a route of administration not on the label. Over-the-counter sale of antimicrobials opens the door to the nontherapeutic, unregulated use of antibiotics in farm animals.

If the full cost of externalized environmental and health costs were taken into account, those same products would be far more expensive.

Recommendation #6. Implement a disease-monitoring program and a fully integrated and robust national database for food animals to allow 48-hour trace-back through phases of their production.

a. Implement a tracking system for animals as individuals or units from birth until consumption, including movement, illnesses, breeding, feeding practices, slaughter condition and location, and point of sale. Use the same numbering system as for usda's nais (see above), but expand it to provide more information to appropriate users (nais tracks animals based only on their movement).
b. Require federal oversight of all aspects of this tracking system, with stringent protections for producers against lawsuits. The tracking arm of the nais, which has not yet been implemented, is designed to be administered by private industry in collaboration with state governments. nais has garnered support from both, but the program should be expanded significantly and monitored by a separate federal agency to enhance confidentiality for producers. The British Cattle Movement Service (www.bcms.gov.uk) could serve as a model for this system.
c. Require registration of premises and animals by 2009 and implement animal tracking by 2010. usda's aphis has created a voluntary animal id system in collaboration with the farm animal industry, so implementation of a mandatory federal system should be feasible within a relatively short time frame.
d. Allocate special funding to small farms to facilitate their participation in the national tracking system, which would have a much greater financial impact on them, particularly the costs of the identification method (e.g., ear tag, microchip, retinal scan). Such funding should be made available concurrent with the announcement of mandatory registration.

Background

In May 2005, aphis began implementing an animal tracking system, the nais (usda, aphis 2006), which will track premises and 27 species of animals (including cattle, goats, sheep, swine, poultry, deer, and elk). Data are linked to several databases run by private technology companies, while usda shops for a technology company with data warehousing expertise to run the full national database in the future. The United Kingdom uses a similar database for its Cattle Tracing System (doe and fra, 2001).

nais registration is voluntary at the time of this writing, and the Bush administration announced on November 22, 2006, that it would not require it of producers. The major industry concerns are about trust and confidentiality, says John Clifford, deputy administrator for aphis veterinary services. However, proposals to make registration mandatory by 2009 have been floated by usda; the department has officially stated that, "If the marketplace, along with State and Federal identification programs, does not provide adequate incentives for achieving complete participation, usda may be required to implement regulations" (usda, 2006).

The goal of the nais is a 48-hour trace-back to identify exposures since the 48-hour time frame is vital to containing the spread of infection (usda, 2005). usda advertises the nais as a "valuable tool for other 'non-nais' purposes—such as animal management, genetic improvement, and marketing opportunities," and notes that producers could improve the quality of their product and thus increase sales using the tracking. Many industry groups support the nais for these reasons, but small producers worry about the costs, oversight of data collection, and maintenance (Western Organization of Resource Councils, May 2006).

The first two phases of the nais call for the registration of premises and of individual animals using a US Animal Identification Number (usain). According to usda, "[t]he US Animal Identification Number (usain) will evolve into the sole national numbering system for the official identification of individual animals in the United States. The usain follows the International Organization for Standardization (iso) Standard for Radio Frequency [tracking] of Animals and can thus be encoded in an iso transponder or printed on a visual tag" (usda, aphis 2006). The Wisconsin Livestock id Consortium developed this US Animal id Number, which has 15 digits, the first three of which are the country code (840 for the United States). The final phase will be the animal tracking phase.

A national animal identification system was first proposed in response to bovine spongiform encephalopathy (mad cow disease, or bse) scares and deadly *E. Coli* outbreaks in the 1990s. The desire to identify contaminated meat quickly and quell an outbreak was the main reason for proposing Animal ID (AID), followed by the desire to market American meat abroad, where AID was becoming more and more common. Threats from European markets, in particular, to ban US meat unless it was more stringently monitored led to the proposal of an animal identification system, and USDA lobbied to be in charge of a voluntary program between private industry and the federal government.

The ability to market "safe" meat at home and abroad remains a good reason to institute a mandatory federal animal identification system. Safety of the food supply in terms of public health is the most important reason that the system should be mandatory and controlled by the federal government. The government should be able to track disease outbreaks via this system, which would also have information on feeding/rearing practices and antimicrobial use. In short, an animal identification system would protect the American public and allow for better data on animal protein production in general.

Recommendation #7. Fully enforce current federal and state environmental exposure regulations and legislation, and increase monitoring of the possible public health effects of IFAP on people who live and work in or near these operations.

a. Because IFAP workers—farmers, caretakers, processing plant workers, veterinarians, federal, state, and private emergency response personnel, and animal diagnostic laboratory personnel—are exposed to and may be infected by zoonotic, novel, or other infectious agents, they should be a priority target population for heightened monitoring, annual influenza vaccines, and training in the use of personal protective equipment. IFAP workers who have the highest risk of exposure to a novel virus or other infectious agent should be priority targets for health information and education, pandemic vaccines, and antiviral drugs.
b. IFAP employers and responsible health departments need to coordinate the monitoring and tracking of all IFAP facility employees to document disease outbreaks and prevent the spread of a novel zoonotic disease.
c. Occupational health and safety programs, including information about risks to health and about resources, should be more widely available to IFAP workers. Occupational safety and health information must also be disseminated in ways that allow people with little or no education or English proficiency to understand their risks and why precautions must be taken. Because of the well-documented health and safety risks among IFAP workers, the Occupational Health and Safety Administration should develop health and safety standards for IFAP facilities as allowable by law.
d. Current legislation and regulations concerning surveillance and health and safety programs should be implemented and should prioritize IFAP workers.

Background

In most jurisdictions, few, if any, restrictions on IFAP facilities address the health of IFAP workers or the public. Localities are therefore often unprepared to properly deal with IFAP impacts on local services and the health of people in the community.

Because of the large numbers of animals in a typical IFAP facility, pathogens can infect hundreds or thousands of animals even though the infection rate may be fairly low.

Recommendation #8.
Increase research on the public health effects of IFAP on people living and working on or near these operations, and incorporate the findings into a new system for siting and regulating IFAP.

a. Support research to characterize IFAP air emissions and exposures from the handling and distribution of manure on fields—including irritant gases (ammonia and hydrogen sulfide, at a minimum), bioaerosols (endotoxin, at a minimum), and respirable particulates—for epidemiological studies of exposed communities near IFAP facilities. Such research should include characterization of mixed exposures, studies of particulates in rural areas, and standardization and harmonization of exposure assessment methods and instrumentation to the degree possible.
b. Support research to identify and validate the most applicable dispersion models for IFAP facilities and their manure emissions. Such modeling research must take into account multiple IFAP facilities and their manure management plans in a given area, meteorological conditions, and chemical transformation of pollutants, and should be evaluated with prediction error determined through comparison of predicted values with actual monitoring data. Such models would be useful to state and federal regulatory agencies to determine the results of best management practices, to assess health impacts on exposed populations, and to model setback distances before the construction of new facilities. There is a further need for models that enable evaluation of concentration/exposure scenarios after an event that triggers asthma episodes or nuisance complaints.
c. Support research on the respiratory health and function of populations that live near IFAP facilities, including children and sensitive individuals. Such studies are powerful epidemiological approaches to assess the impact of air pollutants on respiratory health and must include appropriate exposure assessments, exposure modeling, and use of time-activity patterns with personal exposure monitoring to better calibrate modeling of exposures. Exposure assessment data need to be linked with measures of respiratory health outcome and function data, including standardized assessment of respiratory symptoms and lung function, assessment of allergic/immunological markers of response, and measurement of markers of inflammation, including the use of noninvasive approaches such as tear fluid, nasal lavage, and exhaled breath condensate.
d. Support systematic and sustained studies of ecosystem health near IFAP facilities, including toxicologic, infectious, and chemical assessments, to better assess the fate and transport of toxicologic, infectious, and chemical agents that may adversely affect human health. Systematic monitoring programs should be instituted to assess private well water quality in high-risk areas, supplemented by biomonitoring programs to assess actual exposure doses from water sources.

Background

While there is an increasing amount of research already taking place on IFAP's impacts on the people that work and live on or near these facilities, there is a need to more fully define the extent to which IFAP poses a threat to those populations. There is clear epidemiological evidence that IFAP facilities are associated with increased asthma outcome risk among those living nearby, but there is a need to develop and understand exposure and health outcome relationships. These topics should be addressed by scientific research.

Recommendation #9.
Strengthen the relationships between physicians, veterinarians, and public health professionals to deal with possible IFAP risks to public health.

a. To better understand the cross-species spread of disease, expand and increase funding for dual veterinary/public health degree programs.
b. Fund and implement federal and state training programs to increase the number of practicing food animal veterinarians (2007b).
c. Initiate and expand federal coordination between Health and Human Services (HHS), FDA, CDC, and USDA to better anticipate, detect, and deal with zoonotic disease. NARMS is not extensive enough to be effective for outbreak detection; it serves a general monitoring function. Include all the data from the various federal agencies in the IFAP clearinghouse (outlined among the environment recommendations) for use by a newly created Food Safety Administration (Recommendation #10) and the states.
d. Promote international coordination on zoonotic diseases and food safety. As an increasing amount of US food is imported, it is vital to hold this food to the same standards as domestically produced food.
e. Provide more training through land-grant universities and schools of public health to producers, community health workers, health professionals, and other appropriate personnel to promote detection of disease as a first line of defense against emerging zoonotic diseases and other IFAP-related occupational health and safety outcomes.

Background
These three groups of health professionals (physicians, veterinarians, and public health professionals) have already begun to collaborate, and such collaboration should be promoted and extended as quickly as possible to protect the public's health as well as that of the food animal population. The American Medical Association's and American Veterinary Medical Association's One Health Initiative is a very good beginning, and the Commission recommends the following to further extend this collaboration.

Recommendation #10.
Create a Food Safety Administration that combines the food inspection and safety responsibilities of the federal government, USDA, FDA, EPA, and other federal agencies into one agency to improve the safety of the US food supply.

Background
The current system to ensure the safety of US food is disjointed and dysfunctional; for example, FDA regulates meatless frozen pizza whereas USDA has jurisdiction over frozen pizza with meat. This fractured system has failed to ensure food safety, and a solution requires a thorough national debate about how the most effective and efficient food safety agency would be constructed.

Recommendation #11. Develop a flexible risk-based system for food safety from farm to fork to improve the safety of animal protein produced by IFAP facilities.

a. Any risk-based, farm-to-fork food safety system must allow for size differences among production systems—a "one-size-fits-all" system will not be appropriate for all operations. The system must be flexible enough for small and local producers to get their products to the marketplace.
b. Attack food safety issues at their source, instead of trying to fix a problem after it has occurred, by instituting better sanitary and health practices at the farm level. Ranch operating plans may provide one approach to on-farm food safety; FDA's 2004 proposed rule for the prevention of *Salmonella enteritidis* in shell eggs is another example (http://www.cfsan.fda.gov/~lrd/fr04922b.html).
c. Ensure that diagnostic tools are sensitive and specific and are continuously evaluated to detect newly emerging variants of microbial agents of food origin.
d. Make resources available through competitive grants to encourage the development of practical but rigorous monitoring systems and rapid diagnostic tools. Provide resources for the application of newly identified or developed technologies and processes and for the training of inspectors and quality control staff of facilities.
e. Introduce greater transparency in feed ingredients. Often producers do not even know what additives they are feeding the animals since the feed arrives premixed from the integrator. One option would be to extend certain provisions of the Food, Drug, and Cosmetic Act to the farm.
f. Encourage the food animal production industry (contractors, producers, and integrators) to commit to finding ways to minimize the risk of outbreaks of zoonotic disease and other IFAP-related public health threats to vulnerable communities, such as those where IFAP facilities are the most concentrated and where local citizens are least able to protect their rights (e.g., lower-income and/or minority areas).
g. Include both imported and domestically produced foods of animal origin in the enhanced monitoring systems.

Background

Recent food-borne illness outbreaks and meat recalls have called into question the reliability of our system for ensuring the safety of domestic and imported meat. IFAP facilities can have a variety of effects on public health if precautions are not taken to protect the health of their food animals. Livestock production systems must be assessed for vulnerabilities beyond the naturally occurring disease agents. The US production of food has been a model for the world, but a number of countries have now instituted better practices. The food production system is one of our most vulnerable critical infrastructure systems and requires preparation and protection from possible domestic or foreign bioterrorism. Confidence in the safety of our food supply must be maintained and, in some cases, restored.

The ongoing addition of antimicrobial agents to IFAP livestock foodstuffs to promote growth also promotes the emergence of resistant strains of pathogens, presenting a significant risk to human health.

Recommendation #12.
Improve the safety of our food supply and reduce use of antimicrobials by more aggressively mitigating production diseases (disorders associated with IFAP management and breeding).

a. More attention should be given to antimicrobial-resistant and other diseases on the farm. Too often attempts are made to address the effects of production diseases after they arise (at processing), rather than preventing them from occurring in the first place.
b. Research into systems that minimize production diseases should be expanded, implemented, and advocated by the state and the federal governments.

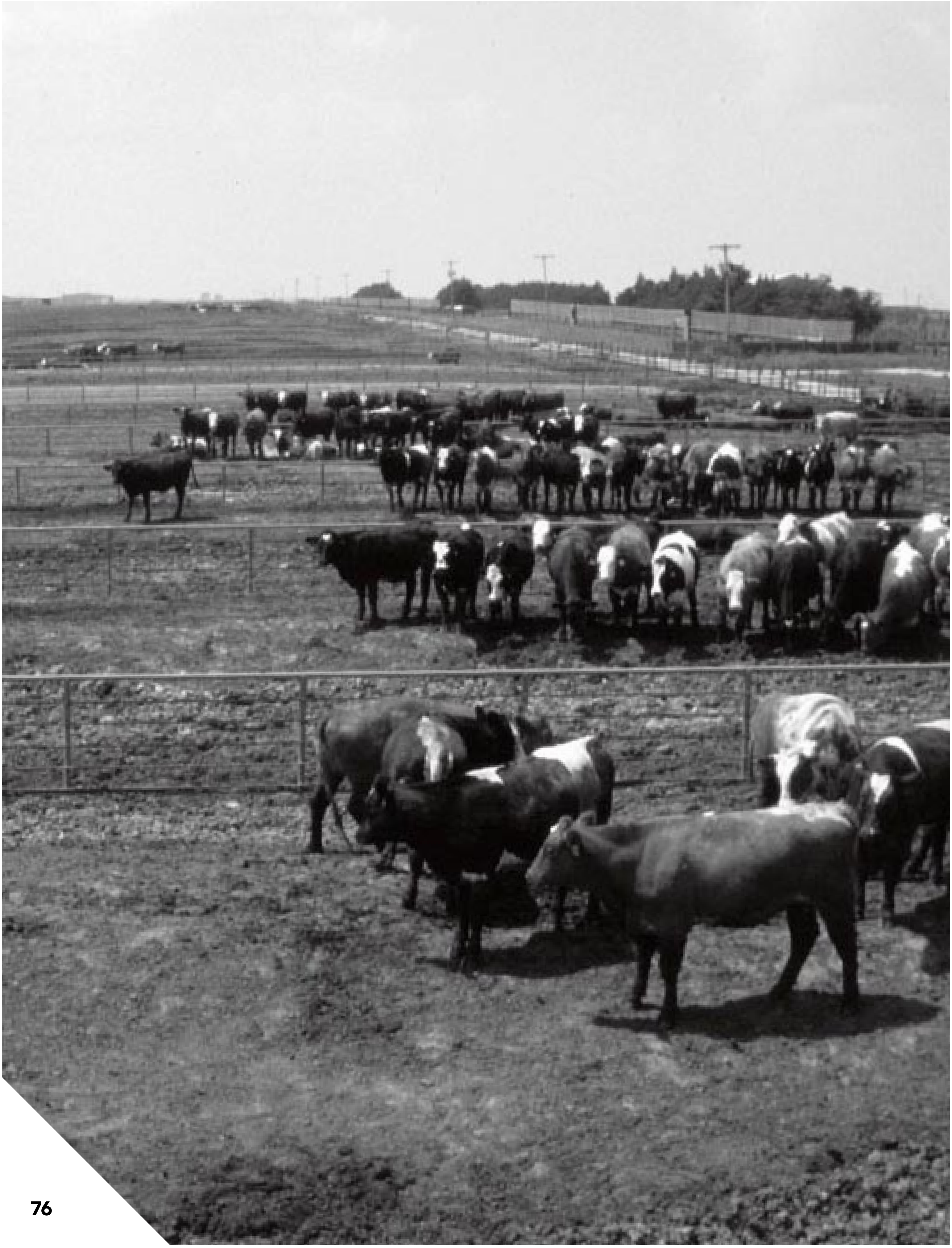
Background

Production diseases are diseases that, although present in nature, become more prevalent as a result of certain production practices. As production systems increase the number of animals in the same spaces, preventive health care strategies must be developed in parallel in order to minimize the risks of production-related diseases.

Environment

Recommendation #1.
Improve enforcement of existing federal, state, and local IFAP facility regulations to improve the siting of IFAP facilities and protect the health of those who live near and downstream from them.

a. Enforce all provisions of the Clean Water Act[14] and the Clean Air Act[15] that pertain to IFAP.
b. Provide adequate mandatory federal funding to states to enable them to hire more trained inspectors, collect data, monitor farms more closely, educate producers on proper manure handling techniques, write Comprehensive Nutrient Management Plans (CNMPs), and enforce IFAP regulations (e.g., NRCS, EPA Section 106 grants, SBA loans).
c. States should enforce federal and state permits quickly, equitably, and robustly. A lack of funding and political will often inhibits the ability of states to adequately enforce existing federal and state IFAP (currently Concentrated Animal Feeding Operation, or CAFO) regulations. Often states must rely on general fund appropriations to fund IFAP (CAFO) monitoring and rule enforcement. Dedicated mandatory funding would improve this situation, and additional funding for monitoring and enforcement could be realized if permitting fee funds were dedicated to monitoring and enforcement.
d. States should implement robust inspection regimes that are designed to deter IFAP facility operators from ignoring pollution rules. Often, no state-sanctioned official visits an IFAP facility unless there is a complaint, and then it may be too late to document or fix the problem. Each state should set a minimum inspection schedule (at least once a year), with special attention to repeat violators (Kelly, March 20, 2007).
e. State environmental protection agencies, rather than state agricultural agencies, should be charged with regulating IFAP waste. This would prevent the conflict of interest that arises when a state agency charged with promoting agriculture is also regulating it (Washington State Department of Ecology, 2006). While environmental protection agencies may not have expertise with food animals, they are generally better equipped than state agriculture agencies to deal with waste disposal since they regulate many other types of waste disposal. Unfortunately, several states are transferring the regulation of IFAP facilities from the department of environment to their department of agriculture.
f. The EPA should develop a standardized approach for regulating air pollution from IFAP facilities. IFAP air emissions—including pollutants such as particulate matter, hydrogen sulfide, ammonia, methane, and volatile gases—are unregulated at the federal level.
g. Clarify the definition of the types of waste handling systems and number of animals that constitute a regulated IFAP facility (CAFO) in order to bring a greater proportion of the waste from IFAP facilities under regulation. Under currently proposed EPA rules, only 49 to 60% of IFAP waste qualifies for federal regulation (EPA, 2003).
h. The federal government should develop criteria for allowable levels of animal density and appropriate waste management methods that are compatible with protecting watershed, airshed, soil, and aquifers by adjusting for relevant hydrologic and geologic factors. States should use these criteria to permit and site IFAP operations.
i. Once criteria are established and implemented, EPA should monitor IFAP's effects on entire watersheds, not just on a per farm basis, since IFAP can have a cumulative effect on the health of a watershed.
j. Grant permits only to new IFAP facilities that comply with local, state, and federal regulations.
k. Require existing IFAP facilities to comply and shut down those that cannot or do not.
l. The federal and state governments should increase the number of IFAP operations (currently restricted to EPA-defined CAFOs) to be regulated under federal and state law (NMPs, effluent restrictions, National Pollutant Discharge Elimination System (NPDES) permits) and provide robust financial and technical support to smaller producers included in the expanded IFAP (CAFO) definition to help them comply with these regulations. Under the current definition of a concentrated animal feeding operation (CAFO), only 5% of animal feeding operations (AFOs) are CAFOs, yet they raise 40% of US livestock. And only about 30% (4,000) of the 5% have federal permits (Copeland 2006). If the current final rule (1,000 animal units, or AU) were lowered to the original rule proposed in 2000, which would regulate CAFOs between 300 and



Animals and their waste are concentrated and may well exceed the capacity of the land to produce feed or absorb the waste.

999 AU or a 500-animal threshold (EPA, 2003), 64% to 72% more waste would be covered under the federal permitting process.

m. Require operations that do not obtain a permit to prove they are not discharging waste into the environment. Test wells for groundwater monitoring, and require surface water monitoring for those who wish to opt out of obtaining a permit. This would expand the number of AFOs subject to regulation. Currently, many operations that meet IFAP facility (CAFO) size thresholds do not obtain permits or fall outside state and federal regulation because they claim they do not discharge. Claiming no discharge exempts IFAP facilities from federal regulation, although they are often still subject to state laws, which vary greatly from state to state (as noted in the National Conference of State Legislatures study [NCSL, 2008]).

Background

Too few IFAP operations are monitored, regulated, or even inspected on a regular basis. It is imperative that all levels of government thoroughly enforce existing IFAP laws for all IFAP facilities. Funding should be increased to enable federal and state authorities to enforce IFAP regulations in order to reduce the number of large operations negatively impacting the soil, air, and water.

Recommendation #2. Develop and implement a new system to deal with farm waste (that will replace the inflexible and broken system that exists today) to protect Americans from the adverse environmental and human health hazards of improperly handled IFAP waste.

a. Congress and the federal government should work together to formulate laws and regulations outlining baseline waste handling standards for IFAP facilities. These standards would address the minimum level of mandatory IFAP facility regulation as well as which regulations states must enforce to prevent IFAP facilities from polluting the land, air, and water; states could choose to implement more stringent regulations if they considered them necessary. Our diminishing land capacity for producing food animals, combined with dwindling freshwater supplies, escalating energy costs, nutrient overloading of soil, and increased antibiotic resistance, will result in a crisis unless new laws and regulations go into effect in a timely fashion. This process must begin immediately and be fully implemented within 10 years.

b. Address site-specific permits for the operation of all IFAP facilities and include the monitoring of air, water, and soil, total maximum daily loads (TMDLs),[16] site-specific NMPs,[17] comprehensive nutrient management plans (CNMPs),[18] inspections, data collection, and self-reporting to the clearinghouse (see Recommendation #3e in this section).

c. Require the use of environmentally sound treatment technologies for waste management (without specifying a particular technology that might not be appropriate for all conditions).

d. Mandate shared responsibility and liability for the disposal of IFAP waste between integrators and producers proportional to their control over the operation (instead of this burden being solely the responsibility of the producer; [Arteaga, 2001]).

e. Include baseline federal zoning guidelines that set out a framework for states. Require a pre-permit/ construction environmental impact study. Such a requirement would not prevent states and counties from enacting their own, more comprehensive, zoning laws if necessary (see Recommendation #1 under Competition and Community Impacts).

f. Establish mechanisms for community involvement to provide neighbors of IFAP facilities opportunities to review and comment on proposed facilities, and allow them to take action in cases where federal or state regulations have been violated in the absence of enforcement of those laws by the appropriate authority. Individuals who have had their private property contaminated through no fault of their own must have access to the courts to obtain redress.
g. Ensure that all types of IFAP waste (e.g., dry litter, wet waste) are covered by regulations (EPA, 2003).
h. Establish standards that protect people, animals, and the environment from the effects of IFAP waste on and off the operation's property (Arteaga, 2001; EPA, 2003; Schiffman, Studwell et al., 2005; Sigurdarson and Kline 2006; Stolz, Perera et al., 2007).
i. Phase out the use of lagoon and spray systems in areas that cannot sustain their use (e.g., fragile watersheds, floodplains, certain geologic formations, areas prone to disruptive weather patterns).
j. Require new and expanding IFAP facilities in vulnerable areas to use primary, secondary, and tertiary treatment of animal waste (similar to the treatment associated with human waste) until lagoon and spray systems can be replaced by safe and effective alternative technologies.
k. Require minimal water use in alternative systems to protect the nation's dwindling freshwater resources, balanced with the system's effect on air and soil quality. Liquid manure handling systems should be used only if another system is not feasible or would have greater environmental impact than a liquid system. The sustainability of alternative systems in relation to water resources and carbon use should be a major focus during their development.
l. Prohibit the installation of new liquid manure handling systems and phase out their use on existing operations as technology allows.
m. Require states to implement a robust inspection regime that combines adequate funding for annual inspections with additional risk-based inspections where necessary. It is important that all IFAP facilities be inspected on a regular basis to ensure compliance with state and federal waste management regulations. Additionally, some IFAP facilities may need special attention because of the type of manure handling system in use, the facility's age, its size, or its location. These high-risk operations should be inspected more often than lower-risk operations.

Background

Most animal production facilities in the United States and increasingly in the world have become highly specialized manufacturing endeavors and should be viewed as such. The regulatory system for oversight of IFAP facilities is flawed and inadequate to deal with the level and concentration of waste produced by current food animal production systems, which were not well understood or even foreseen when the laws were written. A new system of laws and regulations that applies specifically to modern IFAP methods is needed.

IFAP facilities have become more concentrated in certain geographic areas. New regulations must address the zoning and siting of IFAP facilities, particularly with regard to the topography, demographics, and climate of the suggested region. They must also take into account an individual's right to property free from pollution caused by neighboring IFAP facilities. IFAP facility owners and integrators do not have a right to pollute their neighbors' land. Property owners or tenants must have the right to take legal action or petition the government to do so on their behalf if their property is polluted by a neighboring IFAP facility.

Waste from IFAP facilities contains both desirable and undesirable byproducts. Desirable byproducts include nutrients that, when applied in appropriate amounts, can enhance production of food crops and biomass to produce energy. Undesirable components include excess pathogenic bacteria, antibiotic-resistant bacteria, viruses, industrial chemicals, heavy metals, and other potentially problematic organic and inorganic compounds. New IFAP laws and regulations must mandate development of sustainable waste handling and treatment systems that can use the beneficial components and render the less desirable components benign. These new laws should not mandate specific systems for producers; rather they should set discharge standards that can be met using a variety of systems that accommodate the local climate and geography.

Congress should work with the EPA, USDA, and FDA to establish a clear and consistent definition of which IFAP facilities should be regulated and to develop

As in large human settlements, improper management of the highly concentrated feces produced by IFAP facilities can and does overwhelm natural cleansing processes.

a risk-based assessment method for all types of IFAP systems, considering variables such as topography, climate, and hydrology. New and clearly defined regulations will prevent an operation from slipping through the cracks and will make it clear to states, communities, and citizens how to proceed regarding the impacts of IFAP.

Recommendation #3.
Increase and improve monitoring and research of farm waste to hasten the development of new and innovative systems to deal with IFAP waste and to better our understanding of what is happening with IFAP today.

a. All IFAP facilities should have, at a minimum, a Nutrient Management Plan (NMP) for the disposal of manure.[19] An NMP describes appropriate methods for the handling and disposal of manure and for its application to fields. The plan should also include records of the method and timing of manure disposal.
   i. State and federal governments should provide funds through state regulatory agencies and the National Resources Conservation Service (NRCS) to help producers write and implement NMPs.[20]
   ii. The EPA should set federal minimum standards for the extent of NMPs and specify what monitoring data should be kept.
   iii. Allow the Environmental Quality Incentives Program (EQIP) to (1) fund the writing of NMPs to expedite their implementation and (2) provide business plans for alternative systems to equalize access to government funds for non-IFAP and IFAP (CAFO)-style production.[21]

b. The federal, state, and local governments should begin collecting data on air emissions, ground and surface water emissions, soil emissions, and health outcomes (e.g., cardiovascular disease, heart disease, injuries, allergies) for people who live near IFAP facilities and for IFAP workers. These data should be tabulated and combined with existing data in a *national IFAP data clearinghouse* that will enable the EPA and other agencies to keep track of air, water, and land emissions from IFAP facilities and evaluate the public health implications of these emissions. The EPA and other state and federal agencies should use these comprehensive data both to support independent research and to better regulate IFAP facilities. Currently, FDA, EPA, and other federal agencies each keep extensive records for different industries as a way to track changes and regulate each industry. The clearinghouse would consolidate data from around the country, thereby giving producers the chance to improve their operation by providing access to information about better technologies and improved waste systems. It would also allow researchers, regulators, and policymakers to evaluate changing environmental and public health impacts of agriculture and adjust regulations accordingly. The EPA, FDA, and USDA should take the following actions:

i. Add data collected on farm waste handling systems to the clearinghouse for use assessing and evaluating the sustainability of animal production models and farm waste handling systems by region.
ii. Link data to their collection location to facilitate regional comparisons, given different environmental and geological conditions.
iii. Implement data protection procedures to ensure that personal information (e.g., information that could be used by identity thieves) can be accessed only by authorized agencies and personnel for official purposes.
iv. Include comprehensive USDA Agriculture Census data in the national clearinghouse to provide a context for the data and thus improve their utility.
v. Include data on individual violations of state and federal IFAP facility (CAFO) regulations in the public portion of the national clearinghouse. Currently, it is difficult to determine compliance with IFAP (CAFO) laws because states may or may not keep good records of violations and may make them extremely difficult for the public to access (NASDA, 2001).

c. Expand our understanding of how to deal with concentrated IFAP waste, as well as the health and environmental effects of this waste through more diversely funded and well-coordinated research to address methods for dealing with IFAP waste and its environmental and health effects, as well as to move the United States towards more sustainable systems for dealing with farm waste. National standards for alternative waste systems are needed to guide development of improvements to existing waste handling systems as well as the development of alternative/new waste handling systems.

i. Require states to report basic data (general location, number of animals, NMP, etc.) on all IFAP facilities in the public portion of the national clearinghouse.
ii. Federal and state governments should fund research into alternative systems to replace existing, insufficient waste handling systems, similar to the recent research done at North Carolina State University. They should also increase funding for research on the effects of IFAP waste on public health, the environment, and animal welfare.
iii. Establish a national clearinghouse for data on alternative systems. The clearinghouse would be the repository of regionally and topographically significant data on economic performance, environmental performance (air, water, and soil), and overall sustainability for potentially useful alternative waste handling systems.
iv. Improve and standardize research methods for data collection and analysis for the clearinghouse. Standardized methods would allow states and the federal government to compare regionally relevant data in the clearinghouse and facilitate evaluation of new waste handling systems.
v. Increase funding for research to effectively assess and improve the economic performance, energy balance, risk assessment, and environmental sustainability of alternative waste handling systems.
vi. Increase funding for research focused on comprehensive systems to deal with waste, rather than those focused on one process to deal with one aspect of waste (such as using a digester to reduce volume, which does little to reduce the levels of certain toxic components). Dealing with only one component of waste may have the unintended consequence of causing greater harm to the environment.

Studies have demonstrated strong and consistent associations between IFAP air pollution and asthma.

vii. Expand the type and number of entities researching farm waste handling by expanding the public funding of research at both land-grant and non-land-grant institutions, and other research entities. In addition, transparency of funding source in agricultural research should be standard.

Background

A robust monitoring system should be instituted to improve knowledge about IFAP facilities' current waste management practices as the basis for development of cleaner and safer methods of food animal production.

Recommendation #4. Increase funding for research into improving waste handling systems and standardize measurements to allow better comparisons between systems.

a. Develop a central repository for information on how to best facilitate rapid adoption of new air and water pollution reduction technologies that currently exist or are under development across the country. Research to develop effective means of assistance to pay for them, (EQIP should be part of this) should be a component of this repository. (Examples of technologies include: biofilters, buffer strips, dehydration, injection, digesters, reduced feed wastage, etc.)
b. Increase funding for the creation and expansion of programs for implementing improved husbandry and technology practices on currently existing facilities including funding conversions to alternative farming practices.[22] (Examples of such programs include, but are not limited to: EQIP, cooperative extension, NRCS, cost share, loans, grants, and accelerated capital depreciation.) Sign-up and application information for these types of programs should be included in the clearinghouse so that producers only have to go to one place to get information and sign up for a program. A dollar amount cap should be placed on the cost-share program to prevent large-scale operators from using the program to externalize their costs. These funds should not be used for the physical construction of new facilities.
c. Target increased assistance and information to small producers who are least able to afford implementation of new practices and deal with increased regulation, but still have the potential to pollute. Air emission technologies, such as biofilters, that are used in other parts of the world should be considered for use in IFAPs in the United States.

Background

Data from research into alternative systems should be linked to the IFAP information clearinghouse to facilitate and expedite access and use. Greater financial and technical assistance must be provided to those who wish to implement alternative systems.

The Recommendations of the Commission

Animal Welfare

Recommendation #1.
The animal agriculture industry should implement federal performance-based standards to improve animal health and well-being.

a. The federal government should develop performance-based (not resource-based) animal welfare standards. Animal welfare has improved in recent years based on industry research and consumer demand; the latter has led, for example, to the creation of the United Egg Producers' certification program and the McDonald's animal welfare council. However, in order to fulfill our ethical responsibility to treat farm animals humanely, federally monitored standards that ensure at least the following minimum standards for animal treatment:
    Good feeding: Animals should not suffer prolonged hunger or thirst;
    Good housing: Animals should be comfortable especially in their lying areas, should not suffer thermal extremes, and should have enough space to move around freely;
    Good health: Animals should not be physically injured and should be free of preventable disease related to production; in the event that surgical procedures are performed on animals for the purposes of health or management, modalities should be used to minimize pain; and
    Appropriate behavior: Animals should be allowed to perform normal nonharmful social behaviors and to express species-specific natural behaviors as much as reasonably possible; animals should be handled well in all situations (handlers should promote good human–animal relationships); negative emotions such as fear, distress, extreme frustration, or boredom should be avoided.
b. Implement a government oversight system similar in structure to that used for laboratory animal welfare: Each IFAP facility would be certified by an industry-funded, government-chartered, not-for-profit entity accredited by the federal government to monitor IFAP. Federal entities would audit IFAP facilities for compliance. Consumers could look for the third-party certification as proof that the production process meets federal farm animal welfare standards.
c. Change the system for monitoring and regulating animal welfare, recommend improvements in animal welfare as science, and encourage consumers to continue to push animal welfare policy. Improved animal husbandry practices and an ethically based view of animal welfare will solve or ameliorate many IFAP animal welfare problems.
d. Federal standards for farm animal welfare should be developed immediately based on a fair, ethical, and evidence-based understanding of normal animal behavior.

Background
There is increasing, broad-based interest in commonsense, husbandry-based agriculture that is humane, sustainable, ethical, and a source of pride to its practitioners. Proper animal husbandry[23] practices (e.g., breeding for traits besides productivity, growth, and carcass condition) and animal management are critical to the welfare of farm animals, as well as to the environment and public health. Evaluating animal welfare without taking into account animal health, husbandry practices, and normal behaviors for each species is inadequate and inappropriate.

Consumer concern for humane treatment of food-producing animals is growing and has prompted change in the industry.

Recommendation #2.
Implement better animal husbandry practices to improve public health and animal well-being.

a. Change breeding practices to include attributes and genetics besides productivity, growth, and carcass condition (Appleby and Lawrence, 1987); for example, hogs might be bred for docile behavior, fowl for bone strength and organ capacity, and sows, dairy and beef cattle for "good" mothering. In recent decades, farm animals have been selectively bred for specific physical traits (e.g., fast growth, increased lean muscle mass, increased milk production) that have led to greater incidence of and susceptibility to transmissible disease, new genetic diseases, a larger number and scope of mental or behavioral abnormalities[24], and lameness.
b. Improve and expand the teaching of animal husbandry practices at land-grant universities.
c. Federal and state governments should fund (through tax incentives and directed education funding, including for technical colleges) the training of farm workers and food industry personnel in sustainable, ethical animal husbandry.
d. Diversify the type of farm animal production systems taught at land-grant schools beyond the status quo IFAP system.
    i. Increase funding for the teaching of good husbandry and alternative production techniques through local extension offices.
    ii. Work to reduce and eliminate "production diseases," defined as diseases caused by production management or nutritional practices; liver abscesses in feedlot cattle are an example of a production disease.

Background
The use of better husbandry practices in IFAP can eliminate or alleviate many of the animal welfare and public health issues that have arisen because of IFAP confinement practices.

Recommendation #3.
Phase out the most intensive and inhumane production practices within a decade to reduce IFAP risks to public health and improve animal well-being; these practices include the following:

a. Gestation crates where sows are kept for their entire 124-day gestation period. The crates do not allow the animals to turn around or express natural behaviors, and they restrict the sow's ability to lie down comfortably. Alternatives such as open feeding stalls and pens can be used to manage sows.
b. Restrictive farrowing crates, in which sows are not able to turn around or exhibit natural behavior. As an alternative, farrowing systems (e.g., the Freedom Farrowing System, Natural Farrowing Systems) provide protection to the piglets while allowing more freedom of movement for the sow.
c. Any cages that house multiple egg-laying chickens (commonly referred to as "battery cages") without allowing the hens to exhibit normal behavior (e.g., pecking, scratching, roosting).
d. The tethering and/or individual housing of calves for the production of white veal. This practice is already rare in the United States, so its phaseout can be done quickly.
e. Forced feeding of fowl to produce foie gras.
f. Tail docking of dairy cattle.
g. Forced molting by feed removal for laying hens to extend the laying period (for the most part, this has been phased out by UEP standards implemented in 2002).[25]

Background
Certain IFAP practices cause animal suffering and should be phased out in favor of more humane animal treatment. While all the practices listed above should be eliminated as soon as possible (i.e., within 10 years), current technology and best practices may limit their short-term phase-out. The phase-out plan should include tax incentives, such as accelerated depreciation for new and remodeled structures, targeted to regional and family operations.

Recommendation #4.
Improve animal welfare practices and conditions that pose a threat to public health and animal well-being; such practices and conditions include the following:

a. Flooring and housing conditions in feedlots and dairies: cattle kept on concrete, left in excessive amounts of feces, and/or not provided shade and/or misting in hot climates.
b. Flooring and other housing conditions at swine facilities: hogs that spend their entire lifetime on concrete are prone to higher rates of leg injury (Andersen and Boe, 1999; Brennan and Aherne, 1987).
c. The method of disposal of unwanted male chicks and of adult fowl in catastrophic situations that require the destruction of large numbers of birds.
d. Hand-catching methods for fowl that result in the animals' broken limbs, bruising, and stress.
e. Body-altering procedures that cause pain to the animals, either during or afterward.
f. Air quality in IFAP buildings: gas buildup can cause respiratory harm to animal health and to IFAP workers through exposure to gas buildup, toxic dust, and other irritants.
g. Ammonia burns on the feet and hocks of fowl due to contact with litter.
h. Some weaning practices for piglets, beef cattle, and veal calves: the shortening of the weaning period or abrupt weaning to move the animal to market faster can stress the animals and make them more vulnerable to disease.

The federal government should act on the following recommendations to improve animal welfare:

a. Strengthen and enforce laws dealing with the transport of livestock by truck.[26] Transport laws should also address the overpacking of livestock during transportation, long-distance transport of farm animals without adequate care, and transport of very young animals.
b. The federal government must include fowl under the Humane Methods of Slaughter Act.[27]

Background

Certain IFAP practices need to be improved to provide a more humane experience for the animal. Those listed above should be carefully examined for humaneness and remedied as appropriate, taking into account available technology and current best practices.

Food animals that are treated well and provided with at least minimum accommodation of their natural behaviors and physical needs are healthier and safer for human consumption.

Recommendation #5. Improve animal welfare research in support of cost-effective and reliable ways to raise food animals while providing humane animal care.

a. There is a significant amount of animal welfare research being done, but the funding often comes from special interest groups. Some of this research is published and distributed to the agriculture industry, but without acknowledgment of the funding sources. Such lack of disclosure taints mainstream animal welfare research. To improve the transparency of animal research, there needs to be disclosure of funding sources for peer-reviewed published research. Much of today's agriculture and livestock research, for example, comes from land-grant colleges with animal science and agriculture departments that are heavily endowed by special interests or industry. However, a lot of very good research on humane methods of stunning and slaughter has been funded by the industry.

b. More diversity in the funding sources for animal welfare research is also needed. Most animal welfare research takes place at land-grant institutions, but other institutions should not be barred from engaging in animal welfare research due to lack of research funds. The federal government is in the best position to provide unbiased animal welfare research; therefore federal funding for animal welfare research should be revived and increased.

c. Focus research on animal-based outcomes relating to natural behavior and stress, and away from physical factors (e.g., growth, weight gain) that do not accurately characterize an animal's welfare status except in the grossest sense.

d. Include ethics as a key component of research into the humaneness of a particular practice. Scientific outcomes are critical, but whether a practice is ethical must be taken into account.

Background

While there is a large amount of peer-reviewed research on animal welfare issues being done today, there is room to improve the quality and focus of that research. More diversity in the funding sources for animal welfare research is also needed. While land-grant institutions are where most animal welfare research takes place, other institutions should not be barred from engaging in animal welfare research due to lack of research funds. Federal funding for animal welfare research should be revived and increased. The Federal government is in the best position to provide unbiased animal welfare research.

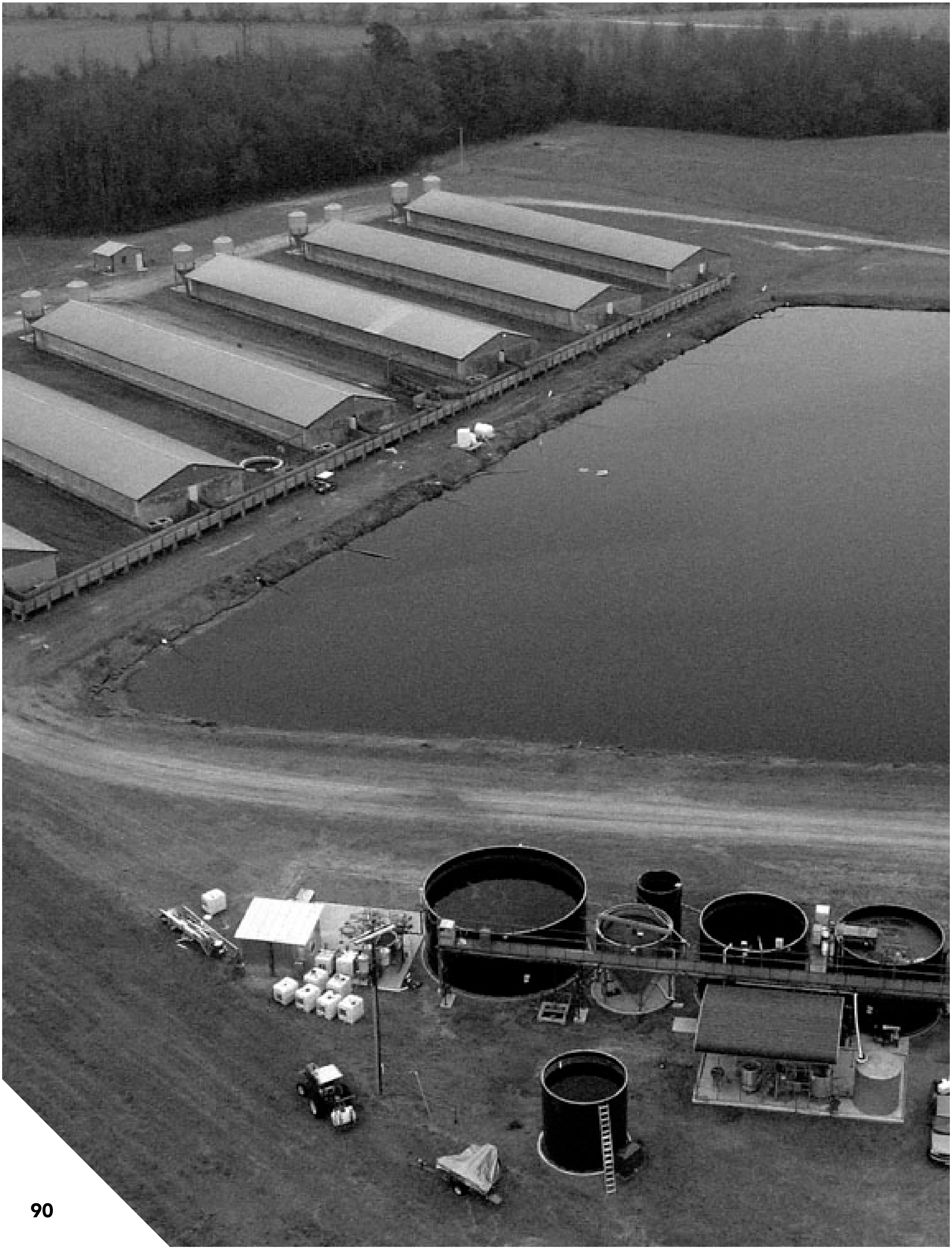
Community Impacts

"large-scale industrialized farms create a variety of social problems for communities"

Recommendation #1. States, counties, and local governments should implement zoning and siting guidance governing new IFAP operations that fairly and effectively evaluate the suitability of a site for these types of facilities.

Regulatory agencies should consider the following factors for inclusion in their IFAP plans, and should adopt such guidelines regardless of whether an IFAP facility currently exists in their jurisdiction (Please note that each of the following components should take climate, soil type, prevailing winds, topography, air emissions, operation size, noise levels, traffic, designated lands, and other criteria deemed relevant into account.):

a. *Setback Distances:* IFAP facilities pose environmental and public health risks to the areas in which they are sited. Determining an exact distance from the production facility at which risks begin and end is very difficult, but is important to consider. Distances from schools, residences, surface and groundwater sources, churches, parks, and areas designated to protect wildlife should all be factored into the proposed location of a food animal production facility. Waterways are particularly crucial as any waste that seeps into water sources may travel great distances. Proximity, size, available environmental monitoring data, and state regulations for setbacks for other industries must also be taken into account. Setback distances should be significant enough to alleviate public health and environmental concerns. Determination of appropriate distances should be made by local officials since state regulators cannot take into account every particular factor—they typically set a minimum base standard, which localities should follow, and make more stringent where necessary.
b. *Method of Production:* Every type of livestock and poultry production has positive and negative aspects. Zoning officials should consider the economic, environmental, and health effects of, for example, cage-free versus caged facilities, hoop barn versus crate facilities, operations with outdoor/pasture access versus permanent indoor confinement, or any other systems.
c. *Concentration:* Each locality should take into account the number of IFAP facilities already in existence, particularly per watershed. A surge in the number of IFAP facilities in North Carolina led to devastating environmental effects, including serious environmental justice issues. Growth there and in other places has been so rapid that potential concerns were not fully recognized until they had already created problems. Too many IFAP facilities in one area can destroy land and waterways and devastate entire communities. No facility should be sited that cannot coexist with the land, water, environment, or community in a sustainable manner.
d. *Waste Disposal:* One of the most important issues concerning IFAP facilities is the method of waste handling. If manure is properly applied to land or injected using an approved manure management plan, there should be enough land available to avoid runoff into surface or groundwater or seepage into groundwater. Many states have already become aware of the potentially hazardous nature of lagoons and have, therefore, made the decision to prohibit them for new facilities. The aforementioned criteria are very important in ensuring waste can be handled properly. Consideration should be given to the fact that animal waste can be as dangerous, if not more so, than untreated human waste and some industrial wastes. Further, localities should operate under the premise that every IFAP facility has the potential for runoff and should, therefore, prepare accordingly. Plans to prevent and deal with this situation are part of the Nutrient Management Plan (NMP), referenced below.
e. *Agency Capabilities:* Local officials should fully fund the costs associated with the review of zoning applications.
f. *Public Input:* Because IFAP facilities affect the entire community, advance public input should factor into the decision of whether or not to site a facility. This should not be only in cases where there is controversy. Public input is important to a community's well-being as it allows all citizens, regardless of economic or social status, to participate in the decision-making process. Neighbors and other citizens should also have access to redress when IFAP facilities fail to comply with standards.
g. *Local Control:* Again, localities will have to deal with IFAP impacts and should therefore be the authority on facilities sited within community boundaries. Local



The food animal industry's shift to a system of captive supply transactions controlled by production contracts has shifted economic power from farmers to livestock processors.

officials and citizens tend to have the best knowledge about potential impacts, positive or negative, whereas state officials are more likely to make decisions based on generalizations. Further, local officials are more directly accountable for decisions than state officials.

h. *Inspections:* The relationship between inspections and zoning is twofold. First, zoning officials should conduct an on-site inspection before siting an operation in order to adequately evaluate the criteria mentioned in criteria *a* through *d* above. Second, operators should be aware that inspections will take place as determined by the state in order to ensure all operations follow established regulations as well as their Nutrient Management Plans (NMPs; more on these below).
i. *Proof of Financial Responsibility:* All operations should be bonded for performance and remediation.
j. *Permit Fees:* Fees are suggested in order to help the state and/or locality fund inspections, enforcement, and the day-to-day function of the local agency. Such fees can range from around $100 up to any amount the agency deems appropriate, and should reflect a sliding scale based on the size of the operation.

Two specific components the Commission believes should be mandatory in zoning permits are:

k. *Environmental Impact Statement:* The IFAP facility owner and the animal grower must establish the potential impact of the facility on the land, water, and general environment. The statement should include best practice information for maintaining soil, water, and air quality, as well as descriptions of chemical management (e.g., use of fertilizers), manure management, carcass management, storm water response, and an emergency response plan, at a minimum.
l. *Nutrient Management Plan (NMP):* All IFAP facilities must comply with USDA-NRCS Standard 590, which requires a Nutrient Management Plan. NMPs outline appropriate methods for handling and disposing of manure, including land application issues. Producers should be able to clearly indicate in their NMP that the facility will implement all possible best practices to minimize the potential for runoff, and that they will minimize runoff during catastrophic events (e.g., floods).[28]

Background

Regulations governing the siting and zoning of IFAP facilities vary tremendously across the country. In fact, many states, counties, and local governments have little or no regulations on the books for dealing with new IFAP facilities. Questions often arise on how to establish zoning and siting regulations, how to enforce them, and how to reconcile the needs of the producers and integrators with the lifestyle and health of their neighbors and environmental maintenance of the land. Without well-developed and thought-out regulations, governments are often unable to regulate the siting of IFAP facilities in a way that protects the rights of both the community and the producers. Compliance with all criteria of a zoning permit ensures protection of communities, producers, and the environment.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Recommendation #2.
Implement policies to allow for a competitive marketplace in animal agriculture to reduce the environmental and public health impacts of IFAP.

a. The Commission recommends the vigorous enforcement of current federal antitrust laws to restore competition in the farm animal market. If enforcing existing antitrust laws are not effective in restoring competition, further legislative remedies should be considered, such as more transparency in price reporting and limiting the ability of integrators to control the supply of animals for slaughter.

Background

The current food animal production system is highly concentrated and exhibits conditions that suggest monopsony, in which there are very few buyers for a large number of suppliers. Under monopsonistic conditions, fewer goods are sold, prices are higher in output markets and lower for sellers of inputs, and wealth is transferred from the party without market power to the party with market power. For example, the top four pork-producing companies in the United States control 60% of the pork market, and the top four beef packers control over 80% of the beef market. Farmers have little choice but to contract with those few producers if they are to sell the food animals they grow.

Vigorous market competition is of vital importance to consumers: they benefit most from an open, competitive, and fair market where the values of democracy, freedom, transparency, and efficiency are in balance. Rural communities and consumers suffer from a loss of competitive markets as wealth is transferred from the party without market power to the party with market power. These situations require robust remedy.

The consolidation in the food animal industry, as well as the continued growth of completely integrated operations (where the processor owns the farm, the animals, and the processing plant), has led to a situation where independent producers, whether contracting or selling on the open market, are beholden to big corporations. Growers often take out large loans to pay for land and equipment in anticipation of a contract from a big corporate integrator. Because the contracts are often presented in "take-it-or-leave-it" terms, the producer may end up with a large loan and no way to pay it off if the integrator revokes the contract.

The Recommendations of the Commission

Additional Research Needs

Recommendation: Increase funding for, expand, and reform animal agriculture research.

Background

As the Commission traveled across the country and talked to experts in animal agriculture, we heard many recurring themes, but some of the loudest came from the research community. In particular, Commission members heard three things:

- there are not enough research dollars from public funding;
- the percentage of research funded by industry is growing; and
- if enough money is put into research, science can solve many of the problems of IFAP.

Industry representatives and academics agreed: more public funding is needed to generate unbiased research into IFAP issues.

Our understanding of how IFAP affects humans, animals, and society must be expanded. The Commission has concluded that a more diversely funded, well-coordinated and transparent national research program is needed to address the many problems and challenges facing IFAP.

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Endnotes

1 Vertical integration describes a style of management that seeks to control many components of the production chain. Usually each component of the hierarchy produces a different product or service, and the products combine to satisfy a common need. One of the earliest, largest and most famous examples of vertical integration was the Carnegie Steel company. The company controlled not only the mills where the steel was manufactured but also the mines where the iron ore was extracted, the coal mines that supplied the coal, the ships that transported the iron ore, the railroads that transported the coal to the factory, and the coke ovens where the coal was coked.

2 From: EPA Administered Permit Programs: The National Pollutant Discharge Elimination System, 40 CFR § 122.23 (2001).

3 Animal pharmaceutical industry trade association.

4 Group representing packing and food processing companies.

5 Animal Welfare Act. 7 USC § 2131. (1966).

6 Daly, Robert Costanza, and others have formed a professional Ecological Economics movement.

7 http://news.bbc.co.uk/hi/english/static/in_depth/world/2000/world_water_crisis/default.stm

8 Review and Outlook, 2007. "Ethanol's Water Shortage." *Wall Street Journal*. Oct 17. A18.

9 For extensive peer-reviewed research on hoop barn performance go to www.leopold.iastate.edu, click on Ecology Initiative, and type "hoop barns" in the search box.

10 The PCIFAP defines *nontherapeutic* as any use of antimicrobials in food animals in the absence of clinical disease or known (documented) disease exposure; i.e., any use of the drug as a food or water additive for growth promotion, feed efficiency, weight gain, disease prevention in the absence of documented exposure or any other "routine" use as nontherapeutic.

11 Fluoroquinolones are approved in animals only for therapeutic use (not for nontherapeutic use) and thus are not covered under PAMTA.

12 This definition is adapted from PAMTA.

13 The USDA APHIS has begun implementing an animal tracking system, the National Animal Identification System (NAIS; http://animalid.aphis.usda.gov/nais/index.shtml). Announced in May 2005, the NAIS tracks both premises and 27 species of food animals (including cattle, goats, sheep, swine, poultry, deer, and elk). The data are linked to several databases run by private technology companies, while USDA shops for a technology company with data warehousing expertise to run the full national database. The United Kingdom uses a similar database system for its Cattle Tracing System (CTS; http://www.bcms.gov.uk/), which facilitates tracking and is accessible online to users and administrators. See PCIFAP Recommendation #6 in this section for more information.

14 Clean Water Act. Vol 33 USC § 1251 et seq. 33 ed.; 1977.

15 USEPA. Animal Feeding Operations Air Quality Compliance Agreement Fact Sheet; 2006.

16 Total maximum daily load: The total amount of a specific compound that can be emitted in a day.

17 Nutrient management plan: Specifies how waste should be handled on a specific farm taking into account local conditions and conforming to USDA-NRCS Standard 590. ftp://ftp-fc.sc.egov.usda.gov/IA/technical/N590(12-2006).pdf

18 Comprehensive nutrient management plan: A CNMP incorporates practices to utilize animal manure and organic byproducts as a beneficial resource. A CNMP addresses natural resource concerns dealing with soil erosion, manure, and organic byproducts and their potential impacts on water quality, which may derive from an AFO.

19 USDA-NRCS Standard 590: ftp://ftp-fc.sc.egov.usda.gov/IA/technical/N590(12-2006).pdf.

20 NRCS, EQIP, cooperative extension, and private cost share are examples of existing programs that might be used to implement nutrient management plans.

21 Working Land Conservation: Conservation Security Program and Environmental Quality Incentives Program. Senate Committee on Agriculture, Nutrition and Forestry. Washington, DC; 2007.

22 Hoop-barns, free-range, pasture based systems, etc.

23 Animal husbandry is defined as the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, hogs, sheep, and horses (*American Heritage Dictionary*, 4th ed).

[24] Sows have been bred to reproduce more quickly and therefore produce more piglets per year, but a side effect has been a decrease in maternal behavior/increased piglet mortality (Lund et al., 2002; Holm et al., 2004; Knol et al., 2001).

[25] United Egg Producers Certified program literature, available online at www.uepcertified.com.

[26] The 28-hour law was passed when trains were the predominant method of animal transport.

[27] The Humane Methods of Slaughter Act of 1958, 1978, 2002; Pub.L. 87-765, Aug. 27, 1958, 72 Stat. 862.

[28] ftp://ftp-fc.sc.egov.usda.gov/IA/technical/N590(12-2006).pdf

Final Report
Acknowledgments

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Industrialized Farming and Its Relationship to Community Well-Being: An Update of a 2000 Report by Linda Lobao

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Note: This report is a response to a request from the State of North Dakota to review past social science research on the effects of industrialized farming on community well-being. This review builds upon a similar review conducted by Dr. Linda Lobao in 2000. As author of the book *Locality and Inequality: Farm and Industry Structure and Socioeconomic Conditions* (SUNY Press, 1990), Dr. Lobao is the authoritative source on the relationship between industrialized farming and community well-being She is a professor of rural sociology in the Department of Human and Community Resource Development at The Ohio State University. This update to her 2000 review of the literature since the publication of her book focuses on the consequences of industrialized farming on community well-being irrespective of whether these effects were detrimental, positive or mixed. Thus, a comprehensive review of the literature included all studies in this area, regardless of their conclusions.

INTRODUCTION

Public concern about the consequences of non-family owned and operated, industrialized farms for communities dates back to the 1920s (Boles and Rupnow 1979).[1] The first published research on the topic appeared in the 1930s. Since then, government and academic researchers have produced numerous studies showing the potential for adverse impacts on community life. The bulk of evidence indicates that public concern about the detrimental community impacts of industrialized farming is warranted This report summarizes results from more than five decades of research that has investigated the relationship between non-family industrialized farming and community well-being. The purposes are: (1) to document the types of studies that have been conducted on the topic; (2) to delineate their results as to whether adverse consequences were found; and (3) to document the aspects of community life that may be jeopardized by industrialized farming.

This report is based on empirical results and observations drawn from Lobao's own research as well as from that of other social scientists. Observations are grounded in her longstanding research on farm change and its impacts on communities and families (Barlett, Lobao, and Meyer 1999; Belyea and Lobao 1990; Kenney, Lobao, Curry, and Goe 1989; Lasely, Leistritz, Lobao, and Meyer 1995; Lobao 1987, 1990; Lobao and Jones 1987; Lobao and Meyer1995a, 1995b, 1997; Lobao and Schulman 1991; Lobao, Swanson, and Schulman 1993; Lobao and Thomas 1988; Lobao and Thomas 1992) as well as her research on the broader topic of community development (Lobao 1993a,b,c, 1996, 1998; Lobao and Rulli 1996; Lobao, Rulli and Brown 1999). The previous research has been funded by major federal competitive grants programs, such as the National Science Foundation and USDA-National Research Initiative Competitive Grants Program, as well as state and regional sources, such as the North Central Regional Center for Rural Development. The previous studies are published in the top-ranked journals in several fields, sociology, rural sociology, geography, family studies, and community development. For specific empirical examples in this report, she draws primarily from her book *Locality and Inequality: Farm Structure and Industry Structure and Socioeconomic Conditions* (State University of New York Press, 1990), the most recent, comprehensive sociological volume published on farm structure and community well-being. Our comments and conclusions also are based on a systematic review of fifty six studies on the topic of industrialized farming and community well-being. For this report, we updated a review (Lobao 2000) which was an update of a previously published review (Lobao 1990) by including studies that were conducted since 2000 on the topic of industrialized farming and community well-being.

The industrialization of farming refers to the transformation whereby farms have become larger-scale, declined in number, and integrated more directly into production and marketing relationships with processors through vertical or contractual integration (Drabenstott and Smith 1996:4). In the past two decades, farms in the farming-dependent Heartland states,[2] which

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[1] Boles and Rupnow (1979: 471) state that public concern about corporate influence in farming began in the 1920-30 period when concern about large, publicly held corporations centered on fears about the effect of mechanization, foreclosure of farm land mortgages held by corporations, and corporate monopoly of land.

[2] The states forming the nation's farm heartland extend from the Mississippi River to the Rocky Mountains and from Texas to Canada. These states are Colorado, Iowa, Kansas, Minnesota, Missouri Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Wyoming (Barkema and Drabenstott 1996:1). More than two-thirds of the nation's farm-dependent counties are located in these states.

include North Dakota, declined by roughly one-fourth while average acreage grew by one-fourth to about 750 acres (Barkema and Drabenstott 1996:62). As the number of farms declines, production becomes concentrated on larger farms. Nationally, small farms (defined here as those having annual gross sales less than $50,000) made up nearly three-quarters of the nation's farms in 1995 but they produced only about 8% of sales, while the top two percent of farms (those with sales of over a half million dollars annually) accounted for 44% of all sales (Sommer et al. 1998:10). Half of the nation's agricultural sales are produced by three percent of farms (Sommer et al. 1998:8).

Accompanying the growth of scale of operations are organizational changes in farming. These include an increase in the relative proportion of hired to family labor and greater use of incorporation[3] as a form of legal organization. Another organizational shift is the movement toward a more integrated industry from farm to grocery, whose "hallmark" is "contract production and vertical integration that is linking farmers, food processors, seed companies, and other agribusiness" (Barkema and Drabenstott 1996:64). Vertical integration refers to operation of farms by firms that also operate in at least one other stage of the food chain, such as input supply, processing, and marketing. Examples of vertically integrated firms are large livestock producer/processor enterprises, such as Seaboard Corporation and Tyson. In addition to their direct involvement in farm production, agribusiness firms contract with farmers for goods and services. Two types of contracting arrangements should be distinguished. Marketing contracts are used by independent operators to reduce their exposure to market price swings; these contracts stipulate a commodity price or pricing mechanism for delivered goods and are used mainly for crop and dairy commodities. Production contracts involve cost sharing arrangements and/or payment for operators' services usually for livestock production except for dairying. On farms using production contracts, the largest share of farm sales accrues to the contractor (an agribusiness processor and/or producer), with the operator generally receiving a fixed fee for services (Sommer et al. 1998:16-17). Production contracts extend agribusiness firms into direct farm production using the vehicle of the local farmer. To sociologists, production contract farms are an integral component of the agribusiness chain in which agribusiness firms, depending on corporate strategy, may enter farming through direct operation of their own units and/or through employing local farmers to participate in production home-work. Sociologists are concerned with contract farming because of the risks it poses to agrarian social structure, communities, and families.[4]

[3] In 1995, more than 98% of the nation's 2.07 million farms were classified as family operations. Ninety-one percent were sole proprietorships and five percent were partnerships. Only three percent of all farms were incorporated, and of these, 86% were considered family-held corporations by USDA as they had ten or less stockholders (Sommer et al.1998: iv).

[4] Sociologists are concerned with contract farming insofar that: it alters agrarian social structure by creating a segment of farmers who are the structural equivalent of factory production home-workers; it extends the influence of industrialized farming in a community; and it erodes formally independent operators' autonomy in direct production, farm decision-making and control over assets. Sociologists also are concerned with the general well-being of contractees (operators) and their families given their asymmetrical relationship in bargaining power with agribusiness firms. There is an inherent structural imbalance in contract farming and the degree to which this imbalance is manifest will vary, given specific contract arrangements. In principle, production contracts are used to share risks and costs of production between contractee and contractor. In practice, the bargaining power of external agribusiness is likely to result in a greater of share of risks and costs of production borne by contractees and their families.

In classifying farms as "industrialized" or "family" social scientists distinguish between the construct (an ideal-type concept) and its actual measurement (variables used to define the concept in practice).[5] "Family" farms and "industrialized" farms are constructs at opposite ends of the farm continuum. To sociologists, the construct "family farm," is that where the farm household owns and controls the majority of farm production factors, land, labor, capital, technology, and management. At the other end of the farm continuum, the construct, "industrial farm," refers to a non-household based production unit, with absentee ownership and control over production factors. As with nonfarm firms, industrialized farms have a division of labor among owners, managers, and labor with different groups of people assigned to different positions in the production process. Industrial farms "...are owned by one group of people, managed on a daily basis by another person or group, and worked by yet another group" (Browne et al. 1992:30). Between these "ideal-type" descriptions of family and industrialized farms are other arrangements in organizing farming, such as part-owner farming (a form of family farming where the operator both owns and rents-in land). Again, these are "ideal-type" constructs whose specific definition and measurement must depend upon the time period and public context.

When social scientists refer to "industrialized" farms, they invariably are referring to both scale and organizational characteristics of the farm unit. [6] In general, but not always, scale will

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[5] Different classifications of farms have been developed over the years because the structure of agriculture is continually changing. The term "farm structure" or "agricultural structure" "refers to a broad set of characteristics that describe U.S. farms, as well as the distribution of farm production resources and returns to those engaged in farm production activities"(Sommer et al. 1998:6). Sommer et al. (1998:6) provide a useful overview of the criteria used to classify farms:

> Producing units (farms and ranches) may be categorized by farm size (value of sales or number of acres), primary output, and geographic location. Farm businesses may be delineated by form of legal organization, degree of land ownership, marketing or production contractual arrangements, and financial position. Farm operators may be described by age, education, and primary occupation. Finally, farm households may be characterized by features of their associated farm businesses and interaction with the nonfarm sector, such as off-farm employment or income from non-farm sources. Any or all of these elements can be used to construct a structural portrait of farming in the Nation.

For sociologists, family farming is identified by whether the family unit owns a majority of capital resources, such as land, machinery, buildings, makes the majority of managerial decisions, and provides the bulk of labor (Goss et al. 1980). Social scientists often use farm scale as a proxy-measure to classify farms, because it is simple, clear, and often correlated with organizational characteristics of units. A recent USDA report classifies "commercial farms" as those with $50,000 or more in gross sales and "small farms" as those with gross sales less than $250,000 (Sommer et al. 1998:69). Family farms (organized as sole proprietorships, partnerships, or family corporations) with gross sales over $250,00 are classified as "large-family farms," while "non-family farms" are any farms organized as nonfamily corporations, cooperatives, and farms operated by hired managers (Sommer et al. 1998:72).

[6] Social scientists measure industrialized farming by both scale and organizational variables. Scale is usually measured by sales and sometimes by acreage and real estate and for livestock operations, animal inventory. The actual dollar value for scale indicators used by analysts to indicate a "large-scale" farm will obviously vary by the time period of study. In addition, what is considered a "large-scale farm" also varies by regional context and commodity. Organizational measures of industrialized farming include: vertical integration of corporations into farming; production contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers, as opposed to material operation by family members; and legal status as a corporation (family or non-family) or syndicate.

coincide with organization. That is, large-scale farms (relative to smaller farms) are more dependent on hired labor and managers and more likely to have absentee owners, to be incorporated, and to be vertically integrated with agribusiness. For example, in 1995, mean gross sales of corporate farms were $576,925 as compared to $54,287 for sole proprietorship farms and $218,795 for farms organized as partnerships (Sommer et al. 1998:15). Farms with production or marketing contracts also tend to be larger. In 1995, farms with marketing contracts (about 11% of all farms) had mean gross sales of $242,888; while farms with production contracts (2.3% of all farms) had mean gross sales of $617,858 (Sommer et al. 1998: 12). For the purposes of this review, we use the umbrella term "industrialized farm" to refer to both scale and operating characteristics of industrialized farms. We also distinguish between scale and operating characteristics where it is useful and feasible to do so.

The discussion below is organized in four sections. (I) The first section discusses the history of government and academic concern about the risks of industrialized farming for community well-being, from the 1930s to the present. (II) The second section summarizes the findings from Lobao's research and that of colleagues. (III) The third section reviews findings from five decades of social science research. It is divided into several sub-sections discussing, respectively: (A) research issues involved in analyzing industrialized farming and community impacts, focusing on indicators of industrialized farming and types of consequences that a summary evaluation must consider; (B) the various research designs used to assess the consequences of industrialized farming; (C) a summary of the results of past studies as to whether detrimental impacts were found; (D) examples of recent sociological studies conducted on the topic; and (E) the potential for regional imbalances due to industrialized farming. (IV) The final section is a summary and conclusions.

It should be noted that public concern about industrialized farms extends beyond the well-being of states and their communities. Rather, public as well as academic concern extends to national food system issues, such as agribusiness concentration, consumer health, food safety, and sustainability of the national eco-system. The immediate effects of industrialized farms, however, are on the day-to-day lives of people residing in the places where these farms are located. It is also at this level, that social scientists have conducted a great deal of research over a long period of time. For these reasons, this report deals with the consequences of industrialized farming for well-being at the community level.

I. HISTORY OF PUBLIC, GOVERNMENT, AND ACADEMIC CONCERN WITH THE CONSEQUENCES OF INDUSTRIALIZED FARMING

More than a half century of research centers on the potential detrimental social consequences of industrialized farming. Since the 1930s, government and academic researchers have investigated the extent to which large scale, industrialized farms adversely affects the communities in which they are located. One of the first series of studies was conducted by a sociologist, E.D. Tetreau (1938, 1940), who found that large scale, hired-labor dependent farms were associated with poor social and economic well-being in rural Arizona communities.

In the early 1940s, the United States Department of Agriculture sponsored a research project on the effects of industrialized farming using a matched-pair of two California communities, Arvin where large, absentee-owned, non-family operated farms were more numerous, and Dinuba, where locally owned, family operated farms were more numerous. The report on this project was prepared by Walter Goldschmidt, a USDA anthropologist. The purpose of the study was to assess the consequences of a California law with a provision placing acreage limitations on large farms located in California's Central Valley, so as to support family-size farms in the region. Goldschmidt (1978a: 458) notes that: "Large landholders throughout the state and corporate interests generally opposed this provision while diverse church and other agrarian-oriented interests wanted this law applied to California. The comparative study of Arvin and Dinuba...was designed to determine the social consequences that might be anticipated for rural communities if the established law was applied or rescinded." Goldschmidt later became President of the American Anthropological Association and remains one of our nation's leading anthropologists.

In his report, Goldschmidt (1978a) systematically documented the relationship between large-scale farming and its adverse consequences for a variety of community quality of life indicators. Goldschmidt (1978a) found that, relative to the family farming community, Arvin's population had a small middle class and high proportion of hired workers. Family incomes were lower and poverty was higher. There were poorer quality schools and public services, fewer churches, civic organizations, and retail establishments. Arvin's residents also had less local control over public decisions, or "lack of democratic decision-making," as local government was prone to influence by outside agribusiness interests. By contrast, family farming Dinuba had a larger middle class, better socioeconomic conditions, high community stability and civic participation. Goldschmidt's report was eventually published as Congressional testimony (1968) and as a book (1978a). Goldschmidt's conclusion that large scale industrialized farms create a variety of social problems for communities has been confirmed by a number of subsequent studies. One criticism of Goldschmidt's (1978a) research was published by agricultural economists Hayes and Olmstead (1984). They did not challenge Goldschmidt's (1978a) conclusion that large scale, industrialized farms have adverse community impacts. Rather they argued that Arvin and Dinuba were not as closely matched research sites in the 1930s as Goldschmidt had intended. Nearly four decades after Goldschmidt's study, the state of California, through its Small Farm Viability Project (1977:229-230), affirmed Goldschmidt's conclusions by re-visiting Arvin and Dinuba. They concluded that: "The disparity in local economic activity, civic participation, and quality of life between Arvin and Dinuba...remains today. In fact, the disparity is greater. The economic and social gaps have widened. There can be little doubt about the relative effects of farm size and farm ownership on the communities of Arvin and Dinuba."

As the structure of U.S. agriculture has evolved towards larger and fewer farms, and government and academic researchers have continued to investigate the extent to which large-scale, non-family owned and operated industrialized farms adversely affect communities. Congress has conducted inquiries, such as that by Senate Subcommittee on Monopoly dealing with Corporate Secrecy and Agribusiness, in which rural sociologists and agricultural economists provided testimony in 1973 about the dangers to communities posed by increasing corporate control of agriculture (Boles and Rupnow 1979:468-469). The Office of Technology Assessment (OTA), concerned that the relative growth of large scale industrialized farms might have adverse impacts on communities, commissioned a series of research papers on the topic. The OTA research came as a request from Congress and was published first as a report (U.S. Congress, Office of Technology Assessment 1986) and later as a book (Swanson 1988). Federal and state funding has been directed to at least two Agricultural Experiment Station projects that assess the community consequences of large scale, non-family farms: Project S-148 "Changing Structure of Agriculture: Causes, Consequences, and Policy Implications" (1982-1986);" and Project S-198 "Socioeconomic Dimensions of Technological Change, Natural Resource Use, and Agricultural Structure" (1986-1990). The later project resulted in a book monograph on the consequences of industrialized farming for communities (Lobao 1990) among other publications.

In the 1990s, public concern with industrialized farming has centered particularly on large integrated livestock producer/processor enterprises. Recent studies supported by the North Central Regional Center for Rural Development (1999), the University of Missouri Agricultural Experiment Station (Seipel, Kleiner, and Rikoon 1998; Seipel, Hamed, Rikoon, and Kleiner 1998), and Duke University Medical School (Schiffman 1998) have documented a variety of adverse impacts of these enterprises on communities, households, and individuals.

In summary, there has been over fifty years of public, academic, and government concern that large-scale, industrialized farms jeopardizes community well-being. This concern has resulted in numerous studies, in government sponsored reports, and in Congressional Hearings. In the 1990s, public concern with industrialized farming has increased due to the problems posed by large-scale animal confinement operations. Social scientists have responded to this increased public concern by initiating a number of recent projects---leading to a new generation of literature on the community consequences of industrialized farming.

II. RESEARCH BY LOBAO AND COLLEAGUES

The most recent, comprehensive sociological study on the effects of industrialized and family farming on communities was conducted by Lobao (1990). This study examined relationships across more than 3,000 U.S. counties. The study used both farm scale and organization to measure farm structure; examined direct and indirect consequences of farming patterns; and examined long-term and immediate relationships for two time periods, 1970-1980. To measure community outcomes, the study focused mainly on socioeconomic well-being indicators (median family income, poverty, and income inequality between families measured by the gini coefficient[7]) but also included of community social disruption (births to teenagers) and health status (infant mortality). The study examined the effects of three different community farm structures: "smaller family farming" (small, part-time family farms); "larger family farming" (moderate-size, capital-intensive, family-operated units using little hired labor), and industrialized farming (large scale, hired-labor dependent farms). The community farming structures were constructed based on research by Wimberley (1987). Each of the measures of farm structure was a composite of scale and organizational indicators, created through a statistical technique called factor analysis. Multivariate statistical methods, regression and discriminant analysis, were used to analyze the effects of the three farm structures net of other community conditions, including non-farm industrial employment, establishment size of local businesses, human capital and demographics characteristics of the population (educational attainments, ethnicity), unemployment, social welfare payments, unionization, and spatial factors, such as region of the country.

[7] The gini coefficient is used by the federal government to document income inequality in the United States and is the measure used most frequently in recent studies of economic development across spatial units such as counties (Lobao et al. 1999).

The findings were the following. There was consistent support that moderate-size family owned and operated farms benefit communities. Counties where these types of farms (i.e., larger family farming) predominated had better socioeconomic well-being (lower family poverty, higher median family income, lower unemployment, and lower infant mortality). The beneficial effects of this family farming were found across the U.S., for two time points, 1970 and 1980. Moreover, this type of farming continued to result in beneficial effects over time. Counties where larger family farming was greater in 1970 continued to have better socioeconomic well-being over time. This study indicates that the "high road" to community development is a farming system based on moderate-size family operations. Such farming not only increases aggregate well-being, as indicated by income levels, but it also sustains a larger middle class, as indicated by lower income inequality and poverty, and thus allows more families to benefit from income produced.

However, where industrialized farming was greater, there were mixed effects on community well-being: either detrimental or no statistically significant impacts. For example, industrialized farming had no relationship with family poverty or median family income at either of two single time points (1970 and 1980). Industrialized farming, however, was related to higher income inequality at both time points, and also to lower family income, higher poverty, and higher income inequality across time, over the decade from 1970-1980 (i.e., counties with greater industrialized farming in 1970 experienced relative declines in socioeconomic well-being over the decade). The finding that industrialized farms are associated with high income inequality indicates that this farming segments social class structure by polarizing families into richer and poorer income groups. Income polarization is related to other social problems, such a crime and other breakdowns in community social fabric. The study also found that where very small farms predominated, well-being was poorer. This indicates that reseachers should distinguish between small and moderate family operated units in assessing consequences for well-being. Smaller family farming tends to predominate more in the South.

As would be expected in a post-industrial society, nonfarm manufacturing and service employment were stronger predictors of community well-being than farming. However, it is important to note the study found that farming, nonfarm industry, and other local characteristics were interrelated, mutually sustaining a population in a locale.[8] Good quality farms and high quality local employment were interrelated, with "larger family farming" associated with greater employment in high wage manufacturing and other beneficial sectors. The study offered consistent support that when farming is an economic development strategy of choice, moderate-size family farms are best for communities.

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[8] That farming has a smaller impact on community well-being than does nonfarm industry is expected even for communities highly dependent on farming. Farming is interrelated with local nonfarm industry and other sectors, forming a community livelihood strategy which sustains a population in a locale. Communities where larger family farming predominated had greater high wage, durable manufacturing employment and greater employment in local schools and retail industries. Communities where industrialized farming predominated had greater employment in lower wage manufacturing such as food processing, less employment in education, health, and retail services, a higher minority population, and provided relatively higher per capita benefits to welfare recipients.

This research on farming systems and community and regional well-being has been elaborated in other articles (Kenney, Lobao, Curry, and Goe 1989; Lobao 1987, 1993c, 1996, 1998; Lobao and Jones 1987; Lobao and Schulman 1991; Lobao, Swanson, and Schulman 1993; Lobao and Thomas 1992).

One of the most recent sociological analysis on industrialized farming and inequality is that conducted by one of Lobao's students (Crowley, 1999; Crowley and Roscigno, 2004). This 1999 study is a Masters' thesis in Sociology supervised and reviewed by four faculty members in the Department of Sociology at The Ohio State University, including Lobao. The methodology used in the study is similar to that followed in Lobao (1990), but the indicators of farm structure differ. Crowley's research extends past work by examining the effects of farm sector concentration and by updating research to the 1990 period. It should also be noted that her work is more comprehensive than other recent research (reported below) in that she specifies direct and indirect paths by which farm concentration affect community well-being. By farm concentration, Crowely (1999) means that a few large farms hold a disproportionate share of farm property in a community. Crowley notes that concentration of business property is important to sociologists because they see concentration as conferring both economic and political power to those who control resources in a community. Concentration of farm property also constrains the options of local family farmers to pursue their interests and realize economic gains. Crowley (1999) analyzed the effects of farm concentration using several indicators, (concentration of land, value of land and buildings, and the value of equipment and machinery, indicators measured by the gini coefficient) and data for all (1053) counties in the North Central U.S. (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, North Dakota, South Dakota, and Wisconsin). She analyzed consequences of these dimensions of farm-sector concentration for local levels of family poverty and family income inequality net of other community characteristics. Using multivariate regression analysis, she controlled for the influences of labor market, demographic, spatial, and other farm structure characteristics. In counties where farm sector concentration was higher (i.e., a few large farms held a disproportionate share of local property in land and real estate), there was significantly higher poverty among families and significantly greater income polarization between families. Also, where farm concentration was higher, residents had lower education.

In the 2004 study, Crowley and Roscigno documented how concentration of agricultural resources shapes rural community stratification through the political economic process. In addition to measures of farm sector resource concentration (value of land, real estate, machinery and buildings), measured by the gini coefficient, and labor endowment (percentage of county work force employed in core, extractive, competitive, and state sectors), they included measures of political process (proportion of votes in presidential election for Democratic Party, average household payment rates, average per farm county level spending on agricultural assistance), and worker power attributes (percent of manufacturing employees that are unionized, proportion of population that are minority, percentage of 25+ population with a high school diploma, and proportion of labor force unemployed). Using data for all (1053) counties in the North Central U.S. they found that dimensions of farm sector concentration shape both poverty and inequality. Furthermore, they found that farm sector concentration is explained by political economic processes, and these processes mediate the negative effects of land concentration on economic well-being. In particular, they found that relative to large scale farms, capital concentration promotes government spending that benefits large farms while it blocks government or labor-market programs that assists farmers whose farms it consumes and farm workers it exploits. These attempts are evident by the increased funding for agricultural research which benefits large farms, decreased redistribution efforts through transfer payments to benefit small farms and workers, decreased political consciousness through lower levels of Democratic party support, and reduced labor power through lower unionization rates and education and higher unemployment and minority representation.

To provide a balanced assessment of the consequences of industrialized farming, it is useful to review the past findings of other investigators, using different methodologies, for different time periods, and from different disciplines. In the following sections, we discuss the types of studies conducted on the relationship between industrialized farming and community well-being and their conclusions. On balance, the social science evidence accumulated from these and other studies supports public, academic, and government concern about the potential risks of industrialized farming. Recent research indicates the public's welfare is at risk in at least four major areas. Industrialized farming: (1) has a detrimental impact on certain aspects of socioeconomic well-being; (2) disrupts the social fabric of communities; (3) poses environmental threats where livestock production is concentrated; and (4) is likely to create a new pattern of "haves and have nots" in terms of agricultural production, whereby some communities gain large, industrialized farms (and attendant social problems) and others lose their farming base as production becomes concentrated elsewhere in the state and regional economy. (Drabenstott and Smith 1996:4)

III. REVIEW OF PAST RESEARCH ON INDUSTRIALIZED FARMING AND WELL-BEING

Over the past half century, numerous studies, spanning different time periods and regions of the county have tended to find that large-scale industrial farming has detrimental community impacts. This does not mean that every study has produced these results--but rather that:(a) empirical evidence accumulated over the years shows a repeated trend that large-scale industrialized farms have adverse impacts on a number of different indicators of community well-being; and (b) that this trend is sufficiently established in the social sciences, to the point that almost all sociological studies begin with the working hypothesis (research expectation) that large scale industrial farms will have adverse community effects. The extent to which past research supports this hypothesis is discussed below. It should be stressed that no single study can provide a definitive answer as to whether large-scale industrialized farming will or will not adversely affect public well-being in any particular region or state. This is due both to the complexity of the research question and to the lack of existing data required to fully analyze it. At best, a single study can assess the extent to which certain indicators of industrialized farming have adverse affects on certain indicators of community well-being in certain places and time periods. Therefore, the most comprehensive answer to the question of whether industrialized farming adversely affects public well-being comes not from a single study but from assessing the conclusions of decades of past research.

A. Research Issues Involved in Analyzing Industrialized Farming and Its Community Impacts

To adequately assess the consequences of large, scale-industrial farming, the following issues about indicators of industrialized farming and types of consequences must be considered.

1. *Industrialized farming should be analyzed using indicators of farm organization and not only scale.*

    Scale is usually measured by sales or sometimes acreage. As a measure of industrialized farming, scale is limited for several reasons:(a) family owned and operated farms may be large scale owing to technology; (b) scale alone does not capture organizational features of industrialized farming, such as absentee ownership and non-family control over production, that are thought to put communities at risk. Organizational measures of industrialized farming include: vertical integration of corporations into farming; contract farming arrangements; absentee ownership of production factors; dependency on hired labor; operation by farm managers, as opposed to material operation by family members; and legal status as a corporation. With regard to legal status, family and non-family-held corporations should be distinguished.[9]

2. *To adequately assess consequences for community well-being, the full array of outcomes should be considered. Research points to three major sets of consequences of industrialized farming in a community: impacts on socioeconomic well-being, community social fabric, and environment.*

    Socioeconomic well-being refers to standard measures of economic performance (essentially employment, income, and business activity) and to a broader range of socioeconomic indicators used by sociologists to tap material conditions of families and populations (family poverty rates, income inequality).

    Community social fabric refers to social organization, the features of a community that reflects its stability and quality of social life. Impacts on community social fabric are seen in social indicators such as: population change; social disruption indicators (crime rates, births-to-teenagers, social-psychological stress, community conflict, interference with enjoyment of property); educational attainments and schooling quality; changes in social class structure (decline of local middle class, in-migration of low wage workers); health status, such as mortality rates; civic participation (e.g., declines in church attendance, voluntary organizational membership, and voting); and changes in local governance, such as loss of local control over community decision-making, and resource/fiscal pressures on local government, such as those due to increased need for social services and diversion of public funds to subsidize agribusiness development.

    Environmental indicators include quality of water, soil, and air, energy usage, and environmentally-related health conditions.

[9] It also should be recognized that farms may be incorporated because of family farmers' interests in estate planning, greater assurance of business continuity, limited liability, and income tax advantages.

3. *Industrialized farming has both direct and indirect consequences for community well -being. Both sets of consequences should be considered.*

Industrialized farms directly influence community well-being: through the quantity of jobs produced and the earnings' quality of those jobs; by the extent to which these farms purchase inputs and sell outputs locally; by affecting the quality of local environmental conditions; and by affecting local decision-making about economic development and other public-interest areas relevant to community quality of life.

First-order, indirect effects on local economic performance and general socioeconomic conditions occur because the quantity and quality of jobs plus purchases affect total community employment, earnings, and income (e.g., economic multiplier effects), the local poverty rate, and income inequality. First order, indirect effects on local social fabric occur because: the quantity of jobs created by industrial farms affects total community population size; the quantity and quality of jobs affects social class composition, such as a when an increase in hired farm workers reduces the proportion of the local middle class; local control over community decision-making may erode or become conflictual, since the interests of industrialized farmers and absentee owners are detached from those of local residents.

Second-order, indirect effects on local social fabric work through first-order effects above. Population size and social class composition are related to: indicators of community social disruption, such as crime, family instability, the high school dropout rate, and conflict resulting in civil suits; local demand for schooling, public assistance, health, and other social services; and the property tax base (Boles and Rupnow 1979; Freudenburg and Jones 1991, Murdock et. al 1988; North Central Center for Regional Development 1999).[10] Decline of local control over community decisions-making creates problems associated with poor governance, such as: the potential for diversion of public resources toward financial incentives supporting the interests of agribusiness developers over the community at large; and the loss of public and private revenues to support local schools, community services, and infrastructure, which contributes to a downward spiral of community social and economic conditions.

The direct and indirect paths by which industrialized farming may affect community well-being are delineated in various studies, including Boles and Rupnow (1979), Lasley et al. (1995), Lobao (1990), MacCannell (1988), and the North Central Regional Center for Rural Development (1999).

4. *Differences in impacts for diverse social groups within the community must be considered*.

Changes in farming affect social groups differently, depending upon their age, class position, and residents' proximity to industrialized farms. The elderly and poor are

[10] Rapid increases in population size and poorer social class composition tend to be related to the indicators of social disruption noted above and also place increased demands on local schooling and other social services. Population decline reduces local demand for services and the property tax base..

affected by rising costs of housing and services whenever large corporations migrate to a rural community (Summers et al. 1976). Within communities with large confined animal feeding operations (CAFOs), residents who live closer to the operation report inability to enjoy their properties and physical and psychological problems associated with odor (Schiffman and others 1998; Wing and Wolf 1999; Reisner et al., 2004; Constance and Tunistra, 2005). Property closer to CAFOs has been found to fail to appreciate in value relative to places further away (Seipel and others 1998). Income generated by industrialized farming (relative to family farming and over time) also appears less likely to filter down to families of different social classes. As noted, Lobao (1990) and Crowley (1999) found that income inequality was higher in communities where industrialized farming was greater.

5. *There are long-term as well as short-term consequences of industrialized farming for communities and for regional development within a state.*

Industrialized farming puts a community on a path of development whose consequences are not fully manifest in the short term of one or two years. Lobao (1990) found that some impacts were manifest a decade later. As noted earlier, counties with greater industrialized farming in 1970 had significantly poorer well-being a decade later: these counties had lower median family income, higher family poverty rates, and higher income inequality relative to other counties and net of past county conditions.

For the heartland states, including North Dakota, economists at the Federal Reserve Board of Kansas City (Drabenstott and Smith 1996:4) indicate that differences in communities will widen over time. According to these economists:

> Industrialized agriculture produces two effects on rural communities. As production increases in some "cluster" communities, it will leave others, lessening agriculture's impacts. Communities that are home to industrialized production and processing may see jobs and income increase. But even there, the economic links will be different than under community production. More production inputs are purchased from nonlocal sources, and more of the profits go to nonlocal owners of the firm.

B. Types of Studies Conducted on the Effects of Industrialized Farming: Research Designs and Methodology

Analysts have used primarily four different types of research designs to assess whether industrialized farms have detrimental impacts on communities. Each design has inherent strengths and limitations in being able to comprehensively analyze industrialized farming and its many potential impacts noted above.[11]

1. *Case-study designs* provide in-depth analysis of the consequences of industrialized farming in a single or multi- community site. Usually, a comparative case-study design is implemented whereby a community or communities characterized by industrialized farming are contrasted with a community or communities with a different farming pattern

[11] We have outlined the strengths and limitations that are intrinsic to each research design. A individual study will vary as to how the analysts have exploited the strengths or overcome the limitations of the design.

(usually moderate-size, family-owned and operated farms). A comparative case-study design allows communities to be matched on similar background characteristics, such as location near cities and dependency on farming as an economic base, which helps to "control" (or exclude) extraneous factors that influence the relationship between farming type and community well-being. Examples of case studies are Goldschmidt (1978a) noted above and the North Central Regional Center for Rural Development (1999). The strengths of case-studies are the following. (a) They provide detailed information about how both scale and organizational aspects of industrialized farming impact community well-being. (b) They provide detailed information about outcomes for a great many community indicators of local socioeconomic well-being, social fabric, and environment. (c) They trace the direct and indirect effects of industrialized farming. (d) They can address short-term as well as long-term outcomes. The inherent limitation of case-studies is that detailed conclusions are produced about the impacts of industrialized farms in specific site communities at the expense of producing less detailed findings but over a greater number of research sites. Case-studies also vary as to how well the analyst is able to partition out extraneous factors that influence the causal relationships of importance.

2. *Macro-social accounting designs* involve statistical analysis of secondary or pre-collected data from government and other sources, such as the Census of Agriculture and Census of Population, to document relationships found in regional social structure (MacCannell 1988). Community units, such as counties and townships, and states are the research focus. To assess the consequences of industrialized farming, analysts usually compare its effects relative to other farming (usually smaller or moderate-size family farm units) and over time, while controlling for other, non-farm factors known to affect community well-being. Multivariate statistical techniques, such as regression procedures and discriminant analysis, are used so that the effects of farm structure are assessed net of other community conditions. Examples are Gilles and Dalecki (1988), Lobao (1990), Crowley (1999), Crowley and Roscigno (2004) and Irwin et al. (1999). The strengths of these studies are the following. (a) They provide conclusions about true (actual empirical) relationships, which are generalizable across many communities, various states, and the nation as a whole. (b) They provide conclusions about industrialized farming using measures of scale and organization. Customary measures of industrialized farming in these studies are: for scale, farm size in sales, such as the percent of farms above some gross annual sales threshold (e.g. above $500,000) or depending upon commodity, acreage above a certain size; for organizational indicators, percent of farms organized as corporations or non-family-held corporations; percent of farms with full-time hired labor; annual costs of hired labor per farm; and non-resident operators. (c) Macro-social accounting designs provide conclusions about a variety of socioeconomic well-being indicators (i.e., unemployment rate, poverty rate, income levels, income inequality), social fabric impacts (i.e., population change, educational attainments, health status, family disruption indicators), and about some environmental indicators (i.e., energy usage). (d) They address short-term and long-term relationships between industrialized farming and community well-being. The inherent limitation of these studies is that they depend on the availability of pre-collected data, which constrains the use of certain measures and time periods of study. Some organizational measures of industrialized farming, contract farm-

ing and vertical integration of farm units are not available over time from the Census of Agriculture or from other secondary sources across communities.

3. *Regional economic impact models* use linear programming methods to estimate impacts on employment and income for regions, states, and smaller units such as counties and cities. These studies focus on the integration of business enterprises in markets and use programs, such as variants of input-output analysis, to model the backward and forward linkages with enterprises in other industries and to estimate resulting local impacts. The costs and benefits of varying different firm-level practices can be estimated. Examples are studies by Heady and Sonka (1974), Marousek (1979), Otto et al. (1998), and Thompson and Haskins (1998). The strengths of regional economic impact models are the following. (a) They provide detail about economic performance, such as the number of jobs and total income produced by firms or industries in a region or community. (b) They can provide projected estimates, so that the potential impacts of not yet existing enterprises can be appraised. Limitations of regional economic impact, input-output models are well-known and documented.[12] In brief, most models involve assumptions about relationships not actually found in the community--that is, models depend on estimates from past years and different places. To the extent to which real (true, empirical) conditions in a particular community vary, these studies will not provide accurate assessment of impacts. Another inherent limitation is the types indicators of industrialized farming and impacts addressed. Farm scale, as indicated by sales and labor force size, is analyzed, not the organization of production. These studies do not examine certain socioeconomic well-being indicators such as family poverty and income inequality (the degree to which economic growth is shared by families throughout the community); nor do they examine social fabric or environmental indicators. Finally, input-output analyses of industrialized farming usually do not address long-term impacts, such as over the course of a decade.

4. *Survey-design studies* use samples of populations from any number of communities. These studies use interviews or questionnaires to document how industrialized farming affects residents or a particular social group exposed to industrialized farming as compared to those who are not (such as those residing in family farming communities). In contrast to macro-social accounting and economic impact models which are based usually on secondary or pre-collected data, the researchers using a survey design collect primary data directly from individuals or families. Multivariate statistical procedures such as regression are used to assess the consequences of farm variables net of other community and individual characteristics. Examples of studies based on survey designs are Heffernan and Lasley (1978), Poole (1981), Wing and Wolf (1999). The strengths of these studies are the following. (a) They provide detailed information about how both scale and organizational aspects of industrialized farming impact individuals or families. (b) They

[12] A good review of input-output analysis is provided by the recent report published by the University of Minnesota (1999) on the impacts of the livestock industry. The authors (pp. F35-F56) note that input-output models, such as IMPLAN, are limited by the quality of data used in the models, the assumptions made about regional purchase coefficients, and how economic shocks are specified. The authors note that for the present period it has become increasingly difficult to obtain data from large farms and therefore more difficult to adequately analyze costs by size of operation.

provide detailed information about outcomes for a great many indicators of personal and family social and economic well-being, including social fabric indicators, such as community participation and stress, health status, all of which allows for a more in-depth analysis of quality of life. Inherent limitations of surveys for addressing the impacts of industrialized farming are that cost considerations often restrict surveys to specific states and communities and to one time point.

C. Conclusions of Studies Examining Industrialized Farming and Community Well-being

As noted, to assess the consequences of industrialized farming, it is useful to examine the body of past work conducted by researchers from various social science disciplines, over time, and using different methodologies. Table 1 reports the conclusions from 56 studies conducted since the 1930s on the effects of industrialized farming on communities to provide the most recent findings for each of the four study designs above. This table has been updated from Lobao (2000) by adding all empirical studies published on the topic in *Rural Sociology* (the major scholarly journal in this field) since 2000. A review of articles in the *American Journal of Agricultural Economics* (the major scholarly journal in this field) over the past five years was undertaken but no empirical studies were found on the topic. In addition, the following journals were surveyed for articles relevant to the topic: *Agriculture, Food and Human Values, Culture and Agriculture, Sociologia Ruralis, Southern Rural Sociology, American Journal of Alternative Agriculture* (now the *Renewable Agriculture and Food Systems* journal), *Journal of Rural Studies* and the *International Journal of the Sociology of Agriculture and Food.* Two scholarly search engines -- *Google Scholar* and *Agricola* – were also used to find relevant articles. Some articles were located serendipitously. The programs and abstracts for the 2000-2005 annual meetings of the Rural Sociological Society also were reviewed.

In Table 1, studies are classified by: (a) methodology, referring to the research designs described above; (b) regions of the country analyzed; (c) the indicators used to measure industrialized farming; (d) types of impacts analyzed; and (e) results of the study as to whether detrimental impacts were found (discussed further below). With regard to the indicators of industrialized farming, most of the studies examine farm scale; organizational characteristics are examined less frequently. The studies examine a wide variety of impacts on community well-being. Community well-being impacts were classified as to whether they were socioeconomic well-being indicators (income levels, poverty, and unemployment); indicators of social fabric (population change, social class, civic involvement, quality and types of community services, population size and composition, and social disruption indicators such as stress and crime); and environmental impacts. In most studies (all of the sociological studies), the authors hypothesize that where farms are larger scale or industrialized in terms of organizational characteristics, they have a detrimental impact on the indicator(s) of community well-being, relative to family-owned and operated farms. These relationships are expected to be found across communities and over time.

Types of Detrimental Impacts Reported by Social Scientists

Social scientists report that industrialized farms are related to relatively worse conditions for the following community impacts:

Socioeconomic Well-being

1. Lower relative incomes for certain segments of the community: greater income inequality (income polarization between affluent and poor), or greater poverty.
   (Tetreau 1940; Goldschmidt 1978a; Heady and Sonka 1974; Rodefeld 1974; Flora et al. 1977; Wheelock 1979; Lobao 1990; Crowley 1999, Deller, 2003; Crowly & Roscigno, 2004: Peters, 2002; Welsch & Lyson, 2001; Durrenberger and Thu, 1996)
2. Higher unemployment rates.
   (Skees and Swanson 1988; Welsch & Lyson, 2001)
3. Lower total community employment generated.
   (Marousek 1979; Thompson and Haskins 1999)

Social Fabric

1. Population: decline in local population size where family farms are replaced by industrialized farms; smaller population sustained by industrialized farms relative to family farms. (Goldschmidt 1978a; Heady and Sonka 1974; Rodefeld 1974; Wheelock 1979; Swanson 1980)
2. Class composition: social class structure becomes poorer (increases in hired labor).
   (Gilles and Dalecki 1988; Goldschmidt 1978a; Harris and Gilbert 1982)
   Social disruption:
   - increases in crime rates and civil suits (North Central Regional Center for Rural Development 1999);
   - general increase in social conflict (Seipel et al. 1999);
   - greater childbearing among teenagers (Lobao 1990);
   - increased stress, social-psychological problems (Martinson et al. 1976; Schiffman et al. 1998)
   - swine CAFOs located in census blocks with high poverty and minority populations (Wilson, et al., 2002)
   - deterioration of relationships between hog farmers and neighbors (Jackson-Smith & Gillespie, 2005; McMillan and Schulman, 2003)
   - more stressful, less neighborly relations (Constance & Tuinstra, 2004; Smithers, et al., 2004)
4. Civic participation: deterioration in community organizations, less involvement in social life. (Goldschmidt 1978a; Heffernan and Lasley 1978; Poole 1981; Rodefeld 1974; Lyson, et al, 2004; Smithers, 2004)
5. Quality of local governance: less democratic political decision-making, public becomes less involved as outside agribusiness interests increase control over local decision-making.
   (Tetreau 1940; Rodefeld 1974; Goldschmidt 1978a; McMillan and Schulman, 2003)

6. Community services: fewer or poorer quality public services, fewer churches. (Tetreau 1940; Fujimoto 1977; Goldschmidt 1978a; Swanson 1980)
7. Retail trade: decreased retail trade and fewer, less diverse retail firms. (Goldschmidt 1978a; Heady and Sonka 1974; Rodefeld 1974; Fujimoto 1977; Marousek 1979; Swanson 1980; Skees and Swanson 1988; Foltz et al, 2002; Foltz & Zueli, 2005, Smithers, 2004; Gomez & Zhang, 2000)
8. Reduced enjoyment of property: deterioration of landscape, odor in communities with hog CAFOs (Schiffman et al. 1998; Wing and Wolf 1999; Constance & Tuinstra, 2005; Reisner et al., 2004; Wright et al., 2005; Wing and Wolf, 2000; Kleiner, 2003; McMillan and Schulman, 2003)
9. Health: neighbors of hog CAFOs report upper respiratory, digestive tract disorder, eye problems. (Wing and Wolf 1999; Constance & Tuinstra, 2005; Reisner et al., 2004; Wright et al., 2005; Wing and Wolf, 2000; Kleiner, 2003)
10. Real estate values: residences closest to hog CAFOs experience declining values relative to those more distant. (North Central Regional Center for Rural Development (1999:46); Seipel et al. 1998; Constance & Tuinstra, 2005; Reisner et al., 2004; Wright et al., 2005)

Environment

1. Eco-system strains: depletion of water, other energy resources. (Tetreau 1940; Buttel and Larson 1979; North Central Regional Center for Rural Development 1999)
2. Environmental consequences of CAFOs: increase in Safe Drinking Water Act violations, air quality problems, increased risks of nutrient overload in soils. (North Central Regional Center for Rural Development 1999)

Summary of Conclusions Reported by Social Scientists by Study

In addition to showing the types of impacts reported in the social science literature, the studies also provide an overview of the consistency of evidence on the risks of industrialized farming. For each study, a number of different relationships may be tested. Authors invariably provide a summary estimation of each study's conclusion. Whether hypotheses about detrimental effects were largely supported (e.g. the authors report detrimental impacts overall); whether there were mixed findings (authors report only some detrimental impacts were found); and whether authors' report no detrimental effects. The results of the studies were then classified according to findings along those three lines: detrimental, some detrimental, or No Detrimental. Out of the total 56 studies, the researchers report largely detrimental impacts in 32, some detrimental impacts in 14, and no evidence of detrimental impacts in 10. Thus, over 82% (46 out of 56) of the studies report finding some negative impacts of industrialized farming. It is this consistency of past research which leads researchers to hypothesize that industrialized farming will jeopardize communities.

Of the thirty two studies where social scientists found predominantly detrimental impacts, the following points should be noted. First, studies reporting these impacts exist through all time periods, from the 1930s to the present. The studies show detrimental impacts for socioeconomic well-being, social fabric, and environment across communities, for both scale and organizational indicators, and throughout all regions of the country, including the North Central heartland states. These studies use five types of research designs, comparative case study, macro-social accounting, regional economic impact models and survey. In other words, a great deal of evidence produced over time, for various regions of the country, by different researchers, and by five different research designs shows that industrialized farming has detrimental impacts.

Of the fourteen studies where social scientists report some, but not consistenly negative impacts of industrialized farming, the following points should be noted. These studies provide mixed findings, in that while adverse effects on some community indicators were found, at least one of the following also occurred: (a) industrialized farming had no statistical relationship with other indicators (i.e. there was an absence of any relationship); (b) industrialized farming had a trade-off effect, with beneficial effects on certain indicators; (c) industrialized farming did not consistently produce negative impacts for all time periods or regions; or (d) industrialized farming produced beneficial effects for some groups but Detrimental to other groups. These studies were found principally in the use of four research designs: regional impact studies of economic performance, macro-social accounting, case study, and survey. Regional impact studies (e.g., Heady and Sonka 1974; Marousek 1979) have tended to show costs-benefits for economic performance indicators, with larger farms injecting greater total income into the community, but also producing less employment relative to smaller farms. In the case of macro-social accounting studies reporting mixed effects, Lobao's (1990) study is an example. For counties in the forty-eight contiguous states, industrialized farming had no relationship with family poverty or median family income at either of two single time points (1970 and 1980); however, industrialized farming was related to higher income inequality at both time points and also to lower family income, higher poverty, and higher income inequality over the decade from 1970-1980 (i.e. counties with greater industrialized farming in 1970 experienced relative declines in socioeconomic well-being over the decade).

An example of a case study showing mixed effects is Wright, et al., (2001) conducted in six CAFO counties in Minnesota. This study demonstrated the mixed impacts of CAFOs for residents in these counties. This study found that CAFOs had positive effects for farmers who expanded their operations, detrimental effects for neighbors to CAFOs who saw their ability to enjoy their property deteriorate, detrimental effects for younger and mid-sized producers unable to expand because expansion by others had restricted their access to markets, detrimental effects for older producers who mourned a loss of a way of life, and no effects for those who were not neighbors or who were not expanding. The greatest detrimental effects were the decline in social capital as trust in government agencies declined due to their inability to make decisions in a timely manner, and a decline in cultural capital because of the differing visions of agriculture and of local communities.

A survey study (Jackson-Smith and Gillespie, 2005) also found mixed effects regarding the impact of scale on social relations. When demographic variables were controlled, there was little evidence that size of farm or use of hired workers was related to relationships with neighbors, however, farm size was the strongest predictor of neighbors' complaints about a dairy operation.

The ten studies that found no detrimental impacts of industrialized farming used regional impact models, macro-social accounting, and survey designs. Most of these studies analyzed only indicators of socioeconomic well-being. The regional impact study by Otto et al. (1998) indicated that larger farms are beneficial, both in terms of injecting greater income into a community and in creating more jobs. The results of this study were later challenged by Thompson and Haskins (1998) who argued that Otto et al. (1998) failed to correctly compare large farms with smaller farms by holding constant total output. Here the point is not to dispute either study but to note that regional impact models because of their assumptions, use of shocks (i.e. disruptions to the regional economy), and focus on scale as opposed to organizational indicators usually find net benefits for specific economic performance indicators. An example of a macro-social accounting study that found no detrimental impacts is Lobao and Schulman (1991). They examined whether industrialized farming was related to higher poverty for the four major agricultural regions in the contiguous states for 1970-1980. They found while moderate-size family farming was related to lower poverty for the North Central states, there was no significant relationship between poverty and industrialized farming in any of the four U.S. regions analyzed. Most of the macro-social accounting studies finding no detrimental impacts of industrialized were conducted using data for 1970-1980. Skees and Swanson (1988) note that the time period may be a factor why detrimental impacts are less likely to be found, because industrialized farming was more regionally confined and of less magnitude in the past than in more recent time periods. A recent survey design study (Foltz and Zueli, 2005) did not find evidence that large farms are unlikely to purchase locally when the presence or absence of local suppliers was taken into consideration, and instead demonstrated that purchasing patterns are commodity specific and are determined by community attachment, and local supply considerations.

D. Examples of Recent Sociological Research on the Consequences of Industrialized Farming

1. Macro-social Accounting: Several macro-social accounting studies provide examples of recent sociological research on industrialized farming. The most recent macro-social accounting studies on the effects of industrialized farming are by Crowley (1999), Crowley and Roscigno (2004), Welsh and Lyson (2001), Lyson et al. (2001), and Peters (2002).

The 1999 study by Crowley analyzed the effects of farm concentration using several indicators: concentration of land, value of land and buildings, and the value of equipment and machinery) and data for counties in the North Central region comprising Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, North Dakota, South Dakota, and Wisconsin. She analyzed consequences of these dimensions of farm-sector concentration for local levels of poverty and inequality, controlling for the influences of labor market, demographic, spatial, and other farm structure characteristics. As noted earlier, she found where farm sector concentration is higher (i.e., a few large farms held a large share of local property in land and real estate) both poverty and inequality are higher and education is lower.

In the 2004 study, Crowley and Roscigno documented how concentration of agricultural resources shapes rural community stratification through the political economic process. In addition to measures of farm sector concentration, measured by the gini coefficient and labor endowment, they extended the analysis to include measures of political process, and worker power attributes. Again using data for all (1053) counties in the North Central U.S. they found that dimensions of farm sector concentration shape both poverty and inequality. Furthermore, they found that farm sector concentration is explained by political economic processes, and these processes mediate the negative effects of land concentration on economic well-being. In particular, they found that relative to large scale farms, capital concentration promotes govern ment spending that benefits large farms while it blocks government or labor-market programs that assist farmers whose farms it consumes and farm workers it exploits.

Whether people in agricultural areas in states with anti-corporate farming laws fare better on measures of economic health than do people in agricultural areas in states without such laws was studied by Welsh and Lyson (2001). In examining states with anti-corporate farming laws (Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Oklahoma, and Wisconsin), they found that agriculture dependent counties in states with such laws fare better on economic measures, i.e. less families in poverty, lower unemployment, and higher percentages of farms realizing cash gains.

In the first analysis of all agriculture dependent counties, they found that agriculture dependent counties in states with anti-corporate farming laws have lower poverty rates, lower levels of unemployment, and a higher percentage of farms reporting cash gains than agriculture dependent counties in states without anti-corporate farming laws. These results were consistent for both the cross-sectional analysis (across states in same time period) and longitudinal analysis (within states across time periods). In the second analysis of states with more restrictive anti-corporate farming laws compared to states with less restrictive laws, the restrictiveness index had no effect on poverty in the cross sectional analysis (across states at the same time period) but a slight, positive association in the longitudinal analysis (within state, across time periods). That is, states with more restrictive laws have slightly higher poverty rates over time than do states with less restrictive laws. The restrictiveness index had a strong, negative association with unemployment in the cross-sectional analysis, but no association in the longitudinal analysis. That is, states with more restrictive laws have lower poverty rates at the same point in time than do states with less restrictive laws. Finally, the restrictiveness index had a strong positive association with the percentage of farms reporting cash grains in the cross-sectional analysis, but no association in the longitudinal analysis. That is, states with more restrictive laws have higher percentages of farms reporting cash gains at the same point in time than do states with less restrictive laws.

Lyson et al. (2001) found support for Goldschmidt's findings of a negative relationship between farm scale and community well-being, but these negative relationships were mediated by the presence or absence of a civically-engaged middle class. This study examined the agriculture dependent counties in the U.S. for the period 1982 to 1992. In this study, community welfare is measured by percentage of families in poverty, unemployment rates, and percentage of low birth weight babies. Civically-engaged middle class is measured by percentage of workforce that is self-employed, percentage of labor force working at home, and percentage of small commercial establishments. Farm scale is measured by percentage of sales by farms of $500,000 in sales, percentage of farm operators residing on their farms, percentage of tenant farmers in county, and percentage of hired labor on largest farms. They concluded that the presence of a civically-engaged middle class is a more consistent predictor of rural community welfare than was farm scale. More specifically, they found that counties dominated by large scale, absentee owned, agricultural enterprises have less favorable welfare outcomes. However, the presence of a civically-engaged middle class mitigates the negative relationships and enhances positive relationships between farm scale and community welfare. Their findings did not dispute the Goldschmidt hypothesis of a negative relationship between large scale, industrial type farms and community welfare, but they argue that the relationship is not as economistic and deterministic as had been typically hypothesized.

A study of the non-metropolitan counties in Iowa, Kansas, and Missouri by Peters (2002) found support for the argument that the economic structure of the agricultural, industrial and service sectors impacts socioeconomic conditions in non-metropolitan areas. More specifically, he found that areas with greater concentrations of owner-operated farms result in decreased children at risk scores. He argues that this finding supports the Goldschmidt hypothesis that family farming areas are better developed both economically and socially. Because the concentration of non-farm proprietorships did not predict children at risk scores, he suggests that it was not proprietorships in general that mattered as much as the economic nature of farming. He notes two problems with this measure: It does not differentiate between types of farm proprietorships, either by farm size, primary occupation, or management structure, and it does not identify what is unique about farm proprietorships as contrasted to other types of proprietorships that causes improved socioeconomic conditions for children. He also found that areas with greater concentrations of industrial agriculture, characterized by wage labor relations, produce worse socioeconomic conditions for children. This was one of the weakest predictors of children at risk scores, but one of the strongest predictors was percent employed in animal slaughter and meat processing which causes scores to increase. Peters argues that although not considered agricultural production, meat manufacturing is considered part of the agro-food industrial complex. When the measures of both production and of manufacturing of agricultural products are taken together as a measure of industrial agriculture, he argues they support the Goldschmidt hypothesis.

2. Case Studies: Five recent case studies (NCRCRD, 1999, Seipel et al., 1999; Wright et al., 2001; Constance and Tunistra, 2005; McMillan and Schulman, 2003) document the detrimental effects of confined animal feeding operations (CAFOs), a particular kind of industrial agriculture, on community quality of life.

A comprehensive case-study on industrialized farming is that by the North Central Regional Center for Rural Development (NCRCRD, 1999). This study is useful for providing documentation about relationships over time and for assessing impacts on a wide range of socioeconomic, social fabric, and environmental indicators. The study examines the impacts of a large, confined animal feeding operation (CAFO) owned by the Seaboard Corporation, which moved to Texas County, Oklahoma in 1992. Company officials indicated that Seaboard was attracted to Oklahoma because of the state's "relatively lax anti-corporate farm laws, permissive groundwater access laws, and generous public sector incentives" (NCRCRD 1999:1). Public sector incentives given to Seaboard to locate in the county totaled $60.6 million dollars, with the capital coming from publicly repaid bonds, taxes foregone, interest subsidies and grants, an investment of $27,500 per job created. At the time Seaboard moved to Texas County in 1992, the county had an unemployment rate of 3.7% and was among the highest per capita income counties in the state. Seaboard made extensive land purchases in the county to establish corporate-owned swine production facilities as few local cattle ranchers were interested in raising pigs due to the terms of the contracts offered (NCRCRD 1999:16). To analyze the effects of the CAFO, a comparative case-study design was used where changes in Texas County were compared to thirteen other farming dependent counties in Oklahoma. As a strategy of local economic development, the CAFO performed poorly.[13] The number of jobs, per capita income, poverty rate, number of new businesses, and total bank assets did not change at a rate significantly different from the other, comparison farming dependent counties. Consumer loans increased at a greater rate in Texas County, but increases in commercial and industrial loans were greater in the comparison counties. The economic benefits gained were increases in retail sales and property values. The community costs of the CAFO were experienced largely in social fabric and environment. With regard to social fabric, beneficial impacts were seen in increased population and school enrollment relative to comparison counties. But most other indicators showed rifts in the social fabric. Crime rates increased by 74% in Texas county, compared to a decline of 12.5% in the comparison counties over 1990-1997 (NCRCRD 1999:38). Theft increased 64%, while it decreased 11% in the comparison counties. Violent crimes increased 378%, but decreased by 29% in the comparison counties. Availability of housing declined and rental rates increased to a greater degree than the comparison counties, indicating that crowding is occurring and that the elderly and poor may be priced out of the county. With regard to the environment, water quality violations were much greater in Texas County relative to the comparison counties. Livestock water use increased 66% from 1990 to 1995 in the county. Environmental impacts noted by NCRCRD (1999) were in water depletion and quality, odor, and increased risks of nutrient overload in local soils.

Research by Seipel et al. (1999) elaborate on the NCRCRD (1999) findings by outlining reasons why industrialized farming contributes to breakdowns in social fabric and to environmental degradation. Based on research in four Missouri communities, they note that *CAFOs tend to increase social conflict and personal and community stress for the following reasons:*

1. Some individuals and communities are exposed to the social and environmental harm of CAFOs when other people and communities are not, creating conflict between those residents that pay the costs of industrialized farming and those that do not.
2. The public has often not been involved in decision-making and has not chosen this development as a group.
3. Community residents experience loss of personal control as outsiders, politicians, and corporations are perceived as exercising control over local lives.
4. There is an infusion of new systems and people that communities must now accommodate.
5. While hog farms are a normal part of many rural areas, concentrated operations of thousands of animals confined to one location are not.
6. There is insecurity about health. Residents look to CAFOs and odor to explain personal and family health-related problems. There is increased concern about the health of children and later generations.

[13] The NCRCRD (1999:28-29) study describes how incorrect assumptions in input-output analysis led to misleading results about projected impacts of recruiting the new integrated corporate hog and pork producer to Texas county. Analysts used a figure of $35,137 for average annual income of swine production jobs in input-output models. However, this figure was derived from research in Iowa and was nearly twice the amount earned by swine production workers in Oklahoma. Thus, the input-output analysis severely over-estimated the total income and number of jobs that would be produced in the county by recruiting the corporation.

7. There is "loss of perceived control" (an indicator related to social psychological stress and depression). There is guilt and anxiety over the inability to protect oneself and family, and a feeling of powerlessness concerning resolution of the problems brought on by the industrialized operation.
8. Residents' perceptions about their community changes from a place of security and sense of attachment to a "a degraded space and context of conflict."
9. There is anger and disgust with those who bring CAFOs to the community, which leads to general distrust of government.
10. There is a social stigma attached to living in a CAFO community due to the deterioration of local landscape and to odor problems.

Seipel et al. (1999) note the following general environmental problems related to hog CAFOs:

1. Algae growth and oxygen depletion of surface waters
2. Contamination of wells and groundwaters
3. Contamination of surface water drinking supplies
4. Risk of drinking water contamination due to pathogens such as fecal coliform
5. For workers on CAFOs, the risks of health problems include: asthma, organic dust toxic syndrome, upper airway inflammation, and bronchitis
6. For neighbors of CAFOS, environmental health problem risks include: upper respiratory and digestive track disorders, headaches, nausea, and burning eyes.

Case studies conducted by Wright, et al., (2001) in six CAFO counties in Minnesota demonstrated the mixed impacts of CAFOs for residents in these counties. In these studies they found that CAFOs had positive effects for farmers who expanded their operations, detrimental for neighbors to CAFOs who saw their ability to enjoy their property deteriorate, detrimental for younger and mid-sized producers who were unable to expand because expansion by others has restricted their access to markets, detrimental for older producers who mourned a loss of a way of life, and no effects for those who were not neighbors and who were not expanding. The greatest detrimental effect was the decline in social capital as trust in government agencies declined due to their inability to make decisions in a timely manner, and a decline in cultural capital because of the differing visions of agriculture and of local communities.

A case study by Constance and Tuinstra (2005) found that the quality of life was more stressful and less neighborly in communities with chicken CAFOs. The strain between neighbors and CAFO owners was evident in their perception of the issues. While neighbors focused on substantive concerns of odor nuisances, water pollution, health problems, property values and community disruption, CAFO owners minimized these concerns by saying that it was either neighbors' jealousy or their impractical views of rural land use was the basis for their complaints. Some neighbors had been interested in becoming contract producers, but they had been turned off by Sanderson Farms' hard sell and did not think the contract Sanderson held out was a good business decision. Others realized that once the contract had been signed and chicken houses had been built, growers were locked into long term commitments. Thus, the community was at an impasse over the chicken CAFOs which polarized community relations.

As in the previous example, McMillan and Schulman (2003) also found that CAFOs reduced the quality of life and increased community conflict. Neighbors complained about odor nuisances, voiced concerns about the environmental consequences, worried about health related concerns, thought they had been betrayed by hog producers, and felt the government had been unresponsive. Producers contended that swine CAFOs provided economic benefits to a depressed community, blamed the media for sensationalizing the concerns about CAFOs, and dismissed neighbors' concerns about quality of life, environmental and health issues as being irrational or overstated. Activists were concerned about the impact of the hog industry on health, the environment, local economic opportunities, community neighborliness and cohesion. They were especially concerned about its effects on the environment and human health through contamination of drinking water.

3. Regional Economic Impact Models: Results of analysis from several recent economic impact models (Gomez and Zhang, 2000; Deller, 2003; Foltz, et al., 2002) indicate that industrial agriculture poses detrimental effects to community well being.

The results of one study in Illinois (Gomez and Zhang, 2000) found that large hog farms actually hinder economic growth in rural communities. In a study of 2240 non-metropolitan US counties, Deller (2003) found that large scale agriculture, measured in sales and value added, and counties' dependence on agriculture, tends to result in lower levels of economic growth. He suggests that as agriculture expands either in terms of farm size or overall share of the economy, it would place downward pressure on regional growth rates. A study of dairy farms in Wisconsin by Foltz, et al. (2002), showed that scale (measured in herd size) had a negative effect on share of input purchases made locally. While one model suggests that community attachment increases local expenditures, another model indicates that that effect is described by distance. Demographic variables did not explain where dairy farmers make their purchases either. Both of the economic models show a significant negative effect for larger farm sizes (herd size) on the share of purchases made locally.

4. Survey Research: Several recent Survey Design Studies demonstrate the effects of industrialized farming on community quality of life. The most recent survey research on the effects of industrialized farming are by Reisner et al., (2004), Smithers et al. (2004), Foltz and Zueli, (2005), and Jackson-Smith and Gillespie (2005). Reisner et al. (2004) focuses on the strain on relations between neighbors and CAFO owners. The remaining three studies focus on how industrial agriculture affects relationships with neighbors or farm purchasing decisions.

The research by Reisner et al., (2004) documented the extent to which CAFOs increase the social tensions between neighbors and owners of swine farms in the community as well as the completely different definitions of the problem by neighbors and swine CAFO owners. While both residents and CAFO owners agreed on the presence, level and length of the controversy, residents were much less satisfied and perceived much less support for CAFOs than did the owners. Additionally, while the owners blamed many groups for the controversy over building or expansion of swine CAFOs, the neighbors identified themselves as the source of the controversy. Neighbors felt that large scale farming was a fait accompli, but they were much less satisfied with the presence of CAFOs than the owners thought they were. The greatest differences between neighbors and owners was about the degree of effect of the large-scale swine farms. Neighbors reported more days with detectable odors than did owners and were more likely to believe that there were problems with water pollution and more likely to report that CAFOs were causing their homes to decline in value.

Three survey design studies also discussed the extent to which industrial agriculture has affected social relationships between large scale farmers and their neighbors, or between large scale farmers and their communities. Smithers et al., (2204) in their survey of Ontario farmers, found that those classified as being in the expansionist mode were constrained in their ability to participate in social activities and organizations, were more likely to not purchase their inputs locally but instead sought the cheapest source, and viewed the community instrumentally in regards as to the goods and services it could provide the farm.

Foltz and Zeuli (2005) did not find that large scale farms (in terms of herd size) purchased less locally than did small farms. They did find that the presence or absence of local marketing or supply outlets and attachment to community influence the decision to purchase locally. Generally, they found that purchasing patterns are commodity specific and not determined by farm size or other farm-level characteristics. Attachment to a community affects purchasing decisions only where there is a choice available to farmers.

Jackson-Smith and Gillespie (2005) were also interested in the relationships between large scale dairy farmers (in terms of herd size) and their neighbors. In the multivariate analysis, demographic variables were associated with knowing neighbors well. When demographic variables (age, children at home, length of time operating the farm) were controlled, there was little evidence that size of farm or use of hired workers was related to relationships with neighbors. Farm size, however, was the strongest predictor that neighbors had complained about a dairy operation. These results, they suggest, indicate that regardless of a dairy farm's household social ties, building a large operation will generate conflicts with neighbors. In regard to community participation, they found that both demographic and farm structural variables determine participation. More specifically, age, education, children at home, use of hired workers, and plans to remain in dairy farming are positively related to involvement in community organizations.

Finally, one study used neighborhood level analysis to test the relationship between exposure to concentrated animal feeding operations and perception of CAFO impacts on rural communities, the economy, and the environment. Kleiner (2003) argues that the neighborhood and not the county is the unit of analysis that is more appropriate for understanding the impacts of industrialization of agriculture. Using GPS technology, she identified households for their actual distance from a swine CAFO in two counties characterized by large-scale, corporate-owned and operated swine CAFOs. She compared responses to rural residents in a control group county without such CAFOs. Her analysis found that proximity to large-scale livestock facilities is associated with people's perceptions of CAFOs impacts, especially environmental impacts. The lower mean scores on overall community impacts and environmental impacts for residents in the neighborhood closest to a CAFO of a county characterized by high concentration of CAFOs were expected when compared to mean scores derived from the combined data from the three counties. Furthernore, attitudes about current regulations for CAFOs were found to be more negative for the residents in the neighborhood in the county characterized by a high concentration of CAFOs compared to the combined scores for the three counties. When the types of impacts were analyzed separately, she found that economic impacts are more obvious to residents than perceived social and environmental impacts. This explains, she contends, why residents of corporate CAFO counties are more likely to perceive CAFO impacts more positively than residents of the non-corporate CAFO county which have less direct experience with them. The findings suggest that negative CAFO impacts perceived by residents in close proximity tend to impact behavioral patterns in and around the home, especially in the county where CAFOs are most concentrated.

E. Industrialized Farming and Regional Imbalances in Opportunities to Engage in Farming and Well-Being

Thus far this report has focused on impacts occurring in communities. Another way that industrialized farming may adversely affect public well-being is through creating differences within a region. Until recently, the historical predominance of moderate-size family farms in the Heartland helped create a stable region economy with middle class farming communities (Flora and Flora 1988; van Es et al. 1988). This is now changing. For the Heartland states, economists at the Federal Reserve Board of Kansas City indicate that differences in communities within any given state will widen over time with regard to communities' ability to participate in commodity agriculture. It is useful to quote at length from their analysis (Drabenstott and Smith 1996:4).

> Agriculture is a common ingredient to the rural economy throughout the Heartland. The 12 Heartland-states are home to more than two-thirds of the nation's farm-dependent counties. Historically, agriculture has been a primary engine of growth for rural communities. A large number of mid-sized farms have created significant economic multiplier effect for agriculture, enhanced by any local agricultural processing in rural areas.
>
> Today, that picture is changing. Heartland agriculture has moved quite rapidly to fewer, bigger farms. The largest farms in the United States, those with annual sales greater than $500,000 a year are just 2.5% of all farms; yet they account for 40 percent of farm output. A similar pattern is found in Heartland states.
>
> As agricultural production has moved to bigger farms, agriculture's links with local rural communities have weakened. Large farms tend to procure their inputs, including financial capital, from more distant places that can offer more products and lower prices. In addition, large farms often have direct marketing relationships with processors, by-passing local buyers.
>
> More recently, a pickup in the industrialization of agriculture has further weakened linkages to local rural communities. Industrialization refers to the movement toward more direct production and marketing relationships between producers and processors, a trend now symbolized by the broiler industry. Under industrialization, processors attempt to secure a stable supply of consistent product while exploiting the economies of scale in new production and processing methods. The result is a further concentration of production, as production shifts to bigger firms and clusters around processing plants much more than in the past.
>
> Industrialized agriculture produces two effects on rural communities. As production increases in some "cluster" communities, it will leave others, lessening agriculture's impacts. Communities that are home to industrialized production and processing may see jobs and income increase. But even there, the economic links will be different than under community production. More production inputs are purchased from nonlocal sources, and more of the profits go to nonlocal owners of the firm.
>
> Agriculture remains important to the Heartland. But its economic impact is much different than in the past. Commodity agriculture remains, but it is in bigger hands. And the advent of industrialized agriculture creates a new pattern of agricultural haves and have-nots. And even in those communities that have industrialized agriculture, the economic links are different than in the past.

Barkema and Drabenstott (1996:72) note that while some communities in the region will lose farms and farmers due to production concentration in other communities, those gaining new agribusiness, at least in the meat industry, are not likely to realize great economic gains.

> While the region's meat prospects are good, the corresponding economic impact may be low. Wages in the meat industry are relatively low. Moreover, the value added in meat processing is low. The average value added for all food products is 39 percent, for meat products it is just 21 percent. Thus, the region's solid prospects for expanding meat processing are unlikely to provide a wide-spread economic tide for Heartland

Barkema and Drabenstott's (1996:72) conclusion is supported by the NCRCRD (1999) study above that found no appreciable gains in per capita income and employment growth where CAFO recruitment occurred relative to comparison counties in Oklahoma where it did not occur. In the industrial sociology and economic geography literatures, food processing is considered part of the peripheral manufacturing sector (Lobao et al. 1999). Production here is routinized, wages are relatively low-wage compared to durable manufacturing and certain services, and firms tend to be more footloose in seeking out low-costs labor. In sum, reliance on meat processing is not likely to enhance community development over the long-term.

Relatedly, communities that look to industrialized farming to solve economic development problems will not only confront the problems noted above in terms of social fabric and environment but also are pursuing a strategy that may be costly in terms of long-term development. While it is often noted that smaller farms (as all smaller businesses) fail more often than larger farms,[14] analysts rarely consider the opposite side of the coin: when large vertically-integrated farm corporations fail they are likely to do a great deal of community damage, particularly if scarce public resources have been used to attract them. NCRCRD (1999) details the extensive public sector incentives such as tax increment financing, tax exemptions, interest-free loans, and grants given to recruit CAFOs. Public resources and community well-being are at risk should such farms underperform in their agreements with local governments or fail overall.

As vertically integrated production in agriculture is new to many communities, its failure rate is yet to be adequately assessed, particularly over the long-term. Public concern with large confinement operations is demanding that these farms adhere to ever higher standards of social and environmental responsibility. Whether the operators of these farms have the skills and expertise to succeed in a climate demanding increased consumer and public accountability and at the same time remain competitive is unclear. In Ohio, for instance, the German owner of Buckeye Egg Farm (one of the country's largest egg producers with nearly 15 million hens in three Ohio counties) was banned from professional contact with animals in his native Germany. His operations in Ohio have faced a continual series of "serious environmental, regulatory, financial and public- relations problems" in the 1990s (Columbus Dispatch, November 7, 1999: 2g). The Ohio EPA recently filed a lawsuit accusing the company of violations of Ohio's solid-waste, water-pollution-control, safe-drinking-water, air-pollution and nuisance laws (Columbus Dispatch, December 22, 1999:1h-2h).

The diversion of state and local resources toward regulating the operation of large farms confining many animals to a single location must be considered in assessing the impacts of industrialized farming. The problem is compounded in rural areas, because rural local governments are already disadvantaged in staff and fiscal resources needed to adequately serve their

[14] Sociologists again would point out that moderate-size farms are not inherently less efficient producers but that they are disadvantaged in competing with large farms that have transaction costs advantages in terms of buying and selling.

populations. They do not have the resources to engage in endless rounds of litigation to protect the well-being of their residents.

IV. SUMMARY AND CONCLUSIONS

Based on the evidence generated by social science research, we conclude that public concern about the detrimental community impacts of industrialized farming is warranted. In brief, this conclusion rests on five decades of government and academic concern with this topic, a concern that has not abetted but that has grown more intense in recent years, as the social and environmental problems associated with large animal confinement operations have become widely recognized. It rests on the consistency of five decades of social science research which has found detrimental effects of industrialized farming on many indicators of community quality of life, particularly those involving the social fabric of communities. And it rests on the new round of risks posed by industrialized farming to Heartland agriculture, communities, the environment, and regional development as a whole.

In this report, a review by Lobao (2000) was updated to 2006 so that the findings of past and recent research on industrialized farming could be systematically documented. The conclusions from fifty six studies (32 detrimental effects and 14 some detrimental effects) examining the consequences of industrialized farming for communities were evaluated. Approximately 82 percent of these studies found adverse impacts on indicators of community well-being. The types of indicators and the number of studies reporting these are discussed in Table 1 and in the text. Analysts have tended to find the following impacts.

For socioeconomic well-being, researchers noted that industrialized farming was related to higher income inequality and to lower community employment, relative to moderate-size family farming. Higher income inequality indicates that industrialized farming is less likely to sustain middle-class communities. Places with higher income inequality also are prone to other social problems because the gap between affluent and poor is greater. With regard to other socioeconomic impacts, such as total income injected into the community, regional economic impact models were likely to report beneficial impacts. However, the findings for income inequality suggests that income growth is impeded in trickling down to families.

Studies assessing consequences for the social fabric of communities were likely to find detrimental impacts. Industrialized farming affects the social fabric of communities through altering population size and social composition which affect crime, social conflict, family stability, the local class structure, community participation, and local shopping patterns. Case-studies reported the loss of local autonomy, in which communities become increasingly subject to the influence of external business owners who interests may not be compatible with their own. More recent studies reported environment impacts. Because large animal confinement operations house densely concentrated livestock, they are prone to a host of negative environmental impacts on water, air, and human health.

Given the relative consistency of past research, the studies such as Crowley's (1999), Crowley and Roscigno's (2004), and Welsh and Lyson's (2001) which specifically analyzed North Central states, including North Dakota, and research focused on neighboring states in the region, there is every reason to expect that the conclusions drawn here apply to North Dakota. From the social science literature, we can anticipate four sets of impacts of industrialized farming for farming-dependent communities in Heartland states such as North Dakota: impacts on socioeconomic well-being, social fabric, the environment, and regional imbalances.

Communities that receive industrialized farming are likely to increase population relative to other communities (that is, if local family farmers are not displaced). These communities may increase employment and per capita income but as shown by the NCRCRD (1999) study, this may not be at a rate significantly different from comparison locales.

Communities with industrialized farms are likely to experience greater income inequality; government services for the poor and other disadvantaged groups are likely to be needed in these locales.

Communities that gain new industrialized farming will encounter stresses in the social fabric; community decision-making is likely to be more subject to corporate farm interests; and in the case of large livestock confinement operations, communities will be at risk for environmental and health problems, entailing the need for state and local government intervention.

Communities that lose moderate-size family farms, in part because of transaction cost advantages (e.g., volume buying-selling) and public incentives given to industrialized farms, will lose a base of middle class producers and experience rifts in social fabric, including population decline. These communities are likely to have declines in other businesses and in the local property tax base and may require government aid for social and public services.

Regional clustering of agricultural production is likely to occur (Drabenstott and Smith 1996:4). While some communities will gain industrialized farming (and it attendant costs and benefits) others will continue to lose their family farm base as production clusters closer to large processors. Within states, there is thus likely to be greater inequality between communities over time.

Not discussed in this report are alternative economic development strategies that farming dependent communities can pursue. Notwithstanding arguments that vertical integration into farming and production contracts are the only options left to keep American farmers farming, there are alternatives and some working examples are discussed in NCRCRD (1999).

From a sociological standpoint, government plays a role in the types of consequences that industrialized farming will have for community well-being. It establishes the legal-institutional framework for regulating these farms. It establishes the incentive structure offered to agribusiness firms in their location decisions. It provides the public services needed to mop up the destabilizing impacts of industrialized farming, such as a rising crime rate, increased social conflict, and the need for social services to cope with a changing population. And government will need to provide the social services related to population decline and poverty alleviation in communities which lose family farming.[15]

Prior to Welsh and Lyson's (2001) research, the role that laws regulating corporate farms have in countering detrimental community impacts of industrialized farming had only been alluded to by some researchers. Lobao and Schulman (1991:596) postulated that one of the reasons why a few studies have found that industrialized farming has had less adverse effects in the North Central Heartland region (relative to the South and West) is due to its agrarian history

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[15] In non-farm dependent communities, government intervenes in a number of ways when paid employment, such as in manufacturing and mining declines: through programs such as unemployment insurance, various income transfers, such as welfare payments, for which independent farm operators are generally not eligible due to property ownership; through re-training programs, such as for workers who lose jobs because of NAFTA; and through enforcement of community rights in plant closure laws. Because of their farming base, farm-dependent communities usually cannot make as full use of these social safety nets as can other communities.

of protection of family farming and regulation of corporate farming. NCRCRD (1999:1) also indicated that “relatively lax anti-corporate farming laws, weak environmental regulations and permissive groundwater access laws” not surprisingly encouraged large, animal confinement operation to locate in Kansas. When Welsh and Lyson (2001) examined states with anti-corporate farming laws (Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Oklahoma, and Wisconsin), they found that agriculture dependent counties in states with such laws fare better on economic measures, i.e. less families in poverty, lower unemployment, and higher percentages of farms realizing cash gains. In the comparison of states with less restrictive vs. states with more restrictive laws, they generally found the same results as with the comparison of states with anti-corporate farming laws and states without such laws.

Remote rural counties appear to be targeted as recent operating sites by large animal confinement operations. Research by Wilson et al. (2002) demonstrated that census blocks in Mississippi with high percentages of African Americans or people in poverty were much more likely to be the locations of swine CAFOs. Of all local governments, remote rural counties have the least resources (staff, economic development, and social service budget) to cope with industrialized farming. These governments are in weak positions to bargain successfully with external corporations, to regulate their operations once they are in place, and to protect community social life and environment overall. Remote rural counties are the places where state protection from industrialized farming is most critical due, in part, to the fragility of local government.

From a social science standpoint, the farming system in place today has been created from both market forces and government policy and programs. It is thus logical that government can also be an instrument in transforming this system toward greater public accountability.

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Table 1. Summary of Studies Examining Industrialized Farming and Community Well-Being*

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Goldschmidt (1968, 1978a) (1944, original)	Comparative Case Study, two communities	California	scale/ organization	Socioeconomic/Social Fabric (class structure, services, population, politics, retail trade)	Detrimental
Tetreau (1938, 1940) (one study, two articles)	Survey Design Study, 2700 households	Arizona	scale/ organization	General Socioeconomic Indicators/Social Fabric (class structure)	Detrimental
Heffernan (1972)	Survey Design Study, 138 broiler producers	Louisiana	organization	Social Fabric (social psychological indicators, community involvement)	Detrimental
Heady and Sonka (1974)	Regional Economic Impact Model of 150 producing areas	continental U.S.	scale	Socioeconomic: Economic performance (income, employment generation)	Some Detrimental: large farms lower food costs but generate less total community income
Rodefeld (1974)	Survey Design Study, 180 producers from 100 farms	Wisconsin	scale/ organization	Socioeconomic/Social Fabric (class structures, services, population size)	Detrimental
Martinson et al. (1976)	Survey Design Study, 180 producers	Wisconsin	organization	Social Fabric (social psychological indicators)	Detrimental
Fujimoto (1977)	Macro-social Accounting, 130 towns	California	scale	Social Fabric (community services)	Detrimental

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Flora et al. (1977)	Macro-social Accounting, 105 counties	Kansas	scale/ organization	Socioeconomic/Social Fabric (class structure, services)	Some Detrimental: industrialized farming is related to greater income inequality but other relation-ships not clearly supported
Small Farm Viability Project (1977)	Comparative Case Study, reanalysis of Arvin and Dinuba	California	scale/ organization	Socioeconomic/Social Fabric (class structure, services)	Detrimental
Goldschmidt (1978b)	Macro-social Accounting, states	entire U.S. except Alaska	scale	Social Fabric (agrarian class structure)	Detrimental
Heffernan and Lasley (1978)	Survey Design Study, 36 grape producers	Missouri	organization	Social Fabric (community social and economic involvement)	Some Detrimental: operators of nonfamily farms less involved in community activities but little support for other relationships
Wheelock (1979)	Macro-social Accounting, 61 counties	Alabama	scale	Socioeconomic/Social Fabric (class structure, population size)	Some Detrimental: rapid increases in farm scale related to decline of population, income, and white collar labor force; other relation-ships mixed.
Marousek (1979)	Regional Economic Impact, one community	Idaho	scale	Socioeconomic: Economic performance (income, employment generation)	Some Detrimental: large farms result in greater regional income but produce less employment than small farms

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Buttel and Larson (1979)	Macro-social Accounting, state-level data	entire U.S.	scale/ organization	Environment (energy usage)	Detrimental
Heaton and Brown (1982)	Macro-social Accounting, county-level data	continental U.S.	scale/ organization	Environment (energy usage)	No Detrimental
Swanson (1980)	Macro-social Accounting, 27 counties	Nebraska	scale	Socioeconomic/Social Fabric (population size)	Detrimental
Poole (1981)	Survey Design Study, 78 farmers	Maryland	scale	Social Fabric (involvement in community organizations)	Detrimental
Harris and Gilbert (1982)	Macro-social Accounting, state-level data	continental U.S.	scale/ organization	Socioeconomic/Social Fabric (class structure)	Some Detrimental: large farms result in more lower class farm personnel but have positive total effects on rural income
Swanson (1982)	Macro-social Accounting, 520 communities	Pennsylvania	scale/number of farms	Social Fabric (population)	No Detrimental
Green (1985)	Macro-social Accounting, 109 counties	Missouri	scale/ organization	Socioeconomic/Social Fabric (services, population size)	No Detrimental

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Skees and Swanson (1988)	Macro-social Accounting, 706 counties	Southern U.S., excluding Florida, Texas	scale/ organization	Socioeconomic/Social Fabric (services)	Some Detrimental: moderate-size farms produce greater employment; large and very small farms related to higher unemployment; some detrimental impacts of large farms over time
MacCannell (1988)	Macro-social Accounting, 98 counties	Arizona, California, Florida, Texas	scale/ organization/ capital intensity	Socioeconomic/Social Fabric (population size, retail trade, local government taxation and expenditures)	Detrimental
Flora and Flora (1988)	Macro-social Accounting, 234 counties	Great Plains and West	scale	Socioeconomic/Social Fabric (retail trade, population size)	Some Detrimental: medium-sized farms relative to large farms enhance community well-being
Buttel et al. (1988)	Macro-social Accounting, 105 counties	Northeast	organization	Socioeconomic/Social Fabric (population, retail trade)	No Detrimental
van Es et al (1988)	Macro-social Accounting, 331 counties	Corn Belt	scale/ organization	Socioeconomic/Social Fabric (population size)	No Detrimental
Gilles and Dalecki (1988)	Macro-social Accounting, 346 counties	Corn Belt and Central Plains	scale/ organization	Socioeconomic	Some Detrimental: counties with greater numbers of hired laborers tend to have lower socio-economic well-being; other relationships for scale not supported

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Lobao (1990)	Macro-social Accounting, 3037 counties	Continental U.S.	scale/ organization	Socioeconomic/Social Fabric (income, poverty, income inequality, teenage fertility, infant mortality)	Some Detrimental: moderate-size family related to better socioeconomic conditions. Industrialized farming related to greater income inequality and births to teenagers, and over time to greater poverty and lower family income, but not to other indicators
Lobao and Schulman (1991)	Macro-social Accounting, 2,349 rural counties	U.S. and four regions	scale/ organization	Socioeconomic (poverty)	No Detrimental: moderate-size family farms related to lower poverty, most regions, industrialized farms have little relationship to poverty in any region
Barnes and Blevins (1993)	Macro-social Accounting, 2,000 rural counties	U.S.	scale/ organization	Socioeconomic (poverty, median income)	No Detrimental

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Durrenberger and Thu, (1996)	Macro-social Accounting	Iowa	Scale: farm size in acres, total county hog inventory, farms with hogs, farms with more than 1000 hogs, net agriculture sales	Socioeconomic (people living in poverty, people receiving food stamps)	Detrimental: The more large scale operations, the fewer small and moderate farms and the more people who use food stamps. Most hogs in Iowa are produced in small and moderate sized integrated operations. Since total hog operations are related to a decline in small and moderate sized operations. The more farms that produce hogs, the fewer people who use food stamps.
Otto, et al. (1998)	Regional Economic Impact Study: pork operations	Iowa	scale	Socioeconomic: economic performance	No Detrimental: larger units create more local jobs and income
Thompson and Haskins (1998)	Regional Economic Impact, pork operations	Iowa	scale	Socioeconomic: economic performance	Some Detrimental: larger units create fewer local jobs than smaller units
Seipel, et al. (1998)	Hedonic Price Analysis, one county	Missouri	concentrated animal feeding operation	Sales prices of farmland parcels with and without houses	Detrimental: reduction in property prices of $144 per hectare within 3.2 km of a CAFO
Schiffman, et al. (1998)	Quasi-experimental Design: 88 matched individuals	North Carolina	concentrated animal feeding operation	Social Fabric (social-psychological distress)	Detrimental: residents living near swine operations are more depressed due to psychological and physical effects of odors, reduced enjoyment of property

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Wing and Wolf, One study, (1999, paper) (2000, article)	Survey Design Study: 155 residents, three communities	North Carolina	concentrated animal feeding operation	Social Fabric (quality of life, health status)	Detrimental: residents of CAFO community report greater respiratory and gastrointestinal problems and eye irritations, lower quality of life, reduced enjoyment of property
Seipel et al. (1999)	Survey Design Study: 780 residents in four counties with pork production	Missouri	concentrated animal feeding operation	Social Fabric (attitudes toward increasing government regulation of corporate swine production)	Detrimental: majority of residents support increased regulation, strongest determinants of this position due to perceived detrimental economic, social, environ-mental impacts on community
North Central Regional Center for Rural Development (1999)	Comparative Case Study, 14 farm dependent counties, one of which recruited CAFO	Oklahoma	CAFO county compared to others	Socioeconomic: well-being, social fabric, Environment	Some Detrimental: Detrimental on social fabric and environment (e.g., greater crime), no appreciable gains in per capita income and jobs relative to non-CAFO counties; beneficial effects for a few indicators (increase in population, school enrollment, retail sales and property values)
Irwin et al. (1999)	Macro-social Accounting: 3024 counties	Continental U.S.	organization	Social Fabric (residential stability)	No Detrimental

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Crowley (1999)	Macro-social Accounting: 1053 counties in NC states	12 north central states	organization	Socioeconomic (poverty rate, income inequality)	Detrimental
Gomez & Zhang (2000)	Regional Economic Impact Models: (rural hog producing towns located in 76 rural cos. and 26 non-metro urban cos. with < than 50K hogs sold annually)	Illinois	CAFO/Scale	Social Fabric: Annual change in inflation-adjusted "real" retail spending	Detrimental on lower economic growth
Welsh and Lyson (2001)	Macro-social Accounting: 433 agric. dep. cos. in states with anti-corp. farming laws and in states without such laws.	Iowa, Kansas, Minnesota, Missouri, North Dakota, Oklahoma, South Dakota vs. states without anti-corp. farm laws	Scale/ Organization	Socioeconomic: percentage of families in poverty, unemploy-ment rate, farms realizing cash gains	Detrimental on agric. dep. cos. in states without anti-corp. farming laws or in states with weaker anti-corp. farming laws.
Lyson et al., (2001)	Macro-social Accounting: 433 Ag. Dep. Cos. in the U.S	Ag. Dep. Cos. in the U.S.	Scale/Organization	Social Fabric: Civically engaged middle class, participation & involvement in civic affairs, community welfare	Detrimental are mediated by presence of civically engaged middle class. Communities in agric. dep. areas in which a high percentage of persons work for them- selves or operate independent businesses have higher levels of social welfare.

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Wright et al., (2001)	Case Study: Six CAFO counties – Pennington, Clearwater, Rock, Goodhue, Sterns, Morrison	Minnesota	CAFO/Scale	Social Fabric: social & community well-being – quality of life, community interaction, social capital	Some: Detrimental effects for neighbors, younger and mid-sized producers. Positive effects for those who expanded operations; No effects for those not neighbors or not expanding. Detrimental due to lack of trust in gov't. agencies and differences in shared vision of agric. & of local communities.
Foltz, et al., (2002)	Regional Economic Impact Models: 100 dairy farms in three dairy dependent communities – Athens, Chilton, and Richland	Wisconsin	Scale	Social Fabric: Share of local input purchases made locally	Detrimental: Significant negative effect for larger farm sizes (herd size) on share of input purchases made locally.
Peters, (2002)	Macro-social Accounting: All agric. dep. cos.	Iowa, Kansas & Missouri	Organization	Socio-economic: Children at risk -- % of children enrolled in free-reduced price meals, low birth rate infants,	Detrimental: Areas with lower concentrations of farm proprietorships results in increased children at risk scores. Areas with greater concentrations of industrial agriculture production results in increased children at risk scores.
Wilson et al., (2002)	Macro-social Accounting: Census blocks in rural counties with CAFOs	Mississippi	CAFOS (Swine)	Social Fabric: Whether swine CAFOs were located in high poverty/high Black census blocks	Detrimental: Swine CAFOs 2.4-3.6 times more likely to be located census block with poor African Americans.

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Deller, (2003)	Regional Economic Impact Models: 2249 non-metro U.S. cos.	Non-metro U.S. cos.	Scale	Socioeconomic: Growth rates in per capita income	Detrimental: Counties dominated by larger-scale agriculture experience slower growth rates in per capita income. As agric expands in terms of farm size or share of local economy, downward pressure is placed on regional growth rates.
Reisner, et al, (2004)	Survey Design Study: 22 newspapers covering 52 cos.	Illinois	CAFOs Swine	Social Fabric: Perceptions of source of controversy over swine CAFOs, of frequency of swine CAFO odors, & problems caused by CAFOs	Detrimental: Residents were far less satisfied with presence of facilities than farmers thought, reported more days with odors, were more likely to believe that CAFOs contributed to water quality problems, and report loss of value of homes near CAFOs
Crowley & Roscigno, (2004)	Macro-social Accounting: All counties in North Central States -- IA, IL, IN, KS, MI, MN,MO, NE, OH, ND, SD	North Central States	Scale/Organization	Socioeconomic: Percent of population living below poverty & inequality of income distribution among families	Detrimental: Dimensions of farm sector concentration shapes both poverty and inequality of income.

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Smithers, et al., (2004)	Macro-social Accounting	North Huron County, Ontario	Scale	Social Fabric: Community involvement, purchasing behavior, perception of community support by expanding, stable, and contracting farms	Detrimental: Farmers in the expansionist trajectory were constrained in their ability to participate in social activities & organizations, sought inputs at lowest cost, were less committed to sourcing locally, and saw the community in terms of what it could do for them rather what they could do for it.
Kleiner (2003)	Survey Design Studies: Three counties in MO, two characterized by swine CAFOs & one by independent hog production	Missouri	CAFOs	Social fabric: Effects of CAFOs on rural communities including economic, social and Environmental	Detrimental: Proximity to large-scale livestock facilities is associated with perceptions of CAFO impacts, especially environmental impacts.

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Constance and Tuinstra (2005)	Case Study Design; Three rural clusters of communities -- Normangee and Flynn Leon Co. and Midway in Madison Co.	East Texas	CAFOs (chicken broilers)	Social Fabric: Odor, water quality, health, property values, source of conflict, social effects	Detrimental: Quality of life deteriorated as it became more stressful and less neighborly. Neighbors focused on issues of odor nuisances, water pollution, health problems, property values, & community disruption. Growers minimized complaints by saying that neighbors' jealousy was the root cause of discomfort or suggested they were city folks with impractical views of rural areas.
Whittington & Warner (2006)	Case Study Design: Two communities with large-scale dairies (under 700 cows) Jackson Twp. in Wyandot Co. and Liberty Twp. in Wood Co.	Ohio	Scale	Social Fabric: Knowledge of and attitudes towards managers of risk of large scale dairies	Detrimental: Community members unable to identify managers of risk, felt hopeless to act, personal experience in agric. leads to understanding of issues, large-scale animal agric. is a cultural shift, two-way communication is essential, safety precautions by CAFO leads to greater community acceptance.

Study	Methodology	Region	Measures of Industrialized Farming	Community Well-Being Indicators	Results
Jackson-Smith & Gillespie (2005)	Survey Design Studies: Nine dairy farm dependent rural communities in seven states	Dairy dependent areas in NY, WS, MN, TX, UT, ID, & NM	Scale	Social Fabric: Relationships between farmers & neighbors; how well they know their neighbors; if they had ever had complaints about odor, flies, or noise; level of involvement in local community organizations & activities;	Some: Demographic variables are related to knowing neighbors well. When these are variables are controlled, there is little evidence that size of farm or use of hired workers was related to relationships with neighbors. Farm size is strongest predictor of likelihood that neighbors have complained about a dairy operation.
Foltz and Zueli, (2005)	Survey Design Studies: 141 dairy farmers in three dairy dependent WS towns – Athens, Chilton, and Richland	Wisconsin dairy dependent towns	Scale: Farm size measured by size of dairy herd	Social Fabric: Annual quantity of expenditures per unit for various farm inputs and supplies	No Detrimental: Very little evidence that small farms are more likely to buy locally than large farms. Purchasing patterns are commodity specific and not determined by farm size or farm-level characteristics. Presence of local marketing outlets affects decisions to purchase locally. Community attachment affects purchasing decisions when there is a choice available locally.
McMillan and Schulman (2003)	Case Study: Two CAFO counties, four focus groups (Citizens, Leaders, Producers, Activists) and anti-hog informants interviews	No. Carolina	CAFOs	Social Fabric: neighbor relations, environmental concerns, health concerns, enjoyment of property, quality of democratic participation, community cohesiveness	Detrimental: Increased community conflict and tensions between neighbors, reduced quality of life due to CAFO odors, increased worries about health concerns related to CAFO odors, and worries about environmental consequences

Testimony of Curtis W. Stofferahn, Ph.D.
Rural Sociologist and Professor Emeritus,
University of North Dakota

Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee, I urge a no vote on any changes to the North Dakota Corporate Farming Law (HB 1371). This testimony is an elaboration and an addition to the testimony I submitted to the House Agriculture Committee. It includes references to documents I submitted along with my testimony.

For the record I am a fourth and fifth generation descendent of family farmers, and I grew up on a diversified family farm in southeastern North Dakota. I received my PhD in rural sociology from Iowa State University, and my doctoral research involved the impacts of the structure of agriculture on rural communities. I was a scholar and researcher of rural life while on the faculty at the University of North Dakota, I was contracted by the ND Attorney General's Office to provide expert testimony about the impacts of industrialized farming, and I've published academic articles on the topic.

In 2006, I was contracted by the North Dakota Attorney General's office to provide expert testimony on the social justification for the North Dakota corporate farming law. Defense of these corporate farming laws often requires evidence from social science research that industrialized farming poses risks to communities. Social scientists have had a long history of concern about the effects of industrialized farming on communities. .I updated the research conducted by my colleague, Linda Lobao, for her 2000 defense of the South Dakota corporate farming law. That meta-analysis of the research literature synthesized some 80 years of research, from the 1930s to the present, on the social consequences for rural communities of industrialized farming. It included papers presented at professional meetings, peer reviewed journal articles, and other social science publications (Document 26129).

Later, Lobao and I, using only the pool of 51 peer-reviewed articles, had our peer-reviewed journal article published in Agriculture and Human Values (Document 14840). Subsequent to that, I was asked to submit a summary to The Encyclopedia of Agriculture and Food Systems (Document 26126). This report, article, and encyclopedia entry were entered as evidence by the state in the following cases: North Dakota v. Crosslands, 2006, Cook Waterfowl v. North Dakota, 2012, Stenehjem v. National Audubon Society, Inc. 2014, North Dakota Farm Bureau v. Stenehjem, 2018, North Dakota v. Dakota Access Pipeline 2019. For each case, I had to sign an affidavit that there was no new research that would substantially change the generalizations from the meta-analysis (Document 14835).

The industrialization of farming refers to the transformation whereby farms have become larger-scale, declined in number, and integrated more directly into production and marketing relationships with processors through vertical or contractual integration. Accompanying the growth of scale of operations are organizational changes in farming. These include an increase in the relative proportion of hired to family labor, greater use of incorporation as a form of legal organization, and the movement toward a more integrated industry from farm to grocery, whose 'hallmark' is 'contract production and vertical integration.' Corporate farming falls within both the scale and the organizational attributes of industrialized farming.

In the journal article, my colleague and I documented the research designs employed, evaluated results as to whether adverse consequences were found, and described the aspects of community life that may be affected by industrialized farming. Of these studies, 57 percent found largely detrimental impacts. Twenty-five percent were mixed, finding some detrimental impacts. Eighteen percent found no detrimental impacts. The adverse impacts were found across an array of indicators measuring socioeconomic conditions, community social fabric and environmental conditions. Meanwhile, few positive effects of industrialized farming were found across studies. The results show that public concern about industrialized farms is warranted.

For socioeconomic well-being, researchers noted that industrialized farming was related to higher income inequality and to lower community employment, relative to moderate-sized family farming. Higher income inequality indicates that industrialized farming is less likely to sustain middle-class communities. Places with higher income inequality also are prone to other social problems because the gap between the affluent and the poor is greater. With regard to other socioeconomic impacts, such as total income injected into the community, regional economic impact models were likely to review beneficial impacts. The findings for income inequality, however, suggest that income growth is impeded in trickling down to families. Studies assessing consequences for the social fabric of communities were likely to find detrimental impacts. Industrialized farming affects the social fabric of communities through altering population size and social composition which affect crime, social conflict, family stability, the local class structure, community participation, and local shopping patterns. Case studies reviewed the loss of local autonomy, in which communities become increasingly subject to the influence of external business owners, whose interests may not be compatible with their own. More recent studies reviewed environment impacts. As large animal confinement operations house densely concentrated livestock, they are prone to a host of negative environmental impacts on water, air, and human health.

The role that corporate farming laws play in protecting rural communities has been alluded to in past research but only recently addressed by Lyson and Welsh in an article in Environment and Planning (Document 26127). When they examined states with anti-corporate farming laws (Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Oklahoma, and Wisconsin), they found that agriculture-dependent counties in states with such laws fare better on economic measures, that is, less families in poverty, lower unemployment, and higher percentages of farms realizing cash gains. In the comparison of states with less restrictive versus states with more restrictive laws, they generally found the same results as with the comparison of states with anti-corporate farming laws and states without such laws.

More specifically, in regard to impacts on rural communities of industrialized animal agriculture the Pew Commission report on industrial farm animal production (Document 26128), of which I was a reviewer, concluded: “(The) single-minded pursuit of economic efficiency within agriculture has resulted in a loss of economic freedom and created an imbalance of economic power favoring agribusiness over independent farmers. The result is the transformation of rural America from a setting of many small, productive family farms and economically diverse, viable rural communities into a state of relatively few ever-growing factory farms and dying communities.”

The rural social science research literature on the impacts of industrialized agriculture in general, and corporate farming in particular, is conclusive about its detrimental impacts on rural communities. The bulk of evidence indicates that public concern about these detrimental impacts is warranted. I urge legislators to vote No on HB 1371.

Audubon | DAKOTA

March 17, 2023
Committee on Agriculture and Veterans Affairs
North Dakota Legislature

RE: HB 1371 – Relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies – Concentrated Animal Feeding Operations (CAFO)

Dear Chairperson and Respected Members of the Committee,

On behalf of the 2,000 Audubon members in North Dakota, we oppose HB 1371 and request this testimony be included as a part of the public hearing record.

The National Audubon Society is a conservation organization focused on birds and their conservation and seeks to bring awareness to the condition of our environment and how changes impact birds, natural resources, our economy, and communities. Audubon works with ranchers and private landowners throughout the nation to develop market-based management strategies that benefit birds while sustaining their livelihoods and stewarding the land for agricultural sustainabilty. In North Dakota, Audubon has partnered with over 80 landowners to support their operations through financial and technical assistance to ensure their financial stability and foster commitment to protect North Dakota's natural heritage for future generations.

We oppose the entry of corporate supported Concentrated Animal Feeding Operations (CAFOs) into North Dakota. This bill would weaken protection against outside corporations controlling ND agriculture, putting further pressure on remaining small farmers and ranchers that Audubon closely collaborates with, and threatening the natural resources we all depend on. In addition, accelerating the development of CAFOs without proper protection of water resources and a science-based siting process is dangerous. Ground water pollution is a serious health hazard, to people and animals.

To truly support North Dakota's livestock producers, emphasis needs to be placed on expanding the establishment of local processing facilities. The lack of processing facilities within North Dakota is a consistent limiting factor to production that we hear from our partner producers. It creates financial stress to livestock producers due to the high transportation costs to move their cattle to other states for processing, while also supporting out of state companies for products raised in North Dakota.

We urge you to oppose this bill in support of North Dakota's small farmers and ranchers, who are the best stewards of land and natural resources, as well as protecting the water we all depend on.

Thank you for your consideration,

Kristal Stoner

Kristal Stoner

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HB 1371 Senate TestimonyChair, member of the committee,Thank you for listening to my testimony. I urge you to oppose 1371 which would allow corporate money to enter ND in the form of Concentrated Animal Feeding operations. It is a numbers game: once the door is open, there is no way to limit the growth of these CAFOÕs and their resulting pollution on the landscape. I practiced medicine in Worthington, Minnesota in November 2019 and for the whole month of November, I could not be outside because of the unrelenting, always present stench of pig manure. From the 2017 NASS statistics, there were about 400,000 hogs in Nobles County which which has an area of about 700 square mile (211 hogs/square mile); while ND with an area of 70,000 square miles had only 148,000 hogs(2.11hogs/square mile). Worthington people, after always reminding me that it was the smell of money, told me the odor wasnÕt the JBS meatpacking plant which caused the unrelenting problem. The plant contributed to the smell only when the wind blew in a certain direction. Rather, the constant stench was from the manure applied to the fields surrounding Worthington. What happens to our air and water as we approach the hog density of Nobles County?2 CAFOÕs recently permitted in Sargent County totaling 9600 hogs requires at least 1400 acres but up to 3400 acres for manure applications. Incidentally this CAFO sits on top of the Oakes aquifer, is in the middle of a lot of wetlands, and has moist sand within a foot of the soil surface. An older CAFO with a history of underreporting the number of animals in its facility, may need up to 1/3 of a township for manure spreading. State regulations do not address odors from manure applications. THE DEQ is in no way equipped to handle the waste that will come with the acceleration of CAFOs. The odors bother us and tell us that something is awry but nobody is reporting on the antibiotics and antibiotic resistant bacteria, heavy metals, hormones and excessive nutrient runoff that come with this type of factory farming. The issue of antibiotic resistant infection is a serious problem here and now and I would encourage you to read my testimony of Jan 26 submitted to the House Committee. We all have to live somewhere. Our physical and mental health is best when we have clean water and food and we can breathe the air. Arizona is warm but they are out of water; Florida has water but maybe too much as well as red tide and a monster seaweed patch. I tell my East Coast friends and relatives, fall in ND is incredible- there is nothing like my husbandÕs farm in Dickey County in October where there are few vehicles to interrupt, the cloudless open sky is so blue you can hardly believe something so beautiful exists, the air is crisp and clean except maybe for the scent of apples just picked and the endless strings of geese fly overhead.Worth protecting, I think.

COMMISSIONER
DOUG GOEHRING

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NORTH DAKOTA
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Testimony on House Bill 1371
Dutch Bialke
General Counsel & Senior Policy Advisor
North Dakota Department of Agriculture

Senate Agriculture and Veterans Affairs Committee
Friday, March 24 2023, 9:00 a.m.
Fort Union Room, State Capitol

Chairman Luick and members of the Senate Agriculture and Veteran's Affairs Committee, I am Dutch Bialke. I will testify this morning on behalf of North Dakota Agriculture Commissioner, Doug Goehring.

Chairman Luick and members of the Committee, <u>the Commissioner strongly supports and respectfully recommends the passage of an amended version of the first engrossed version of House Bill 1371</u>. Although this bill proposes various amendments to the Corporate and Limited Liability Farming Chapter 10-06.1, the heart of House Bill 1371 is <u>North Dakota animal agriculture</u>.

House Bill 1371, or what is better known as the **North Dakota Animal Agriculture Farm Freedom Act,** would pragmatically update the Corporate Farming Chapter that is nearly a century old and that has been amended numerous times during its existence.

House Bill 1371 would allow North Dakota livestock producers the practical option and opportunity to utilize better suited and more practical business structures for their animal agriculture operations, permitting North Dakota animal agriculture to develop, grow, and flourish, and provide many additional local markets for our grain producers.

The Chairman of the House Agriculture Committee sponsored and introduced the original version of House Bill 1371. Subsequently, during many hearings and after the House Committee coordinated with and had several very positive rounds of discussions with the North Dakota Farmers Union and numerous other stakeholders, this original bill underwent significant revision.

These many useful and constructive discussions brought about a general framework that, instead of simply removing certain forms of animal agriculture from regulation under the Corporate Farming Chapter, these types of animal agriculture – specifically, livestock backgrounding, livestock finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products – would be allowed to use business structures very similar to the business structures that family farm or ranch corporations and limited liability companies already lawfully and effectively use today.

These two new animal agriculture business structures in the first engrossed version are called Authorized Livestock Farm corporations and Authorized Livestock Farm limited liability companies, or what are informally nicknamed ALFs – ALFs are substantially modeled after family farm or ranch corporations, and family farm or ranch limited liability companies.

After the first engrossed version was voted out of the House Agriculture Committee with a solid do pass recommendation and was subsequently passed on the floor of the House with a vote of 70 – 24, these highly productive discussions then continued with local farm organizations as well as with the Office of the Secretary of State.

After reviewing and implementing everyone's very helpful input, we together developed an improved, balanced, and workable proposed draft amendment to the Corporate Farming Chapter.

Accordingly, we now propose to this Committee, for its consideration, this proposed consensus amendment to the first engrossed version – specifically, the North Dakota Animal Agriculture Farm Freedom Act.

This proposed amendment carries over, from the first engrossed version, amendments that would affirm and clarify that certain agricultural support services – like custom combining and crop dusting – do not come under the Corporate Farming Chapter.

Likewise, just like the first engrossed version, this proposed amendment also carries over that aquaculture and greenhouse agriculture – only when their facilities occupy 40 acres of farmland or less – continue to not fall under the Chapter. Beekeeping is added back into this proposed amendment – again instructing that beekeeping is not included in the definition of farming or ranching. The proposed amendment also defines farmland or ranchland.

Of highly significant note, this proposed amendment would also correct a part of the anti-corporate farming chapter that currently prohibits a surviving spouse from retaining that surviving spouse's shares or member interests in either a family farm corporation or family farm limited liability company. The proposed amendment before you would rectify this unfairness by no longer forcing a surviving spouse to divest personal or inherited shares or interests upon the death of their spouse. It would properly permit a surviving spouse to retain their shares or interests, if the surviving spouse so chooses.

Finally, the Corporate Farming Chapter has 27 separate sections. They all closely interrelate with each other. Accordingly, because adding new provisions in the Chapter to create ALFs would consequently affect all the other parts of the Chapter, this proposed amendment also serves to appropriately amend all those affected provisions. This avoids conflicts within the Chapter, as well as with other parts of the Century Code, and it clearly distinguishes ALFs from family farm corporations and LLCs.

In this proposed amended version, we also respectfully propose amendments that would ensure statutory language is consistent throughout the Chapter, remove obsolete & constitutionally problematic language, and make the Chapter better organized and more readable.

Now, once again, this proposed amendment before you is <u>an animal agriculture bill</u>. If enacted, it would allow producers to create an ALF corporation or ALF LLC to permit the producers who own that ALF corporation or ALF LLC to more effectively produce hogs or poultry, engage in livestock backgrounding or finishing, or operate a dairy – while being subject to numerous regulatory requirements and compliance restrictions.

Among these many restrictions, an <u>ALF corporation</u> would be limited to a maximum of <u>10</u> shareholders, of which at least 75% of the shares must be owned by individual producers, or family farm corporations or LLCs. This means that no more than 25% of the total shares in an ALF corporation can be owned by partnerships or other ALFs. Accordingly, agriculture producers would retain more than a 2/3 majority of the voting power of the ALF corporation.

Likewise, an ALF LLC would also be limited to a maximum of 10 members, of which at least 51% of the membership interests must be owned by individual producers, or family farm corporations or LLCs. No more than 49% of the ALF LLC membership interests can be owned by partnerships or other ALFs. Accordingly, agriculture producers would retain the controlling interest and the majority of the voting power of the ALF LLC.

Also, of significant note, are the ALF farmland or ranchland acreage limitations – one ALF can own or lease no more than one quarter, or 160 acres of farmland or ranchland. Additionally, each shareholder or member in an ALF may only have shares or interests in multiple ALFs, that in combination with each other possess no more than a total of 640 acres, or one section.

As mentioned earlier, the proposed amendment to create ALFs, for the most part, closely resemble the longstanding provisions in the Corporate Farming Chapter that already permit family farm corporations and LLCs – agriculture business structures that have been permitted and have operated lawfully and effectively under the Chapter since 1981.

For one example of similarity between ALFs and family farm corporations, in both ALFs and in family farm corporations, a minimum of 65% (roughly 2/3) of the gross income of both the ALF or family farm corporation must be directly tied to the agriculture operation, and no more than 20% (one fifth) of the gross income of both the ALF or a family farm corporation can be from ancillary sources, such as nonfarm rent, nonfarm royalties, or investments.

There are also many other similarities between ALFs and family farm corporations, along with several restrictions placed upon ALFs that are not placed on family farm corporations.

To begin, the number of shareholders or members are strictly limited in both ALFs and in family farm corporations. Further, officers and governors in both must be actively engaged in farming or ranching. Shareholders or members in both must be U.S. citizens or permanent resident aliens. Both are required to submit initial and annual compliance reporting.

Finally, unlike family farm corporations and LLCs, according to the proposed amendment, ALFs also would be subject to several additional regulatory compliance requirements and restrictions, that family farm corporations and family farm LLCs don't have.

For some examples of these additional restrictions, ALFs are also subject to the following:

- ALFs corporations must be at least 75% owned by producers and ALF LLCs must be at least 51% owned by producers;
- ALFs are strictly limited to a total of 160 acres, one quarter, of farmland or ranchland;
- ALF shareholders or members may only own shares or interests in ALFs that - combined - own no more than 640 acres, one section, of farmland or ranchland;
- ALFs cannot grow crops or graze livestock;
- ALFs must break ground within one year and become fully operational within six years of obtaining agricultural land;
- ALFs are prohibited from partnering with other individuals, other ALFs, or family farm corporations or LLCs; and
- ALFs, because of these additional restrictions and limitations, have extra initial and annual reporting requirements.

That said, even with these many more requirements and limitations that would be placed upon ALFs, this proposed amendment to NDCC Chapter 10-06.1, the Corporate Farming Chapter, would be a huge positive step forward in the promotion, rising development, advancement and expansive growth of North Dakota's animal agriculture industry. It is clear, consistent, balanced, and workable for our state's livestock producers.

Once again, this 2023 modernization bill is all about boosting animal agriculture in North Dakota. It will permit dairies, livestock feedlots, and swine and poultry production to flourish and create economic engines that will bolster our state's economy and help revitalize our rural communities.

The Agriculture Commissioner strongly supports and respectfully recommends the passage of the revised version of the first engrossment of House Bill 1371, the **North Dakota Animal Agriculture Farm Freedom Act**.

Chairman Luick and committee members, thank you for your consideration of House Bill 1371. I will respectfully stand for any questions.

HB 1371

North Dakota Animal Agriculture

HB 1371

NDCC ch. 10–06.1

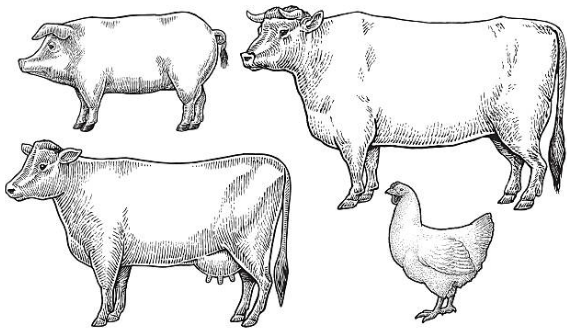
North Dakota Animal Agriculture Farm Freedom Act

Animal Agriculture Farm Freedom Act
Chapter 10-06.1 - Additions & Clarifications

- **<u>Authorized Livestock Farm Corporation</u>** (**<u>ALF Corp</u>**)
- **<u>Authorized Livestock Farm Limited Liability Company</u>** (**<u>ALF LLC</u>**)
  - Both **<u>ALF Corps</u>** & **<u>ALF LLCs</u>** are **<u>only</u>** for <u>livestock backgrounding/finishing</u>, <u>poultry</u>, <u>dairy</u> & <u>swine</u>
- Agriculture Support Services
  - Custom combining, crop dusting, etc.
- Aquaculture (limited to 40 acres)
- Greenhouse Agriculture (limited to 40 acres)
- Beekeeping
- Defines Farmland & Ranchland
- Permits surviving spouse to retain shares/interests in Family Farm Corp/LLC
- Provides consistency throughout Chapter and better readability
- Removes obsolete & potentially constitutionally-infirm language

Ownership Eligibility Requirements

Authorized Livestock Farm (ALF) Corporations & Limited Liability Companies



ALF Corp.

Up to 10 Total Shareholders

75% Actively Engaged Producers

- Individual Producer Shareholders
- Family Farm/Ranch Corporations
- Family Farm/Ranch LLCs

25% Other

- Individual Shareholders
- Family Farm/Ranch Corporations
- Family Farm/Ranch LLCs
- Partnerships
- ALF Corporations
- ALF LLCs

ALF LLC

Up to 10 Total Members

51% Actively Engaged Producers

- Individual Producer Members
- Family Farm/Ranch Corporations
- Family Farm/Ranch LLCs

49% Other

- Individual Members
- Family Farm/Ranch Corporations
- Family Farm/Ranch LLCs
- Partnerships
- ALF Corporations
- ALF LLCs

ALF Farmland & Ranchland Acreage Maximums

<u>One</u>
<u>ALF Corp/LLC</u>

No more than
<u>160</u> total acres

<u>One</u>
<u>ALF Individual</u>
<u>Shareholder/Member</u>

No more than
<u>640</u> total acres
in <u>all ALFs</u>
in which SH/Mbr has
stakeholder interests

640 Acres Max does **<u>NOT</u>** Include Shareholder/Member Personal Farmland/Ranchland Acres

ALF Gross Income Requirements

(same requirements as Family Farm Corps/LLCs)

Minimum 65% of Gross Income	Maximum 20% of Gross Income
• Livestock Backgrounding • Livestock Finishing • Poultry/poultry products • Milk/dairy products • Swine/swine products	• Nonfarm rent • Nonfarm royalties • Dividends • Interest • Annuities

ALF Corps/LLCs Requirements

- Max **10** Shareholders/Members
- **75% of Corp SHs/51% of LLC Mbrs** & all Officers/Governors **must** be SHs/Mbrs who are actively engaged in the business of farming or ranching
- SHs/Mbrs **must** be US citizens/perm residents
- SHs/Mbrs limited to: **160** total farmland/ranchland acres, & **640** total acres in all ALFs which SH/Mbr has interests
- May **not** grow crops or graze livestock
  - Limited to **animal agriculture only**
- Must break ground in **1 year** & fully operational in **6 years**
- May **not** partner with other individuals, ALFs, Family Farm Corps/LLCs
- **Required** initial & annual compliance reporting

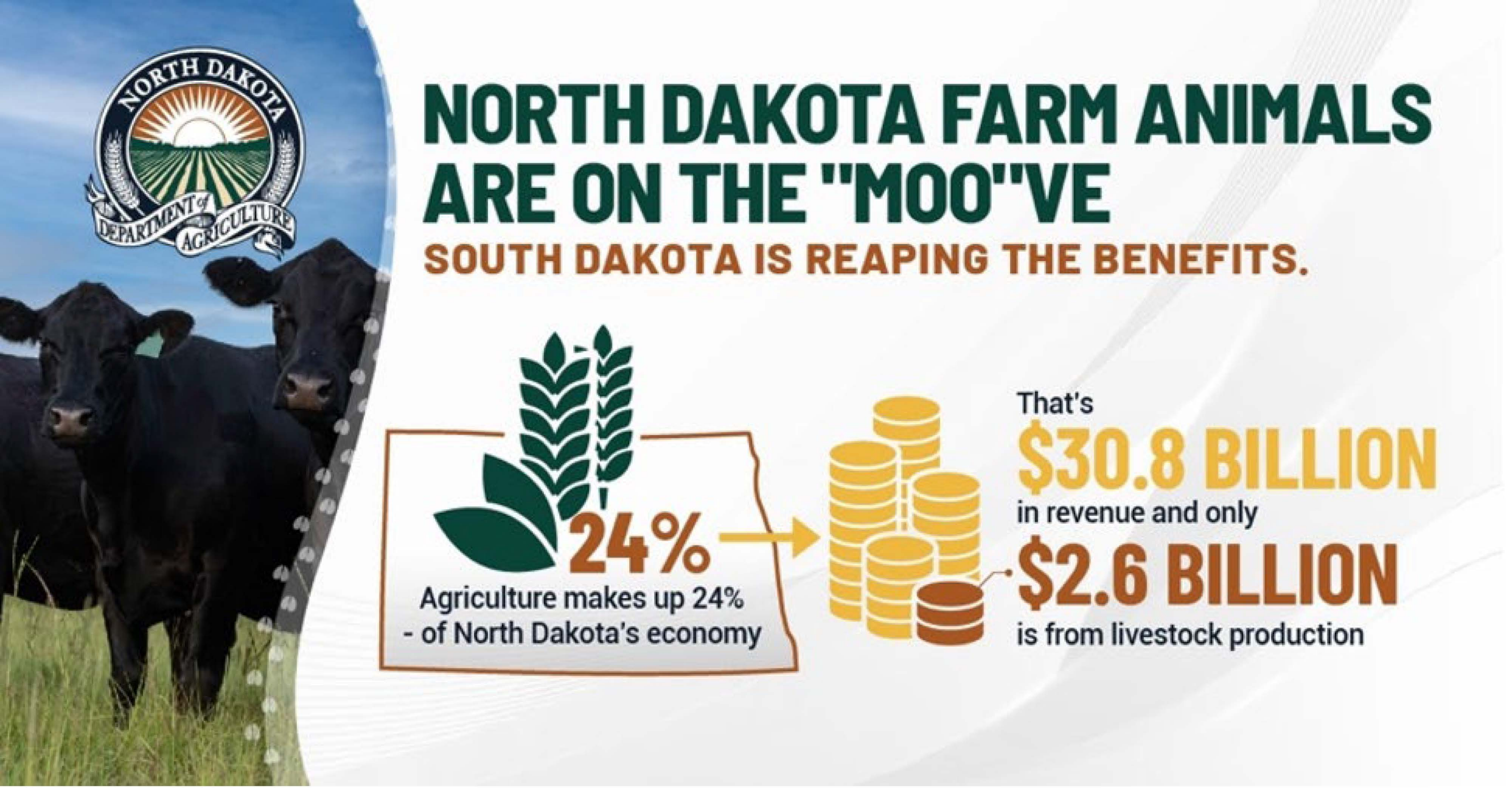
Family Farm Corps/LLCs Requirements

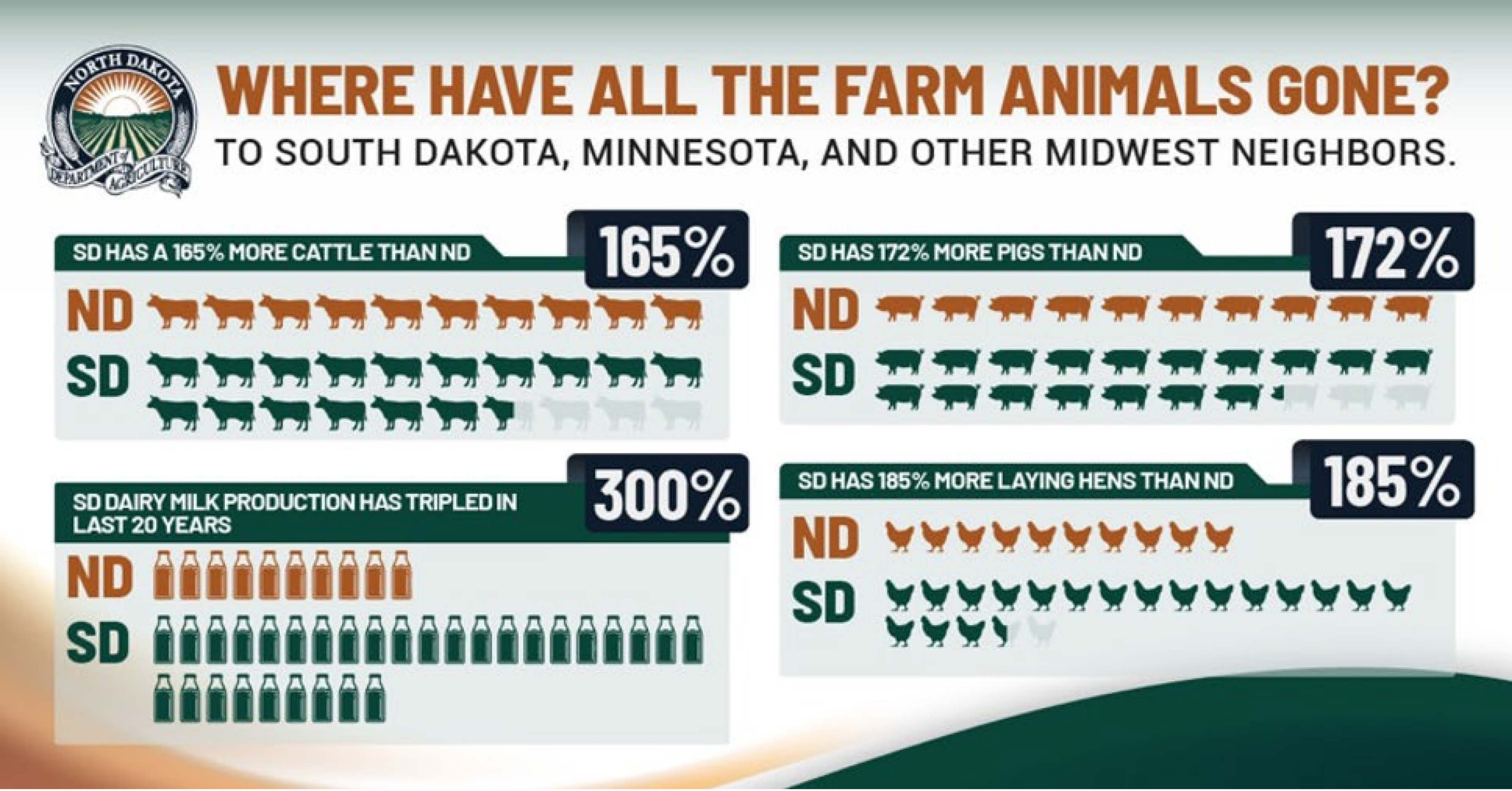
- Max **15** Shareholders/Members
- **No** percentage requirements -- **only** Corp Officers/LLC Governors **must** be SHs/Mbrs who are actively engaged in Family Farm Corp or Family Farm LLC operations
- SHs/Mbrs **must** be US citizens/perm residents
- **No** farmland/ranchland acreage limits
- SH/Mbrs **must** be related to each other
- **No** restriction on growing crops, grazing livestock, or animal agriculture production
- **No** time requirement to break ground or be operational
- **No** restriction on partnering with other individuals or Family Farm Corps/LLCs
- **Required** initial & annual compliance reporting

The potential future of North Dakota Animal Agriculture

#26485


NORTH DAKOTA
DEPARTMENT of AGRICULTURE
ND ANIMAL AG MATTERS


NORTH DAKOTA
DEPARTMENT of AGRICULTURE
NORTH DAKOTA FARM ANIMALS ARE ON THE "MOO"VE
SOUTH DAKOTA IS REAPING THE BENEFITS.
24%
Agriculture makes up 24% - of North Dakota's economy
That's
$30.8 BILLION
in revenue and only
$2.6 BILLION
is from livestock production


NORTH DAKOTA
DEPARTMENT of AGRICULTURE
WHERE HAVE ALL THE FARM ANIMALS GONE?
TO SOUTH DAKOTA, MINNESOTA, AND OTHER MIDWEST NEIGHBORS.
SD HAS A 165% MORE CATTLE THAN ND
165%
ND
SD
SD HAS 172% MORE PIGS THAN ND
172%
ND
SD
SD DAIRY MILK PRODUCTION HAS TRIPLED IN LAST 20 YEARS
300%
ND
SD
SD HAS 185% MORE LAYING HENS THAN ND
185%
ND
SD


NORTH DAKOTA DEPARTMENT of AGRICULTURE
NORTH DAKOTA FARM ANIMALS ARE MAKING TRACKS
FALLING LIVESTOCK NUMBERS MEAN LOST OPPORTUNITY
975
Dairy farms lost in 10 years
36
Number of dairy farms left in ND
(vs 174 in SD)
1 Million
Less cattle than the record high in 1975
1943
The year ND recorded record hog numbers

WHY GROWING ND ANIMAL AG IS CRITICAL

Enhances local markets for crop commodities as value added animal feed.

Animal fertilizers are sustainable, reduce commercial fertilizer inputs and improve soil health.

Supports the expansion of family farms for additional generations.

Value added animal ag facilities create economic opportunity and jobs

Supports new and emerging technologies

Creates more local food products

North Dakota supports animal ag and is creating tools and funding to grow the livestock industry.

AGWEEK

North Dakota agriculture commissioner says promoting livestock is a struggle

North Dakota law forbids corporations from owning agricultural land in the state, a law designed to protect family farms. But modern animal agriculture facilities require significant amounts of capital. While some out-of-state investors are interested in doing business in North Dakota, Agriculture Commissioner Doug Goehring says the law shuts them out.

Young pigs inside one of the barns that the Quandt family operates near Oakes, North Dakota. The North Dakota Livestock Alliance points to the Quandt operation as an example of what is possible in the state. Jeff Beach / Agweek

North Dakota's efforts to promote animal agriculture have largely been relegated to helping existing operations expand, in part because of the state's anti-corporate farming law, North Dakota Agriculture Commissioner Doug Goehring said.

North Dakota trails neighboring states, most notably South Dakota, in livestock production. While South Dakota has seen growth, especially in dairy and hogs, North Dakota is struggling to find answers.

Doug Goehring, North Dakota agriculture commissioner. Mikkel Pates / Agweek

"If we weren't doing something, we would do it," Goehring said. "We've turned every rock over ... there's just limitations given the law in North Dakota, as to what we can do."

North Dakota law forbids corporations from owning agricultural land in the state, a law designed to protect family farms. But modern animal agriculture facilities require significant amounts of capital. While some out-of-state investors are interested in doing business in North Dakota, Goehring says the law shuts them out.

"Until those (laws) change, I don't think animal agriculture, from what I continue to hear from the livestock industry, they don't see it growing or flourishing," Goehring said. "And in fact, we keep losing even our midsize dairies because it's not economically viable for them."

OPINION LETTERS

Burgum: Farm Freedom can help animal ag and rural communities

"We know our North Dakota farmers and ranchers can compete with anyone, anywhere, anytime, if they're given a level playing field. We have the opportunity to level the field with Farm Freedom legislation," North Dakota Gov. Doug Burgum writes.

North Dakota Gov. Doug Burgum delivers a budget address to lawmakers on Dec. 7, 2022, in the state House of Representatives. Jeremy Turley / Forum News Service

Opinion by Gov. Doug Burgum
January 20, 2023 at 10:02 AM

Share Opinion

Recently a bill was introduced by several North Dakota farmer-legislators to help promote animal agriculture and reverse decades of decline which have caused our state to fall far behind neighboring states. Farm Freedom legislation will remove the handcuffs that have held back our farmers and ranchers for way too long.

The problem: Archaic North Dakota law prohibits anyone who is not related from pooling their resources to start an animal ag operation. For example, if two unrelated farmers who live next to each other want to join forces and launch a dairy, beef, hog or poultry operation because they want to add value to their crops, create employment for their community and diversify their operations, North Dakota law doesn't allow it.

The solution: Do what South Dakota did and update our corporate farming law to allow unrelated parties to partner with each other and access external sources of capital for animal agriculture. Minnesota also has exemptions to its corporate farming law for poultry and livestock.

How has it worked out for them? South Dakota ranks 7th and Minnesota 8th in cattle and calves on feed; North Dakota is 23rd.

Minnesota ranks 2nd in hogs and pigs and South Dakota ranks 10th; North Dakota is 24th.

Minnesota is the nation's top turkey state, producing over 40 million turkeys in 2021; North Dakota produces about 1 million turkeys annually.

To put it bluntly, our neighbors are knocking the stuffing out of us.

The Farm Freedom legislation now pending before the Legislature supports family farming because it allows families to pool their resources and gain access to capital to establish the purchasing power and operating scale they need to be successful, just as our citizens can do in any other industry.

It also supports small towns and rural schools. In Clark County, S.D., which has seen a resurgence in animal ag in the past five years, the chairman of the county commission recently told Agweek that livestock is a lifesaver for small towns because crop farmers are getting bigger with fewer hands needed thanks to advances in equipment. "One person can (crop-)farm 10,000 acres by himself, but one person can't take care of 10,000 animals by themselves," Wally Knock said, noting it takes more people including truckers, feed businesses, maintenance services, veterinarians and construction crews, among others.

Critics of this legislation are already trying to confuse and distract citizens with scare tactics, despite the bill's strict limits that would still ban large sales of farmland to corporations. Such tactics are meant to distract from the truth, which is this: North Dakota law allows everyone except farmers and ranchers to decide who their business partners should be.

Opponents also claim farmers can simply form a cooperative if they want to do business together. Yet state law requires a cooperative must be incorporated by at least five adults, which freezes out farmer-to-farmer partnerships.

We know our North Dakota farmers and ranchers can compete with anyone, anywhere, anytime, if they're given a level playing field. We have the opportunity to level the field with Farm Freedom legislation, and we can do it wisely and with smart environmental stewardship.

Let's take the handcuffs off our farmers and ranchers and allow animal agriculture, family farms and our rural communities to thrive in North Dakota once again.

Home » News »

NDFB supports modern farming bill

Created: 1/26/23 (Thu) | Topic: Issues

Statement by NDFB President Daryl Lies

"NDFB believes modernizing the definition of production agriculture is vital to the success of farming in North Dakota. Family farms should have the opportunity to choose what business structure fits their families best without government picking winners and losers.

"It is important to allow farmers and ranchers the ability to embrace different business structures so they can help transition their farms to the next generation. Farms and ranches that have been in the family for generations should be able to embrace business practices that help modern farm and ranch families survive in today's world economy.

"House Bill 1371 helps North Dakota agriculture move in the right direction. The bill seeks to modernize the definition of production agriculture and the business structure arrangements associated with livestock production. NDFB will continue to advocate for every segment of agriculture to utilize the financial structures they feel is right for their families."

Thirty years later is better than never for easing of corporate ag rule

Open Audio Article Player

Senator was ahead of his time on corporate farm legislation

By JournalTrib.com Staff | on January 24, 2023

Passing Dreams
By Steve Andrist

0:00 / 0:00

By Steve Andrist

As the 1990s dawned, North Dakotans, especially in rural communities, were worrying about whether it was at all possible to reverse the trend of out-migration and depopulation.

Farms were getting bigger and bigger, and rural communities were getting smaller and smaller. The downward spiral was on a fast track and picking up speed.

In the far northwest corner of the state a group of mostly farmers in Burke and Divide counties had hatched a plan to try to slow the train. They wanted to band together to launch a hog farrowing operation that would grow animal agriculture in their sparsely populated corner of the state.

They had meeting after meeting, eventually forming a group they called Quality Pork Producers, and started figuring out how they could rebuild animal agriculture in an area where there once were cows, pigs and chickens on just about every farm.

They wanted to start a corporation so they could pool their resources in whatever amount each one could afford, and convince a couple of business operators in town to join in the effort to grow a community that was withering away.

Quickly they learned they couldn't do it. North Dakota's 1932 anti-corporate farming law wouldn't permit unrelated farmers from operating farm corporations, and it certainly wouldn't allow town folk who don't farm to join in the effort.

The only real option under North Dakota law was to form a cooperative which, despite some limitations, they did. Quality Pork Cooperative was born, strapped for cash as it was, and lasted nearly 10 years before many people lost a lot of money.

So desperate were community members for some positive development that a number of town folk even bought debentures from the co-op. These basically were loans with no collateral or other guarantee that the money would ever be repaid. In other words, they were donations to a good cause.

In 1993, at the request of farmers involved with Quality Pork, Crosby State Sen. John Andrist (yes, a relative) introduced a bill proposing to change the law so that farmers could join together to form small corporations to add value to ag production. There were limits – no crop farming could be involved and at least 30 percent of the owners would have to be farmers.

Quality Pork members would have loved to have had the option the bill offered, but legislators weren't ready. It was killed in the Senate by a vote of 32-16.

Twenty-two years later, legislators were ready. A bill was offered up to craft an exemption to the anti-corporate farming law that would allow farmers to establish small corporations for dairy and swine production.

The Senate passed the bill 56-37, the House followed suit 29-16, and Gov. Jack Dalrymple signed it into law.

But the people weren't ready. Led by the North Dakota Farmers Union, an effort was launched to overturn the Legislature's decision. Petition signatures were gathered, the measure was put on the ballot for the people to decide, and in June 2016 nearly 76 percent of those voting rejected small dairy and swine corporations.

Are people ready yet?

Today, 30 years after legislators decided not to change the law to help Quality Pork members, the same issue is back in legislators' hands, with the strong backing of Gov. Doug Burgum.

HB 1371, introduced by a group of 10 legislators who are mostly farmers, once again proposes to craft an exemption that would allow small corporations to conduct animal agriculture.

The reason for the proposal is clear. While North Dakota can grow wheat and other small grains with the best of them, we lag far, far behind in cattle, hogs, turkeys and other animals.

Proponents say the anti-corporate farming law is the culprit. Burgum says our neighbors, which have corporate farming exemptions for some animal agriculture, "are kicking the stuffing out of us."

Farmers Union, concerned about large corporate feedlots and investors from around the world, again is leading the opposition.

Here's the thing. Both sides have identified the same problem, but they disagree on how to solve it. Is it too much to ask that they sit down together to seek common ground – to compromise – for the good of us all?

Maybe HB 1371 isn't the end all. But can it be tweaked, perhaps limiting corporate ownership to a preponderance of North Dakota farmers? Are there other solutions that should be on the legislative table?

You can only imagine how our economy may have been impacted if we'd figured this out 30 years ago when Quality Pork members desperately asked for help.

Let's not wait another 30 years to give new tools to our farmers, ranchers and communities.

OPINION LETTERS

Letter: Setting the record straight on proposed Farm Freedom legislation

ND House Majority Leader Mike Lefor writes, "The legislation will update the law to create opportunities that directly support our farmers, not compete with them."

Reps. Mike Lefor and Vicky Steiner, R-District 37, watched the votes come in on the House floor. File photo Ellie Potter/Forum News Service

Opinion by Rep. Mike Lefor
January 31, 2023 at 8:23 AM

Share   Opinion

Mark Watne paints entirely the wrong picture of a recent bill, HB 1371, introduced to promote animal agriculture in our state. The bill is about boosting animal agriculture. It does not harm our family farms.

This bill will allow dairies, cattle feedlots, and swine and poultry production to flourish in this state to help revitalize our rural communities. It does not allow people to create a C or S corporation to farm the land and produce crops.

The legislation will update the law to create opportunities that directly support our farmers, not compete with them. It'll provide additional marketing opportunities for our grain producers and decrease the use of commercial fertilizer.

Our neighboring states do not place unneeded business structure restrictions on their animal agricultural industries and this has allowed them to diversify and develop livestock operations, and create and maintain economic engines for their rural communities.

Because of this, South Dakota now has twice as many beef cattle as North Dakota, 13 times as many hogs, and over 11 times as many dairy cows. It's the same story in Minnesota, Nebraska, and Iowa. What's more, it's disingenuous to state that monopolistic corporations take over farming in these and other similar states. In fact, today, 97.7% of the farms across our nation are family farms.

When the legislature tried to address this issue in 2015, Farmers Union and Watne played on fear and portrayed the bill as being about "farming the land." It was about animal agriculture then and still is today. In fact, Farmers Union's restaurants are corporations, so they understand that the structure is a critical tool to protect personal assets while developing value-added agriculture.

Once again, this modernization bill is about developing animal agriculture in our state.

Animal ag requires many millions of dollars of equity capital to start up. It's really tough to raise that kind of capital financing without engaging some investors beyond blood relatives. A typical hog production facility has initial startup costs between $30-40 million dollars. Very, very few farms in North Dakota would have ready access to that kind of needed investment capital.

In just the past few years, North Dakota has lost several opportunities to locate large animal ag operations here, simply because we don't allow business models where employees, farmers or other investors can buy in and participate. This bill would fix that and allow our state's producers needed flexibility to partner with others to access capital, and support animal agriculture in our state.

More than that, this bill will also help agriculture in many other ways. This bill will help unleash new innovative and emerging ag technologies in our state, like hydroponic agriculture and aquaculture, allowing these promising ag industries to better structure their businesses to obtain necessary financing more easily.

Another important part of this bill is that it will protect surviving spouses. Currently, in a family farm corporate structure, the law requires a spouse of a family member to immediately divest their corporate shares to other shareholders if their spouse passes away. This bill corrects this existing injustice.

Finally, it is another complete myth that these animal agriculture producers will be buying up all the adjacent surrounding land or otherwise competing with local farmers and ranchers for purchasing land. The bill properly restricts cattle feedlots, swine, dairy and poultry operations total agricultural landholdings to a maximum of only one quarter, or 160 acres. Greenhouses, hydroponics, and aquaculture are even much more limited at only 40 acres. The footprints of these ag operations will remain exceedingly small, but the surrounding farmers will seek feed and forage, and utilize the manure, offsetting the purchase.

When promoting ag development and advancing our state's ag economy, it's a matter of moving everything forward together by providing solid opportunities for farmers in our state to partner, participate and/or market to these animal ag operations. For North Dakota, this bill does exactly that.

AGWEEK

NEWS POLICY

With input from Farmers Union, North Dakota House votes to loosen corporate farming rules

Under House Bill 1371, feedlots or dairies could partner with a corporation and no longer fall under the definition of farming and ranching.

Young pigs inside one of the barns that the Quandt family operates near Oakes, North Dakota. The Quandts have a large family partnership that helped make it possible to expand livestock operations. Jeff Beach / Agweek

BISMARCK — After decades of the North Dakota Farmers Union opposing changes to state laws restricting corporate farming, input from the group may help relax those rules to benefit livestock production.

The North Dakota House on Tuesday, Feb. 21, voted in favor of a bill that would make it easier for animal agriculture to reverse decades of decline with help from outside investors.

With references to the state's largest farm organization, which is the Farmers Union, being at least neutral on the bill, the House passed the bill 70-24, sending it to the Senate.

"They were along every step of the way on this one and the amendments, as you see, were acceptable and were proposed by them, so we worked closely with them," Rep. SuAnn Olson, R-Baldwin, said before the vote. "So I think that's important to remember that the major farm groups are supporting this."

Those amendments include:

- Requiring the majority of shareholders in any livestock corpor on to be operators
- Limiting the number of shareholders to 10
- Requiring that livestock corporations are subject to the same regulations and reporting requirements as family-owned farms.

Under House Bill 1371, dairies and feeding operation for cattle, hogs and poultry would no longer fall under the definition of farming and ranching, meaning North Dakota's anti-corporate farming law, which limits farms to family ownership, would not apply to those operations.

"Passage of this bill does not make it easier for wealthy individuals to buy agricultural land in North Dakota," Rep. Jay Fisher, R-Minot. "This bill provides a carve out that only applies to animal agriculture. Anti-corporate farming laws pertaining to crop farming will remain in place."


Matt Perdue Contributed photo

Perdue said the organization still would prefer the laws stay as is, however, they recognize strong interest from other ag groups and from legislators to open up the state's anti-corporate farming law to promote animal agriculture.

Some opponents to the bill cited an attempt in the Legislature in 2015 to loosen corporate farming restrictions. The Farmers Union led an effort to repeal the law in a statewide vote.

Rep. Donna Henderson, from Cavalier County, said that referendum kept her from supporting the change.
"My home county, it passed by 85%," she said. "There's no way I can vote for this and go against the wishes of my county."

But the change in stance by Farmers Union was persuasive for others.

Rep. Jon Nelson, R-Rugby, said he had voted against every attempt to loosen corporate farming laws since he started serving in the Legislature in 1997, and was inclined to not support the current bill in it's original form .

NDFU taking “neutral” position on amended House bill allowing corporate livestock farming, ranching

Fargo, ND, USA / The Mighty 790 KFGO | KFGO
Ryan Janke
Feb 21, 2023 | 3:46 PM

BISMARCK, N.D. (KFGO) – HB 1371, a bill that would allow authorized livestock farm corporations and limited liability companies to operate in North Dakota, is making its way through the state capitol.

North Dakota Farmers Union is taking a neutral position on the bill at this point.

“Last week, North Dakota Farmers Union secured major amendments to HB 1371. These amendments guarantee family farmer and rancher control of new animal feeding operations,” President Mark Watne said in a statement. “The amended bill also limits the number of shareholders that can participate and requires these new entities to comply with the same enforcement requirements of family farm corporations.”

Watne said a limited liability company must have 75 percent of a family farmer or rancher with controlling interest. In a corporation, 51 percent of the interest must be owned by family farmers and ranchers.

“We added on that they can only own 160 acres, and a shareholder can only be in up to five of those areas,” Watne told KFGO News. “And so, there’s a limitation on how big they can become. That’s the primaries, it’s really important that if we’re going to allow this, it’s important that we have family farmers and ranchers controlling this.”

According to the group, North Dakota Farmers Union will continue to protect family farmer and rancher control of animal agriculture.

OPINION

North Dakota Soybean Growers support corporate farming bill

The North Dakota Soybean Growers Association supports the current version of the corporate farming bill as it passed out of the House of Representatives.

"The Pioneer Family" stands in front of the North Dakota State Capitol on July 14, 2016, in Bismarck.
Michael Vosburg / Forum Photo Editor

Opinion by Kasey Bitz
February 23, 2023 at 5:30 AM

Share | Opinion

The North Dakota Soybean Growers Association supports the current version of the corporate farming bill as it passed out of the House of Representatives.

Should this bill pass, it would protect family farmer and rancher control of livestock production, while allowing for the infusion of capital that many say would energize animal agriculture in our state.

HB 1371 limits any one corporation to owning 160 acres and prevents any shareholder from investing in more than 640 acres of animal feeding operations. The bill also prohibits these new entities from growing crops or grazing livestock in North Dakota. HB 1371 will promote responsible growth in animal agriculture, adding value to North Dakota soybeans and other crops.

(Kasey Bitz is the president of the North Dakota Soybean Growers Association and a LaMoure, North Dakota, farmer.)

North Dakota Soybean Growers Association
February 23 at 7:31 PM ·

The North Dakota Soybean Growers Association supports the current version of the corporate farming bill (HB 1371) as it passed out of the House of Representatives. Learn more:

AGWEEK.COM

North Dakota Soybean Growers support corporate farming bill

NDFB
January 27 ·

NDFB President Daryl Lies testified in favor of House Bill 1371 this morning. The bill seeks to modernize the definition of production agriculture and the business structure arrangements associated with livestock production.

Frequently Asked Questions (FAQs) about HB 1371

How long has North Dakota had the corporate farming law?

The law has been around since 1932. It was put on the ballot as an initiated measure and approved by voters. There have been several changes to it over the years.

What is the corporate farming law?

It is a law that relates to the ownership or leasing of farm and ranch land by those that have corporate structure.

Why the proposed change to the current law?

Exemptions for animal agriculture have been talked about for many years. The legislation will only allow for the development of animal agriculture operations in the state, which will create opportunities that complement our farmers, not compete with them.

It is a tool to put in place a corporate structure that allows farmers and nonfarmers to partner with each other to incorporate and create or operate an animal agriculture operation. Farmers would likely provide feed and forages to an operation, and utilize the manure from the facility.

What types of opportunities will the bill create?

- It would allow additional marketing opportunities for our grain producers by selling feed and forages to animal agriculture operations.
- It would decrease the amount of commercial fertilizer purchased, while improving soil health.
- It would allow for better utilization of products from our processing facilities.
- It would support our young people to come back to the farm/ranch to be involved in part of the operation. Animal agriculture operations have a small footprint and complement farming activities.
- It would provide economic stability to our farming operations and rural communities.
- It will support new and emerging technologies, including hydroponics and aquaculture.
- It creates the ability to partner and work together in agriculture.

Why is it hard to start up animal agriculture operations today?

Animal agriculture operations require significant capital – millions of dollars. A typical dairy has startup costs between $50-$67 million and a typical swine production facility has startup costs between $30-40 million. Not many family partnerships have access to this level of funding.

What prevents a corporation from buying up large chunks of land and farming in North Dakota?

The law only allows the purchase of 160 acres or less for dairy, swine, poultry, and cattle feedlots. Hydroponics and aquaculture operations are limited to just 40 acres. They will not be buying up large swaths of land or competing against a local farmer to purchase land they cannot farm.

Does this bill remove swine production, poultry, dairy, and cattle backgrounding and feedlots out of the definition of farming and ranching?

The bill creates carve-outs for these animal agriculture activities. These carve-outs are solely related to the anti-corporate farming law.

What other states have corporate farming laws?

Only <u>six</u> states out of 50 currently have a law in place that prohibits or limits corporate farming (North Dakota, Kansas, Minnesota, Missouri, Oklahoma and Wisconsin).

Of these six states, North Dakota is by far the most restrictive. Of the remaining five, most have reasonable exemptions, or carve-outs, for animal agriculture like dairy, poultry and swine. They also have carve-outs for hydroponics, greenhouses and aquaculture**.**

Despite most of the country not having restrictive laws, only 2.3% of all farms in the U.S. are identified as corporate or nonfamily farms.

Why does the bill insert the words "surviving spouse" into the degrees of kinship of the family farm requirements?

Current law requires that in the event of a spouse's death, the surviving spouse must divest their interest in the family corporation. No one else would have to, just the surviving spouse. This bill would correct this.

North Dakota Department of Agriculture

Doug Goehring,
Agriculture Commissioner

North Dakota
Livestock Industry Comparison

North Dakota Livestock Records

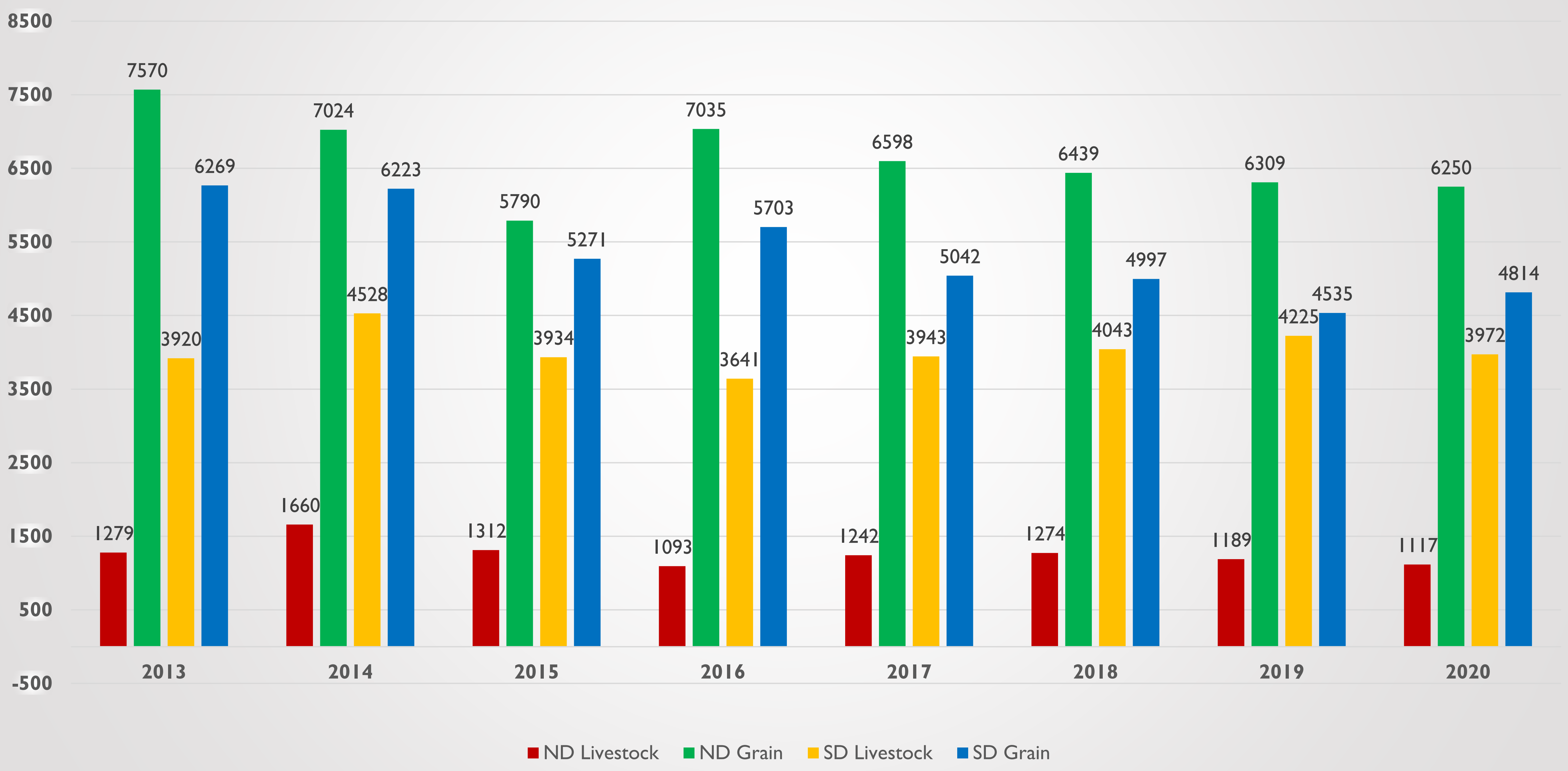
Commodity	Record High	Year
Cattle and Calves	2,635,000	1975
Cattle on Feed	136,000	1965
Dairy Cows	701,000	1934
Hogs	1,101,000	1943

North Dakota vs South Dakota

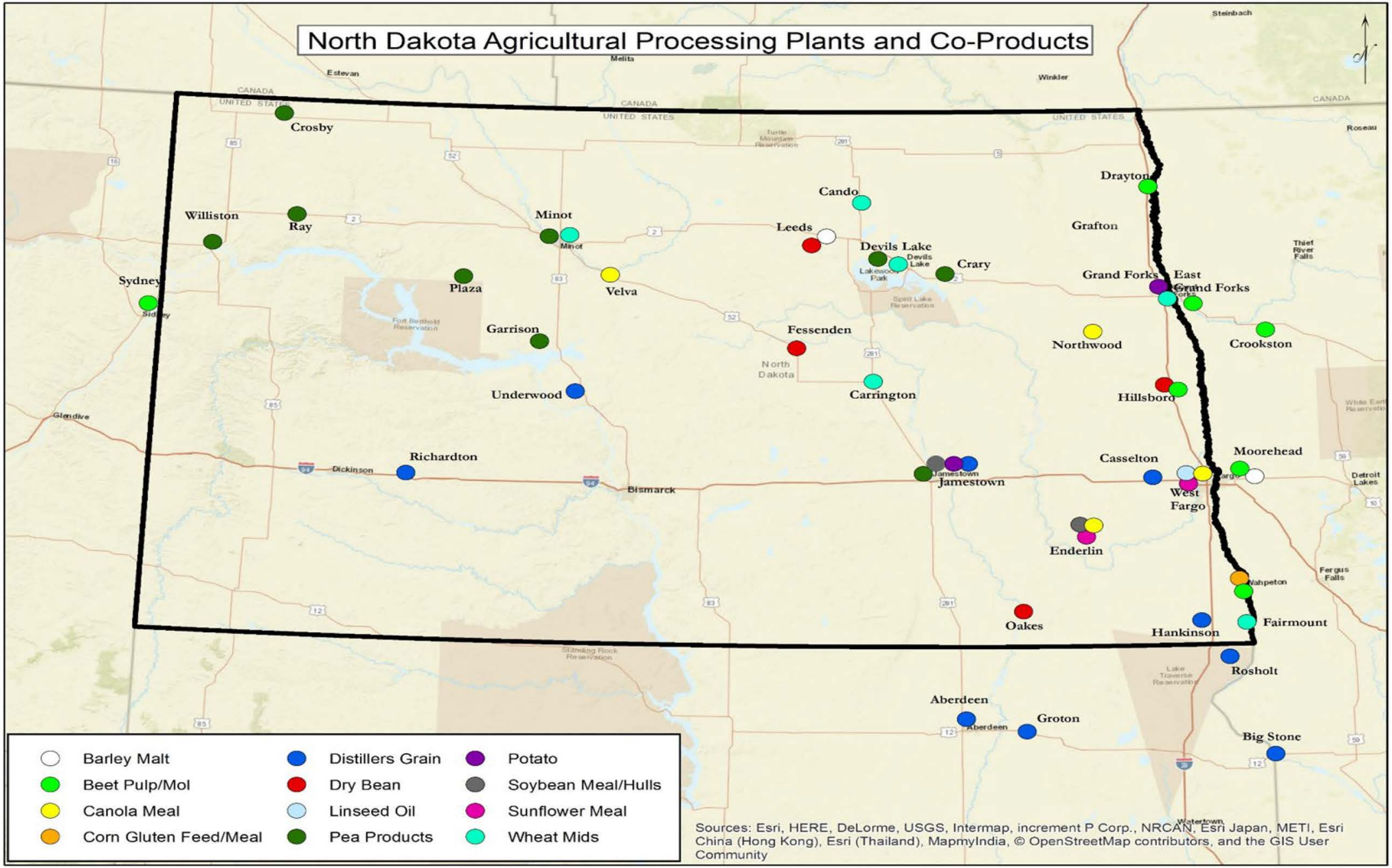
State	Acres Operated	Number of Operations	Avg size of operation
North Dakota	39,300,000	26,000	1512 acres
South Dakota	43,200,000	29,400	1469 acres

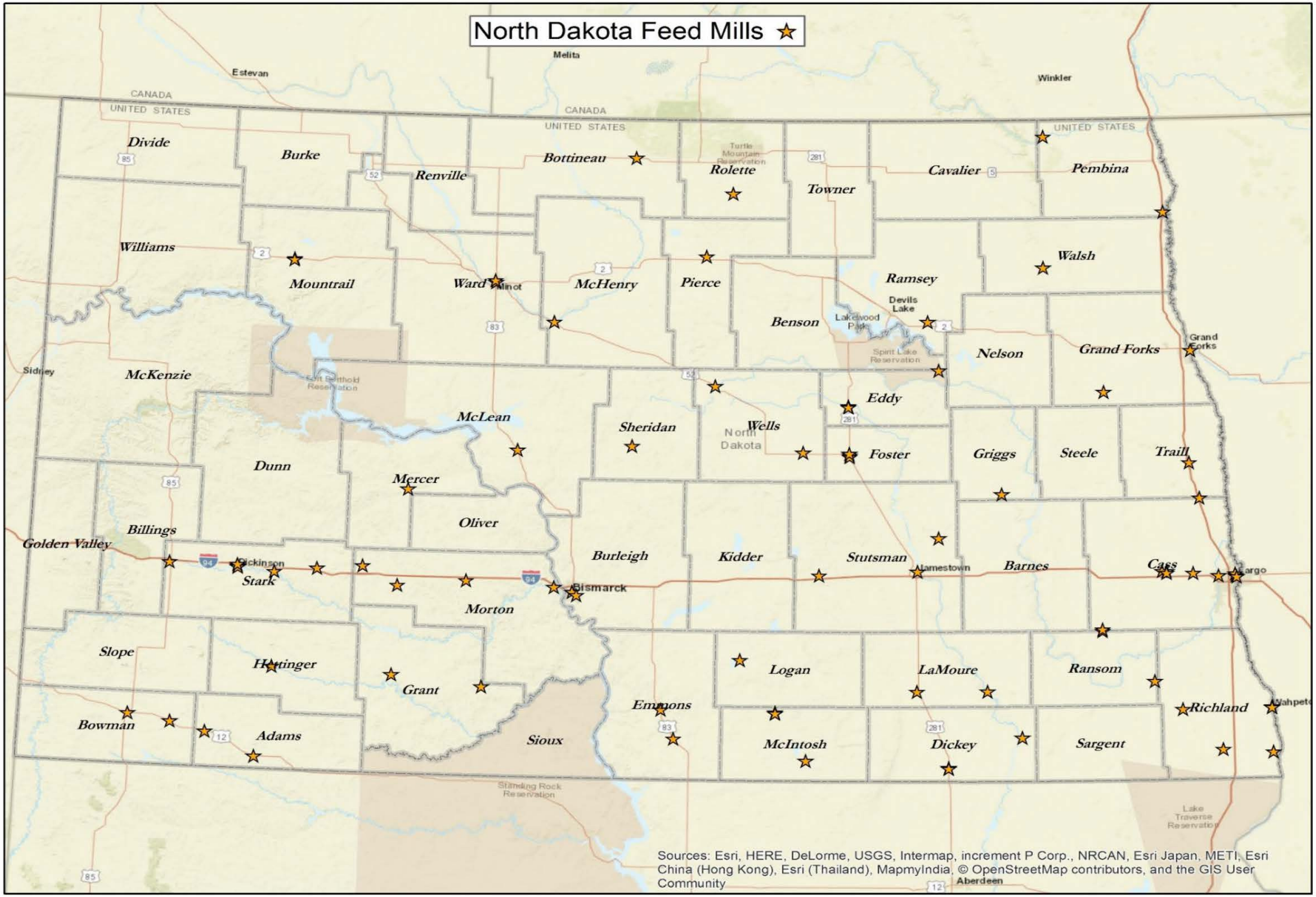
North Dakota and South Dakota Cash Receipts

(in 1,000,000 dollars)

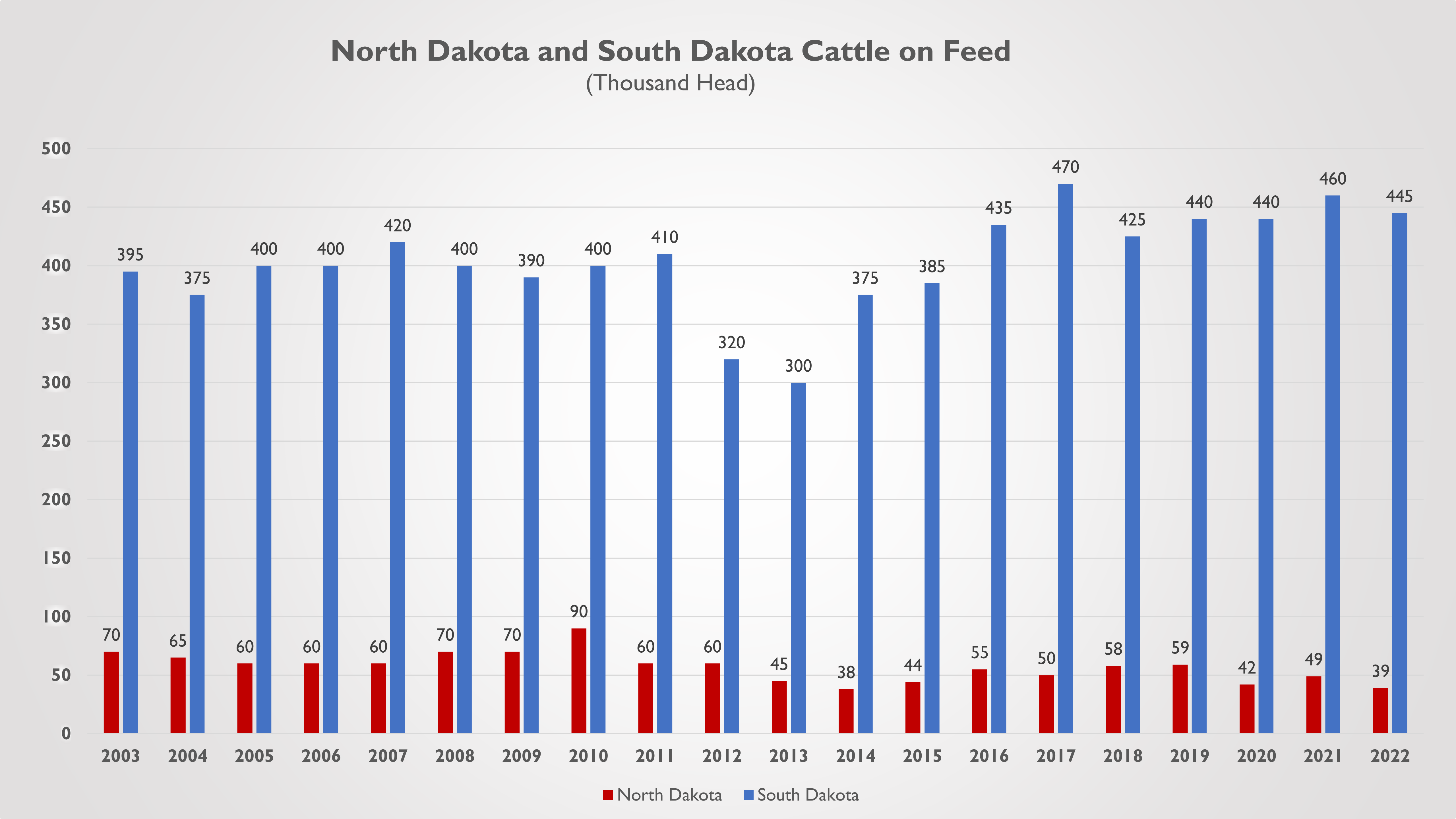


Value Added Processing

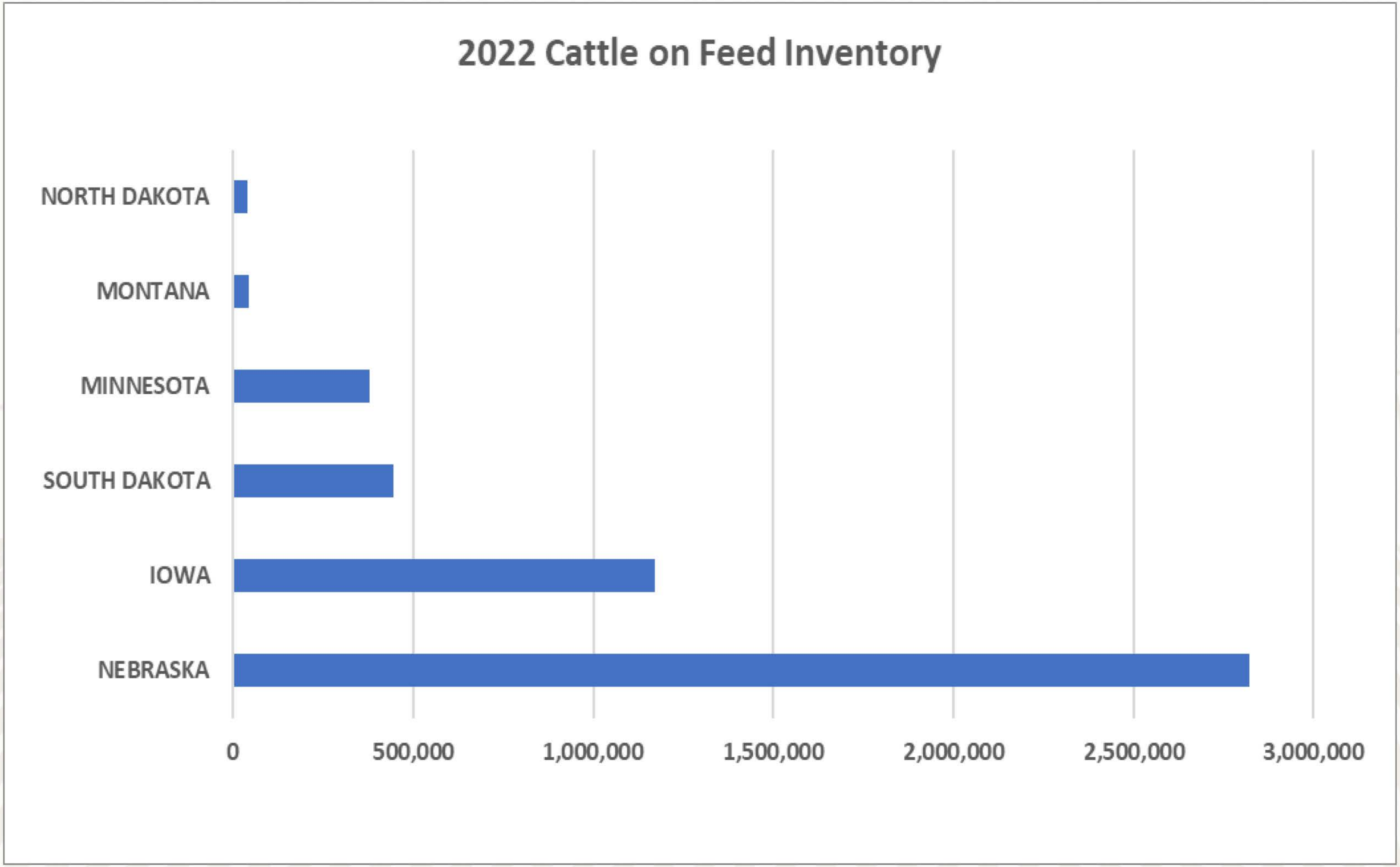

North Dakota Agricultural Processing Plants and Co-Products
Crosby
Williston
Ray
Minot
Sydney
Plaza
Velva
Garrison
Underwood
Cando
Leeds
Devils Lake
Crary
Fessenden
Carrington
Drayton
Grafton
Grand Forks
East Grand Forks
Northwood
Crookston
Hillsboro
Richardton
Jamestown
Casselton
Moorehead
West Fargo
Enderlin
Oakes
Hankinson
Fairmount
Rosholt
Aberdeen
Groton
Big Stone
Barley Malt
Beet Pulp/Mol
Canola Meal
Corn Gluten Feed/Meal
Distillers Grain
Dry Bean
Linseed Oil
Pea Products
Potato
Soybean Meal/Hulls
Sunflower Meal
Wheat Mids
Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community
NORTH DAKOTA DEPARTMENT of AGRICULTURE

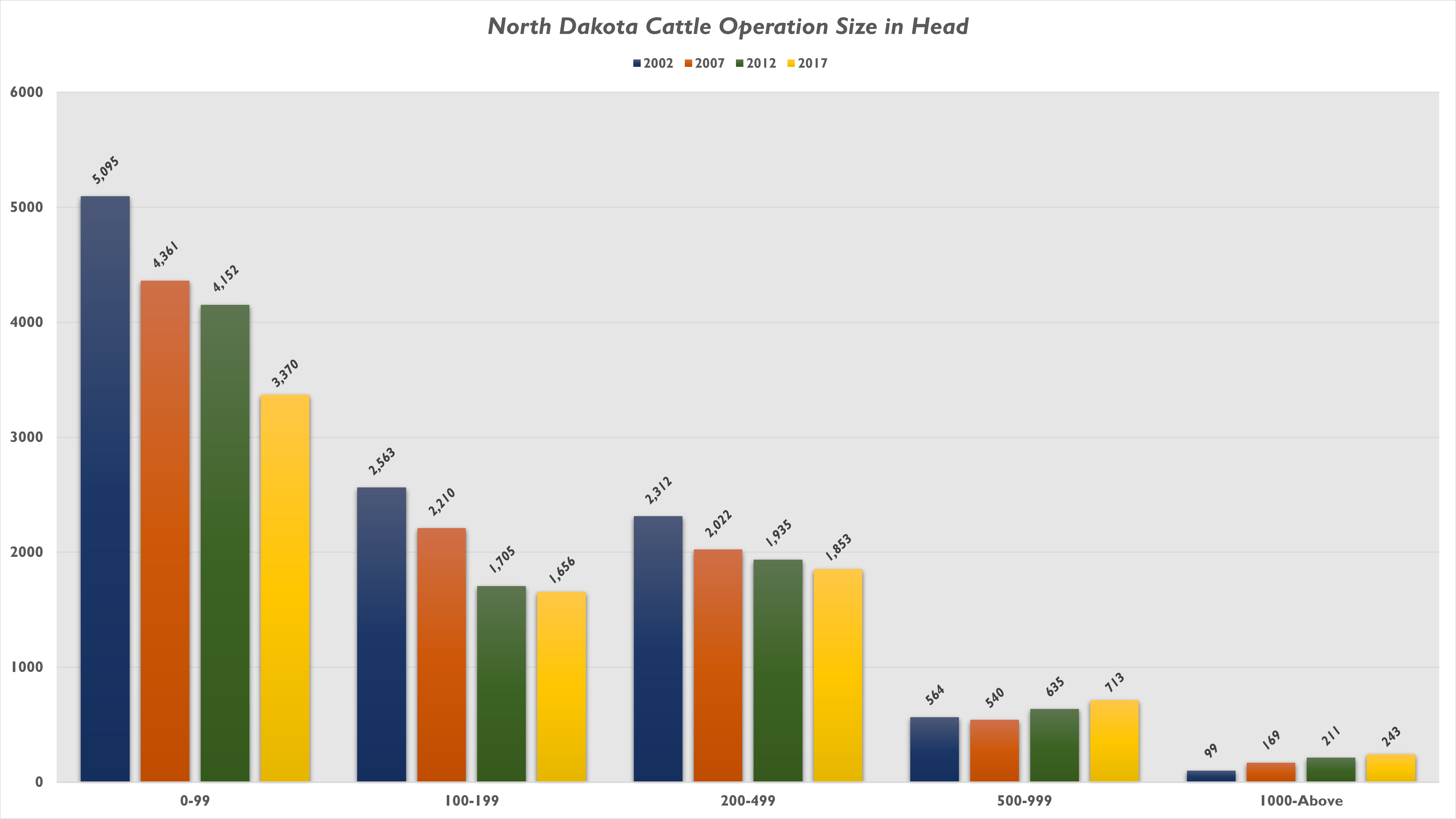

North Dakota Feed Mills
Melita
Estevan
Winkler
CANADA
UNITED STATES
Divide
Burke
Renville
Bottineau
Rolette
Towner
Cavalier
Pembina
Williams
Mountrail
Ward
Minot
McHenry
Pierce
Ramsey
Walsh
Devils Lake
Benson
Nelson
Grand Forks
McKenzie
Eddy
McLean
Sheridan
Wells
North Dakota
Foster
Griggs
Steele
Traill
Dunn
Mercer
Oliver
Billings
Golden Valley
Dickinson
Stark
Burleigh
Kidder
Stutsman
Jamestown
Barnes
Cass
Fargo
Bismarck
Morton
Slope
Hettinger
Grant
Logan
LaMoure
Ransom
Emmons
Richland
Bowman
Adams
Sioux
McIntosh
Dickey
Sargent
Standing Rock Reservation
Lake Traverse Reservation
Aberdeen
Sidney
Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

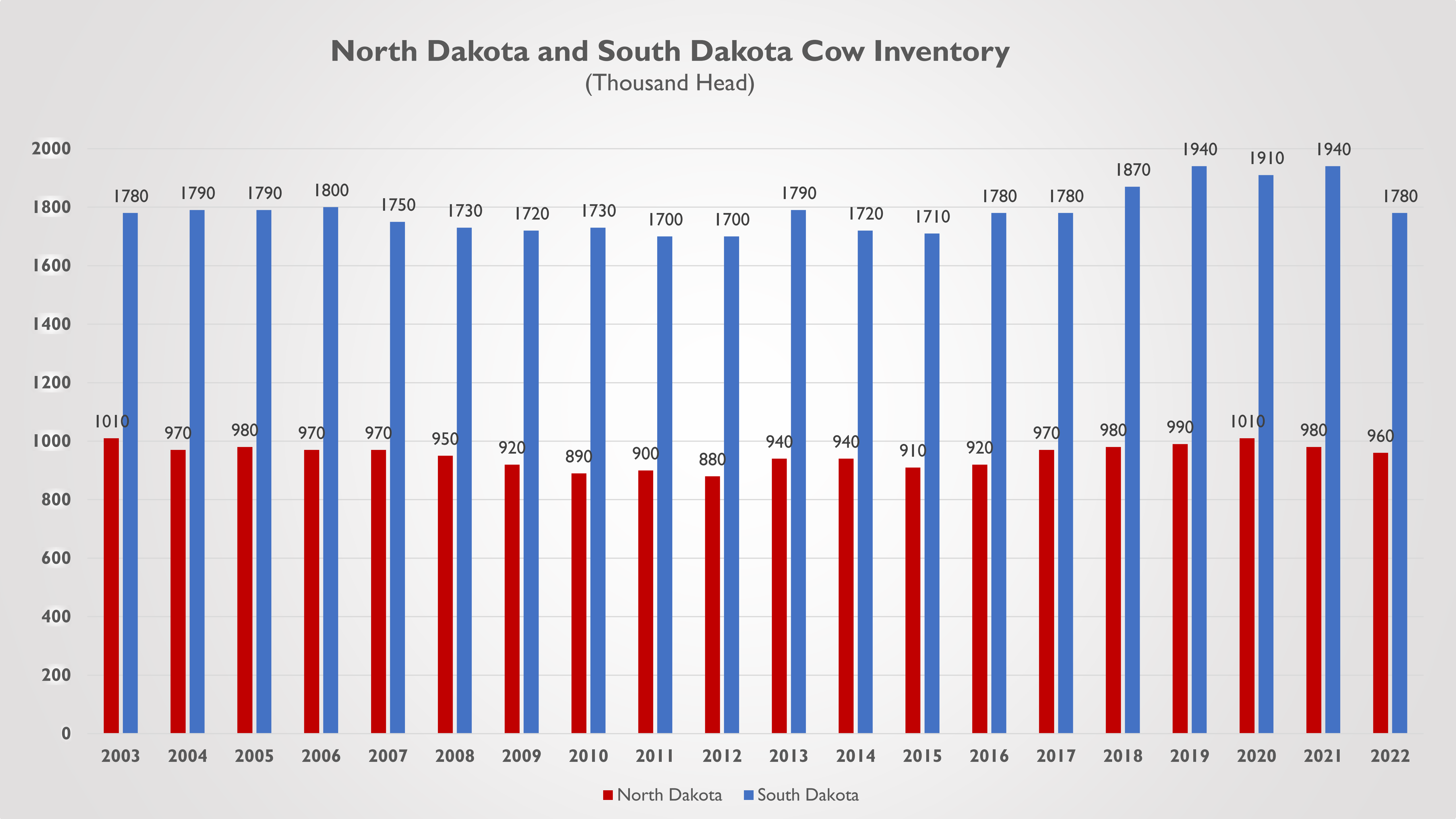
Cattle

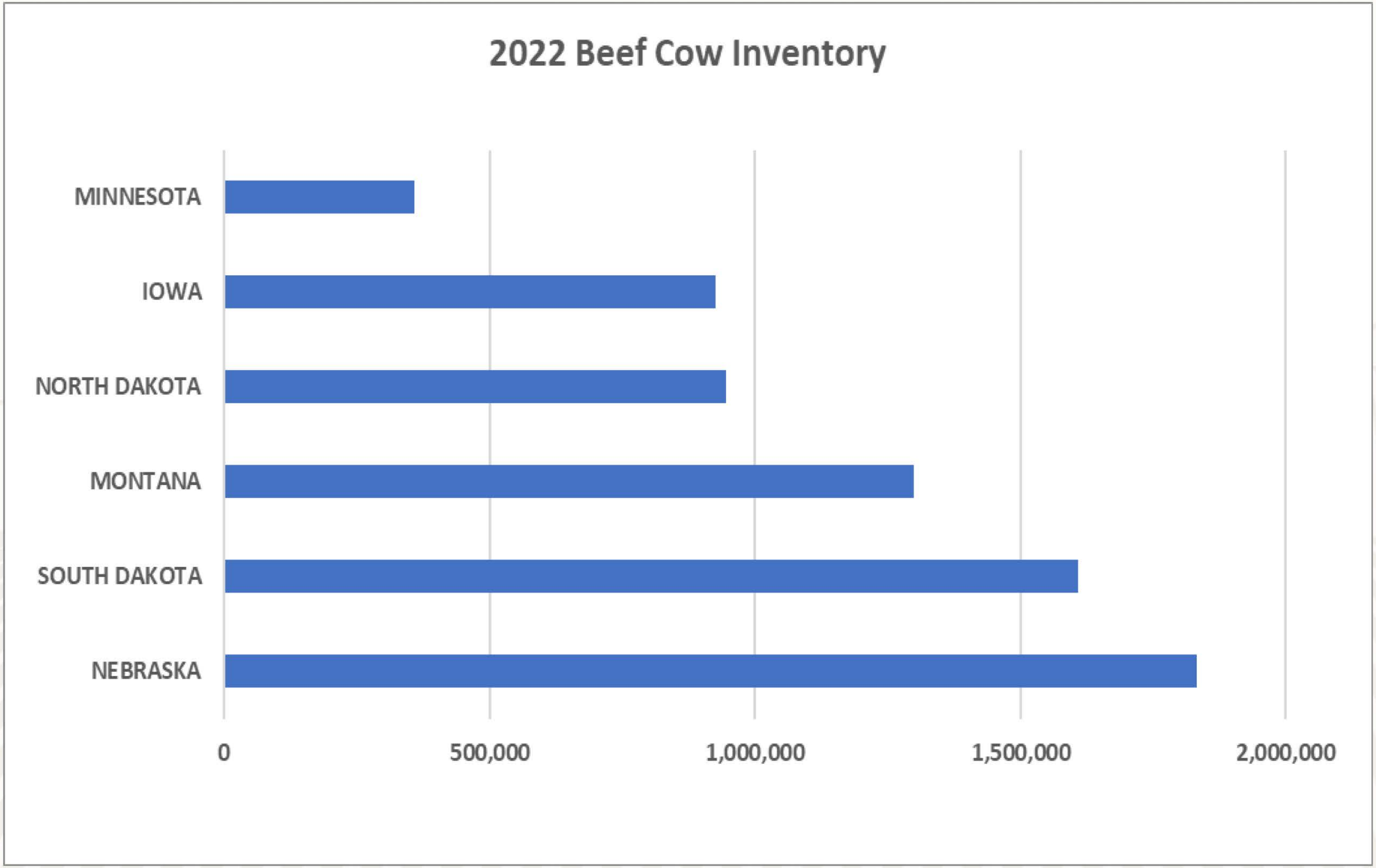


North Dakota and South Dakota Cattle on Feed
(Thousand Head)
500
450
400
350
300
250
200
150
100
50
0
395
375
400
400
420
400
390
400
410
320
300
375
385
435
470
425
440
440
460
445
70
65
60
60
60
70
70
90
60
60
45
38
44
55
50
58
59
42
49
39
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
North Dakota
South Dakota


2022 Cattle on Feed Inventory
NORTH DAKOTA
MONTANA
MINNESOTA
SOUTH DAKOTA
IOWA
NEBRASKA
0
500,000
1,000,000
1,500,000
2,000,000
2,500,000
3,000,000


North Dakota Cattle Operation Size in Head
2002
2007
2012
2017
6000
5000
4000
3000
2000
1000
0
5,095
4,361
4,152
3,370
2,563
2,210
1,705
1,656
2,312
2,022
1,935
1,853
564
540
635
713
99
169
211
243
0-99
100-199
200-499
500-999
1000-Above

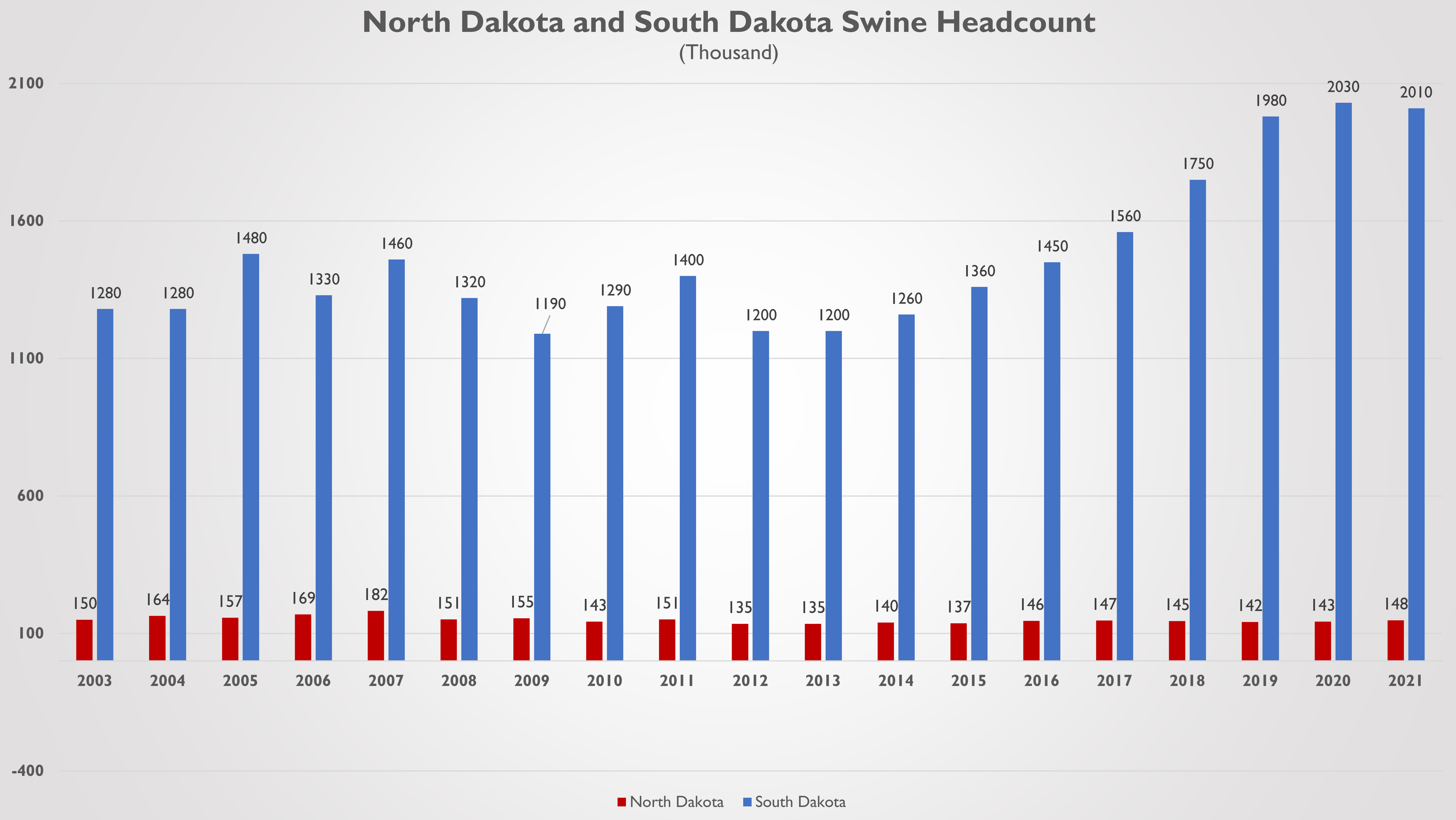

North Dakota and South Dakota Cow Inventory
(Thousand Head)
2000
1800
1600
1400
1200
1000
800
600
400
200
0
1010
1780
970
1790
980
1790
970
1800
970
1750
950
1730
920
1720
890
1730
900
1700
880
1700
940
1790
940
1720
910
1710
920
1780
970
1780
980
1870
990
1940
1010
1910
980
1940
960
1780
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
North Dakota
South Dakota

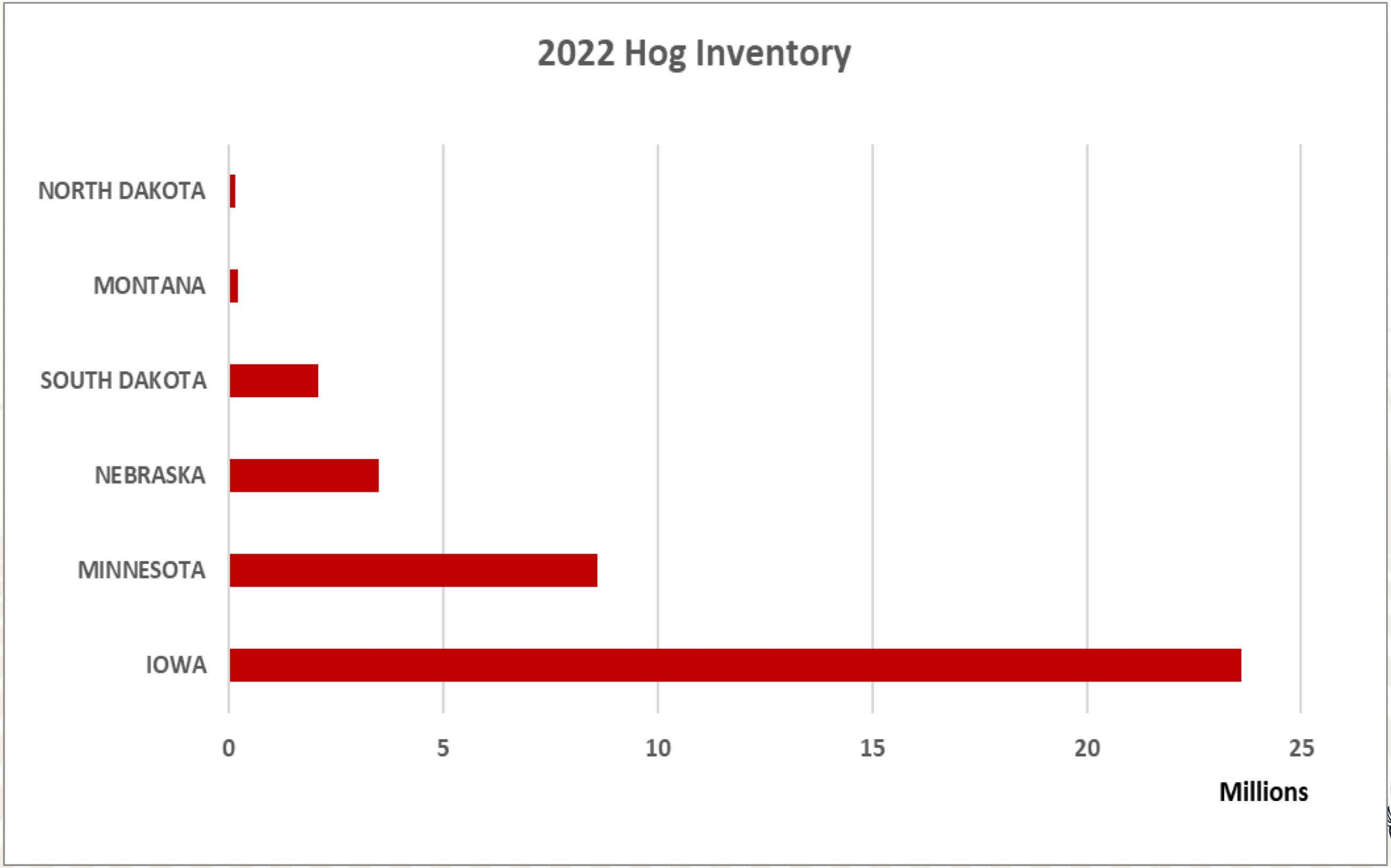

2022 Beef Cow Inventory
MINNESOTA
IOWA
NORTH DAKOTA
MONTANA
SOUTH DAKOTA
NEBRASKA
0
500,000
1,000,000
1,500,000
2,000,000

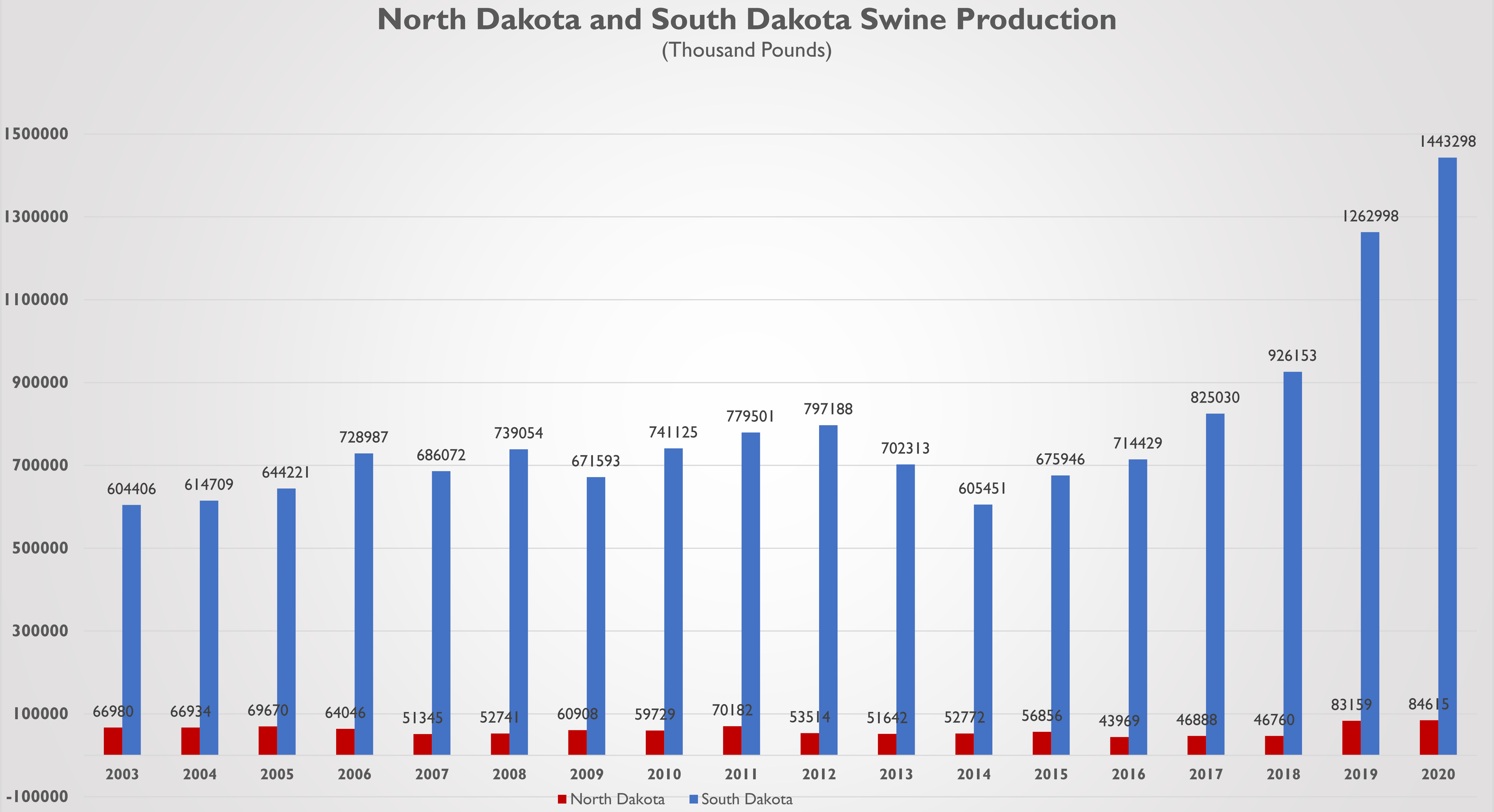
Cattle Economies of Scale

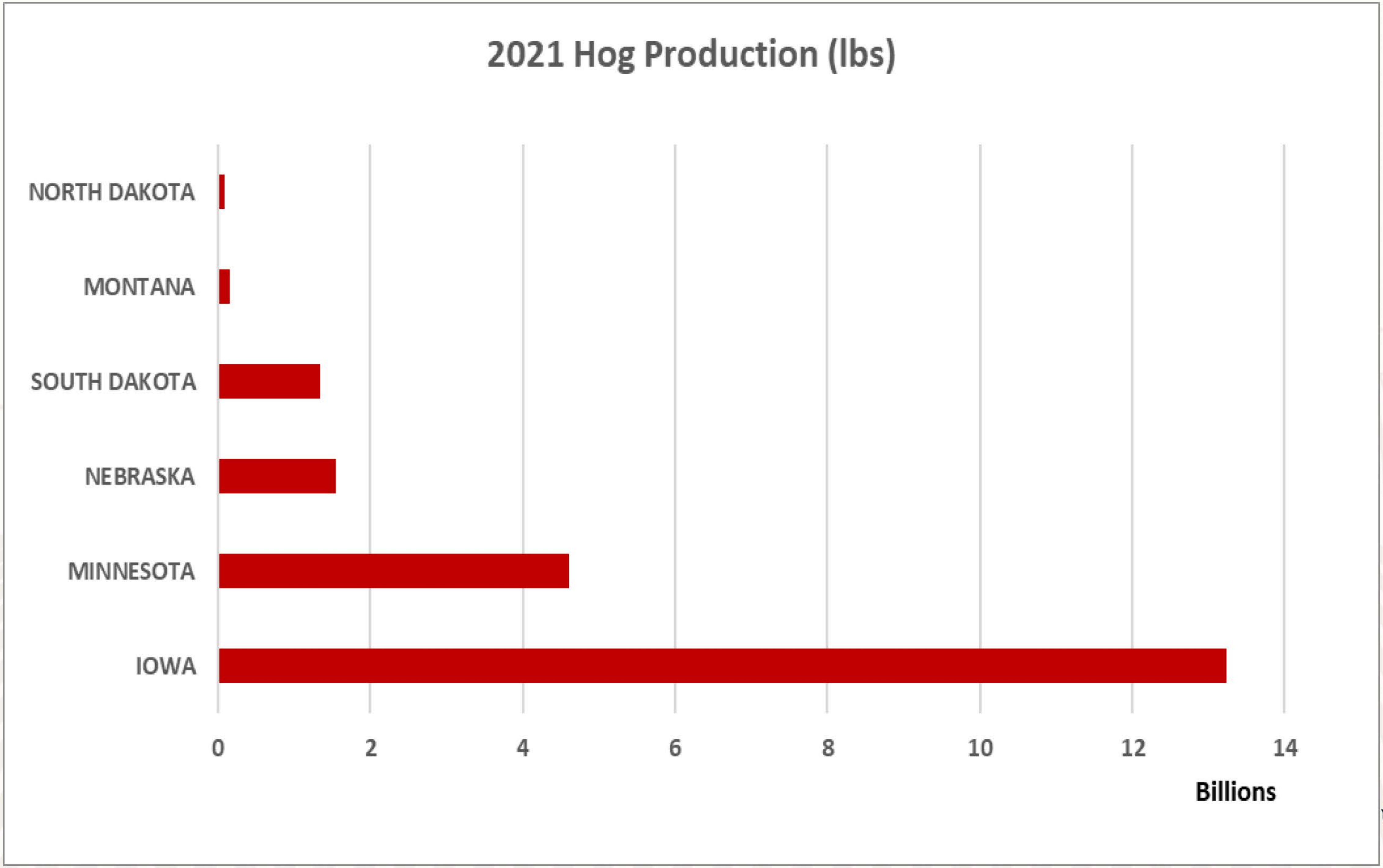
- Estimated Costs of Construction and Site:
  - 5,000 head open feedlot will cost $3.5-4.0 million
  - 500 head cow/calf confinement barn cost $0.5-1.25 million
- Finished steer will produce 1 ton of fertilizer
  - 10-20 lbs. of N, 15-25 lbs. of P
- Consume 50 bushels of corn

Swine


North Dakota and South Dakota Swine Headcount
(Thousand)
2100
1600
1100
600
100
-400
1280
1280
1480
1330
1460
1320
1190
1290
1400
1200
1200
1260
1360
1450
1560
1750
1980
2030
2010
150
164
157
169
182
151
155
143
151
135
135
140
137
146
147
145
142
143
148
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
North Dakota
South Dakota


2022 Hog Inventory
NORTH DAKOTA
MONTANA
SOUTH DAKOTA
NEBRASKA
MINNESOTA
IOWA
0
5
10
15
20
25
Millions


North Dakota and South Dakota Swine Production
(Thousand Pounds)
1500000
1300000
1100000
900000
700000
500000
300000
100000
-100000
604406
614709
644221
728987
686072
739054
671593
741125
779501
797188
702313
605451
675946
714429
825030
926153
1262998
1443298
66980
66934
69670
64046
51345
52741
60908
59729
70182
53514
51642
52772
56856
43969
46888
46760
83159
84615
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
North Dakota
South Dakota



2021 Hog Production (lbs)
NORTH DAKOTA
MONTANA
SOUTH DAKOTA
NEBRASKA
MINNESOTA
IOWA
0
2
4
6
8
10
12
14
Billions

Swine Economies of Scale

- Estimated Costs of Construction, Site, and Start-up:
  - 5,400 head farrowing unit will cost $18 -20 million
  - 2,400 head finish barn will cost $1-1.25 million
- For every 1,000 pigs
  - Produce 80 acres of fertilizer
  - Consume 114 acres of corn
  - Consume 120 acres of soybeans
    - In soybean meal

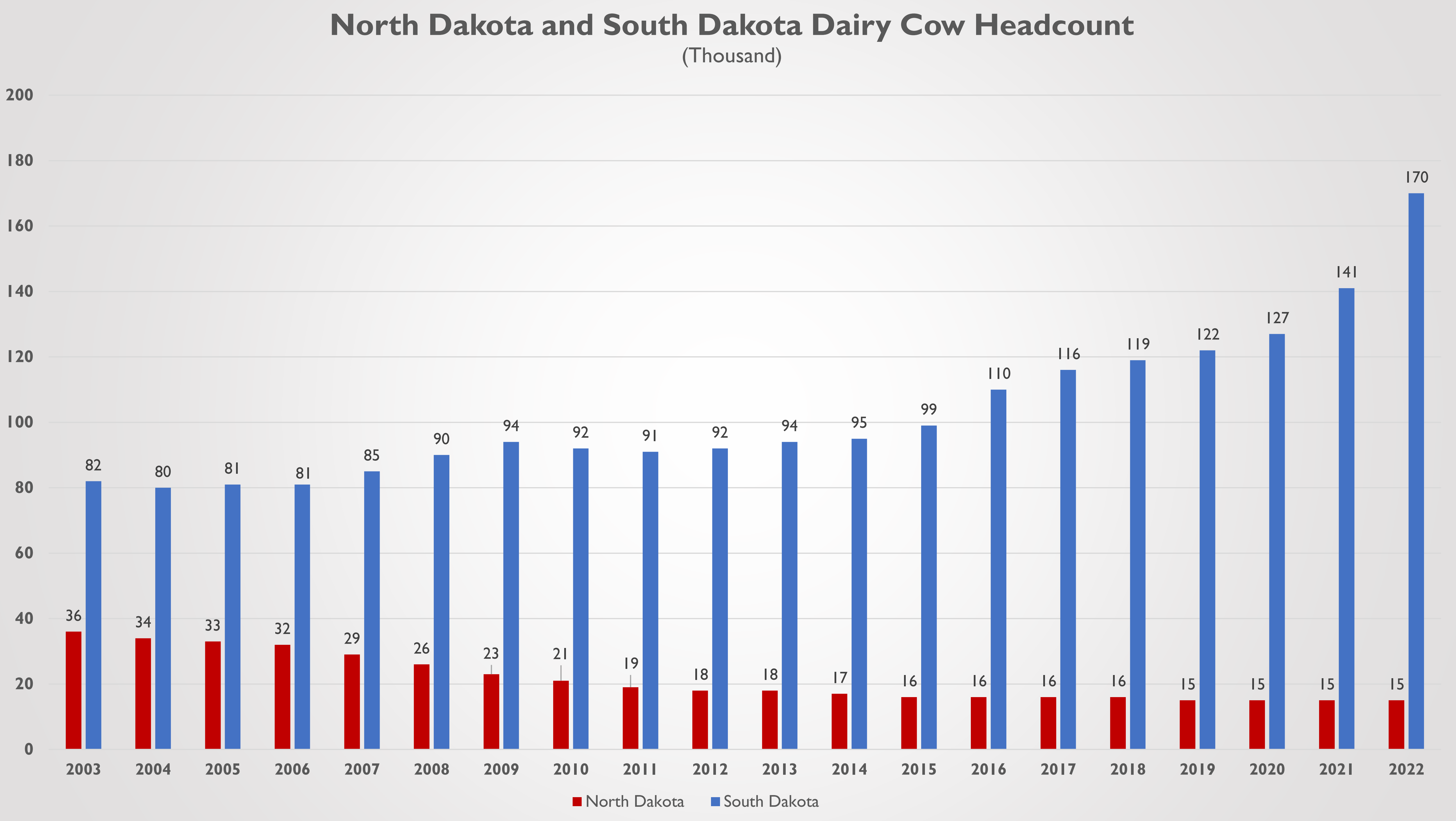
Economic Impact Study in South Dakota

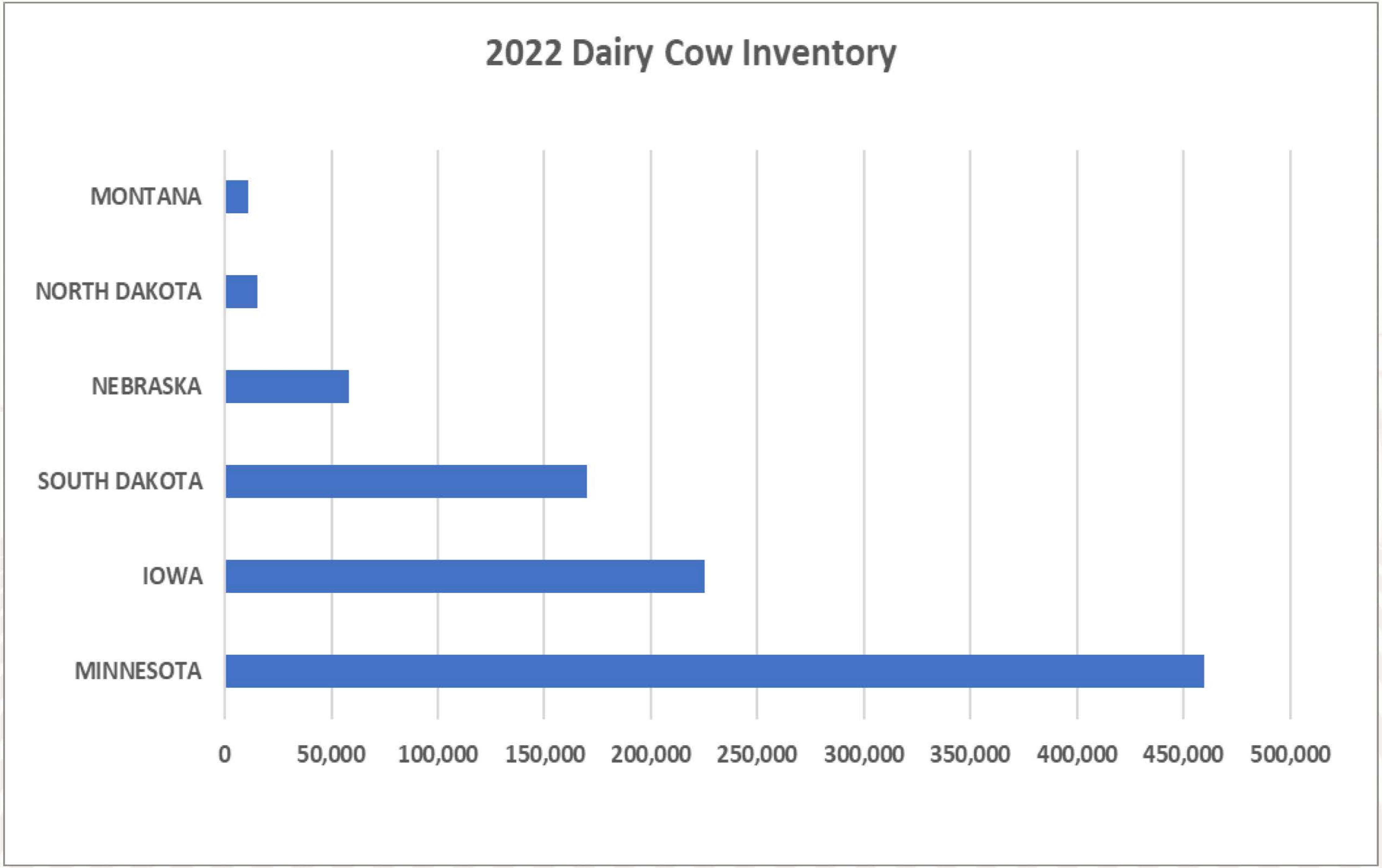
2400 HD finishing barn

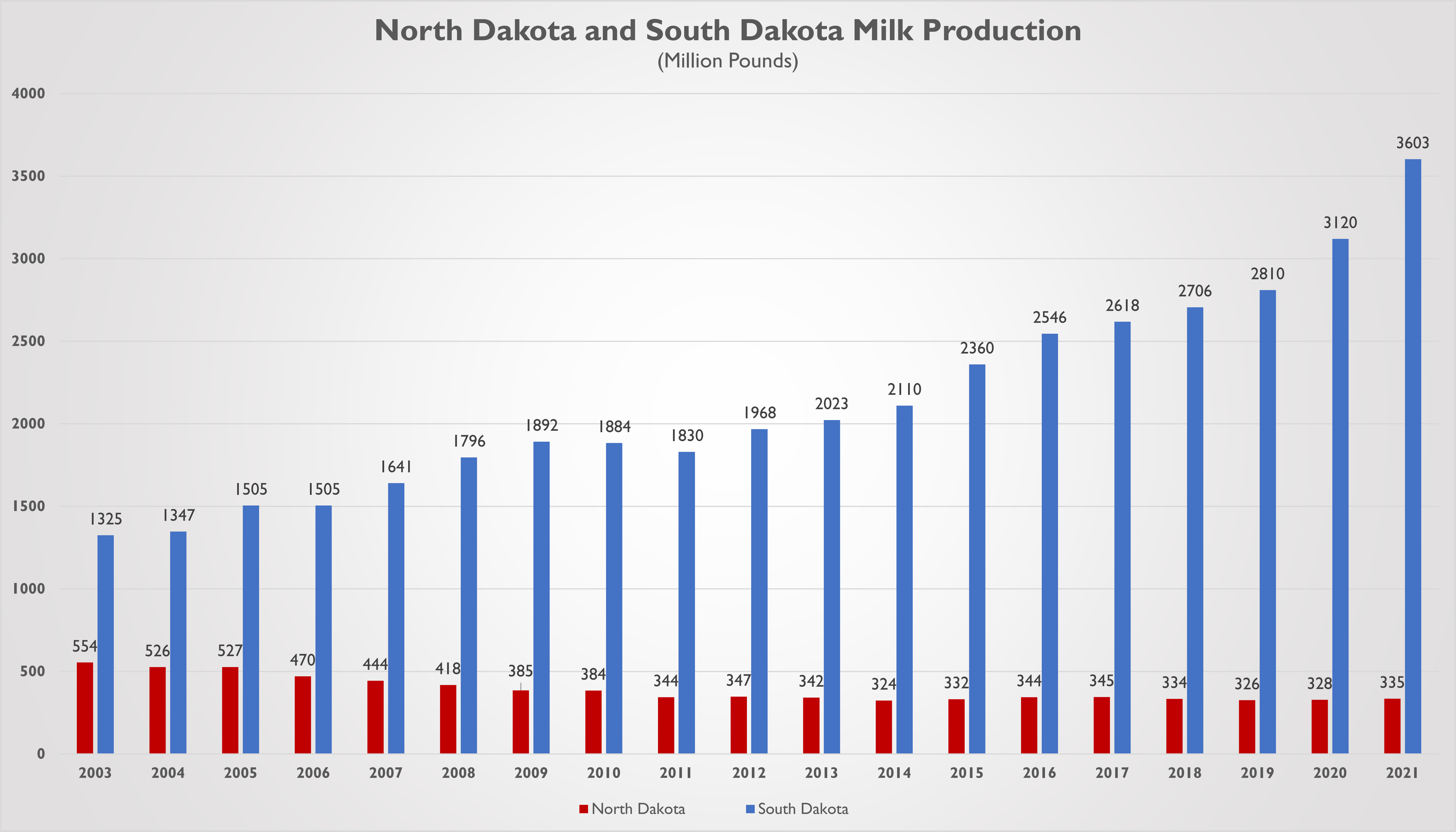
Construction				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	3.0	$162,756	$229,956	$768,847
Indirect Effect	0.6	$37,809	$53,543	$115,472
Induced Effect	0.4	$15,480	$34,172	$66,234
Total Effect	4.0	$216,045	$317,670	$950,552

Operations for First Year				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	3.6	$441,111	$573,023	$783,713
Indirect Effect	0.5	$43,112	$58,477	$108,321
Induced Effect	1.0	$37,539	$83,142	$161,218
Total Effect	5.1	$521,762	$714,642	$1,053,252

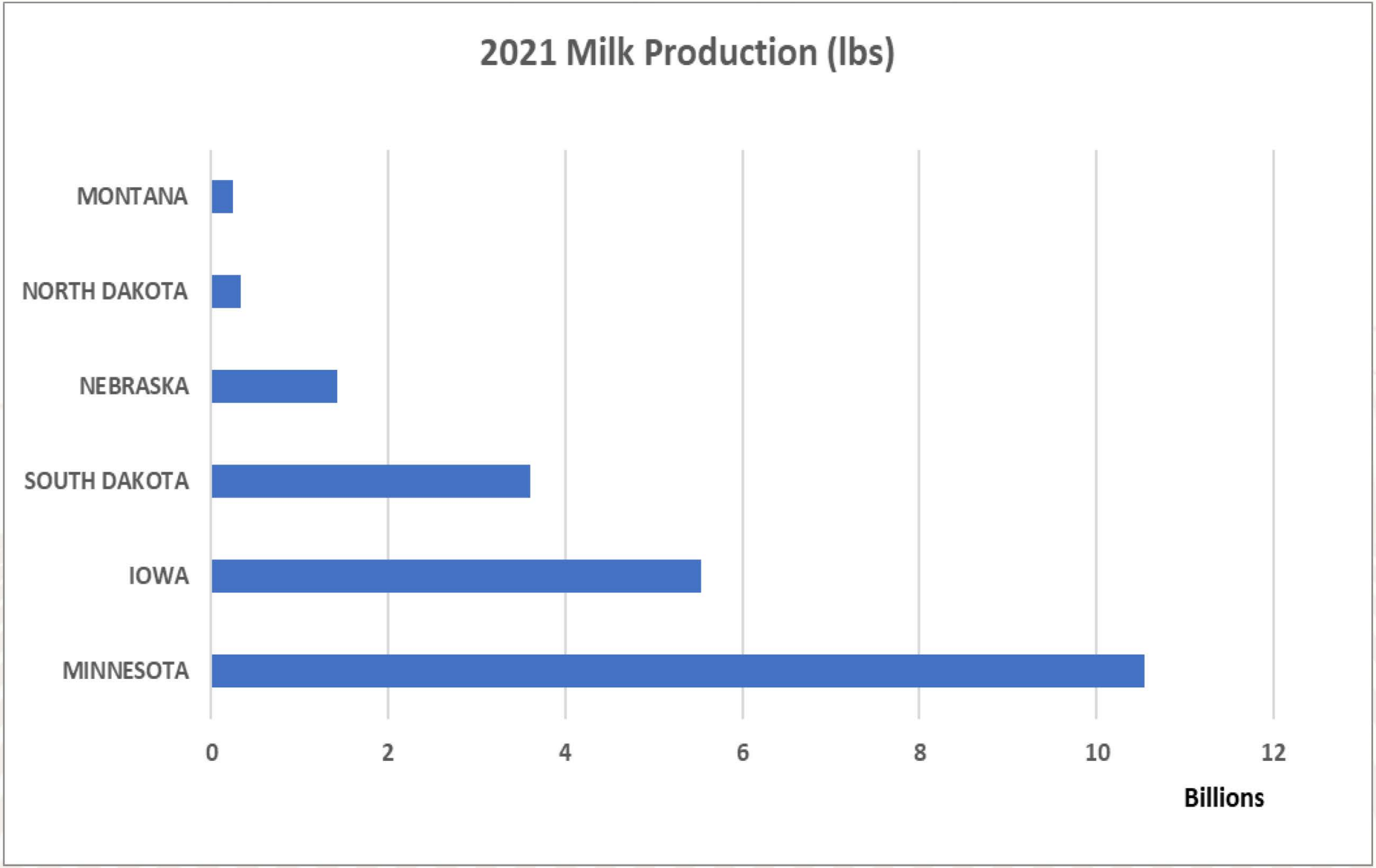
Dairy


North Dakota and South Dakota Dairy Cow Headcount
(Thousand)
200
180
160
140
120
100
80
60
40
20
0
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
36 82
34 80
33 81
32 81
29 85
26 90
23 94
21 92
19 91
18 92
18 94
17 95
16 99
16 110
16 116
16 119
15 122
15 127
15 141
15 170
North Dakota
South Dakota


2022 Dairy Cow Inventory
MONTANA
NORTH DAKOTA
NEBRASKA
SOUTH DAKOTA
IOWA
MINNESOTA
0
50,000
100,000
150,000
200,000
250,000
300,000
350,000
400,000
450,000
500,000



North Dakota and South Dakota Milk Production
(Million Pounds)
4000
3500
3000
2500
2000
1500
1000
500
0
554
1325
526
1347
527
1505
470
1505
444
1641
418
1796
385
1892
384
1884
344
1830
347
1968
342
2023
324
2110
332
2360
344
2546
345
2618
334
2706
326
2810
328
3120
335
3603
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
North Dakota
South Dakota


2021 Milk Production (lbs)
MONTANA
NORTH DAKOTA
NEBRASKA
SOUTH DAKOTA
IOWA
MINNESOTA
0
2
4
6
8
10
12
Billions

Dairy Economies of Scale

- Estimated Costs of Construction and Site:
  - 1,600 head robotic dairy will cost $10-16 million
  - 5000 head dairy will cost $25-30 million

- 1 cow produces 2 acres of fertilizer
  - Consume 106 bushels of corn
  - Consume 5.7 ton of forage
  - Consume 29 bushels of soybeans
    - In soybean meal

Economic Impact Study in South Dakota

1600 HD Robotic Dairy Farm

Construction				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	62	$2,704,775	$3,277,793	$12,890,000
Indirect Effect	11	$517,292	$956,846	$2,155,140
Induced Effect	6	$178,982	$572,013	$1,044,544
Total Effect	78	$3,401,049	$4,806,652	$16,089,684

Operations for First Year				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	10	$803,622	$1,481,174	$7,534,400
Indirect Effect	11	$548,993	$975,696	$2,255,519
Induced Effect	3	$75,076	$239,770	$437,681
Total Effect	23	$1,427,690	$2,696,640	$10,227,600

Economic Impact Study in South Dakota

5000 HD Rotary Parlor Dairy farm

Construction				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	118	$8,180,078	$11,282,883	$25,875,325
Indirect Effect	34	$2,236,794	$3,601,424	$6,820,088
Induced Effect	46	$2,416,869	$4,203,957	$7,276,154
Total Effect	198	$12,833,741	$19,088,264	$39,971,567

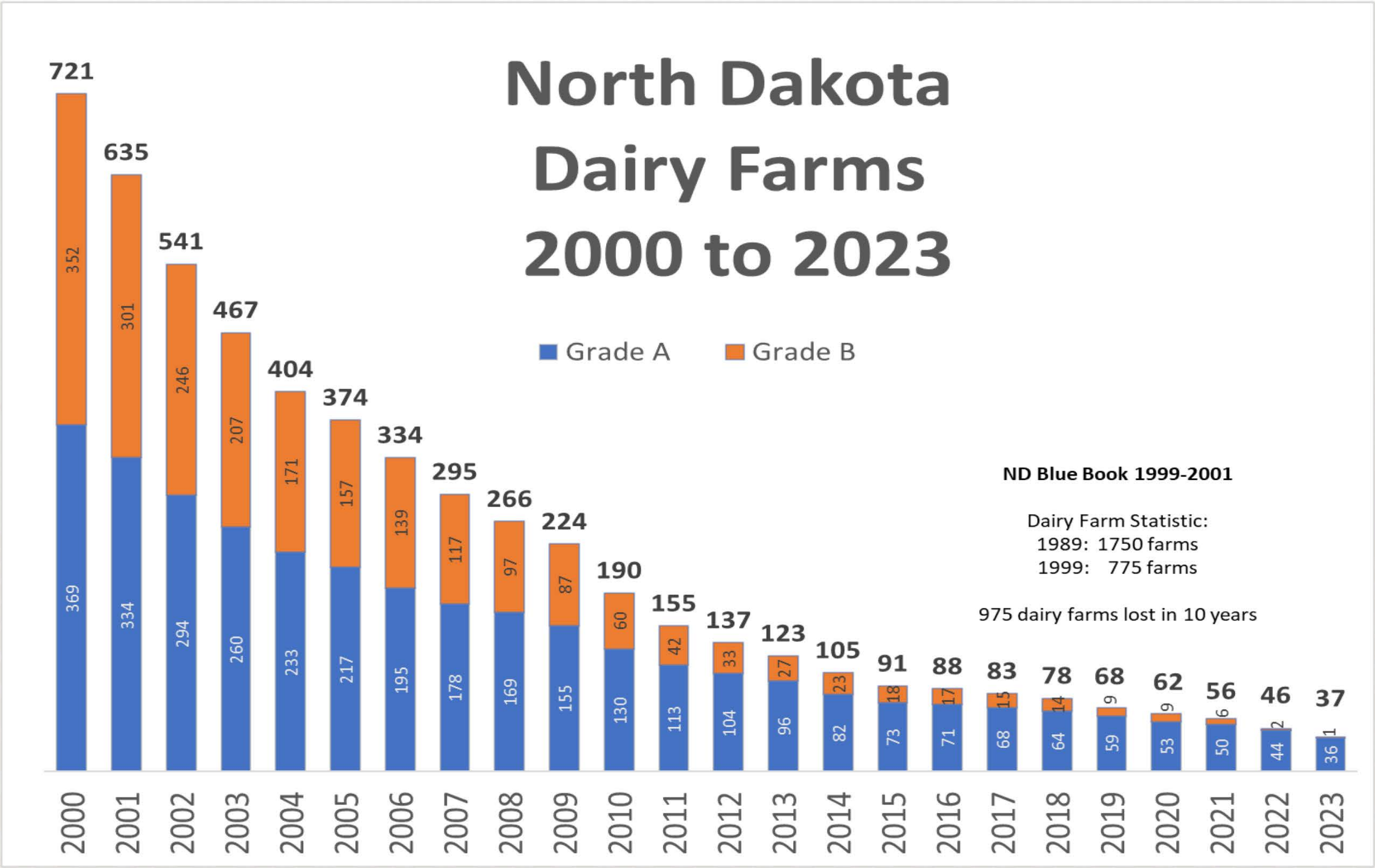
Operations for First Year				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	35	$4,227,956	$5,385,376	$23,545,000
Indirect Effect	57	$3,229,139	$5,301,151	$11,312,660
Induced Effect	33	$1,763,419	$3,066,254	$5,305,218
Total Effect	125	$9,220,514	$13,752,781	$40,162,878

Dairy Processors in ND

- Prairie Farms, Bismarck
- Kemps/Cass-Clay, Fargo
- Cows & Co Creamery, Carrington

- ND grade "A" farms -37

North Dakota is an importer of milk

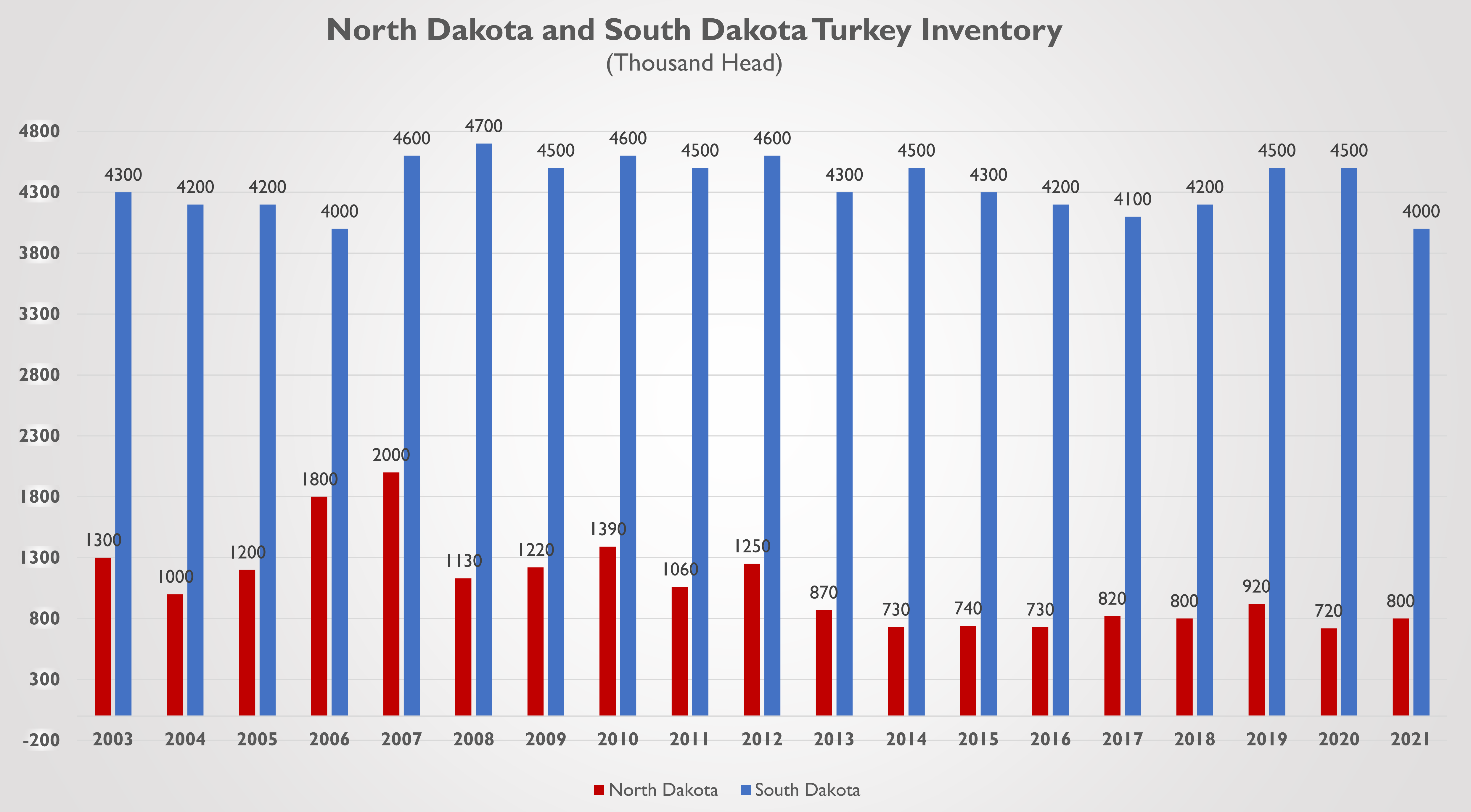

North Dakota
Dairy Farms
2000 to 2023
Grade A
Grade B
721
635
541
467
404
374
334
295
266
224
190
155
137
123
105
91
88
83
78
68
62
56
46
37
352
301
246
207
171
157
139
117
97
87
60
42
33
27
23
18
17
15
14
9
9
6
2
1
369
334
294
260
233
217
195
178
169
155
130
113
104
96
82
73
71
68
64
59
53
50
44
36
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
ND Blue Book 1999-2001
Dairy Farm Statistic:
1989: 1750 farms
1999: 775 farms
975 dairy farms lost in 10 years

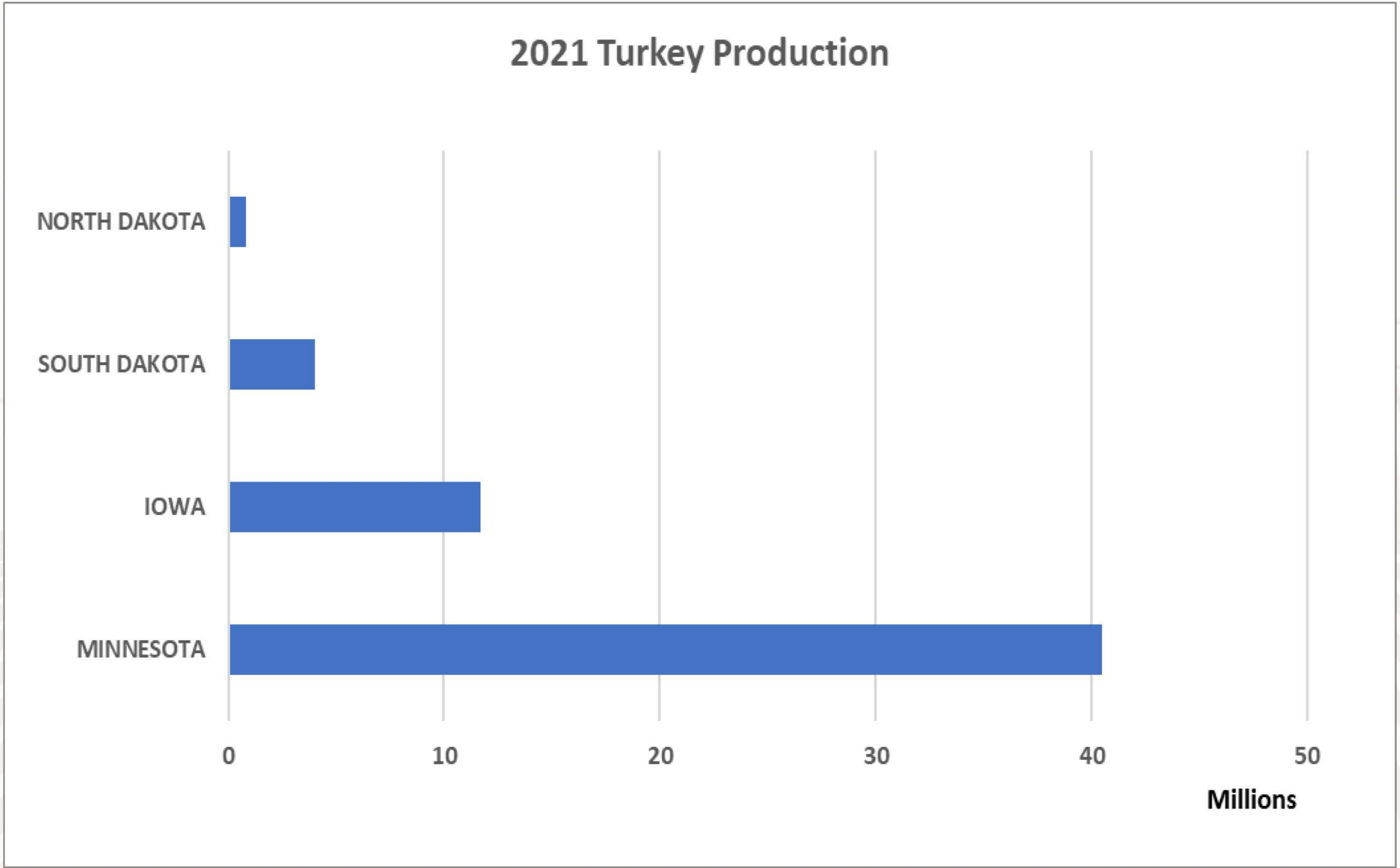
Dairy Processors in SD

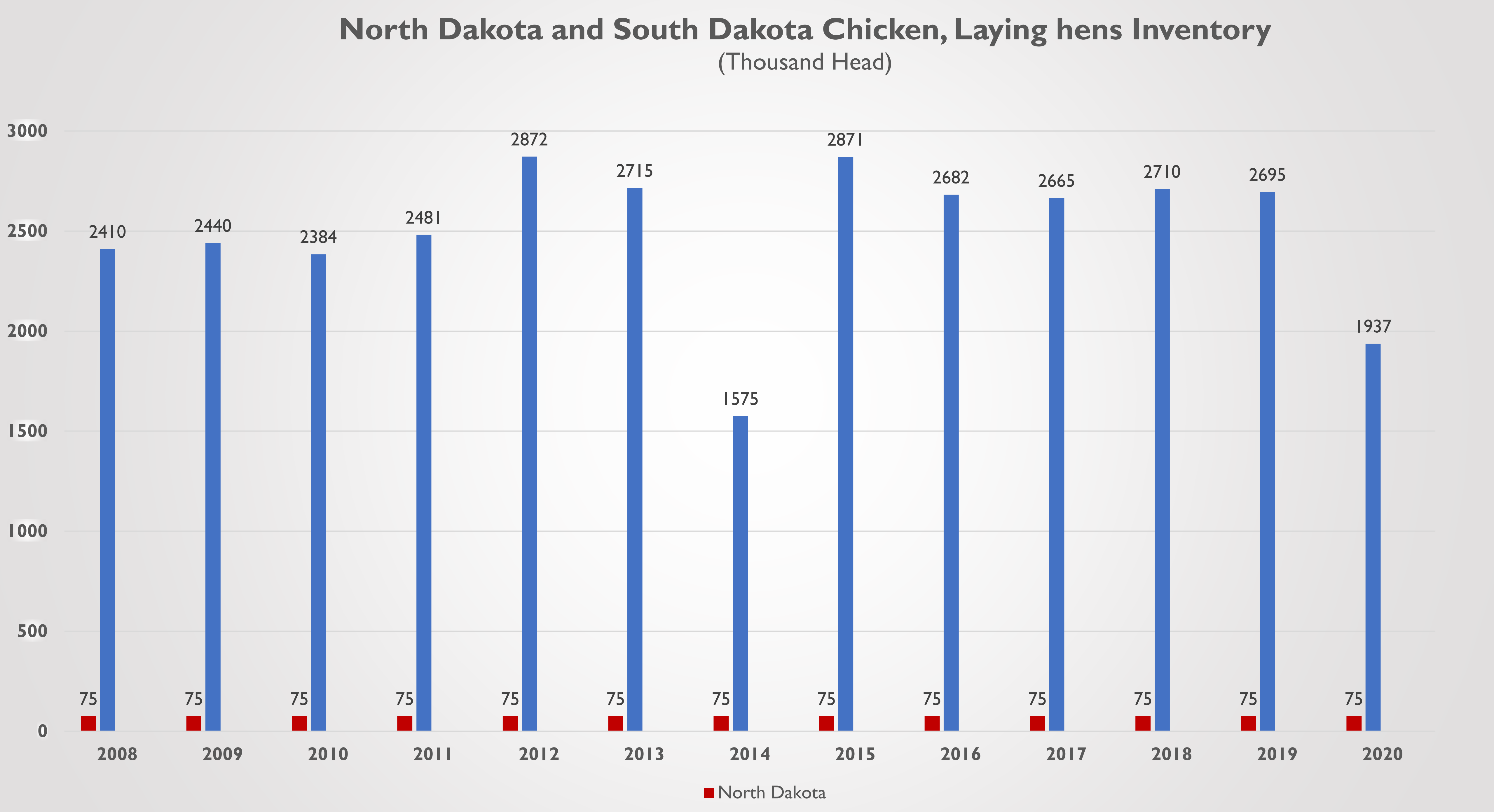
- Valley Queen, Milbank
- Kasemeister Creamery, Frankfort
- Agropur, Lake Norden
- Bel Brands, Brookings
- SDSU Davis Dairy Plant, Brookings
- AMPI, Hoven
- AMPI, Freeman
- Dairiconcepts, Pollock
- Dimock Cheese, Dimock
- Prairie Farms, Sioux Falls

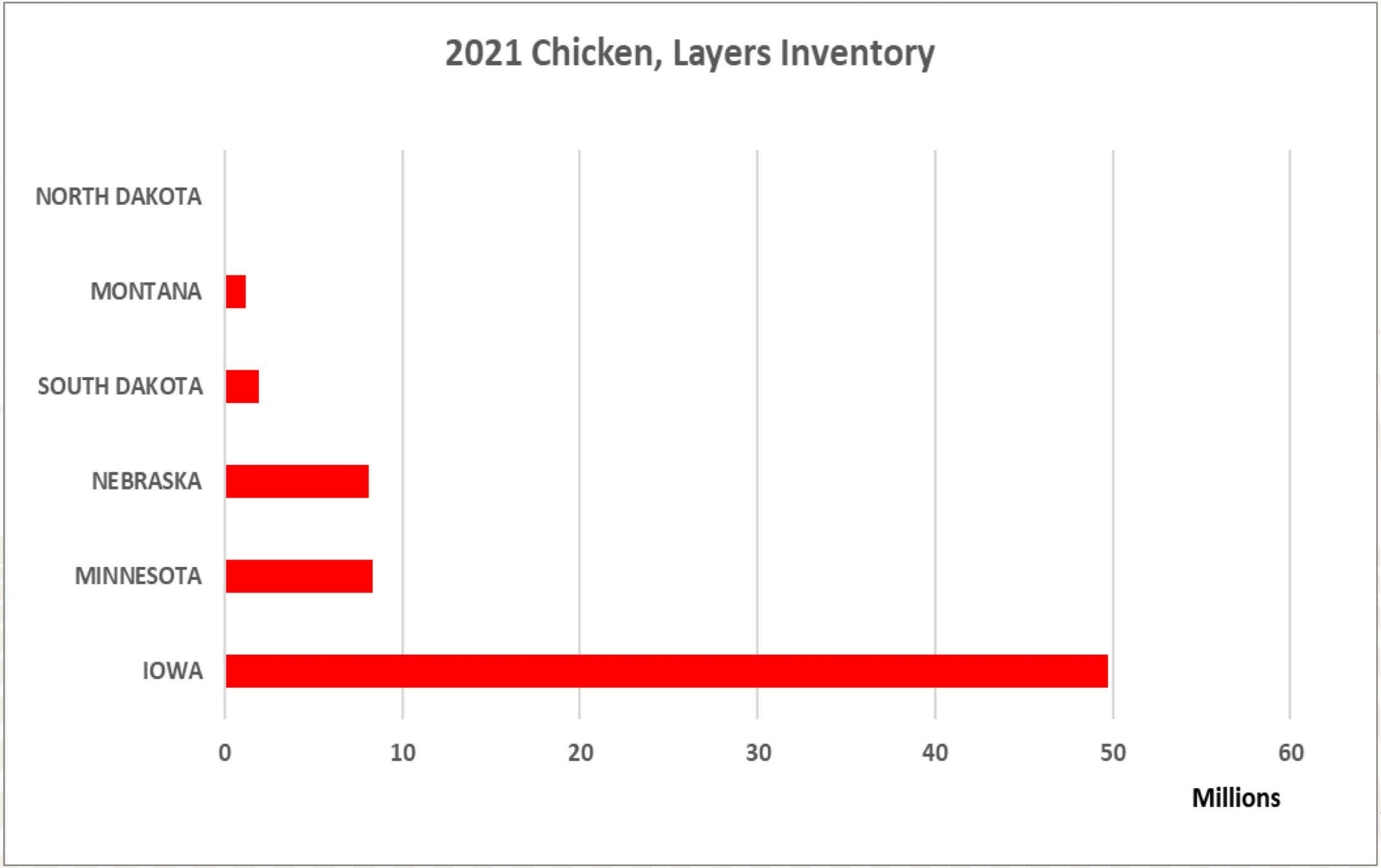
- SD grade "A" farms -174

Poultry

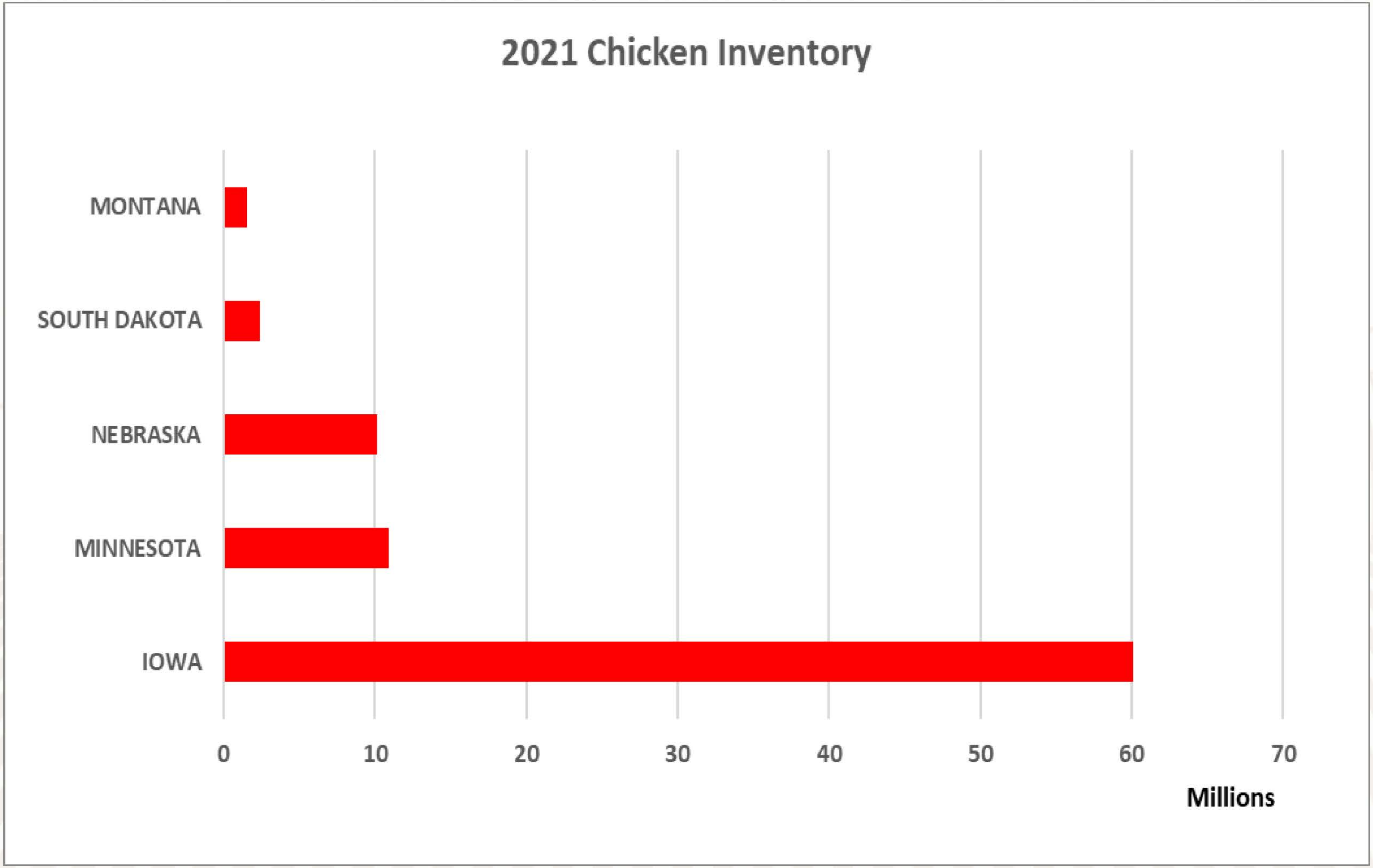

North Dakota and South Dakota Turkey Inventory
(Thousand Head)
4800
4300
3800
3300
2800
2300
1800
1300
800
300
-200
2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021
North Dakota: 1300 1000 1200 1800 2000 1130 1220 1390 1060 1250 870 730 740 730 820 800 920 720 800
South Dakota: 4300 4200 4200 4000 4600 4700 4500 4600 4500 4600 4300 4500 4300 4200 4100 4200 4500 4500 4000
North Dakota
South Dakota


2021 Turkey Production
NORTH DAKOTA
SOUTH DAKOTA
IOWA
MINNESOTA
0
10
20
30
40
50
Millions


North Dakota and South Dakota Chicken, Laying hens Inventory
(Thousand Head)
3000
2500
2000
1500
1000
500
0
2410
2440
2384
2481
2872
2715
1575
2871
2682
2665
2710
2695
1937
75
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
North Dakota



2021 Chicken, Layers Inventory
NORTH DAKOTA
MONTANA
SOUTH DAKOTA
NEBRASKA
MINNESOTA
IOWA
0
10
20
30
40
50
60
Millions

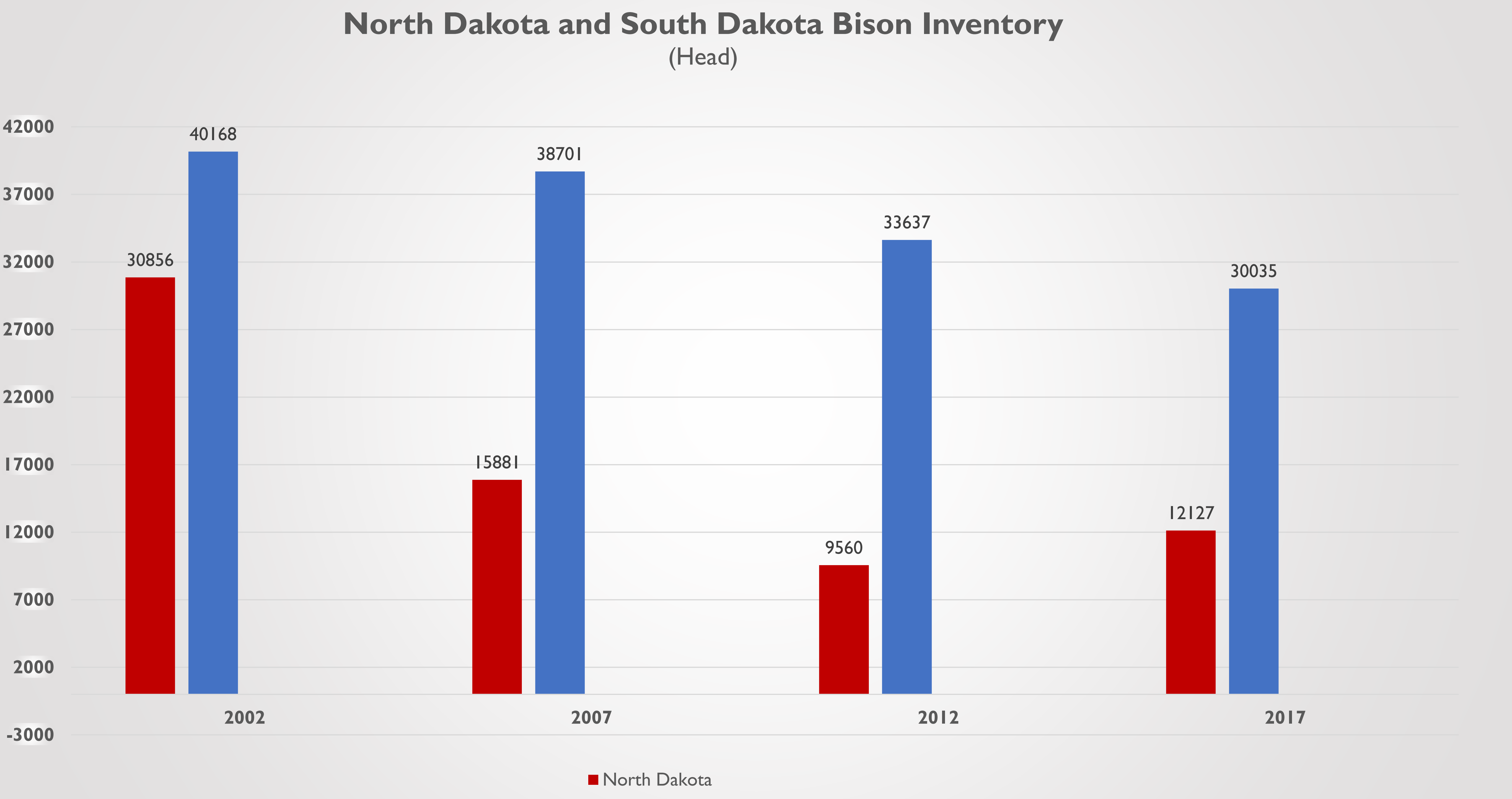


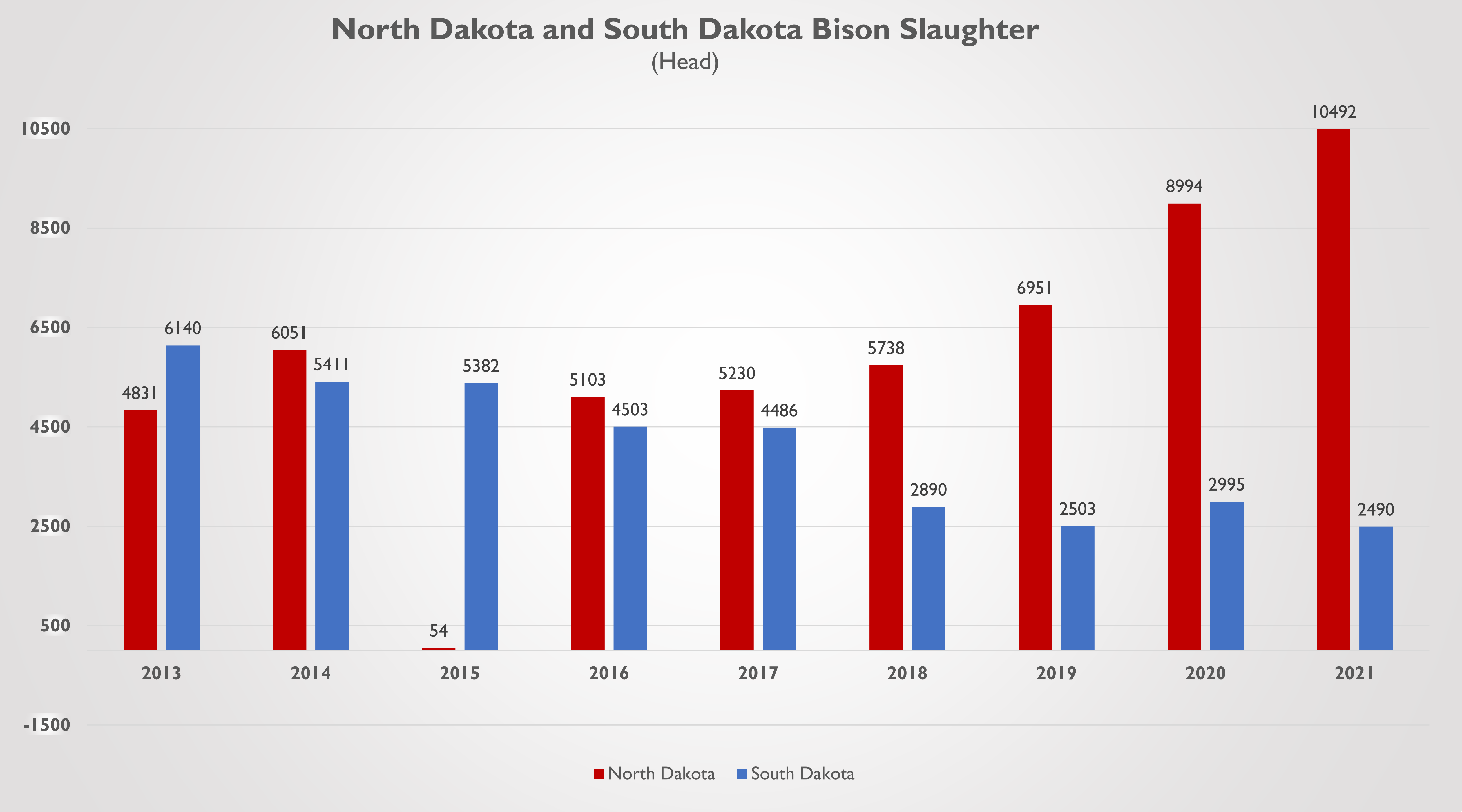
2021 Chicken Inventory
MONTANA
SOUTH DAKOTA
NEBRASKA
MINNESOTA
IOWA
0
10
20
30
40
50
60
70
Millions

Poultry Value added

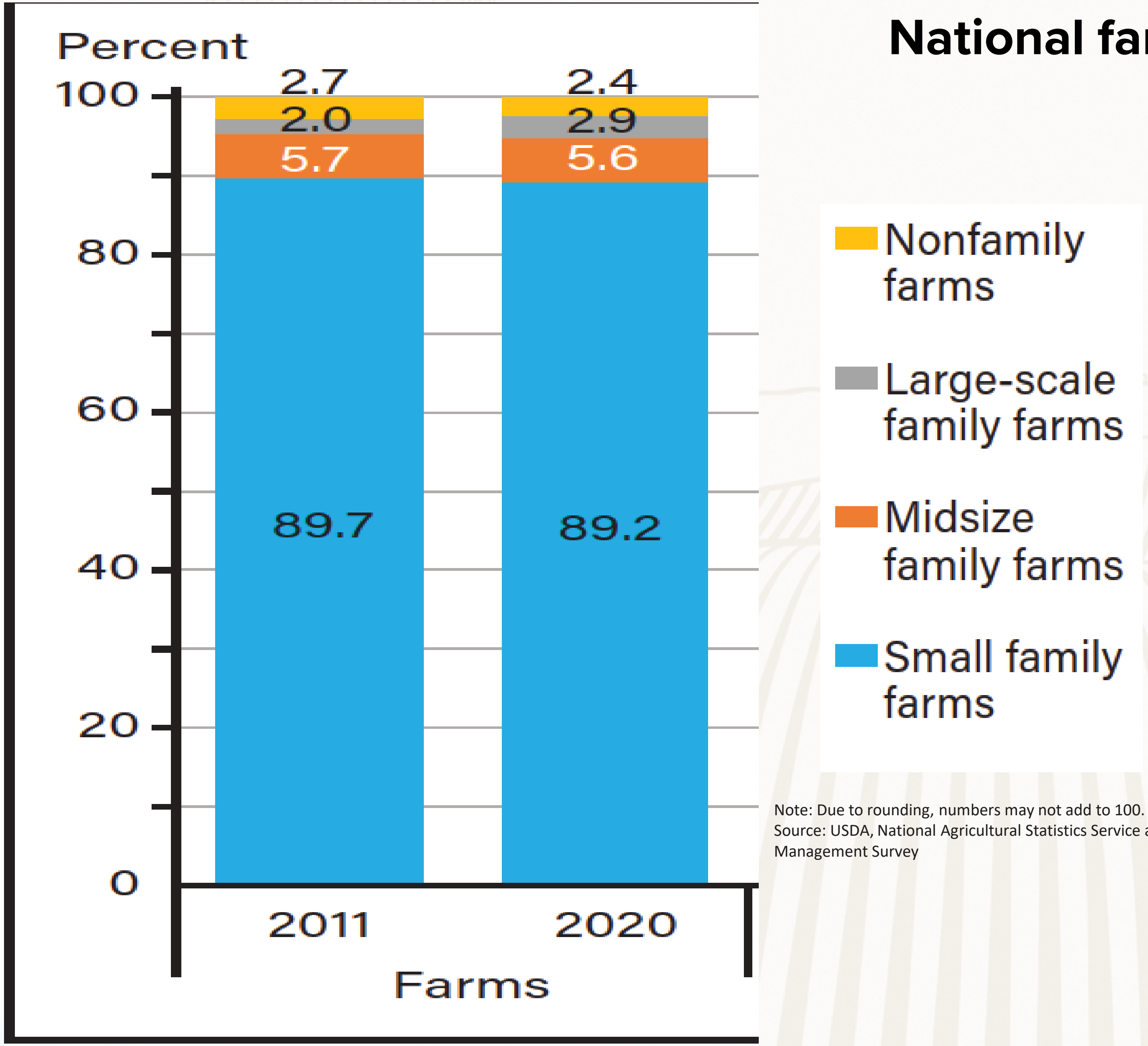
- 1000 turkeys produce 14 ton of fertilizer per year
    - 75 lbs. of N, 86 lbs. of P, 58 lbs. of K
- Consume 1600 bu of corn
- Consume 640 bu of soybeans
    - In soybean meal

Bison


North Dakota and South Dakota Bison Inventory
(Head)
42000
37000
32000
27000
22000
17000
12000
7000
2000
-3000
30856
40168
15881
38701
9560
33637
12127
30035
2002
2007
2012
2017
North Dakota


North Dakota and South Dakota Bison Slaughter
(Head)
10500
8500
6500
4500
2500
500
-1500
4831
6140
6051
5411
54
5382
5103
4503
5230
4486
5738
2890
6951
2503
8994
2995
10492
2490
2013
2014
2015
2016
2017
2018
2019
2020
2021
North Dakota
South Dakota

National farm ownership



Note: Due to rounding, numbers may not add to 100.
Source: USDA, National Agricultural Statistics Service and USDA, Economic Research Service, 2011 and 2020 Agricultural Resource Management Survey

Meat Processing

Types of Meat processing

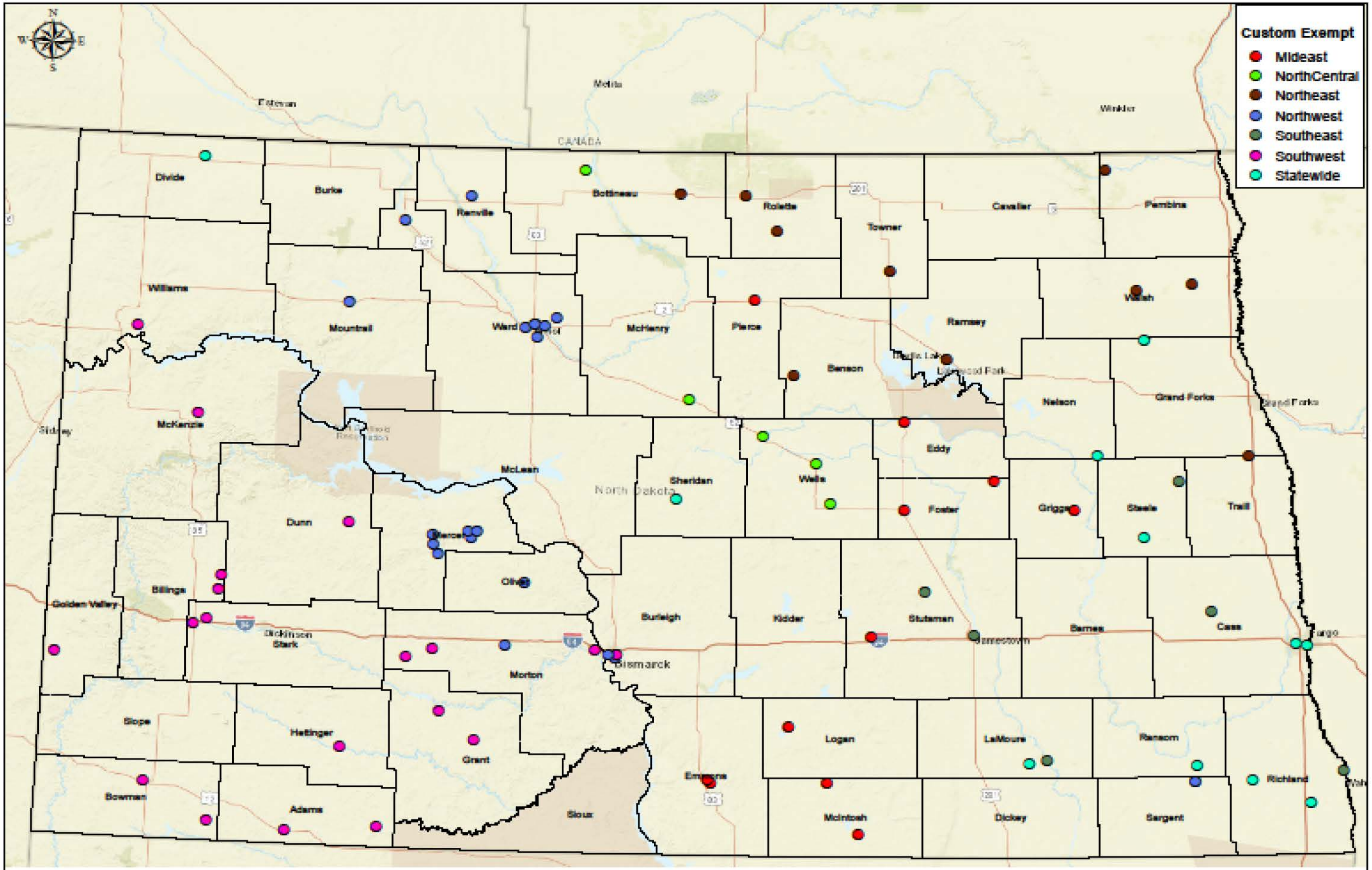
- **Custom Exempt** plants provide slaughter and/or processing services for producers, individuals that purchase livestock from producers or game animal owners. Products may only be consumed by the owner of the animal. Many also operate under a retail exemption, which allows them to purchase meat and poultry products from approved inspected sources, further process them, and then sell it at their retail counter.

- **Official and Selected establishments** slaughter livestock and/or process meat products under regulated inspection. Official establishment products contain the state mark of inspection and are eligible to be wholesaled within North Dakota. Selected establishments operate as a federally-inspected facility under the Cooperative Interstate Shipment Program. These products contain the USDA mark of inspection and are eligible to be wholesaled in all states within the United States.

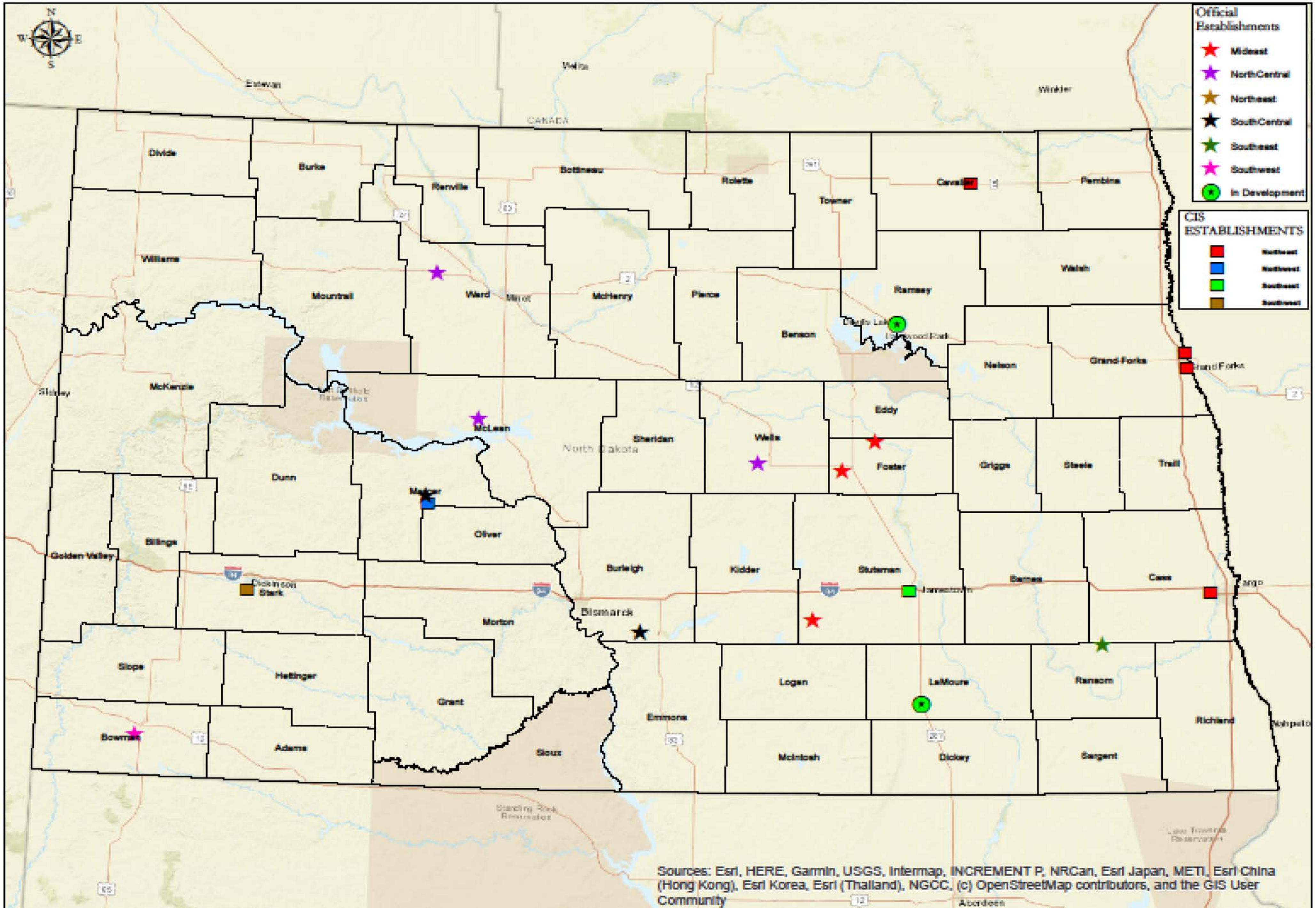
- **Official Federal** establishments slaughter livestock and/or process meat products under regulated inspection. Products contain the USDA mark of inspection and are eligible to be wholesaled in all states within the United States and internationally.

Processing volumes of North Dakota

- Average number of livestock slaughtered at federal establishments per week
  - 250 bison
  - 210 Beef
  - 28 hogs
  - 2 lambs/sheep
- Average number of livestock slaughtered at official establishments per week
  - 48 Beef
  - 7 hogs
  - 2 lambs/sheep
- Average pounds of meat processed per week under inspection at official and selected establishments = 23,851



Custom Exempt
Mideast
NorthCentral
Northeast
Northwest
Southeast
Southwest
Statewide
CANADA
Divide
Burke
Renville
Bottineau
Rolette
Towner
Cavalier
Pembina
Williams
Mountrail
Ward
McHenry
Pierce
Benson
Ramsey
Walsh
Nelson
Grand Forks
McKenzie
McLean
Sheridan
Wells
Eddy
Foster
Griggs
Steele
Traill
Dunn
Mercer
Oliver
Billings
Golden Valley
Stark
Burleigh
Kidder
Stutsman
Barnes
Cass
Fargo
Bismarck
Morton
Slope
Hettinger
Grant
Bowman
Adams
Sioux
Emmons
Logan
McIntosh
LaMoure
Dickey
Ransom
Sargent
Richland
Jamestown
North Dakota


Official Establishments
Mideast
NorthCentral
Northeast
SouthCentral
Southeast
Southwest
In Development
CIS ESTABLISHMENTS
CANADA
Estevan
Weita
Winkler
Divide
Burke
Renville
Bottineau
Rolette
Towner
Cavalier
Pembina
Williams
Mountrail
Ward
McHenry
Pierce
Benson
Ramsey
Walsh
Nelson
Grand Forks
McKenzie
McLean
Sheridan
Wells
Eddy
Foster
Griggs
Steele
Traill
North Dakota
Dunn
Mercer
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Burleigh
Kidder
Stutsman
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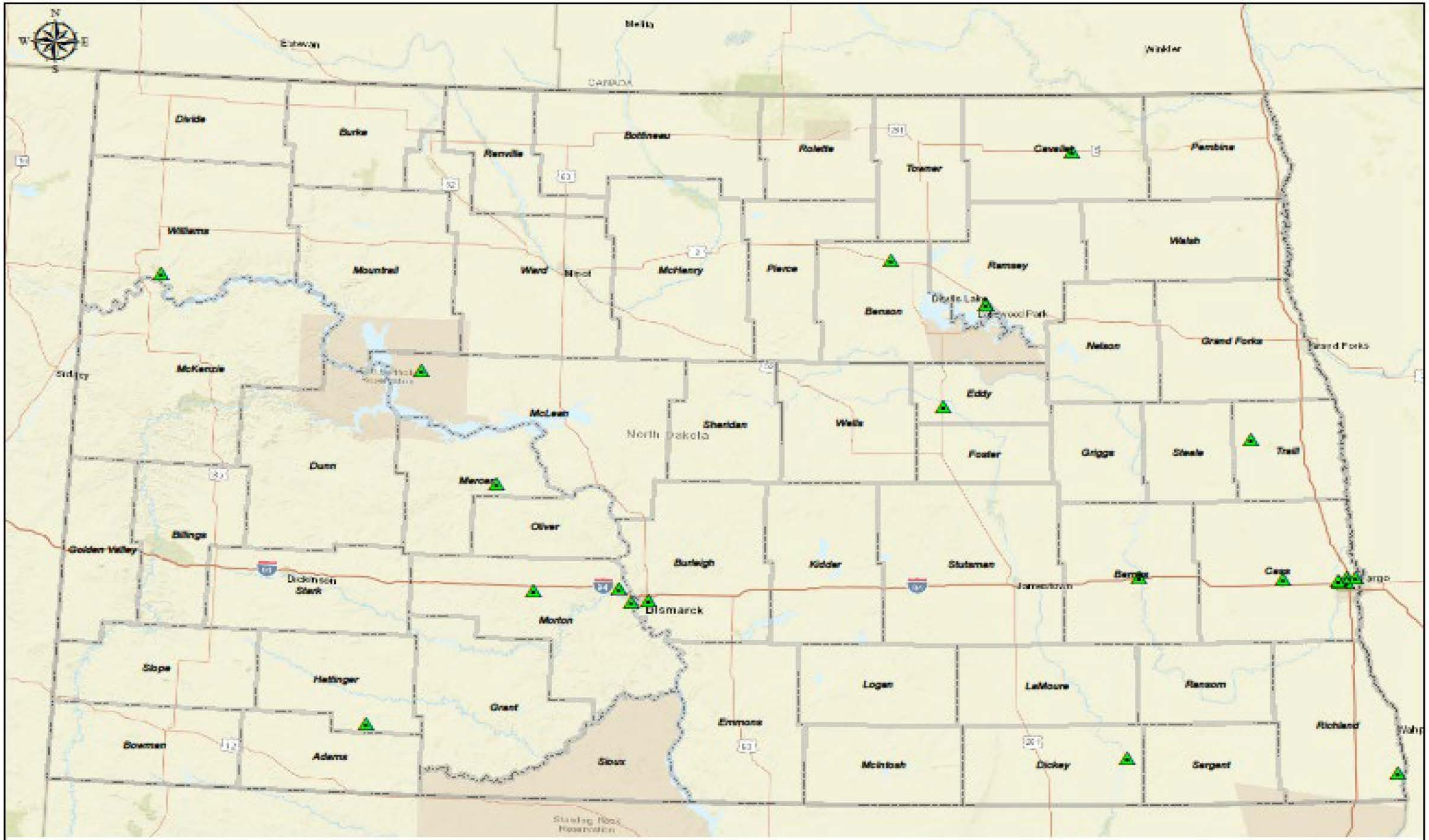
Golden Valley
Stark
Dickinson
Jamestown
Bismarck
Morton
Slope
Hettinger
Grant
Emmons
Logan
LaMoure
Ransom
Richland
Bowman
Adams
Sioux
McIntosh
Dickey
Sargent
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



Federal Inspected Plants

North Dakota: Missed Opportunities

- Two swine genetics companies
- Three large sow barns
- Three large scale dairies
- Large scale egg laying barn

Animal Ag Zoning

County zoning review

- Thirty eight of the fifty-three counties in ND are zoned for livestock .
- Fifteen counties are not zoned for livestock
  - falls to NDDEQ, would use ND Model Zoning Ordinance for Animal Feeding Operations.
- Thirty-one counties have setback distances equivalent or less than the Model Zoning Ordinance .
- Sixteen counties have setback distances greater than the Model Zoning Ordinance .
- Six counties have ordinances that are unclear in concern to setback distance .
- Thirteen counties have zoning ordinances that have environmental standard requirements with two of the counties that have extensive requirements.
- Thirteen counties have setback distances greater than allowed by NDDC 11-33-02.1 which refers to counties at maximum can only have setbacks 50% greater than Model Zoning Ordinance.

Township zoning review

- Eighty-three townships are zoned individually for animal feeding operations in ND.
- Fourteen townships have setback distances equivalent or less than Model Zoning Ordinance for Animal Feeding Operations.
- Forty-one townships have zoning ordinances with setback distances greater than the Model Zoning Ordinance.
- Twenty-eight townships have zoning ordinances that are unclear in concern to setback distance.
- Forty-one townships have zoning ordinances that have environmental standard requirements with three of the townships that have extensive requirements.
- Thirty-one townships have setback distances greater than allowed by NDDC 58-02-11.1 which refers to townships at maximum can only have setbacks 50% greater than Model Zoning Ordinance.

Questions?

#26504

2021 Economic Contribution Study of South Dakota Agriculture, Ethanol and Forestry

July 2021

Prepared For:

Prepared By:

Contents

List of Figures

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List of Tables

1 Executive Summary

The results of this study indicate that although there have been challenging times in agriculture, forestry, and related industries, they are still a significant part of South Dakota's economy, supporting about 1 in every 5 jobs across South Dakota.

This study is based on a combination of the USDA 2017 Census of Agriculture, USDA/NASS datasets, and the IMPLAN modeling system and data (2019). This analysis is patterned after other Agriculture and Forestry Economic Contribution Studies completed by Decision Innovation Solutions (DIS) for the states of Alabama, Illinois, Iowa, Missouri, and Minnesota.

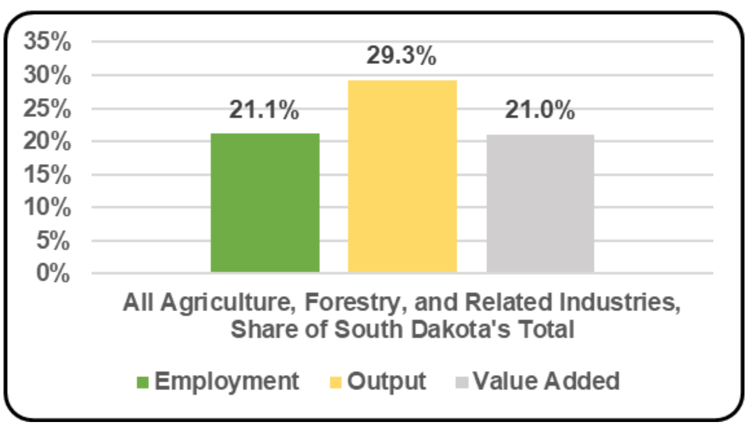
Key Findings[1]

In 2021, agriculture, forestry, and related industries in South Dakota are estimated to contribute:

- **$11.7 billion** in total value added
- **129,753 jobs**
- **$32.1 billion** in output (sales)
- **$11.6 billion** in household income

Of the **$11.7 billion** in total value added and **129,753 jobs** from agriculture, agri-food, forestry, and related economic activity:

- Crop production and related industries contributed:
  - **$3.3 billion** in value added
  - **30,817** jobs
- Livestock production and related industries contributed:
  - **$5.6 billion** in value added
  - **64,459** jobs
- Other agriculture industries contributed:
  - **$2.0** billion in value added
  - **23,983** jobs
- Forestry production and related industries contributed:
  - **$860 million** in value added
  - **10,493** jobs



[1] For additional visualizations of the data please view https://tinyurl.com/2021-SD-AFECS. Dollar denominated 2019 IMPLAN results have been adjusted to 2021 values.

2 Background

This South Dakota Agriculture Economic Contribution Study quantifies agriculture and its related industries' contribution to the economy. This study relies heavily on the 2019 data from the IMPLAN modeling system, the USDA 2017 Census of Agriculture, and other USDA/NASS datasets. This study is patterned after similar studies completed by DIS for Iowa in 2009, 2014, and 2019, South Dakota in 2014 and 2019, Illinois in 2015 and 2019, Missouri in 2016, Alabama in 2016 and Minnesota in 2020.

2.1 South Dakota Agriculture

As of 2020, South Dakota was ranked among the top five states in the nation for[2]:

- Bison (#1) (2017)
- Oats (#1)
- Honey (#2)
- Sunflower Production (#2)
- Sunflower for Oil Production (#2)
- Proso Millet Production (#3)
- Sorghum for Silage Production (#3)
- Sorghum for Grain Production (#4)
- Beef Cows (#5)
- Calf Crop (#5)
- Alfalfa Hay Production (#5)
- Lamb Crop (#5)
- Land in Farms (#5)
- Safflower Production (#5)
- Spring Wheat Production (#5)
- Wool Production (#5)

According to the same 2020 data above from the USDA National Statistics Service, South Dakota is currently ranked among the top ten states for:

- Dry Edible Pea Production
- Sheep and Lamb Inventory
- Sheep and Lamb Market Inventory
- Cattle and Calves Inventory
- Cattle on Feed Inventory
- Corn for Grain Production
- Corn for Silage Production
- On Farm Grain Storage Capacity
- Hay Production (All)
- Principle Crops Harvested
- Total Cropland Acres (2017)
- Pig Crop
- Principle Crops Planted
- Soybean Production
- Wheat Production (All)
- Off Farm Grain Storage Capacity
- Winter Wheat Production

The rankings above show South Dakota's ability to be a leading producer of various crops and livestock and demonstrate the importance of South Dakota to help feed, clothe, and fuel those beyond South Dakota and the U.S.

2.2 South Dakota Cash Receipts[3]

Cattle & calves, corn, soybeans, hogs, and dairy products are the top five South Dakota agricultural commodities in terms of agricultural cash generated (see Figure 1). In 2019, cattle receipts were $2.73

[2] https://www.nass.usda.gov/Statistics_by_State/South_Dakota/Publications/Economic_Releases/Rank/SD-rank21.pdf

[3] **Note to this section:** State agricultural cash receipts for 2020 have not yet been published by USDA; therefore, calendar year 2020 cash receipts for the commodities presented in this section for South Dakota were estimated

billion, followed by corn receipts of $2.14 billion, soybean receipts of $1.64 billion, hog receipts of $730 million, and dairy product receipts of $563 million.

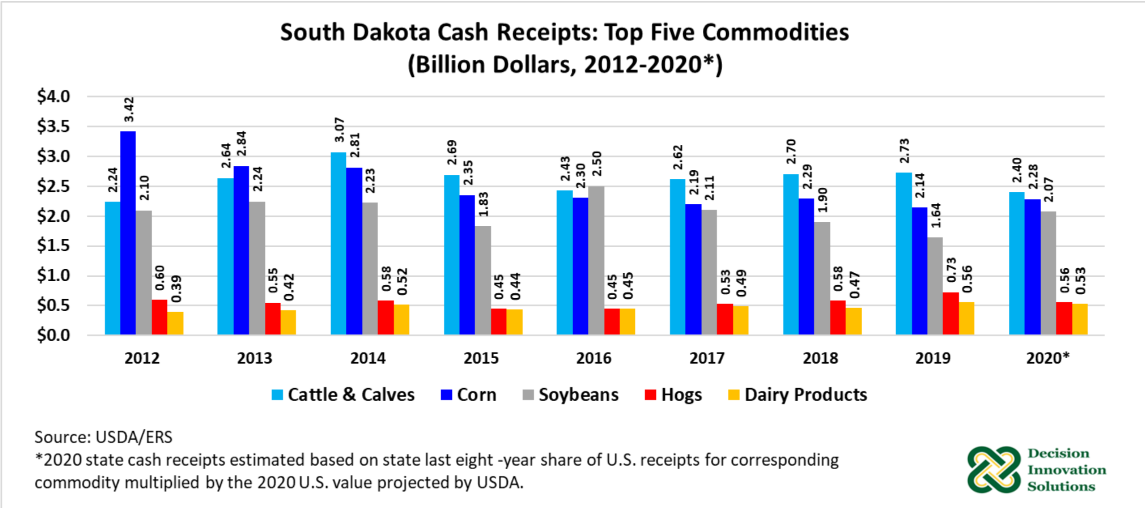


Figure 1. South Dakota Cash Receipts: Top Five Commodities (Billion Dollars, 2012-2020*)

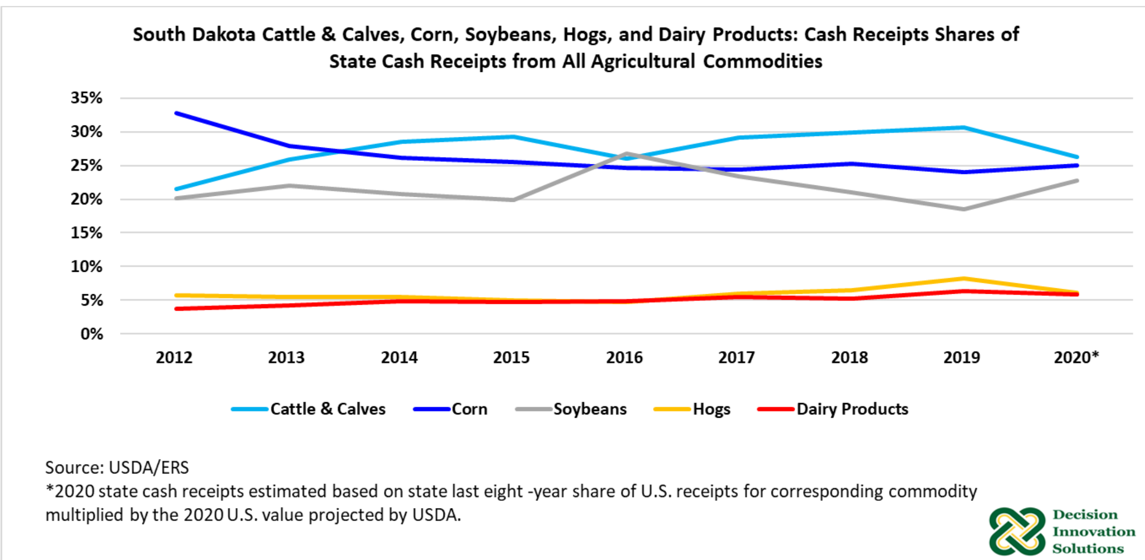


Figure 2. South Dakota Cash Receipts: Shares of State Cash Receipts from All Agricultural Commodities

2019 hog sales represented 8.2% of cash receipts from all South Dakota agricultural commodities ($8.95 billion) and 16.9% of total sales from all animals and animal products. Hog cash receipts in South Dakota were up 24.9% from 2018. The value of hog sales in South Dakota in 2020 is estimated to be down to

by using the state five-year average share of U.S. cash receipts for the corresponding commodities and applied those shares to USDA 2020 cash receipts for each of those commodities.

$556.1 million from 2019. The 2020 share of hog sales would be about 6.1% of all agricultural commodities in the state (see Figure 2).

Cash receipts from dairy products are the fifth largest source of agricultural income in South Dakota. In 2019, cash receipts from dairy products reached a total of $563 million and represented 6.3% of all cash receipts from agricultural commodities ($8.95 billion) in the state and 13.0% of total sales from all animals and products ($4.32 billion), making dairy products cash receipts the third largest component of the state's animals and products cash receipts after cattle & calves and hogs cash receipts (see Figure 3). South Dakota 2019 cash receipts from dairy products grew 21% year-over-year (see Figure 3) from 2018.

The value of dairy products in South Dakota in 2020 was estimated at $530 million (see Figure 2). Note that South Dakota dairy cash receipts might be underestimated considering that both the state share of milk production and the state share of cheese production relative to the U.S. production of these two products increased in 2020 relative to 2019, and that the value of 2020 U.S. dairy cash receipts increased 0.3% from the previous year.

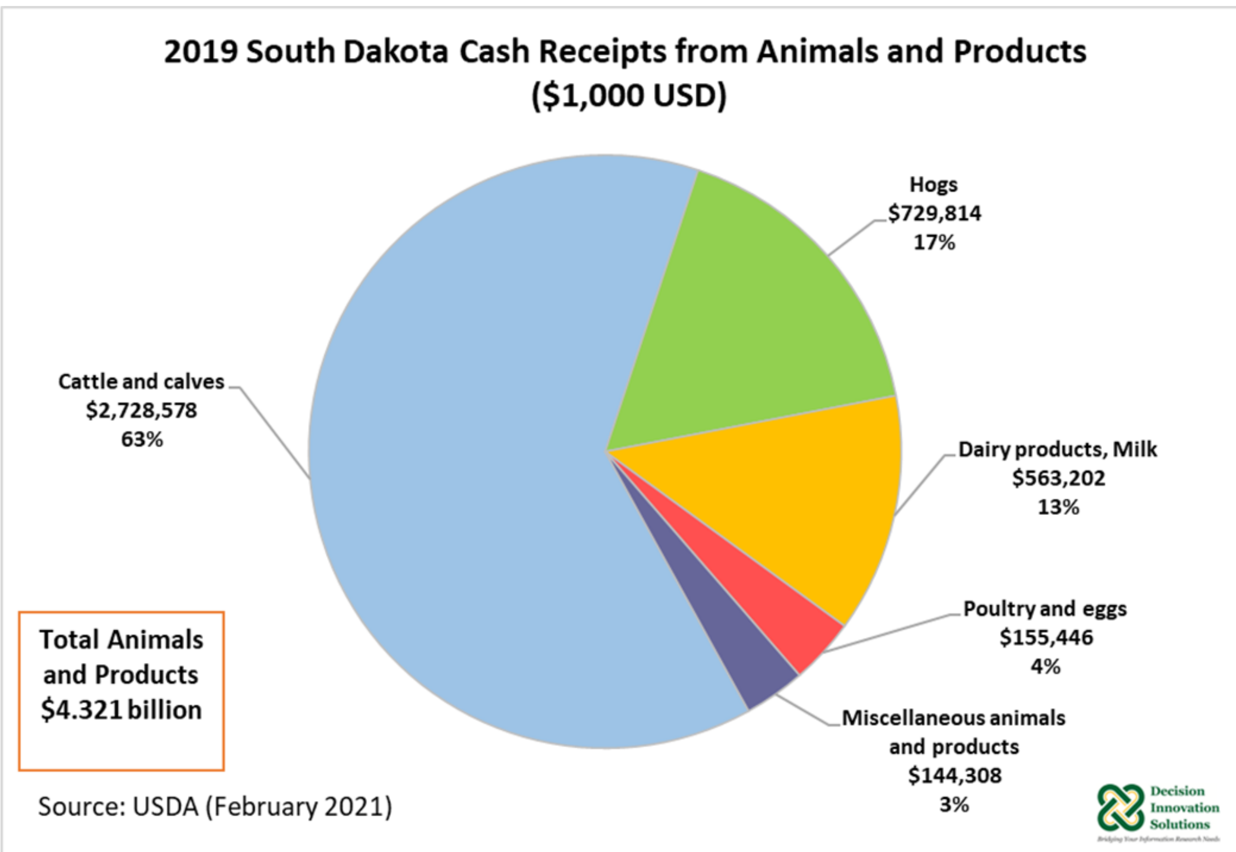


Figure 3. 2019 South Dakota Cash Receipts from Animals and Products

2.3 South Dakota Farm Demographics

The Census of Agriculture defines a 'farm' as any operation that produces for sale at least $1,000 worth of agricultural commodities or would produce $1,000 worth of primary agricultural commodities for sale in a normal year. The definition is based on expected sales rather than ownership or various operating characteristics.

Figure 4 displays the breakdown of South Dakota farms by size, according to the 2017 Census of Agriculture. The smaller size farms are generally hobby or specialty farms, while the farm farms larger in size typically make up the majority of farm sales. There are 5,847 farms in South Dakota in the largest size category of 2,000 or more acres.

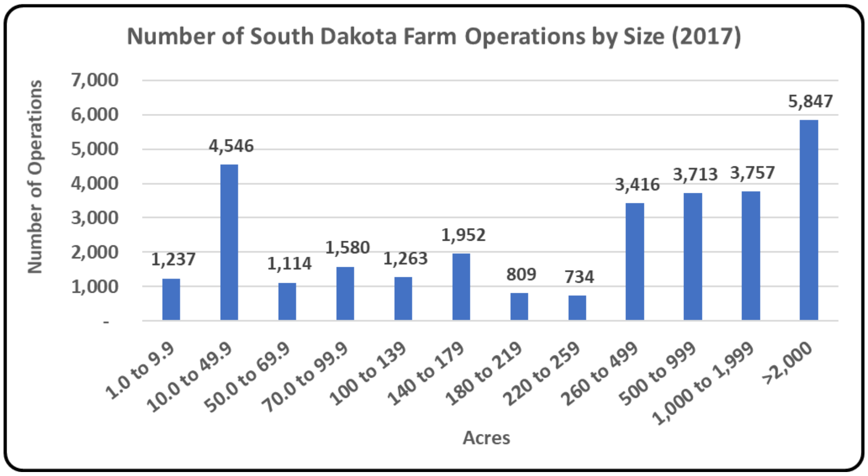


Figure 4. Number of South Dakota Farm Farms by Size (2017)[4]

According to the 2017 Census of Agriculture (see Figure 5), of the 29,968 farms in South Dakota, 83% of farms are owned by families or individuals, 8% are in partnerships, and 6% are in family held corporations. Only 1% are in corporations that are non-family held.

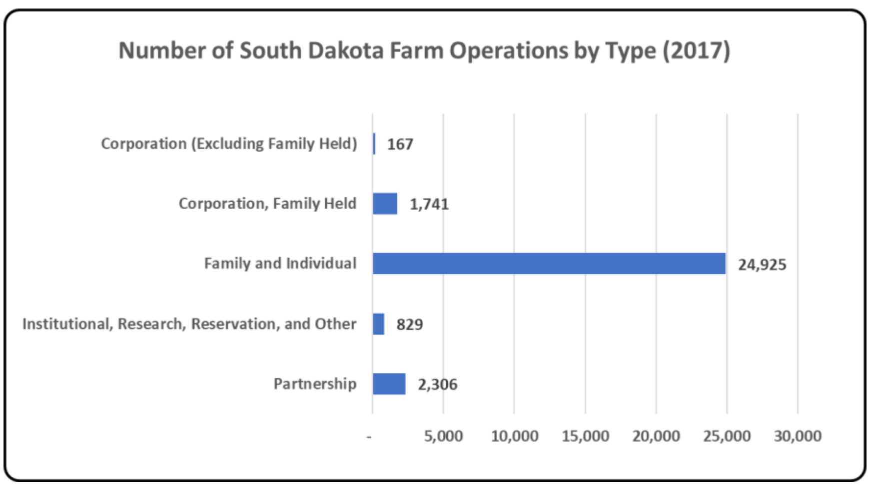


Figure 5. Number of South Dakota Farm Farms by Type (2017)

There are 39,136 principal producers in South Dakota (see Figure 6). 63% of the principal[5] producers are age 55 and older, with only 1% under age 25, 8% between the ages of 25 and 34, 12% from 35-44, and

[4] https://quickstats.nass.usda.gov

[5] Principal producers are the primary decision makers for each farm operation.

17% from 45-54 years. Of the 39,136 principal producers in South Dakota, about 56% of them consider farming their primary occupation, while the other 44% have another job as their primary occupation.

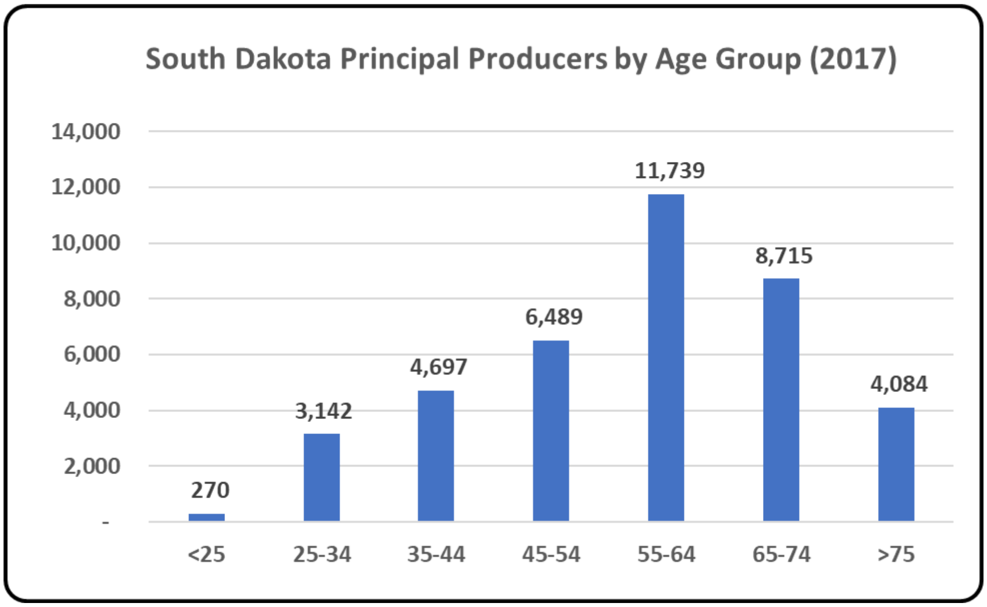


Figure 6. South Dakota Principal Producers by Age Group (2017)

According to 2020 survey data (see Figure 7), total number of South Dakota farms is at 29,600 – a decrease of 368 since the 2017 census. Along with this, the distribution of economic classes across these farms has changed vastly during the 2002-2020 time period. There has been a decrease in the number of farms within or below the $100,000 to $249,999 economic class: The $1,000 to $9,999 economic class has decreased by 21%, the $10,000 to $99,999 economic class has decreased by 27%, and the $100,000 to $249,999 economic class has decreased by 29%. On the other hand, there has been an increase in the number of farms within or above the $250,000 to $499,999 economic class: The $250,000 to $499,999 economic class has increased by 46%, the $500,000 to $999,999 economic class has increased by 100%, and the number of farms within the $1,000,000 or more economic class has increased from zero to 2,300.

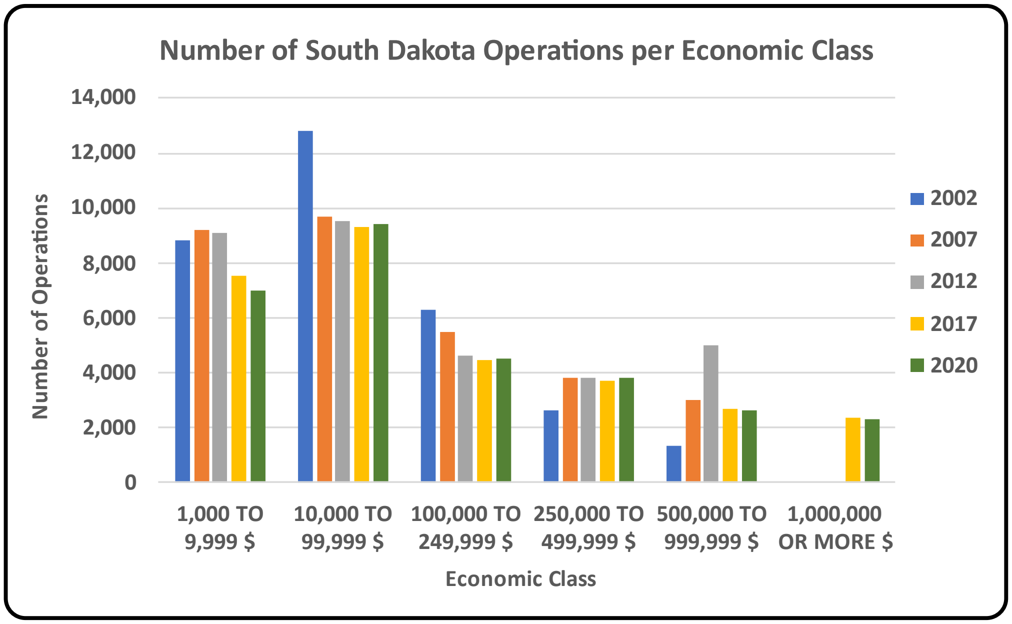


Figure 7. Number of South Dakota Farms per Economic Class[6]

The average South Dakota farm size in 2017 was 1,443 acres, which is up from 1,330 acres in 1997, and well above the U.S. average of 441 acres. The 2017 average market value of all machinery and equipment per farm is $282,162, which is a 163% increase from the value of $107,376 in 1997. Additionally, the average market value of land and buildings per farm in 2017 was $2,984,426, which is nearly four times greater than the average value in 2002.

Table 1. Selected Historical South Dakota USDA Census of Agriculture Data

Historical South Dakota USDA Census of Agriculture Data	2017	2012	2007	2002
Number of South Dakota Farms	**29,968**	**31,989**	**31,169**	**31,736**
Average South Dakota Farm Size	**1,443**	**1,352**	**1,401**	**1,380**
Market Value ($ Per Farm)				
Land and Buildings	$ 2,984,426	$ 2,281,026	$ 1,255,332	$ 618,651
Machinery and Buildings	$ 282,162	$ 241,388	$ 155,652	$ 107,376
Farm Products Sold	$ 324,397	$ 317,929	$ 210,801	$ 120,829
Livestock Inventory (head)				
Cattle and Calves	$ 3,988,183	$ 3,893,251	$ 3,687,728	$ 3,695,877
Beef Cows	$ 1,799,801	$ 1,610,559	$ 1,649,492	$ 1,694,091
Milk Cows	$ 127,325	$ 91,831	$ 86,243	$ 84,080
Hogs and Pigs	$ 1,560,522	$ 1,191,162	$ 1,490,034	$ 1,375,506
Laying Chickens	$ 2,708,331	$ 2,450,780	$ 2,920,799	$ 2,226,368
Broiler Chickens	$ 146,197	$ 144,015	$ 272,986	$ 321,260
Cattle and Calves Sold	$ 2,752,025	$ 2,567,027	$ 2,745,227	$ 2,707,872
Hogs and Pigs Sold	$ 5,359,357	$ 3,914,312	$ 4,487,708	$ 3,773,503
Production (bushels)				
Corn for Grain	$ 768,250,076	$ 480,330,680	$ 518,552,101	$ 295,166,830
Wheat for Grain	$ 45,137,278	$ 100,675,153	$ 141,003,068	$ 42,413,607
Oats for Grain	$ 4,474,218	$ 4,525,084	$ 8,758,284	$ 5,717,330
Soybeans	$ 240,114,687	$ 130,534,273	$ 130,377,538	$ 126,607,265

[6] https://quickstats.nass.usda.gov

The grains and oilseeds category, along with cattle production, make up the majority of farm sales for primary agricultural commodities. Table 2 shows that all crops (including nursery and greenhouse crops) were estimated to comprise about 53.1% of total farm sales in 2017, while "Livestock, Poultry, and their Products" comprised 46.9% in 2017.

Table 2. Selected South Dakota Farm Sales by Source[7]

South Dakota Farm Sales by Source	2017	% of 2017 Total	2012	% of 2012 Total	2007	% of 2007 Total	2002	% of 2002 Total
Total Sales ($1000)	**$ 9,721,522**	**100.0%**	**$ 10,170,227**	**100.0%**	**$ 6,570,450**	**100.0%**	**$ 3,834,625**	**100.0%**
Average Per Farm	**$ 324,397**		**$ 317,929**		**$ 210,801**		**$ 120,829**	
Crops, including nursery and greenhouse crops	**$ 5,166,557**	**53.1%**	**$ 6,072,922**	**59.7%**	**$ 3,383,497**	**51.5%**	**$ 1,575,910**	**41.1%**
Corn ($1000)	$ 2,383,397	24.5%	$ 3,063,457	30.1%	$ 1,412,488	21.5%	N/A	N/A
Wheat ($1000)	$ 219,026	2.3%	$ 755,870	7.4%	$ 713,110	10.9%	N/A	N/A
Soybeans ($1000)	$ 2,126,083	21.9%	$ 1,692,677	16.6%	$ 949,942	14.5%	N/A	N/A
Sorghum ($1000)	$ 49,319	0.5%	$ 39,738	0.4%	$ 19,786	0.3%	N/A	N/A
Barley ($1000)	$ 2,020	0.0%	$ 3,844	0.0%	$ 3,795	0.1%	N/A	N/A
Other ($1000)	$ 386,712	4.0%	$ 517,336	5.1%	$ 284,376	4.3%	N/A	N/A
Livestock, Poultry, and Their Products ($1000)	**$ 4,554,966**	**46.9%**	**$ 4,097,304**	**40.3%**	**$ 3,186,953**	**48.5%**	**$ 2,258,715**	**58.9%**
Poultry and Eggs ($1000)	$ 166,997	1.7%	$ 182,076	1.8%	$ 140,798	2.1%	$ 70,820	1.8%
Cattle and Calves ($1000)	$ 3,191,493	32.8%	$ 2,968,996	29.2%	$ 2,307,618	35.1%	$ 1,693,838	44.2%
Milk and Other Dairy Products from Cows ($1000)	$ 495,112	5.1%	$ 374,490	3.7%	$ 279,765	4.3%	$ 156,498	4.1%
Hogs and Pigs ($1000)	$ 577,034	5.9%	$ 446,756	4.4%	$ 381,360	5.8%	$ 227,794	5.9%
Sheep, Goats, and Their Products ($1000)	$ 41,972	0.4%	$ 43,636	0.4%	$ 36,697	0.6%	$ 31,285	0.8%
Other Animals and Their Products ($1000)	$ 82,358	0.8%	$ 81,350	0.8%	$ 40,715	0.6%	$ 78,480	2.0%

2.4 Forestry

According to the most recent (2017) USDA Forest Resources of the United States report[8], forest land is estimated to make up about 4% (nearly 2 million acres) of South Dakota's land area. About 60% of the estimated forest land in South Dakota is publicly held, while the other 40% is privately held. South Dakota saw a very slight increase in forest land from 2012, increasing from an estimated 1.911 million acres in 2012 to 1.949 million acres in 2017. Since 1997 there has been a 19% increase in total forest land.

Table 3. South Dakota Forestry Acres[9]

	Land Area (thousand acres)
Total Land Area	***48,519***
Total Forest Land	**1,949**
Total Timberland	1,799
Timberland - Planted	36
Timberland - Natural Origin	1,763
Forest Land - Reserved	47
Forest Land - Other	103
Other Land	46,570

[7] https://quickstats.nass.usda.gov

[8] https://www.fs.fed.us/research/publications/gtr/gtr_wo97.pdf (pg. 72)

[9] https://www.fs.fed.us/research/publications/gtr/gtr_wo97.pdf (pg. 72)

3 Economic Contribution Methodology

The 2021 Economic Contribution Study of South Dakota Agriculture, Ethanol and Forestry was completed with a combination of the 2019 South Dakota IMPLAN dataset, data from the USDA 2017 Census of Agriculture and other USDA/National Agricultural Statistics Service (USDA/NASS) sources. The IMPLAN modeling system and Microsoft Excel were used for calculating and tabulating the results of this analysis. Results, shown as 2020 values throughout this report, are presented using these common economic modeling terms:

- **Value Added**
  - Sales (output) minus the cost of inputs. Value Added is a component Output.
- **Sales (Output)**
  - The broadest measure of economic activity – sometimes referred to as “output”. Includes Value Added, which in turn includes Household Income.
- **Employment (Jobs)**
  - A measure of job positions without regard to whether they are full-time equivalents
- **Household Income**
  - Income from all sources that accrues to individuals as payment for personal employment (earnings or labor income), payment for ownership interests or capital provision (dividends, interest and rents), or as transfer payments (payments to individuals for which nothing is offered in return). Household income is a component of Value Added.

3.1 Defining Agriculture and Forestry

When completing an economic contribution study, there are generally questions as to what economic activity up and down the value chain should be included for a particular industry. Outlined below is the process used in this study for defining agriculture, and the same guidelines have been applied to the forestry industry.

There is usually considerable discussion regarding the blurred lines between production agriculture, processing and retail, and how agriculture should be defined. Agriculture can be defined as: 1) including only farm-level production, 2) including farm-level production, input manufacturing, and food processing, or 3) from the “farm to fork” perspective, which would also include distribution, restaurants and retail.

To strike middle (and defensible) ground between including more than just farm level production and seeking to attribute excess economic activity to the agriculture industry, this analysis includes production agriculture plus the first round of value added to the process. For example, in addition to the production of livestock and poultry, we have also included the industries that process them (i.e., production, processing, slaughtering, and rendering). As mentioned, we have followed this same pattern of analyzing other agricultural industries (e.g., crops), forestry production and further processing (sawmills, etc.)

Using the above rationale as a guide, the IMPLAN models were created and analyzed using the recommended methodology for a Multi-Industry Contribution Analysis. The IMPLAN modeling system uses more than 20,000 industries and classifies them according to the North American Industry Classification System (NAICS) and groups them into 546 industries. There were 103 IMPLAN sectors identified for this analysis to represent agriculture, forestry and related economic activities in the State of South Dakota (see Appendix A, IMPLAN Aggregation Scheme).

3.2 Economic Impact Study versus Economic Contribution Study

The term "Economic Impact Study" implies a change has taken place within a local economy. The change in a local economy typically comes from one of the following sources:

- Entrance/departure of a new business or industry
- Expansion/contraction of an existing business or industry

While estimating a change (economic impact study) such as the entrance or departure of industry activity is a worthwhile endeavor in many instances, this is not how the contribution of the agriculture and forestry sectors in this analysis were estimated. This analysis is an effort to evaluate the structure of existing industries within an existing economy. As a result, shocking the economy to create or eliminate parts of the industry is not appropriate. For that reason, this study is called an "economic contribution analysis"; in other words, we are interested in understanding what South Dakota agriculture currently contributes to the overall economy. This is a key difference from what is traditionally termed an "economic impact study". With a contribution analysis, the sum of individual industry estimates will never differ from the total of what actually exists in a given study area.

4 Economic Contribution Study Results[10]

4.1 State Level Results

The 103 IMPLAN sectors identified for this study were aggregated into four main categories to provide an overview of the economic contribution of these industries. These aggregated industries are:

- Crops
- Livestock
- Other Agriculture
- Forestry

Further details on the industries included in each of these categories are shown in the 'Detailed Results' section of the report and also in Appendix A, IMPLAN Aggregation Scheme.

[10] For additional, customized visualization of the results please visit https://tinyurl.com/2021-SD-AFECS .

4.1.1 State Value Added

Total value added refers to the portion of total sales that actually created additional value from the economic activity in an area and/or industry and is an accurate indicator of the ability of an industry to improve economic prospects in a given area. Total value added for an industry represents the value of the industry's total sales minus the value of any inputs used in the production process from other industries. Key components of value added are employee compensation (hired labor) and proprietor's income (self-employed), which is collectively known as 'household income'.

Figure 8 shows the value added contribution of South Dakota broken out by industry. The agriculture and forestry industries and related economic activity add a significant contribution to the South Dakota economy with about $11.7[11] billion in value added, which is 21% of the state's total value added. Of this amount, $3.3 billion (6%) from Crops, $5.6 billion (10%) comes from Livestock, $2 billion (4%) from Other Agriculture, and $860 million (2%) from Forestry.

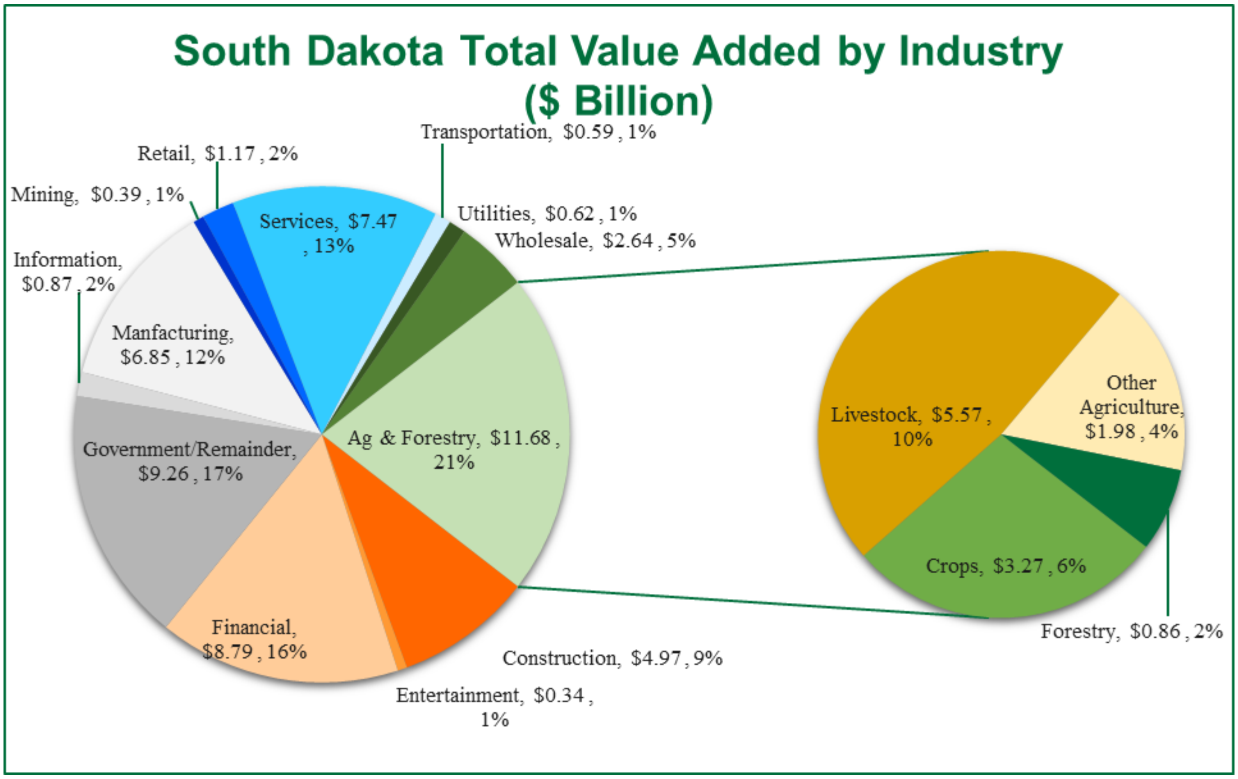


Figure 8. South Dakota Agriculture and Forestry Total Value Added

[11] Totals throughout the report may not sum due to rounding.

4.1.2 State Jobs

Job numbers represent an estimate of the number of positions (jobs) currently filled in an area or industry. The estimates provided here originate from the state level IMPLAN input-output model. Jobs include positions whether they are full or part-time, so care must be used in making comparisons. "Jobs" does not count positions that are unfilled.

As shown in Figure 9, South Dakota's agriculture and forestry industries and related economic activities contribute a large number of jobs to the economy with nearly 130,000 jobs, which amounts to more than 1 in 5 of the state's total jobs. Of this amount, 30,817 from Crops, 64,459 jobs come from Livestock, 23,983 from Other Agriculture, and 10,493 from Forestry.

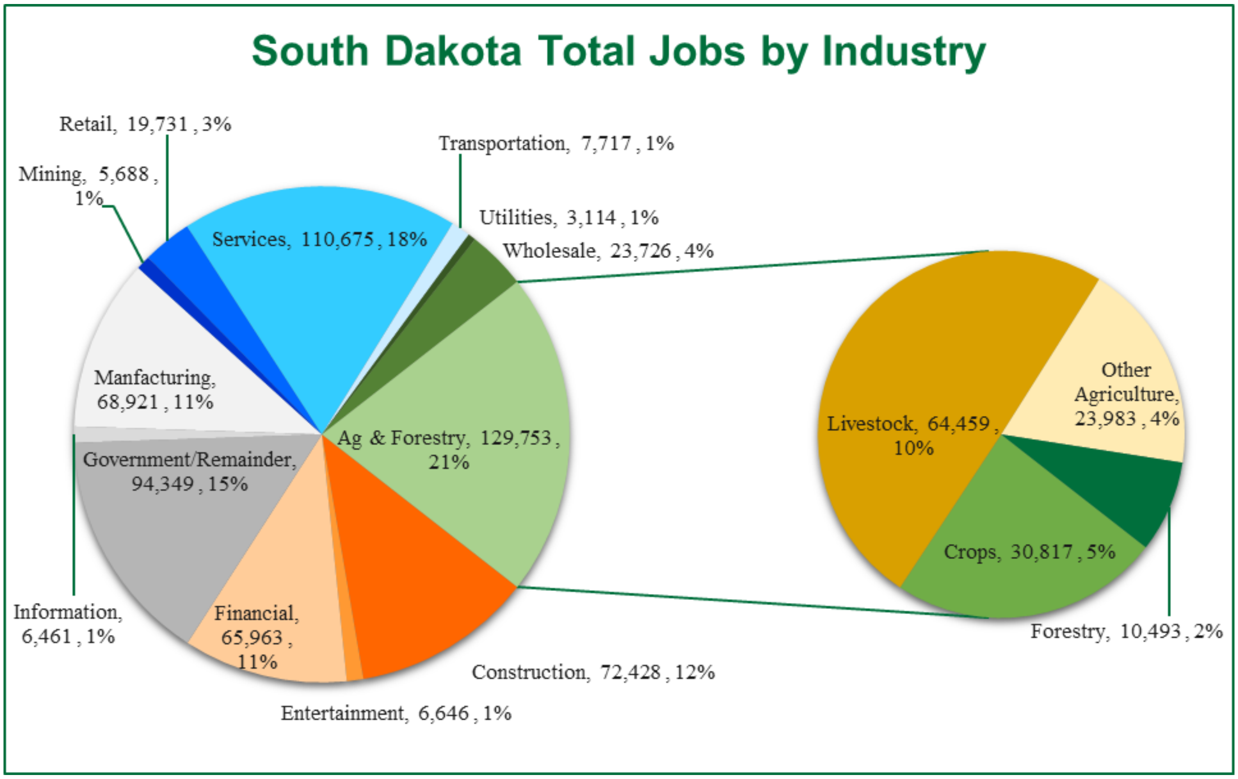


Figure 9. South Dakota Agriculture and Forestry Total Jobs

4.1.3 State Output

Total output (sales) refers to the total value of all production or sales of the identified industries within a study area. This is a total number that does not make deductions for the cost or origination of inputs that were used in the production process, which means that there is some double counting that occurs with this measure of economic activity.

Figure 10 illustrates the contribution of all industries to South Dakota's economy. As shown, South Dakota's agriculture and forestry industries and related economic activities are the largest contributor to the state economy with more than $32 billion in total output, which is approximately 29% of the state's total output. Of this amount, $7.9 billion (7%) from Crops, $16.1 billion (15%) comes from Livestock, $6.0 billion (5%) from Other Agriculture, and $2.1 billion (2%) from Forestry. Other major contributors include the manufacturing, financial, and services industries, contributing 15%, 13%, and 12% of total output, respectively.

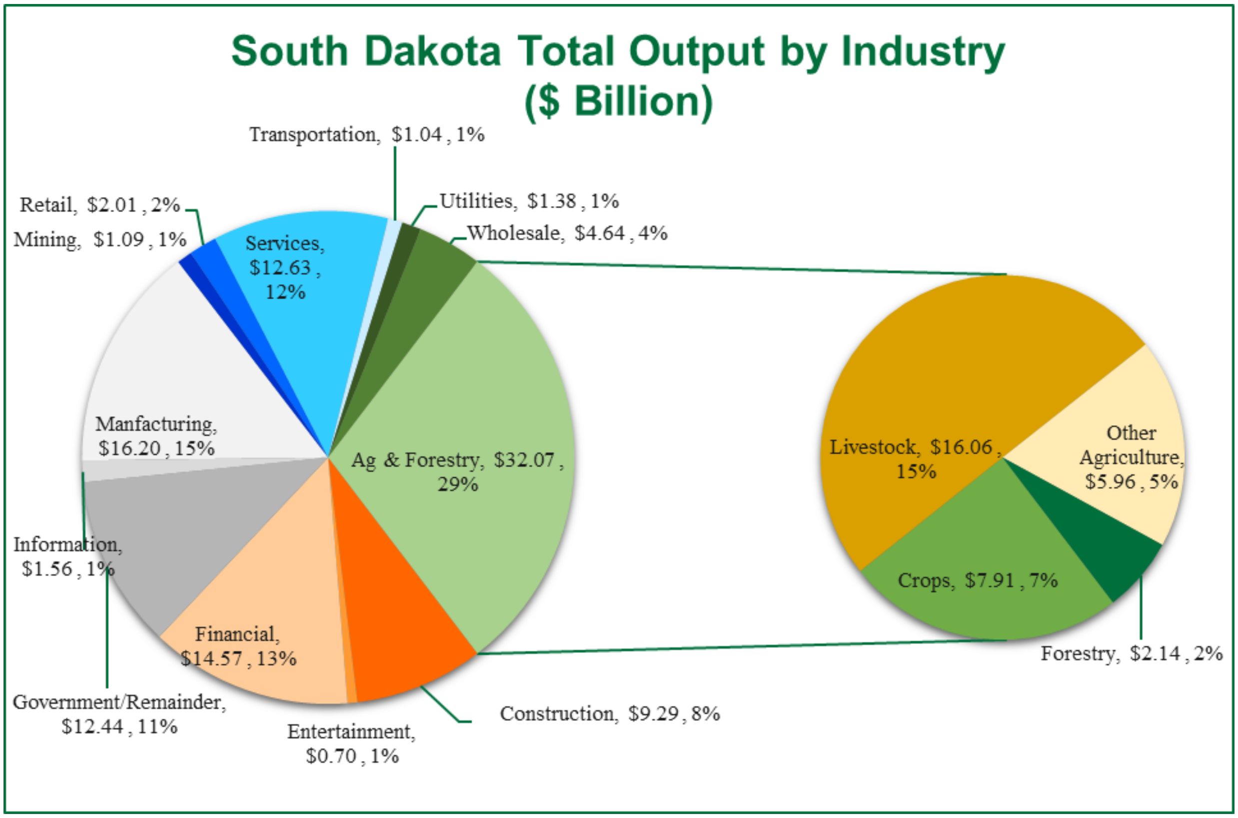


Figure 10. South Dakota Agriculture and Forestry Total Output

4.1.4 State Household Income

Household income is defined as income from all sources that accrues to individuals as payment for personal employment (earnings or labor income), payment for ownership interests or capital provision (dividends, interest and rents), or as transfer payments (payments to individuals for which nothing is offered in return).

Figure 11 illustrates the contribution of each industry to South Dakota's total household income. As shown, South Dakota's agriculture and forestry industries and related economic activities contribute about $11.6 billion in household income to the economy. Of this amount, $3.3 billion from Crops, $5.3 billion comes from Livestock, $2.1 billion from Other Agriculture, and $850 million from Forestry.

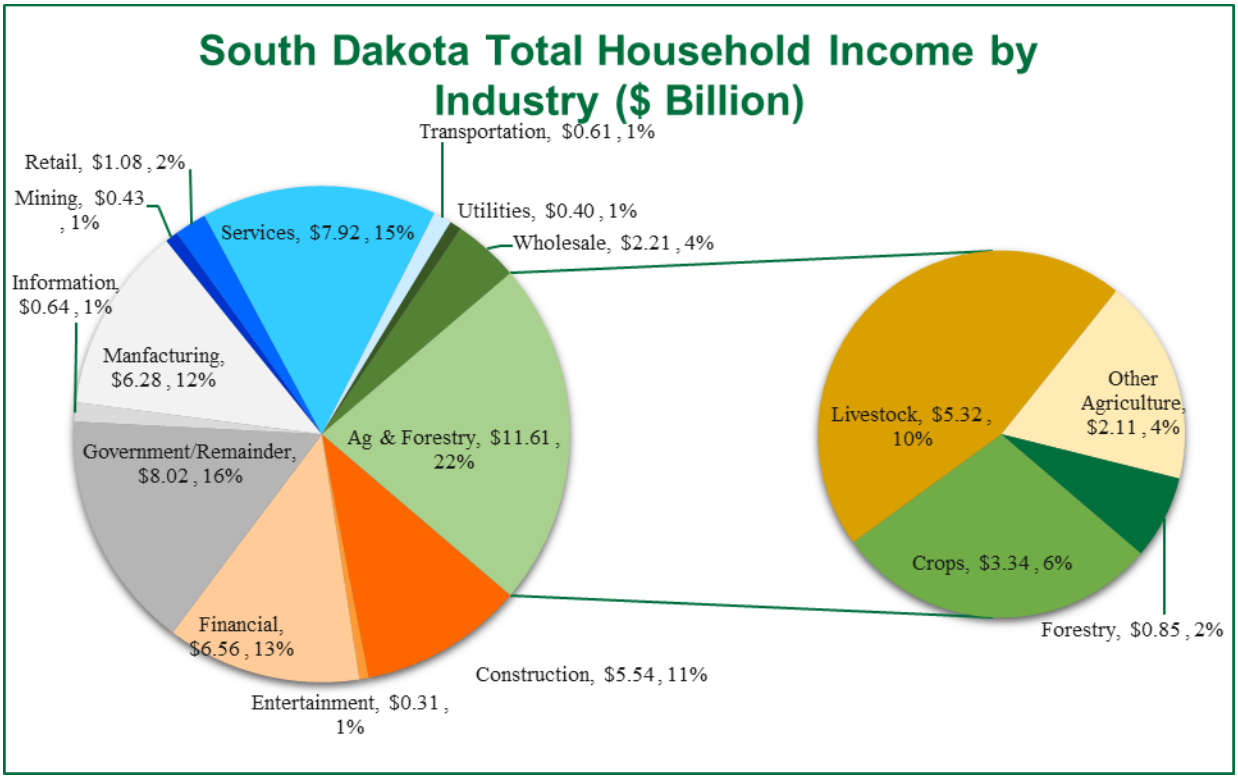


Figure 11. South Dakota Agriculture & Forestry Household Income

4.1.5 Comparability to 2019 Report

Given that Decision Innovation Solutions completed a similar economic contribution study in 2019[12], readers will naturally want to compare results from this analysis to the prior one. A comparison of the top-level results can be seen in the table below.

Table 4, Comparison to 2019 Economic Contribution Study

	2019 Study	2021 Study
Value Added	$11.2 Billion	$11.7 Billion
Jobs	132,105	129,753
Output	$32.5 Billion	$32.1 Billion

It is important to note that the results of the two studies are not exactly comparable, particularly at a more detailed level. The 2019 study includes some forestry sectors in the crops category. In this study, forestry has been made into its own category, and some additional forestry-related sectors have been included. The result is that while the total figures presented in this report are slightly larger than they would be if the 2019 study's aggregation scheme were used, it is also not appropriate to compare the results after discarding the forestry results from this study. The 2017 IMPLAN data (used in the 2019 study) uses a 536-sector scheme, while the 2019 IMPLAN data (used in this study) uses a 546-sector

[12] http://www.decision-innovation.com/webres/File/2019_FinalSD_AECS.pdf

scheme. However, the agriculture, forestry, and related industries analyzed in the two studies were not directly affected by this change.

To the extent that the results can be compared, the value added contribution from agriculture, forestry, and related industries increased, while the jobs and output contribution of these industries slightly decreased. There are many possible explanations for these results; some of the more likely causes are discussed here.

There was a significant decrease in crop and livestock prices between 2017 (the data year for the 2019 study) and 2019 (the data year for this study). As shown in Table 5, only corn saw a price increase between these two years. Meanwhile, the price of soybeans decreased by 8%, the price of wheat decreased by 18%, and livestock prices also saw a significant drop.

Table 5, Commodity Prices, 2017 and 2019 Marketing Years[13]

	2017 Marketing Year	2019 Marketing Year	Percent Change
Wheat ($/bu.)	$ 5.52	$ 4.53	(17.9%)
Corn, Grain ($/bu.)	$ 3.09	$ 3.32	7.4%
Soybeans ($/bu.)	$ 8.94	$ 8.22	(8.1%)
Cattle, Cows ($/cwt)	$ 69.10	$ 62.00	(10.3%)
Cattle, Calves ($/cwt)	$ 168	$ 159	(5.4%)
Hogs ($/cwt)	$ 53.1	$ 51.4	(3.2%)

In addition to prices being lower, crop production was also down overall from 2017 to 2019. Corn production in South Dakota decreased by 180,000 bushels, and soybean production decreased by nearly 100,000 bushels, which can be seen in Table 6 below. While wheat production did increase, this increase was small in absolute terms compared to the decrease in the other two major crops.

Table 6, South Dakota Crop Production, 2017 and 2019[14]

Production (1,000 bu.)	2017	2019	Change
Wheat	41,678	65,410	23,732
Corn, Grain	736,600	557,280	(179,320)
Soybeans	241,230	146,200	(95,030)

Combining the above facts, the result is that overall sales were lower in 2019 than in 2017. As shown in Table 7, of the five commodities listed, only sales for wheat and hogs were higher in 2019. Cattle, corn, and soybean sales were all significantly lower in 2019 than in 2017. Since output in IMPLAN is equal to

[13] Source: USDA NASS. Crop prices are shown at the state level, state data is unavailable for livestock prices, so national data is used
[14] Source: USDA NASS

sales plus net inventory change[15], this reduction in sales would lead to a decrease in the total output contribution of the IMPLAN results.

Table 7, South Dakota Commodity Sales, 2017 and 2019[16]

Sales ($1,000)	2017	2019	Change
Wheat	$ 233,427	$ 295,269	$ 61,842
Corn, Grain	$ 2,278,094	$ 1,850,170	$ (425,924)
Soybeans	$ 2,156,596	$ 1,201,764	$ (954,832)
Cattle and Calves	$ 2,219,240	$ 2,102,918	$ (116,322)
Hogs	$ 490,270	$ 653,448	$ 163,178
Total	$ 7,375,627	$ 6,103,569	$ (1,272,058)

Consistent with the above data is the fact that total cash receipts decreased from $7.94 billion to $7.8 billion, which is a 1.8 percent decrease. This is shown in Figure 1 in Section 2.2.

4.2 Detailed Results

The previous section showed the state level results by the four major categories: 1) Crops, 2) Livestock 3) Other Agriculture and 4) Forestry. The following section shows the results by industry within each of the three major agriculture categories to show which specific industries are major contributors. Please note that goods and services used by the agriculture industry to operate (i.e., banking and insurance) are not specifically shown, but they are embedded as required inputs for the agriculture industry and related economic activities.

4.2.1 Crops

The Crops category includes industries such as grain and oilseed farming, as well as crop food processing industries. Total value added contributed to the South Dakota economy from crops was $3.27 billion (Figure 12). Grain and oilseed farming together make up 86% of this contribution at $1.46 billion and $1.34 billion in value added, respectively. Crop production and related economic activity in South Dakota also accounted for 30,817 jobs (Figure 13), $7.91 billion in output, and $3.34 billion in household income. In addition to crop production, the ‘Primary Food Processing – Crops’ category was a major contributor in this area. This category includes items such as wet corn milling, flour milling, and soybean processing.

[15] https://support.implan.com/hc/en-us/articles/115009668388-Output
[16] Source: USDA NASS

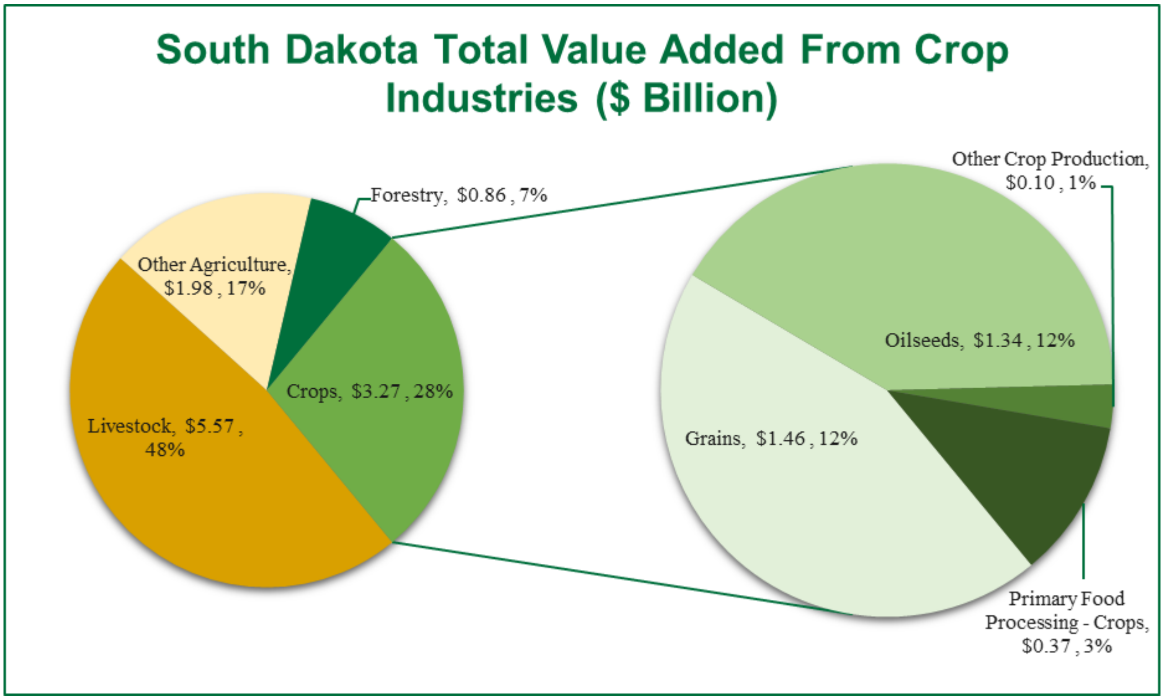


Figure 12. Economic Contribution of South Dakota's Crop Industries - Value Added

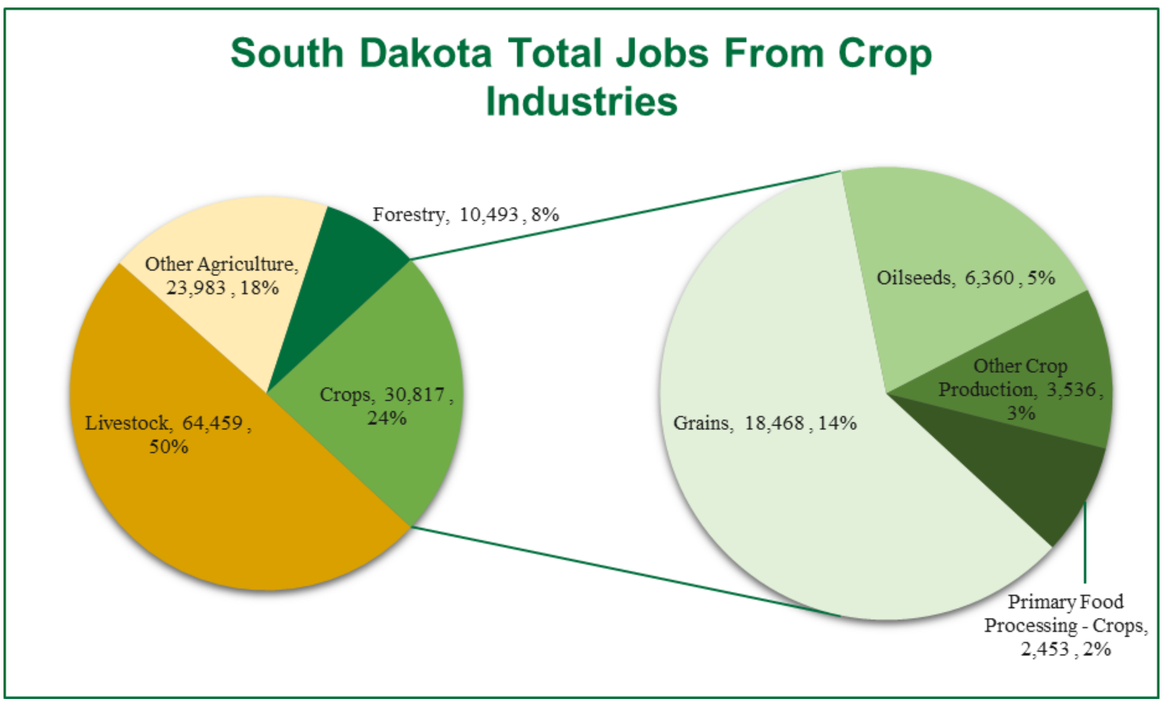


Figure 13. Economic Contribution of South Dakota's Crop Industries – Jobs

4.2.2 Livestock

The Livestock category includes industries such as beef cattle production, hog production, dairy cattle, poultry production (layers (egg production), broilers and turkeys), meat/poultry processing rendering, and more. Total value added contributed to the economy from livestock and related economic activity in South Dakota was about $5.57 billion (see Figure 14).

Livestock production and related economic activity in South Dakota also accounted for 64,459 jobs (see Figure 15), $16.1 billion in output, and about $5.32 billion in household income. In all of these indicators, meat processing is the largest subcategory, which shows the importance of processing to the value chain.

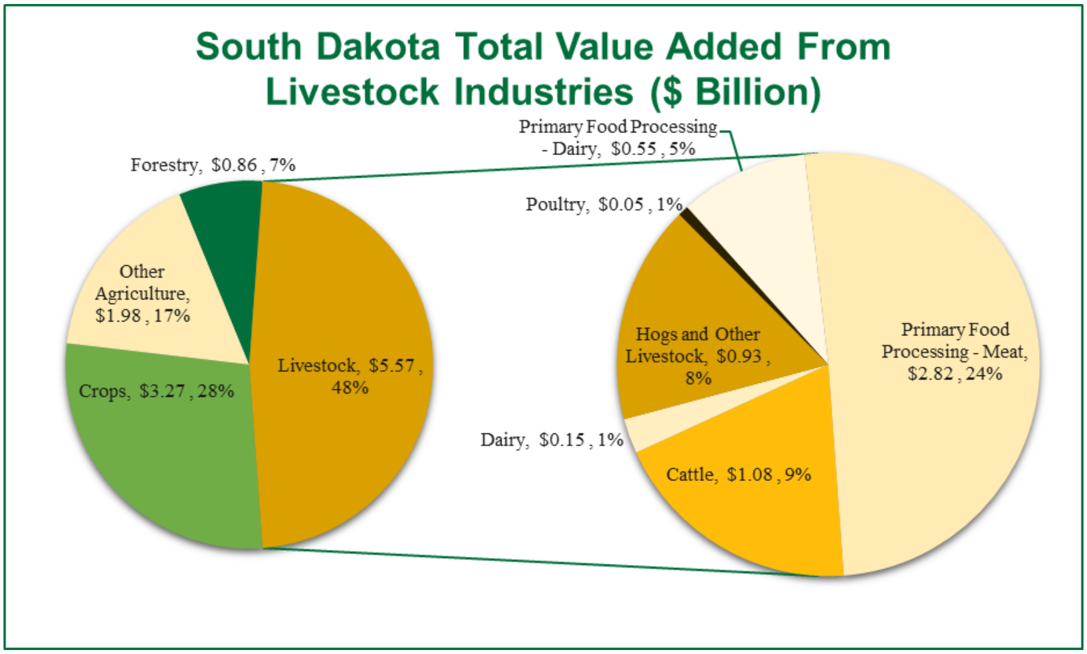


Figure 14. Economic Contribution of South Dakota's Livestock Industries - Value Added

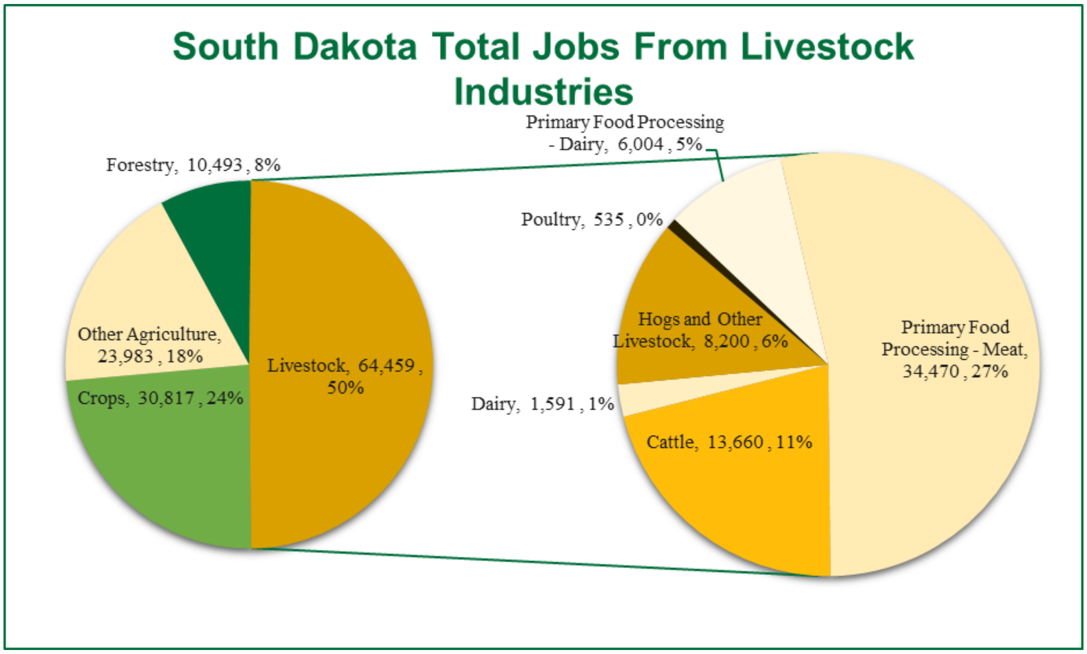


Figure 15. Economic Contribution of South Dakota's Livestock Industries - Jobs

4.2.3 Other Agriculture

The Other Agriculture category includes industries such as animal feed production, farm machinery and equipment manufacturing, custom farming services, and aerial crop spraying, ethanol production, dog and cat food manufacturing, veterinary services, many food manufacturing industries and more (see Appendix A, IMPLAN Aggregation Scheme). Total value- added contributed to the economy from Other Agriculture industries was $1.98 billion (see Figure 16).

The industries in the Other Agriculture category in South Dakota also accounted for 23,983 jobs (see Figure 17), nearly $6.0 billion in output, and about $2.1 billion in household income. Other food processing and animal and pet food industries were major contributors to the Other Ag category.

Ethanol contributes significantly to the Other Agriculture sector (30% of Other Agriculture; 5% of total South Dakota) with a value added contribution of $590 million and 5,334 jobs. Agriculture support also contributed significantly with nearly 8,100 jobs and a value added contribution of $430 million.

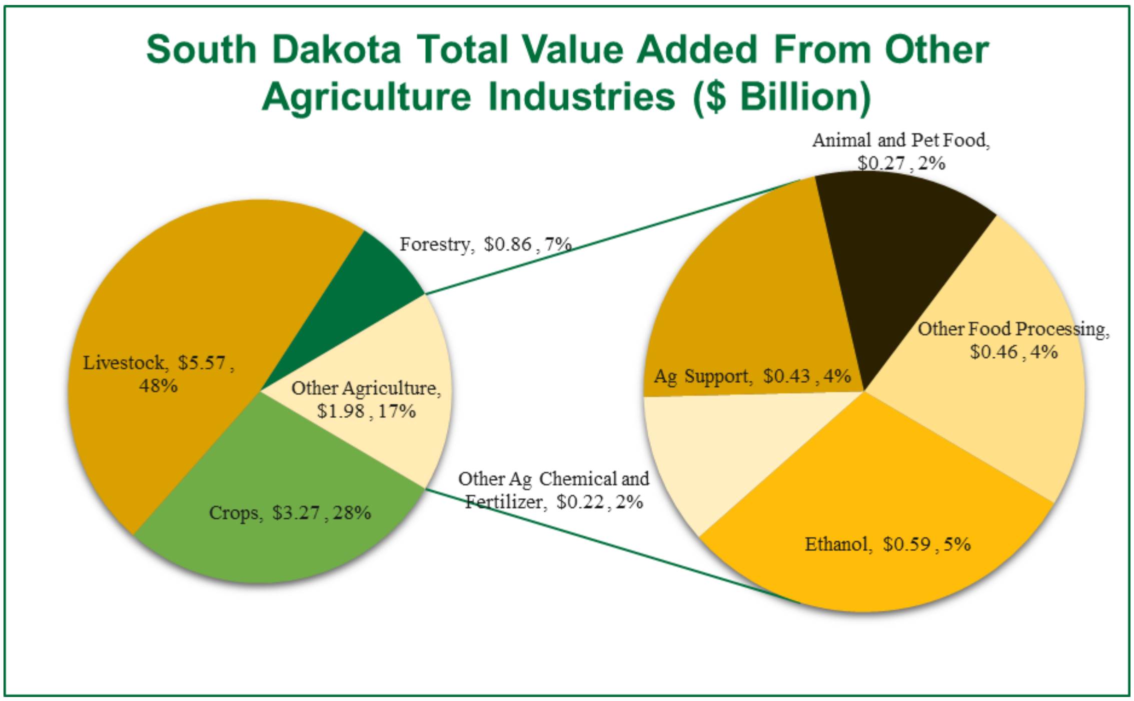


Figure 16. Economic Contribution of South Dakota's Other Agriculture Industries - Value Added

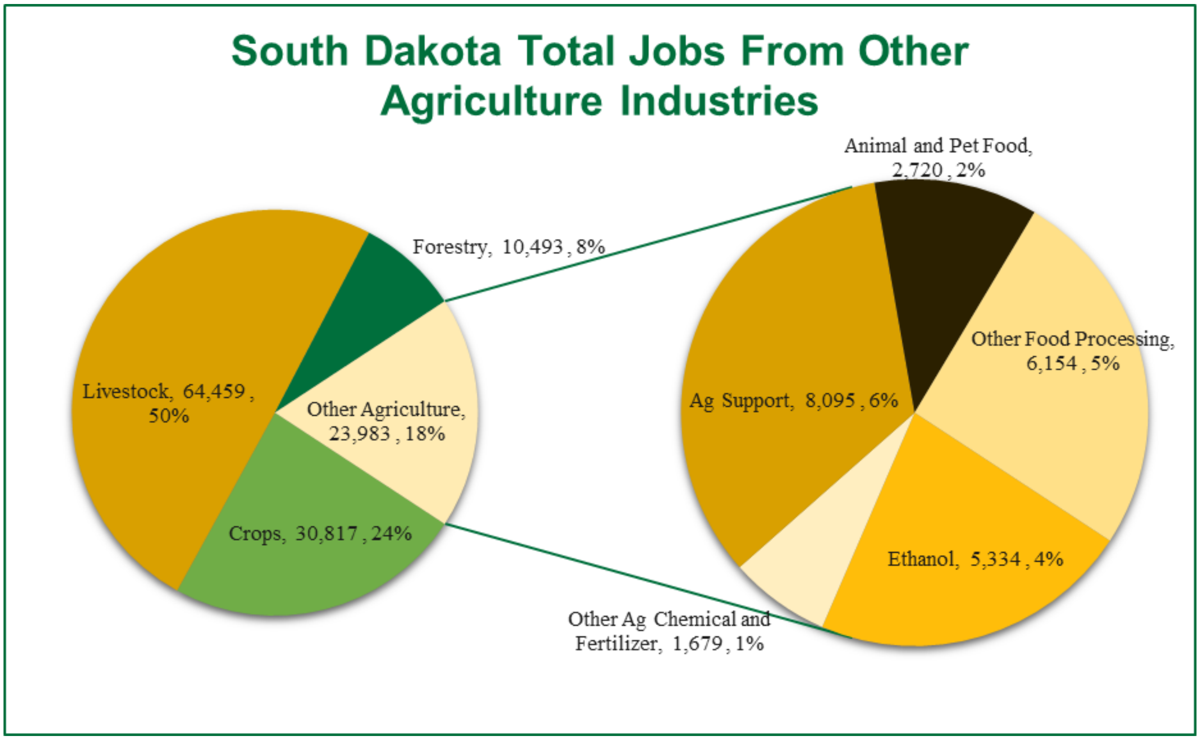


Figure 17. Economic Contribution of South Dakota's Other Agriculture Industries – Jobs

4.3 County Level Results

The results presented so far in this report have been focused on the state level; however similar analyses have been performed for all of South Dakota's sixty-six counties. As one would expect, the contribution of agriculture varies widely, not just in terms of total contribution, but the degree to which some counties are more or less reliant upon agriculture in terms of the four primary measures of economic activity (value added, jobs, output, and household income). While there is variation across counties, a county that is very reliant upon agriculture in terms of value added is also more likely to be reliant upon agriculture in terms of jobs, output, and household income.

4.3.1 County Value Added

Figure 18 shows the ten counties with the greatest value added contributions from agriculture, forestry, and related industries. Minnehaha County is by far the largest with over $2.3 billion in value added contribution. The primary contributing industry is Meat Primary Food Processing with $1.64 billion in value added. Brown, Beadle, and Brookings counties all have value added contributions from agriculture and forestry industries of over $500 million.

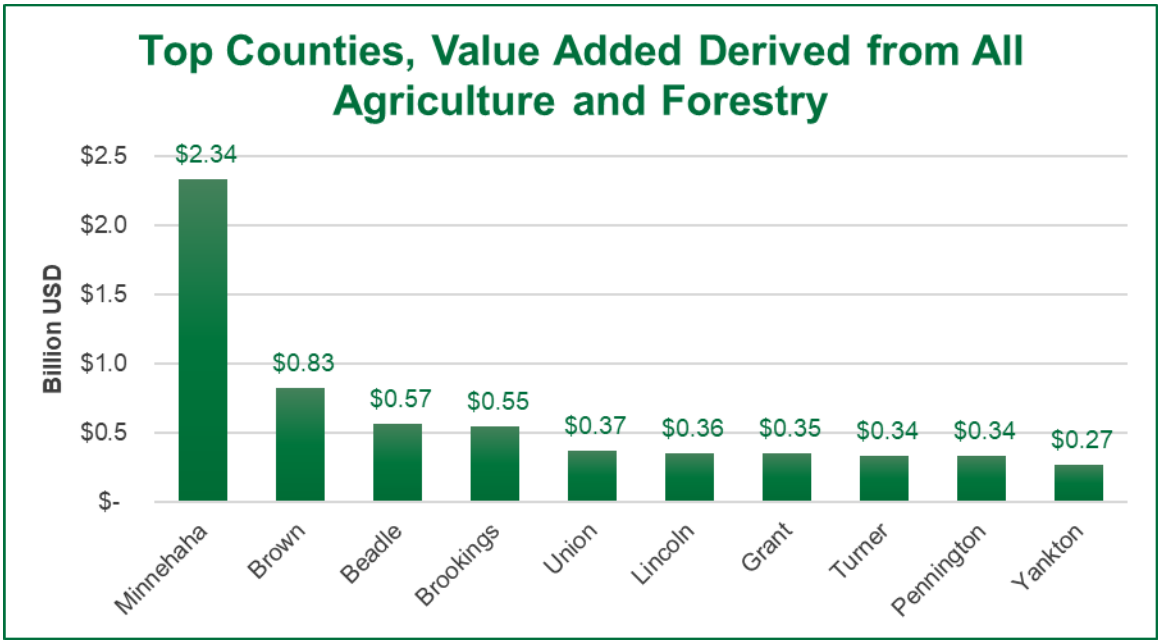


Figure 18. South Dakota Top 10 Counties, Value Added from Agriculture and Forestry Industries

The counties that derive the largest *share* of their total value added from agriculture, forestry, and related industries include Faulk, McPherson, Campbell, Clark, and Jerauld. These counties tend to be more rural in nature (less than 10,000 in population). All of these counties derive at least 70% of their total value added from agriculture and forestry, as shown in Figure 19 below.

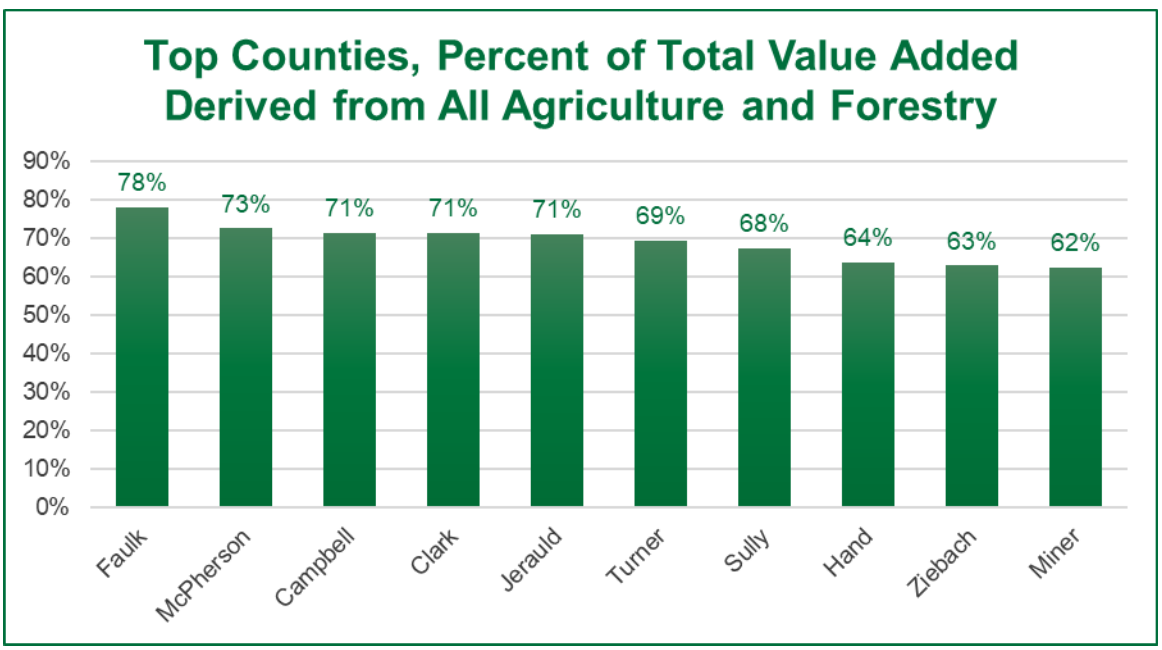


Figure 19. South Dakota Top 10 Counties, Percent Value Added from Agriculture and Forestry Industries

Using a histogram, Figure 20 shows the number of counties that derive certain ranges of shares of value added in a local economy from agriculture and forestry activity. As shown below, 44 counties in South

Dakota derive more than 30% of value added from agriculture, forestry, and related industries. In addition, 25 counties derive more than half of their value added from these industries. More than 20% of the State of South Dakota's value added activity is derived from agriculture and forestry.

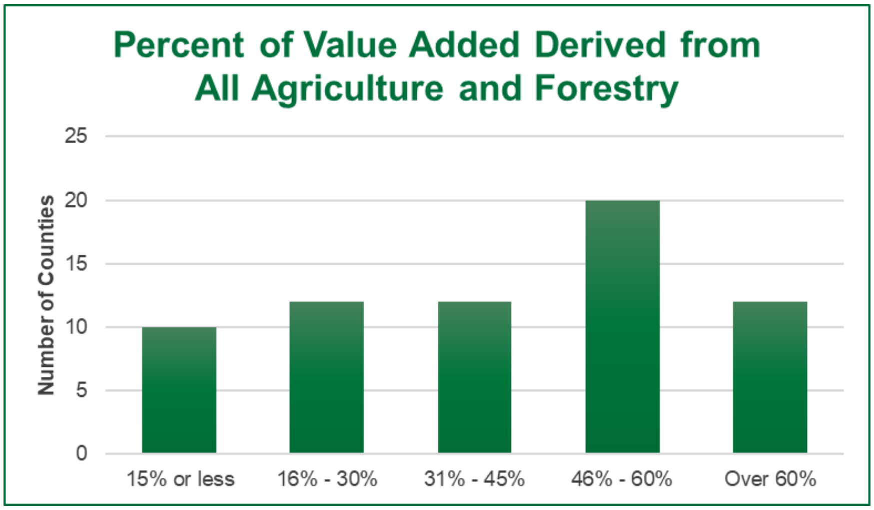


Figure 20. Percent of Value Added Derived from Agriculture and Forestry Industries

Figure 21 shows the amount of value added derived from agriculture, forestry, and related industries for all of South Dakota's counties. On a percentage basis, the value added from the ag and forestry and related industries for each of South Dakota's counties are shown in Figure 22. See Section 9.1 for detailed value added county maps for crops, livestock, forestry, and other agriculture.

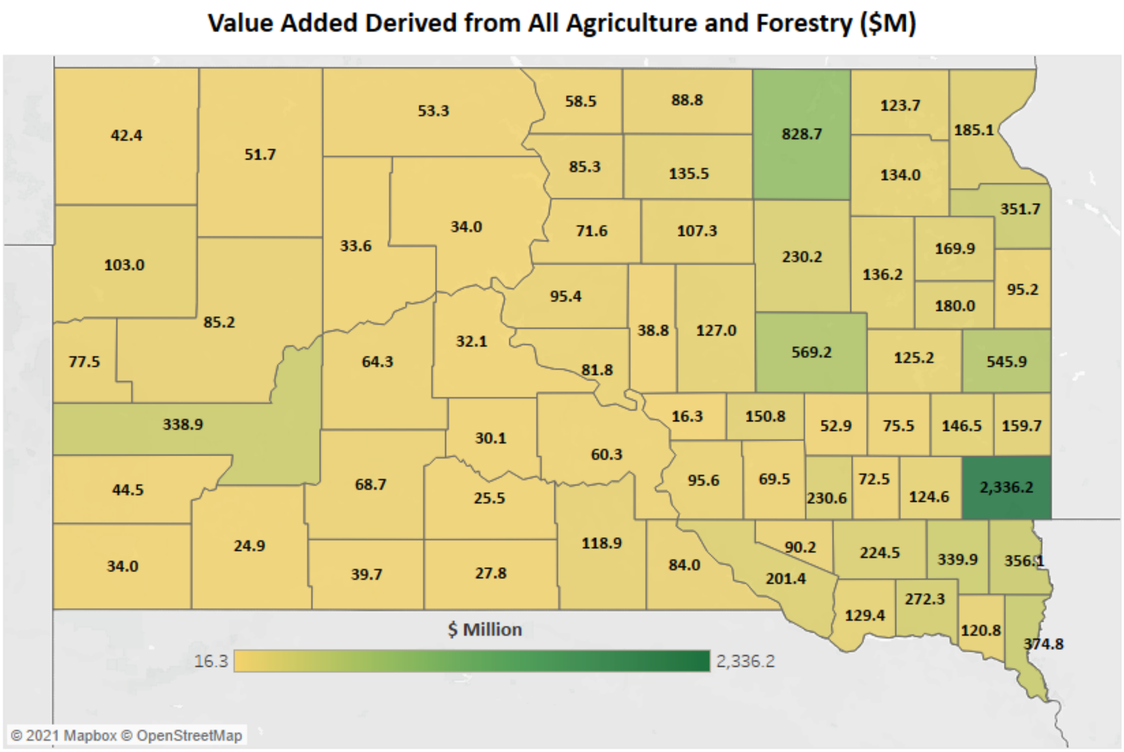


Figure 21. Value Added Derived from All Agriculture & Forestry (by County) ($M)

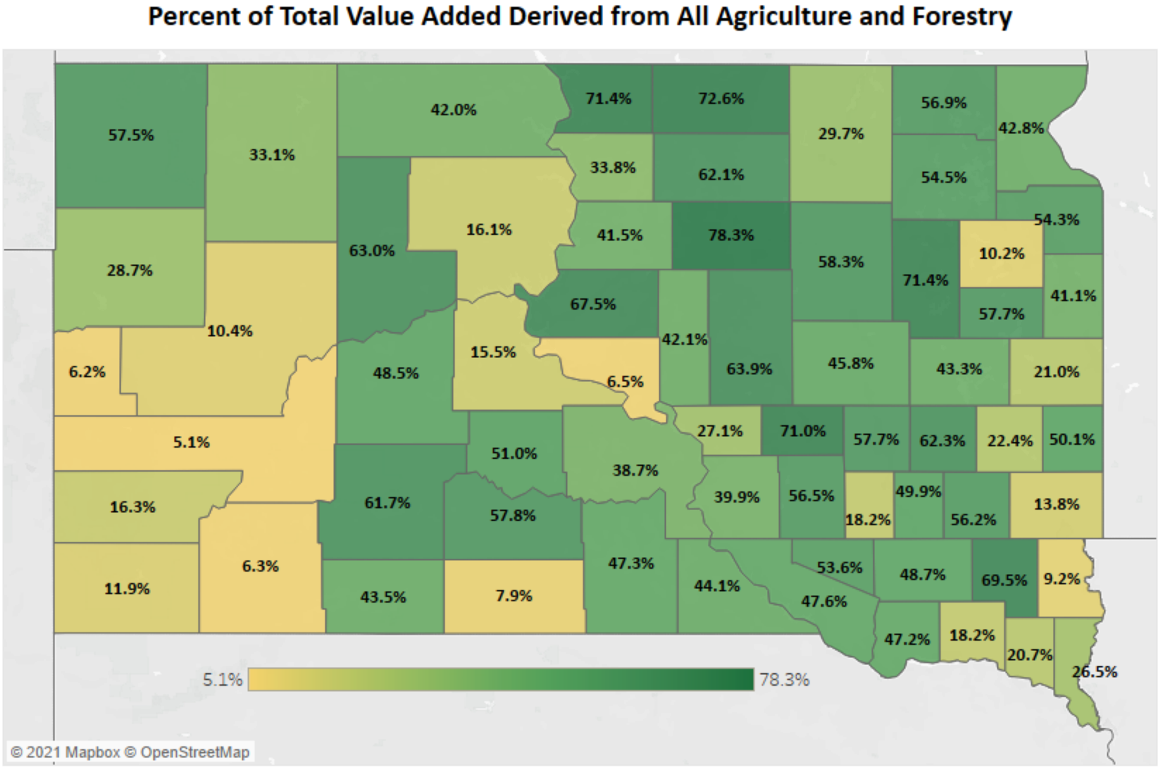


Figure 22. Percent of Value Added Derived from All Agriculture & Forestry (by County)

4.3.2 County Jobs

Figure 23 shows the ten counties with the greatest number of jobs within agriculture, forestry, and related industries. Of the nearly 130,000 jobs related to agriculture and forestry in South Dakota, Minnehaha County accounts for over 19% (more than 25,000). Brown County accounts for a further 7% of the state's jobs within these industries.

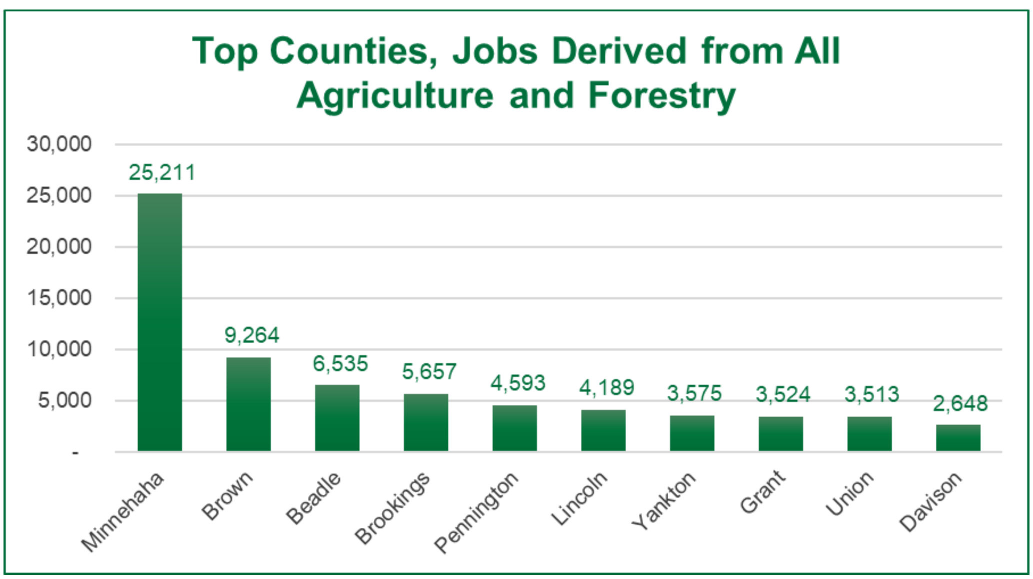


Figure 23. South Dakota Top 10 Counties, Jobs from Agriculture and Forestry Industries

Figure 24 depicts the ten counties most reliant (a higher share of total jobs derived from agriculture, forestry and related industries) on agriculture and forestry according to their share of the county's total employment. The counties in the top 10 derive between 56% and 72% of total jobs from agriculture, forestry, and related industries.

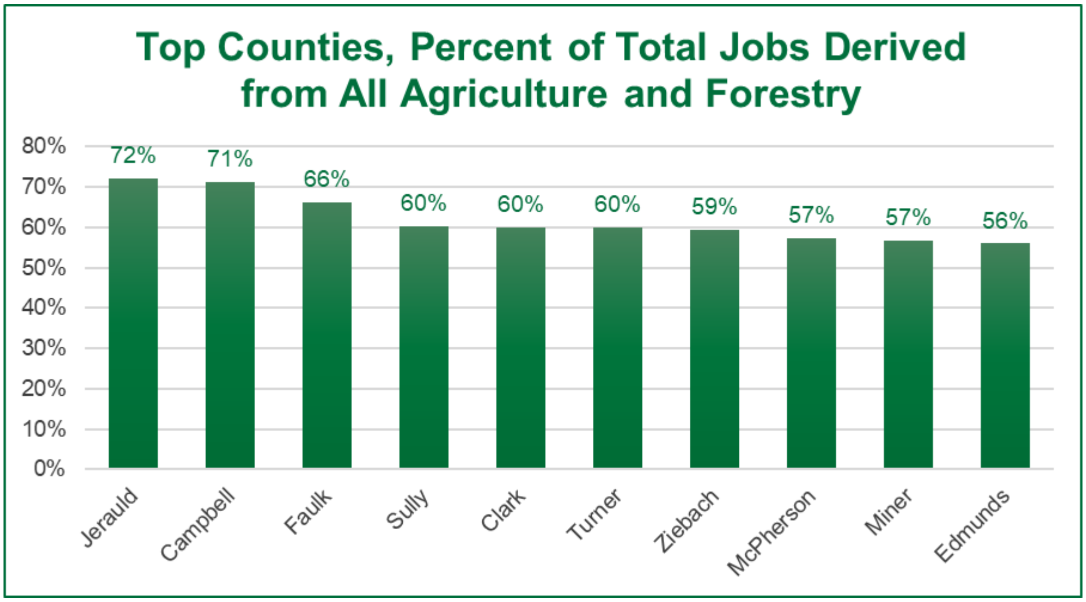


Figure 24. South Dakota Top 10 Counties, Percent of Jobs from Agriculture and Forestry Industries

Figure 25 creates a more complete picture of what share of South Dakotan jobs exist because of agriculture, forestry, and related industries. As shown, there are 45 counties that derive more than 30% of local jobs from agriculture, forestry and related industries. As a state, over 20% of jobs are derived from agriculture, forestry and related industries.

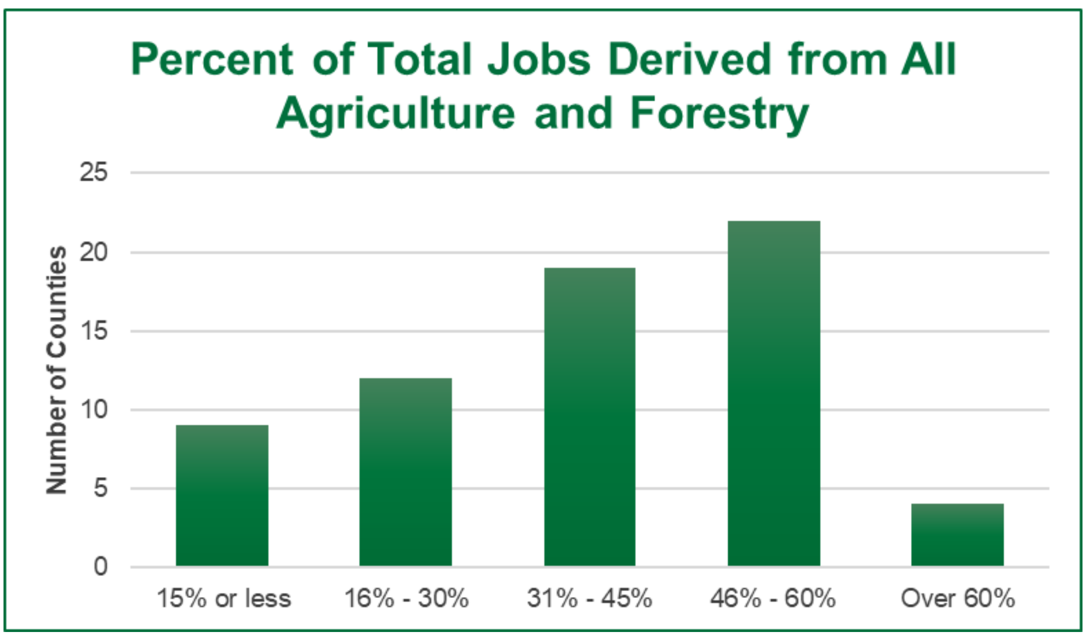


Figure 25. Percent of Jobs Derived from Agriculture and Forestry Industries

Figure 26 shows the total number of jobs derived from agriculture, forestry, and related industries for each of South Dakota's counties. On a percentage basis, the total jobs derived from these industries for each of South Dakota's counties are shown in Figure 27. See section 9.2 for detailed county jobs maps for crops, livestock, forestry, and other agriculture.

Jobs Derived from All Agriculture and Forestry

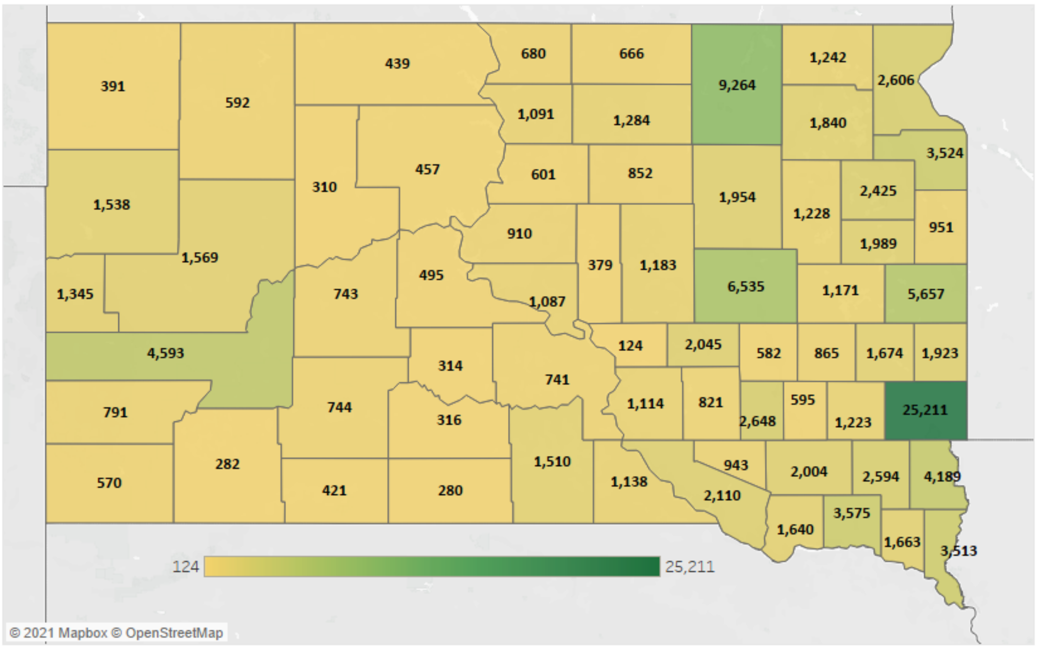


Figure 26. Jobs Derived from Total Agriculture and Forestry (by County)

Percent of Total Jobs Derived from All Agriculture and Forestry

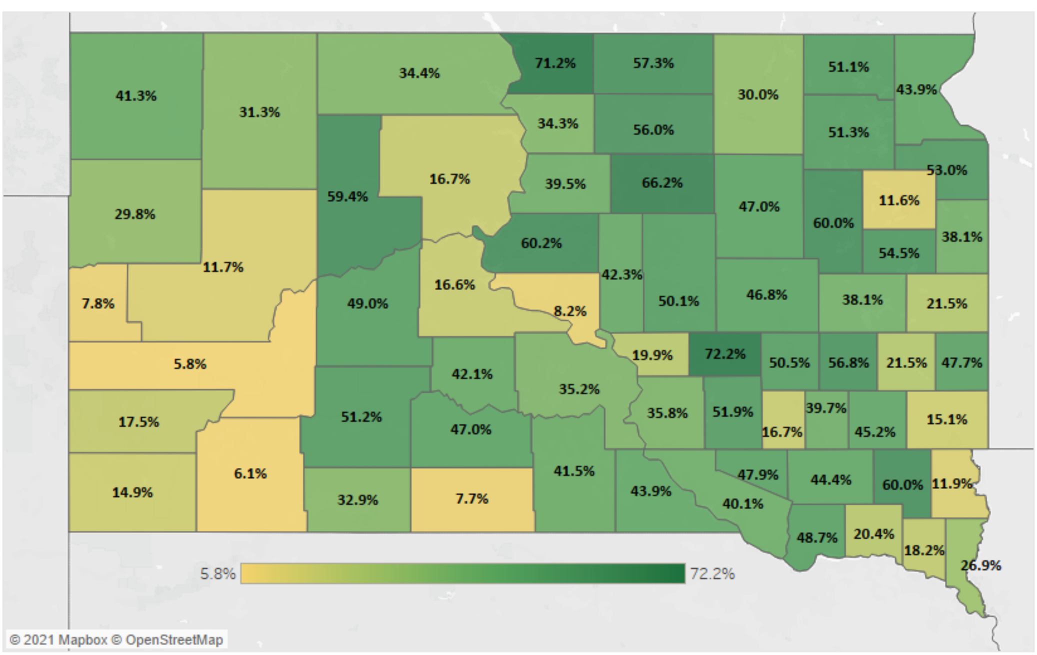


Figure 27. Percent of Jobs Derived from All Agriculture and Forestry (by County)

4.3.3 County Output

Figure 28 shows the top 10 counties in terms of output from agriculture, forestry, and related industries. Minnehaha County is the leader in this category as well, with more than $6.6 billion in output being derived from agriculture and forestry. Brown ($2.77), Brookings ($1.75), Beadle ($1.61), and Grant ($1.38) counties round out the top 5 contributors. Livestock and Other Agriculture industries are the greatest sources of output for these counties.

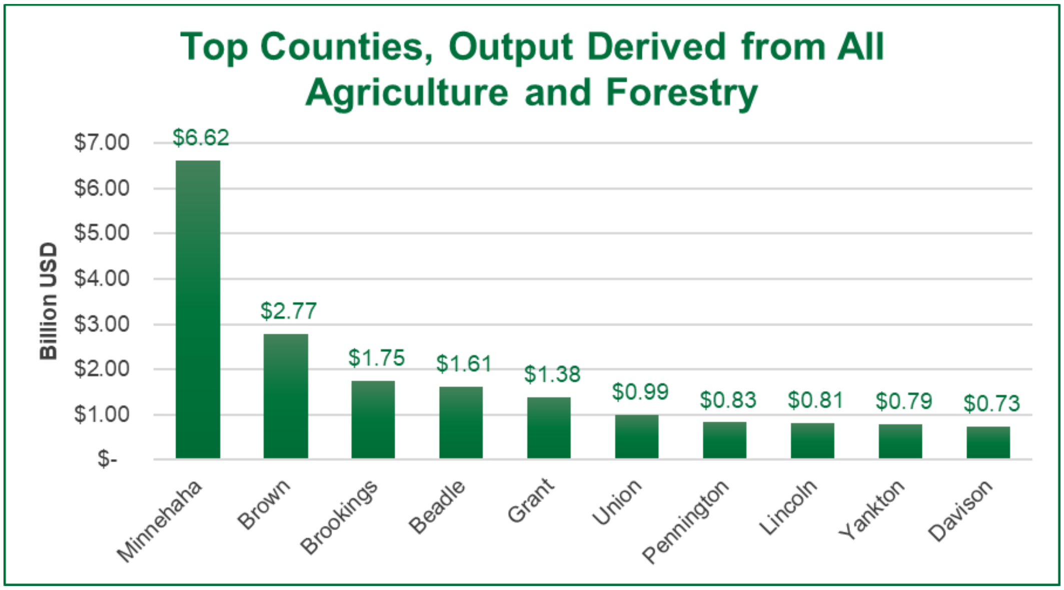


Figure 28. South Dakota Top 10 Counties, Output from Agriculture and Forestry Industries

Figure 29 shows the counties that rely most heavily on agriculture and forestry as a portion of their county output. Jerauld, Faulk, and Campbell counties all derive more than 80% of output from agriculture and forestry. The top ten counties all derive over 70% of output from these industries.

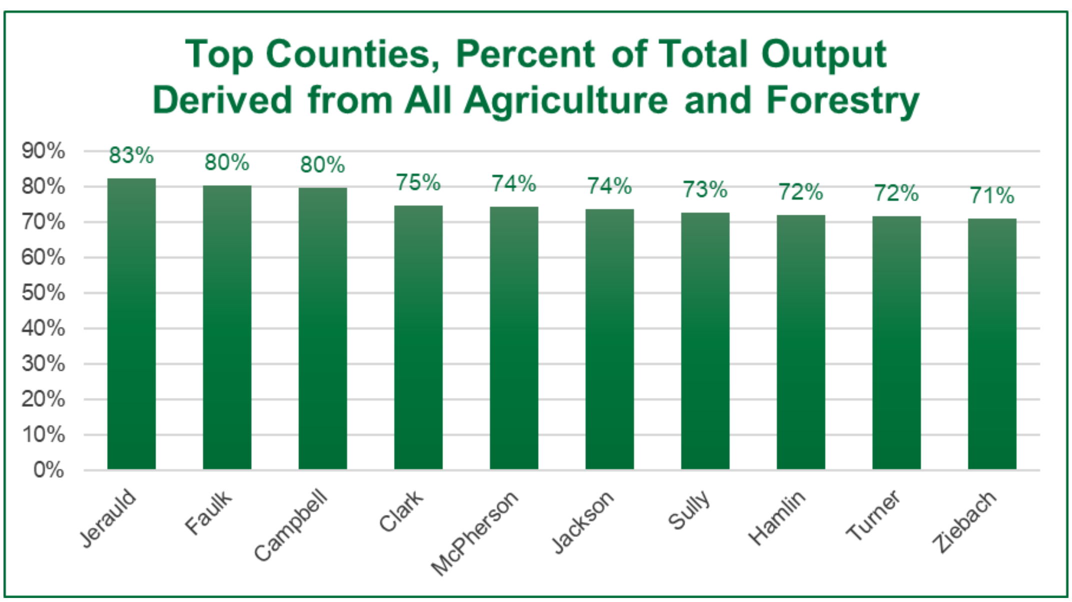


Figure 29. South Dakota Top 10 Counties, Percent of Output from Agriculture and Forestry Industries

Figure 30 shows that 49 counties in South Dakota rely on agriculture and forestry for more than 30% of their county output. In addition, 22 counties rely on agriculture and forestry for more than 60% of their total output.

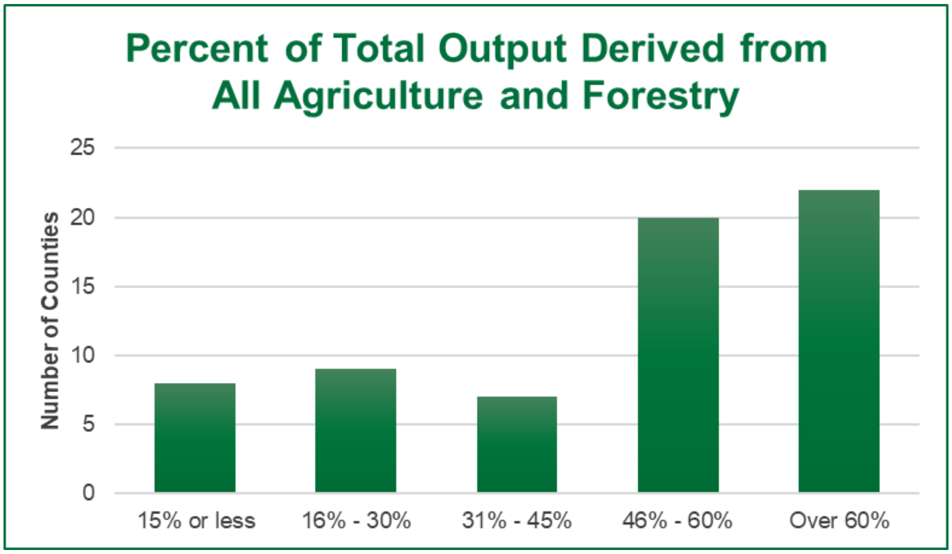


Figure 30. Percent of Output Derived from Agriculture and Forestry Industries

Figure 31 shows the amount of output derived from agriculture, forestry, and related industries for all of South Dakota's counties. On a percentage basis, the output from these industries for each of South Dakota's counties are shown in Figure 32.

South Dakota Agriculture Economic Contribution Study
Total Output -- Total Ag/Forestry

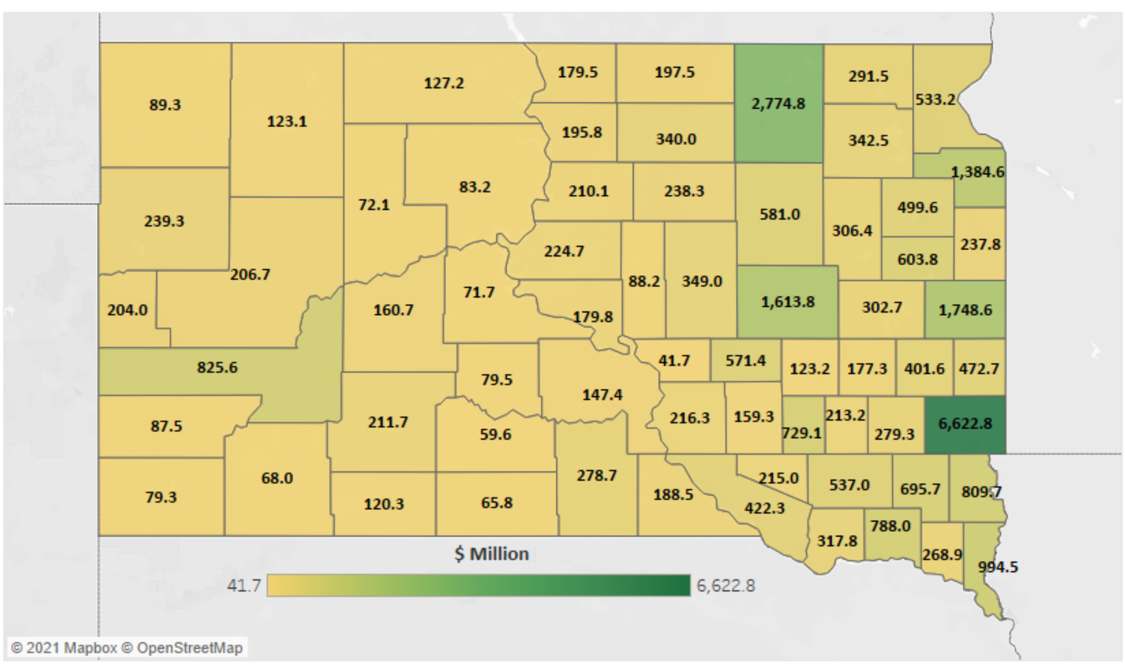


Figure 31, Output Derived from All Agriculture & Forestry (by County) ($M)

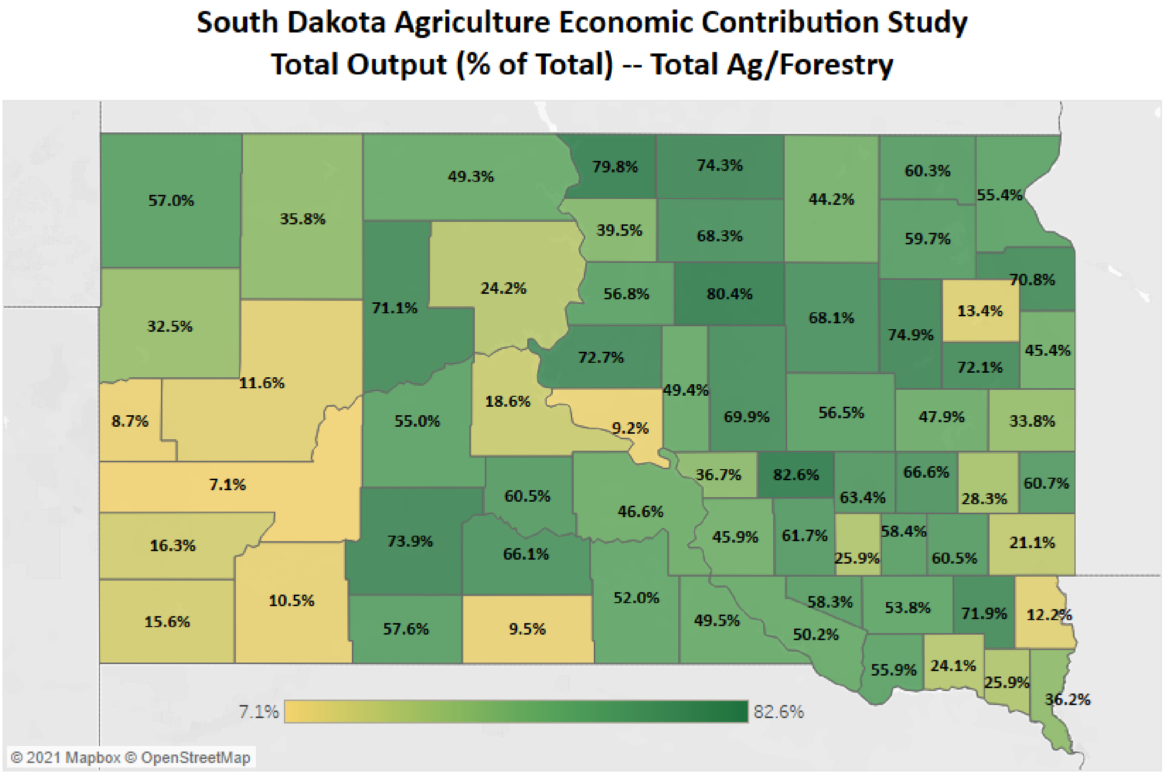


Figure 32, Percent of Output Derived from All Agriculture & Forestry (by County)

4.3.4 County Household Income

Figure 33 details the top 10 counties in terms of household income derived from agriculture, forestry, and related industries. Minnehaha contributes $2 billion, Brown $690 million, and Beadle $570 million. Brookings, Union, Turner, Lincoln, Pennington, and Yankton counties each contributed over $300 million.

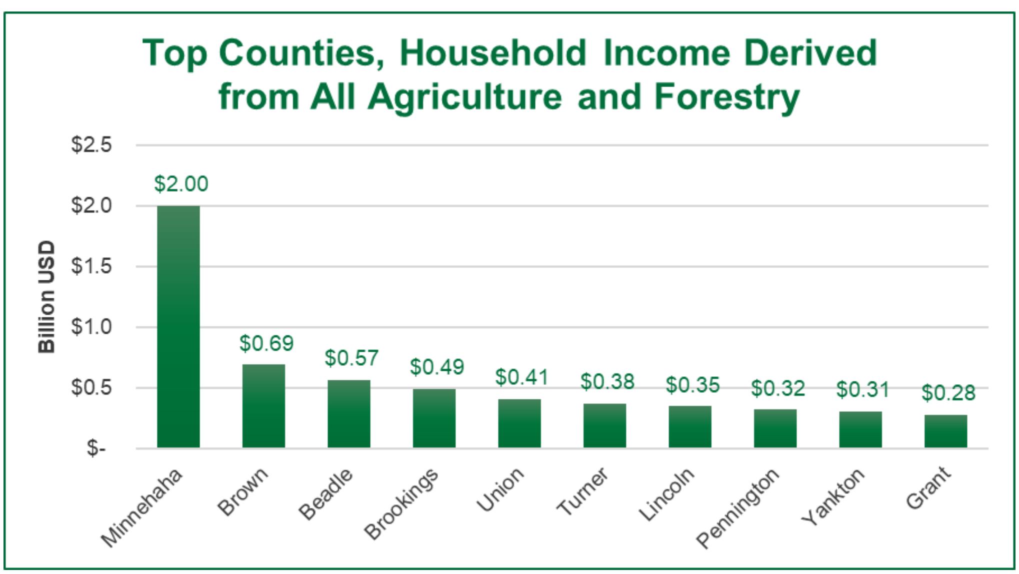


Figure 33. South Dakota Top 10 Counties, Household Income from Agriculture and Forestry Industries

Figure 34 depicts the ten counties that derive the greatest share of their household income from agriculture and forestry. A total of 28 counties in South Dakota derive a majority of their household income from these industries.

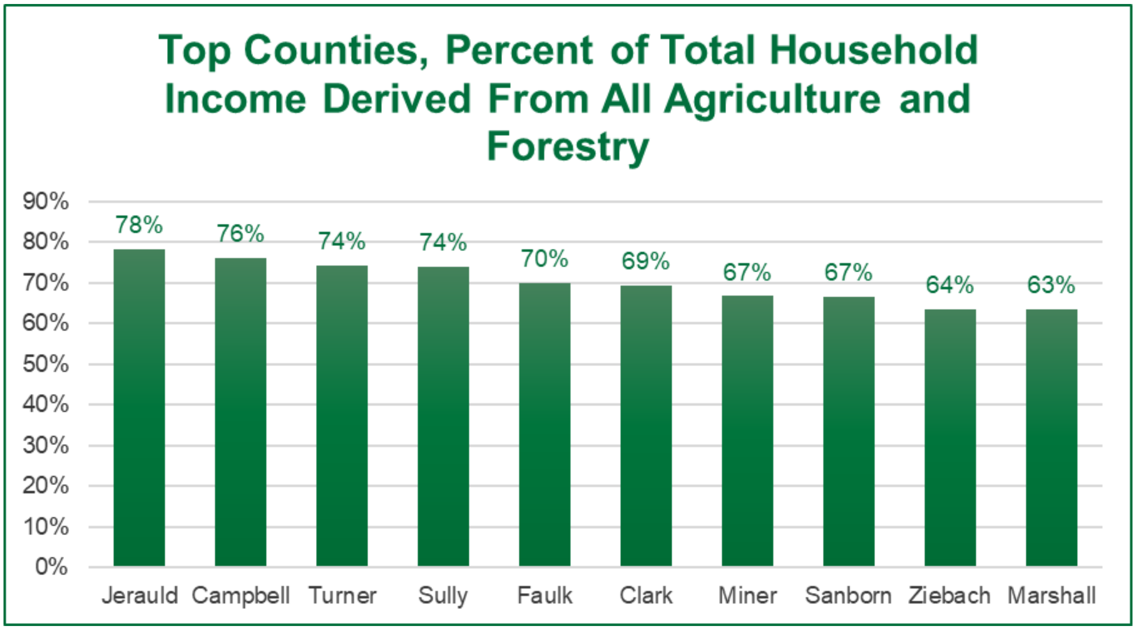


Figure 34, South Dakota Top 10 Counties, Percent of Household Income from Agriculture and Forestry Industries

4.3.5 South Dakota Ethanol Industry Breakout

Ethanol is a significant contributor to the economy of South Dakota with a total value added contribution of $590 million and over 5,300 jobs, as shown in several figures throughout Section 4.2.3. Charts in this section detail the contribution ethanol makes at the county level[17].

Figure 35 shows the value added contribution from the ethanol industry to each county where an ethanol plant is present. Turner and Brown counties have the largest value added with $144 million and $131 million, respectively. They are followed by Beadle ($75), Grant ($51), and Davison ($45) counties. In total, there are thirteen counties with an ethanol presence in South Dakota (fourteen with the inclusion of Sully County).

[17] **Note:** There is an additional ethanol plant located in Sully County, but it is not yet present in the IMPLAN data due to the recency of its construction. The contribution of this plant to Sully County could be closely estimated using the results from Davison County, which contains a plant with a similar level of production.

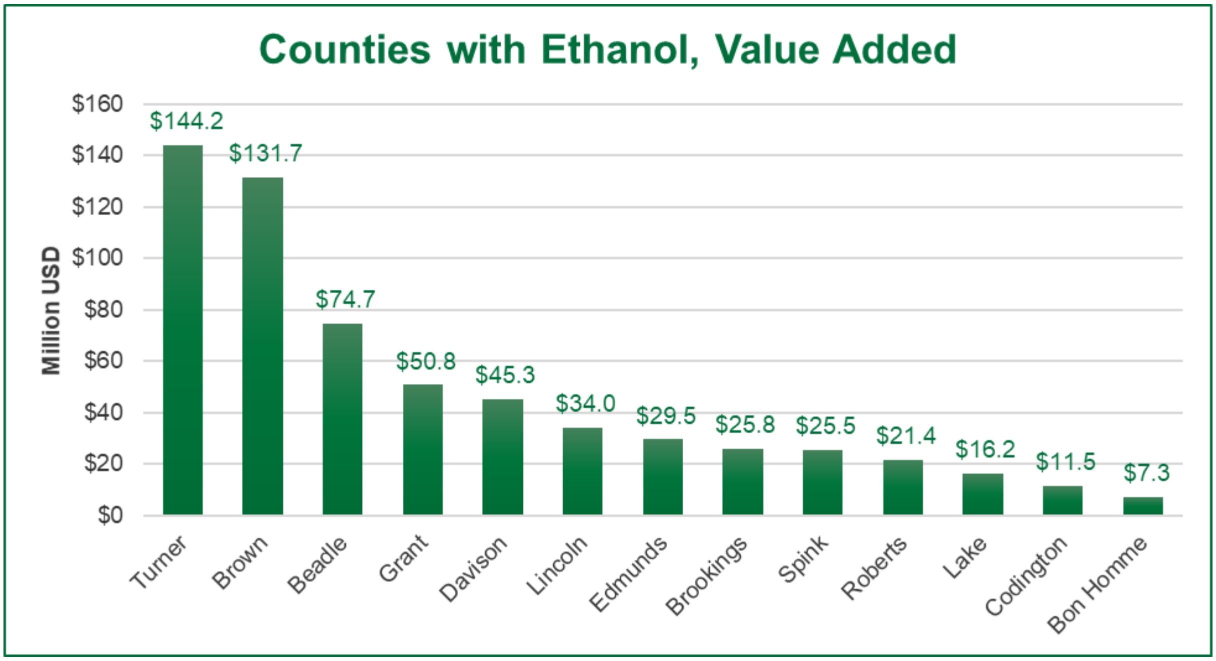


Figure 35, South Dakota Counties, Value Added from Ethanol Industry

Turner County derives nearly 30% of its total value added from ethanol and Edmunds County derives more than 13%. Grant, Spink, and Beadle counties all derive more than 5% of their total value added from ethanol, as shown in Figure 36 below.

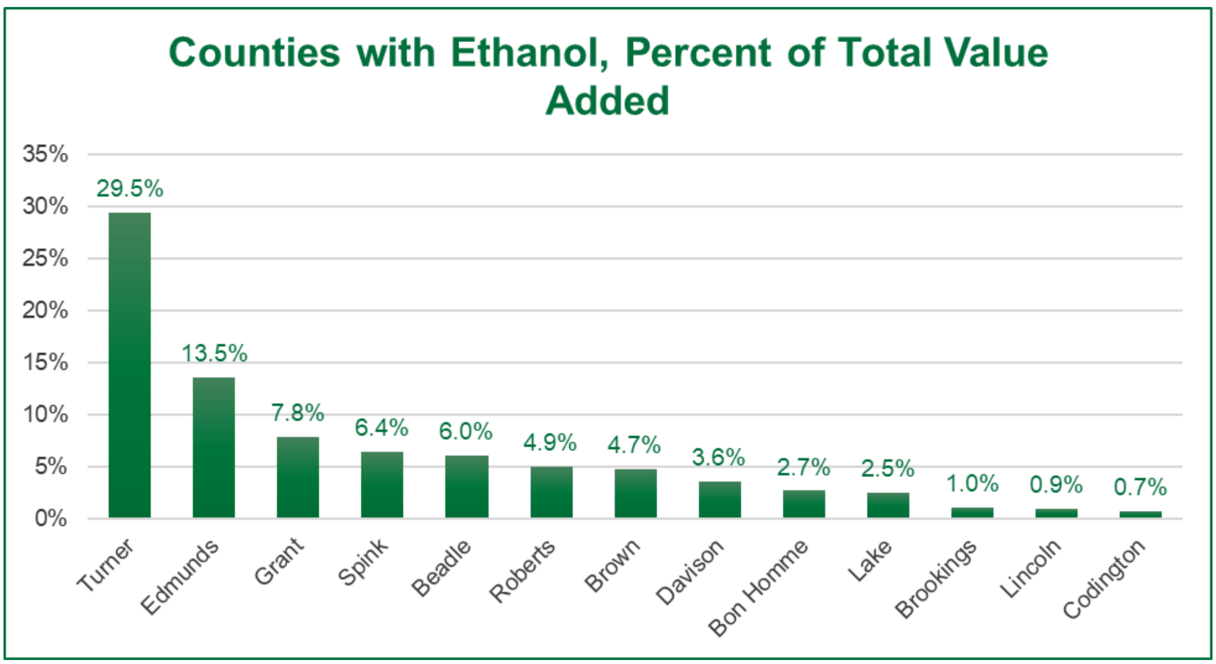


Figure 36, South Dakota Counties, Percent of Total Value Added from Ethanol Industry

Figure 37 depicts the total jobs contributed by the ethanol industry in each county with an ethanol presence. Brown County has the largest jobs contribution from the ethanol industry with more than

1,600 jobs. Turner (696 jobs) and Davison (558 jobs) counties are the next largest, while Beadle, Grant, Roberts, Edmunds, and Brookings counties all have a jobs contribution of more than 300.

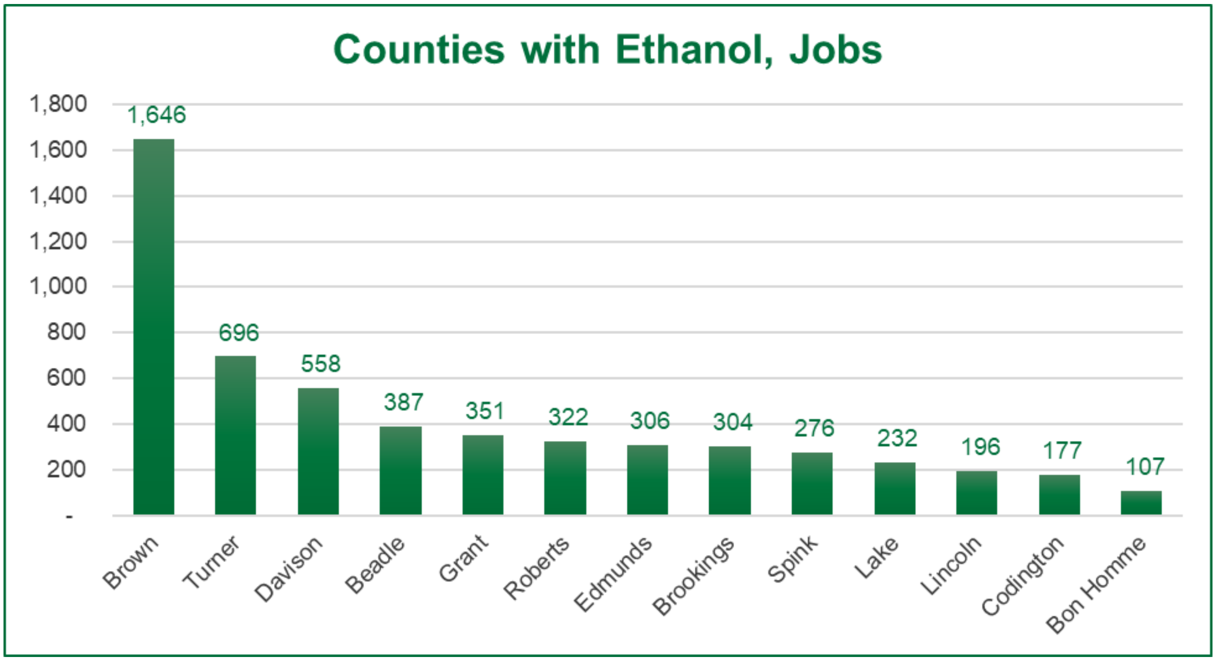


Figure 37, South Dakota Counties, Jobs from Ethanol Industry

Figure 38, shows the counties by their reliance on the ethanol industry based on its share of the county's total employment. Turner County is the most reliant, with the ethanol industry contributing 16% of its total employment.

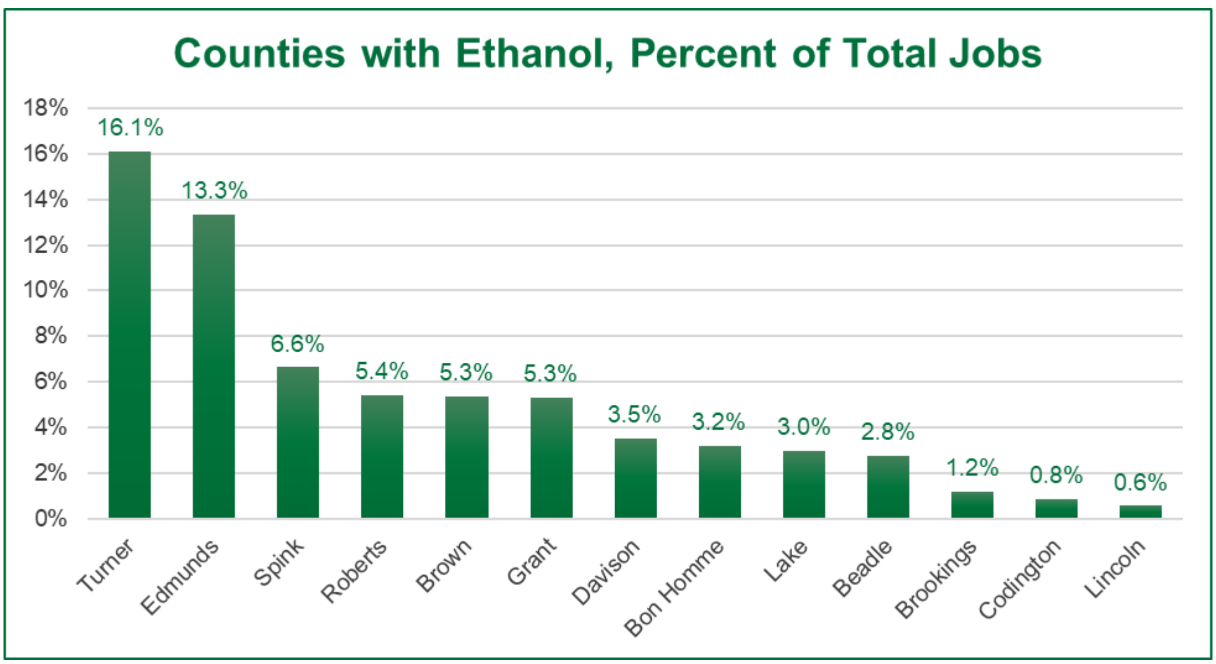


Figure 38, South Dakota Counties, Percent of Total Jobs from Ethanol Industry

5 Focus Industry Background and Economic Impact Studies

South Dakota's agriculture and related industries are an important piece of the South Dakota economy. This section presents three important South Dakota's industries: ethanol, hog, and dairy industries.

5.1 South Dakota Ethanol Industry

5.1.1 South Dakota Ethanol Production Capacity

South Dakota current annual ethanol production capacity is estimated at 1.303 billion gallons distributed among 16 plants, with capacity ranging from 10 million gallons to 150 million gallons (see Figure 39). Most of the plants are in the eastern part of the state. Based on the annual capacity estimated, South Dakota ethanol plants could process 464 million bushels of corn.

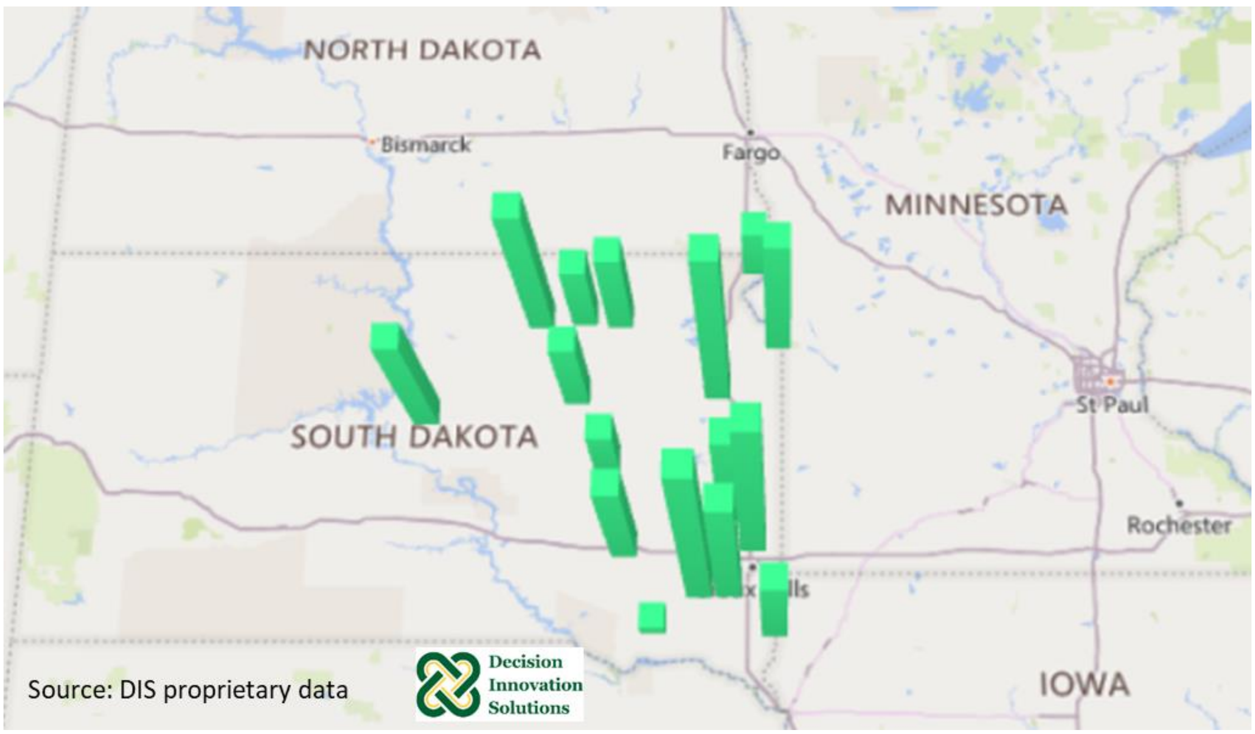


Figure 39. South Dakota Ethanol Production Capacity and Location

5.1.2 South Dakota Ethanol Production

Based on data from the U.S. Energy Information Administration (EIA) and the U.S. Department of Agriculture (USDA), In 2018, South Dakota ethanol production (1.096 billion gallons) accounted for about 7% of U.S. total ethanol production (16.091 billion gallons), placing the state as the sixth largest ethanol producer in the U.S., after Iowa, Nebraska, Illinois, Minnesota, and Indiana.

Since 2007, South Dakota ethanol production expanded and has followed, for the most part, an upward trend. South Dakota's production in 2018 was almost double from the level in 2007 (0.595 billion gallons) (see Figure 40). Despite the increase in ethanol production, South Dakota's production share of

U.S. ethanol production has declined (from about 9.1% in 2007 to about 7% in 2018) as other states have expanded their production as well. National and state ethanol production has been supported by the Renewable Fuel Standard (RFS) Program. The RFS is a national program that has expanded the U.S. renewable fuels sector. The RFS was created under the Energy Policy Act of 2005 (EPAct) and later amended by the Security Act of 2007 (EISA)[18]. The RFS was created to reduce greenhouse gas (GHG) emissions while reducing dependence on imported oil.

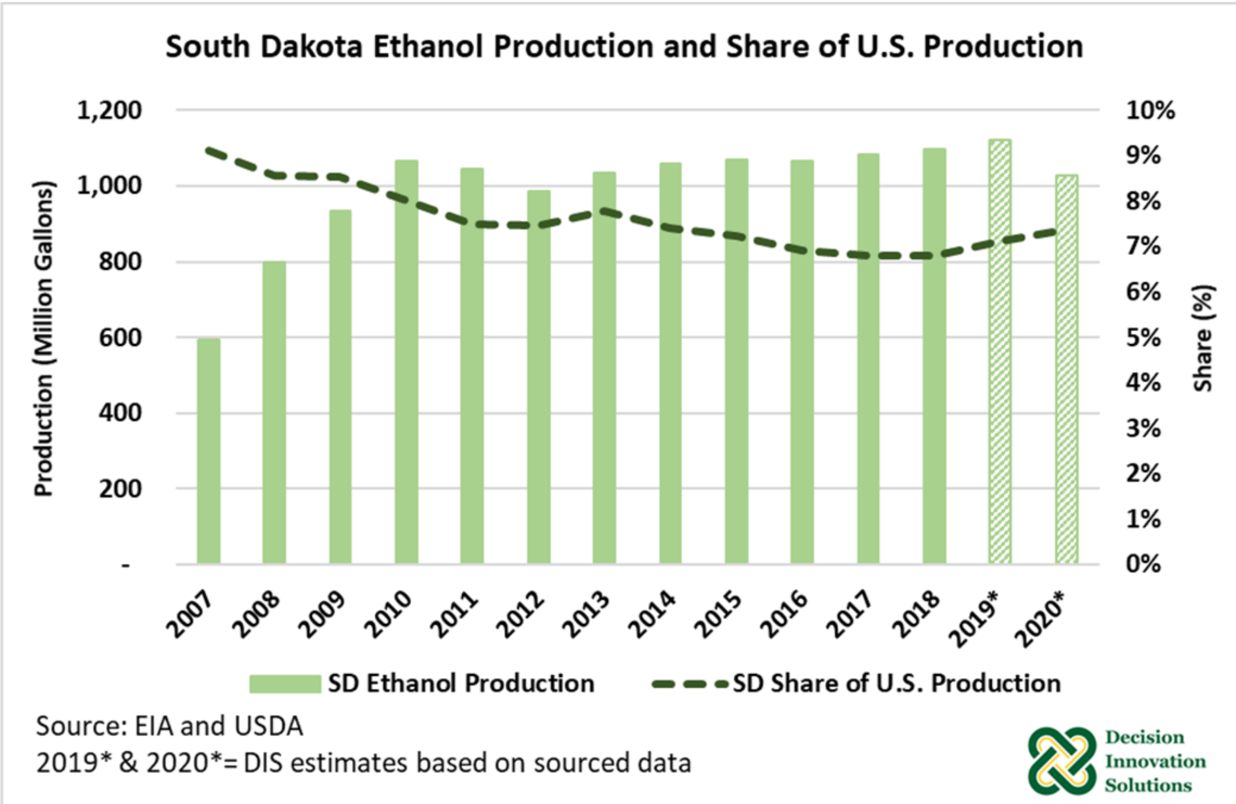


Figure 40. South Dakota Ethanol Production and Share of U.S. Production

The latest published ethanol production data at the state level includes volumes up to 2018. DIS estimated (trended) South Dakota 2019 and 2020 ethanol production based on national production volumes published by EIA and USDA. In 2020, U.S. ethanol production declined 12% to 13.926 billion gallons year-over-year, which was the lowest volume since 2013 (13.293 billion gallons). The decline in U.S. ethanol production last year mostly reflects the substantial impact of the COVID-19 pandemic on the ethanol industry as the demand for ethanol dropped with the decline in gasoline consumption, particularly during early spring of 2020. Following the national trend, South Dakota's 2020 ethanol production was estimated at 1.028 billion gallons. This estimate indicates a 6% reduction from the 2018 volume (see Figure 40).

[18] Overview for the Renewable Fuel Standard (https://www.epa.gov/renewable-fuel-standard-program/overview-renewable-fuel-standard)

5.1.3 South Dakota Ethanol Gross Production Margin (Corn Crush Spread)

The Gross Production Margin (GPM) is a dollar value estimated as the difference between the combined sales value of ethanol and co-products (distillers dried grains with solubles (DDGs) and distillers corn oil (DCO)) that can be extracted per bushel of corn and the cost of corn. GPM is an important decision-making metric, as ethanol producers often use it to hedge the purchase price of corn and the sales of ethanol and co-products. GPM highlights the contribution of ethanol co-products to ethanol plant profitability. DDGs and DCO are valuable inputs in the livestock and biodiesel industries, respectively. This measure presents opportunities for speculators because the spread relationship between corn, ethanol, and co-products changes over time.

South Dakota dry-mill ethanol plants' gross margins were calculated assuming ethanol yield of 2.80 gallons per bushel, 17 pounds of DDGs per bushel and 0.75 pounds of DCO per bushel of corn. South Dakota price data (yellow corn, ethanol, DDGs (10% moisture), and DCO) was sourced from the Livestock Marketing Information Center (LMIC) (compiled from USDA).

Table 8 shows South Dakota's ethanol GPM estimated for April's second week of 2017 to 2021. The second week of April in 2020 had the lowest South Dakota's ethanol GPM among the periods compared, with the value of ethanol down 30% to $1.99/bushel compared with the cost of corn ($2.84/bushel) during that week. Ethanol prices were down with the decline in gasoline demand and therefore caused a decline in ethanol demand resulting from the COVID-19 pandemic. Adding the value of DDGs and DCO resulted in GPM of $1.03/bushel, hence the importance of ethanol co-product market on ethanol plant profitability. Ethanol demand began to improve as the initial shock of the pandemic subsided. By April 09, 2021, corn price was still above ethanol sales value by a margin of $0.49/bushel. With the added sales value of DDGs and DCO, ethanol GPM ended at $1.64/bushel up 60% from the previous year, and up 6% from April 05, 2019.

Table 8. South Dakota Weekly Ethanol and Co-Products Sales Values per Bushel of Corn, Corn Cost, and Gross Production Margin in Mid-April 2017-2021

	04/14/17	04/13/18	04/05/19	04/10/20	04/09/21
SD Ethanol Price at the Plant ($/gal)	$1.63	$1.49	$1.26	$0.71	$1.81
Ethanol Yield (gal/bu)	2.8	2.8	2.8	2.8	2.8
Ethanol Value ($/bu)	$4.56	$4.17	$3.53	$1.99	$5.07
SD DDGs (10% moisture) ($/ton)	$90.00	$152.55	$137.80	$195.00	$207.50
DDGs Yield (lbs./bu)	17	17	17	17	17
DDGs Value ($/bu)	$0.77	$1.30	$1.17	$1.66	$1.76
SD DCO (*cents/lb*)	26.50	22.10	24.15	29.00	49.25
DCO Yield (lbs/bu)	0.75	0.75	0.75	0.75	0.75
DCO Value ($/bu)	$0.20	$0.17	$0.18	$0.22	$0.37
Combined Ethanol + DDGS+ DCO Values ($/bu)	$5.53	$5.63	$4.88	$3.86	$7.20
SD Yellow Corn Price at the Plant ($/bu)	$3.17	$3.45	$3.33	$2.84	$5.56
SD Ethanol Gross Production Margin (Corn Crush Value) ($/bu)	$2.36	$2.19	$1.55	$1.03	$1.64

Source: DIS estimates based USDA data compiled by LMIC
Ethanol Gross Margin ($/bu) = Combined Ethanol, DDGs, and DCO Sales Values per bushel of corn ($/bu) *minus* Corn Cost ($/bu)
DDGs= Distillers dried grains with solubles. DCO= Distillers corn oil

Figure 41 shows the weekly sales values of ethanol, DDGs, and DCO from January 1, 2018 to May 21, 2021. Figure 42 presents the corresponding ethanol production margin. The figures show that there is volatility in the ethanol GPM measure over time, which stems from variations in sales value of ethanol, DDGs, DCO, and corn cost. Variations in corn costs result from changes in important aspects, such as corn prices lowering during harvest season but later increasing due to accumulated costs of storage, interests, insurance as the year progresses; changes in ethanol consumption during the year in relation to changes in driving behavior (e.g., increased driving during the summer season, or the particular conditions during the spring 2020 of reduced driving due to staying-at-home restrictions induced by the pandemic); variations in DDGs feed rations for livestock; changes in exports of corn, ethanol and co-products, as well as variations in these products ending stocks; among others. The variation of GPM over time can lead to speculative actions in the market.

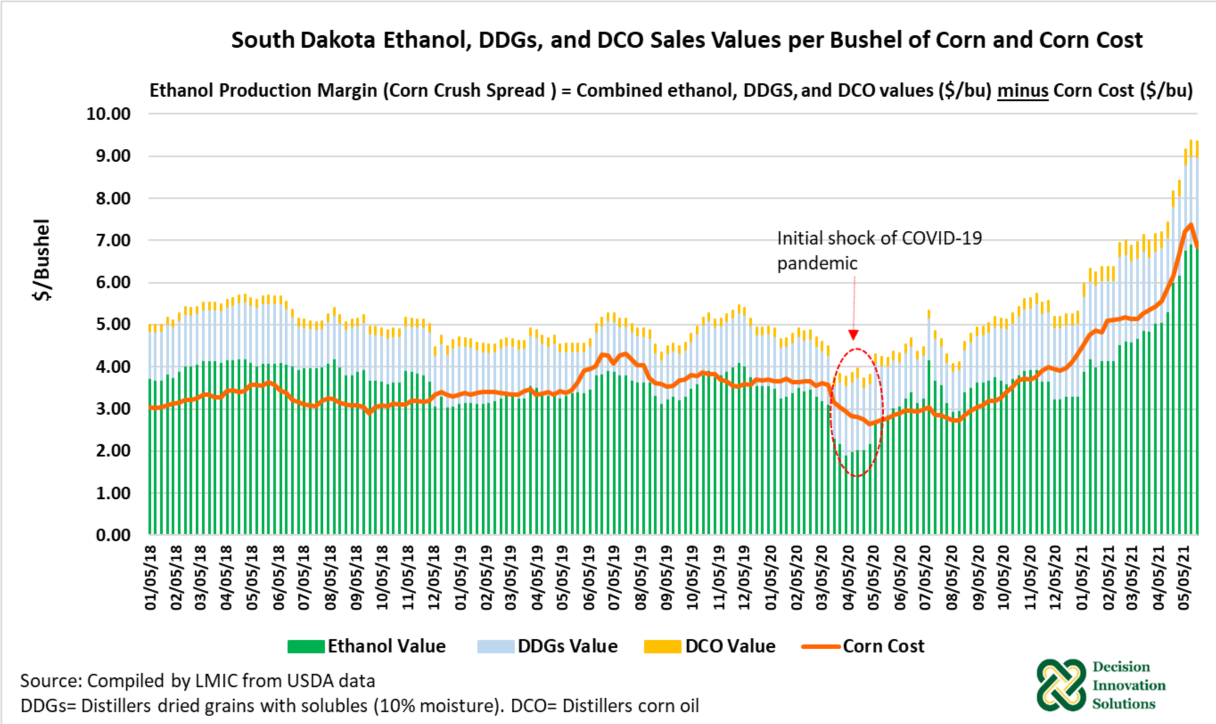


Figure 41. South Dakota Ethanol, DDGs, and DCO Sales Values per Bushel of Corn and Corn Cost

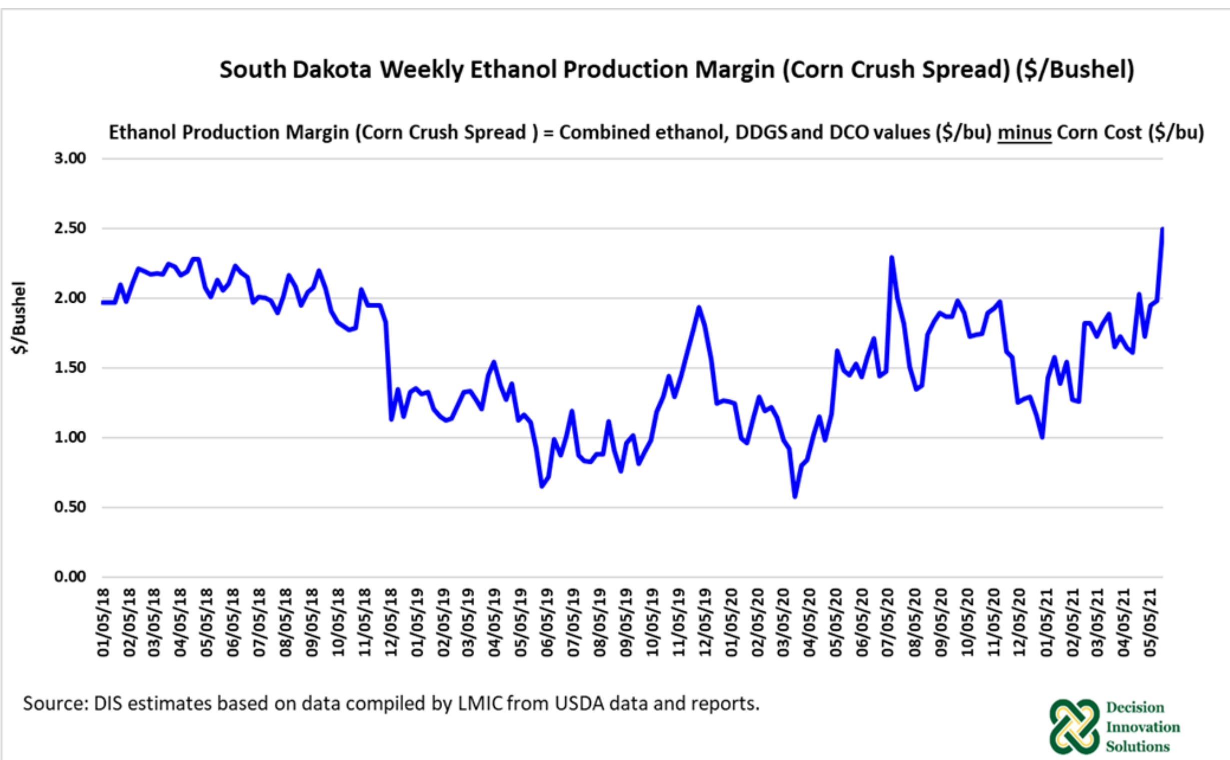


Figure 42. South Dakota Weekly Ethanol Production Margin (Corn Crush Spread) ($/Bushel)

5.1.4 South Dakota Ethanol Consumption

Most of South Dakota ethanol production is consumed outside the state. South Dakota ethanol consumption by the South Dakota transportation sector has expanded from 33 million gallons in 2007 to 47 million gallons in 2019. South Dakota ethanol consumption share of state ethanol production ranged from 5.5% in 2007 to 4.2% in 2019 (see Figure 43). About 96.5% of ethanol consumed in the state goes to the transportation sector, with the rest going to the commercial and industrial sectors.

Most of the ethanol consumed in the U.S. is in the form of E10 (a fuel blend of 10% ethanol and 90% gasoline); however, based on data from the U.S. Department of Energy, South Dakota has 81 alternative fuel stations supplying E85, which is a blend of gasoline and ethanol containing between 70% to 85% ethanol. E85 is the highest ethanol blend available in the market. Only flex fuel vehicles (FFV) can use E85[19]. According to the U.S. Environmental Protection Agency[20] (EPA), increasing the use of E85 as a vehicle fuel would expand the use of renewable fuel. Moreover, higher use of E85 would have an important contribution in reducing GHG emissions in contrast with gasoline or lower volume ethanol blends.

South Dakota ethanol consumption in 2020 was estimated based on the national consumption volume last year. South Dakota ethanol consumption was estimated at 44 million gallons.

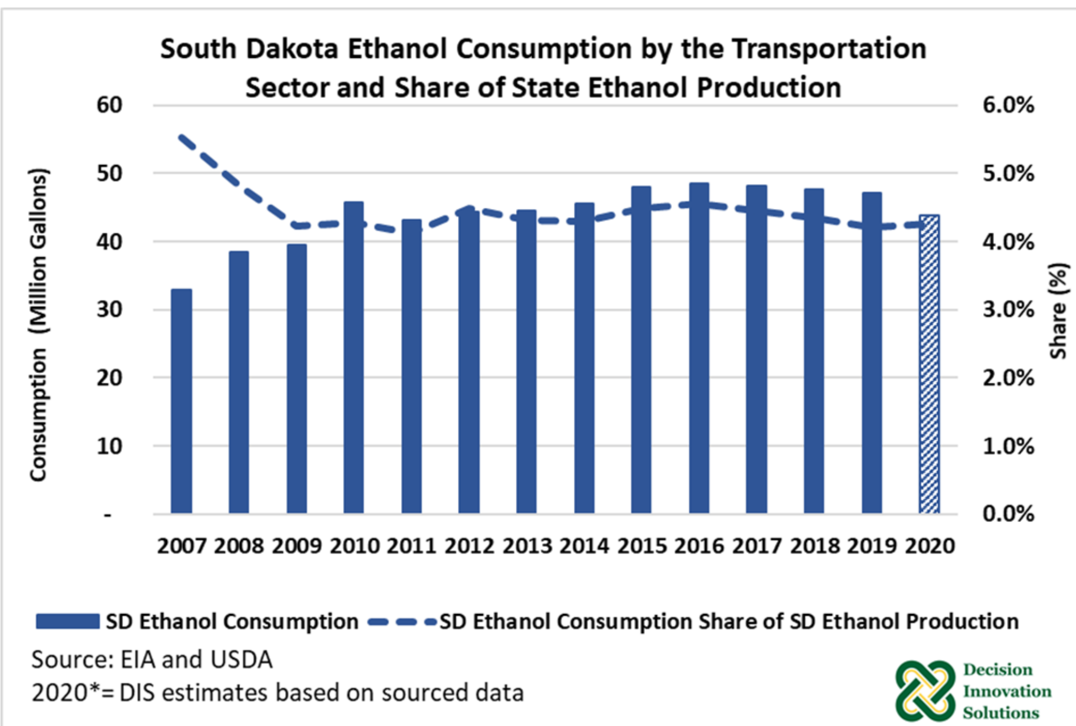


Figure 43. South Dakota Ethanol Consumption by the Transportation Sector and Share of State Ethanol Production

[19] Flex Fuel Vehicles (FFVs) can use any blend of ethanol from E0 (no-ethanol blend) to E85 (an ethanol blend of 70% to 85% ethanol blended with gasoline. FFVs can also use lower blends of ethanol such as E10, E15 or E30.
[20] Renewable Fuel Standard Program, E85 Fuel (https://www.epa.gov/renewable-fuel-standard-program/e85-fuel).

5.2 South Dakota Hog Industry

5.2.1 Hog Inventory Trend and Hog Inventory by Weight Category

South Dakota's hog inventory fluctuated around 1.3 million head from 2000 to 2012, but after 2012 numbers have consistently increased. On December 1, 2020, South Dakota's hog inventory reached 2.02 million head (see Figure 44). Inventory data (on December 1) from 2000 to 2020 shows that, on average, South Dakota's hog inventory share of U.S. total inventory was equal to 2.1% (see Figure 11). This share increased from 1.8% in 2012 to 2.6% in 2020.

South Dakota's December 1, 2012, inventory of under-50-pound hogs (350,000 head) was 6.7% below its December 1, 2011 level (see Figure 45). Since then, this weight class increased, reaching 690,000 head by 2020 (December 1).

Under-50-pound is the largest weight class of hogs in the state. Overall, all weight classes of hogs have grown from 2008 to 2020 (Figure 45). The difference between the Under 50-pound weight group and the next weight group (50-119 lbs.) suggests that South Dakota finishes about half the piglets born in the state and ships about half of the South Dakota piglets out of state for finishing.

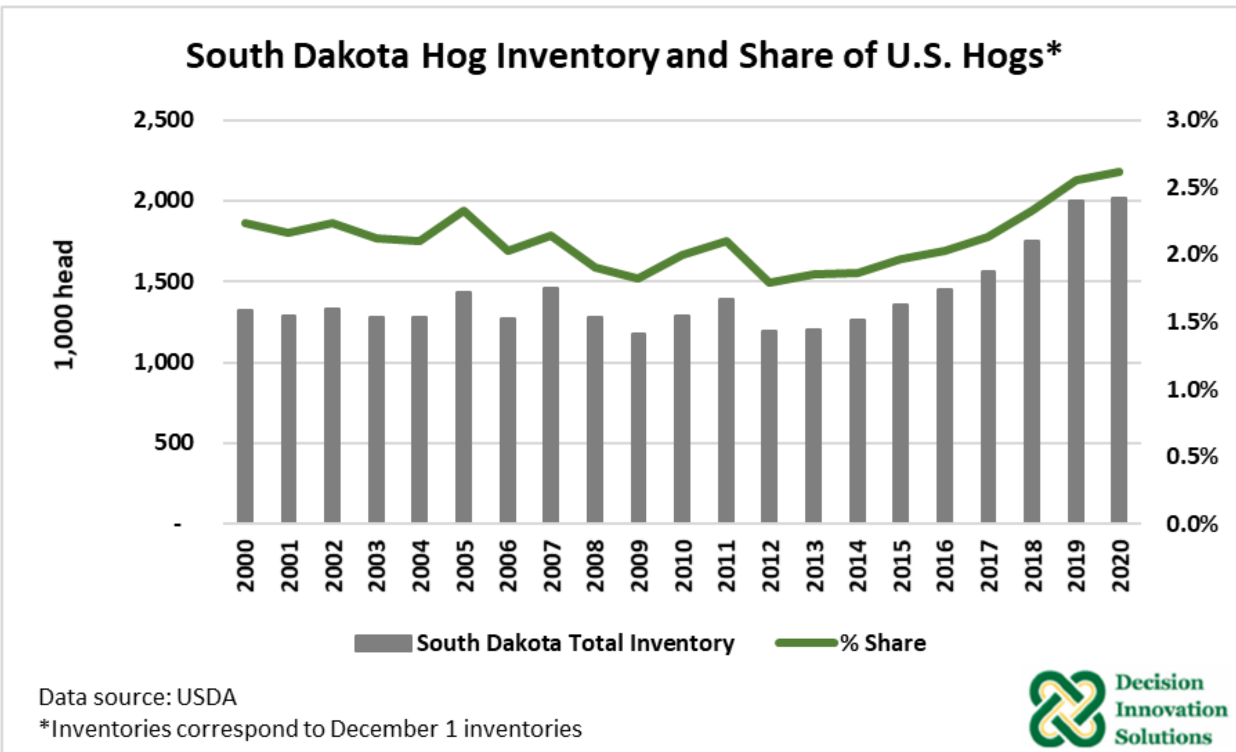


Figure 44. South Dakota Hog Inventory and Share of U.S. Hogs

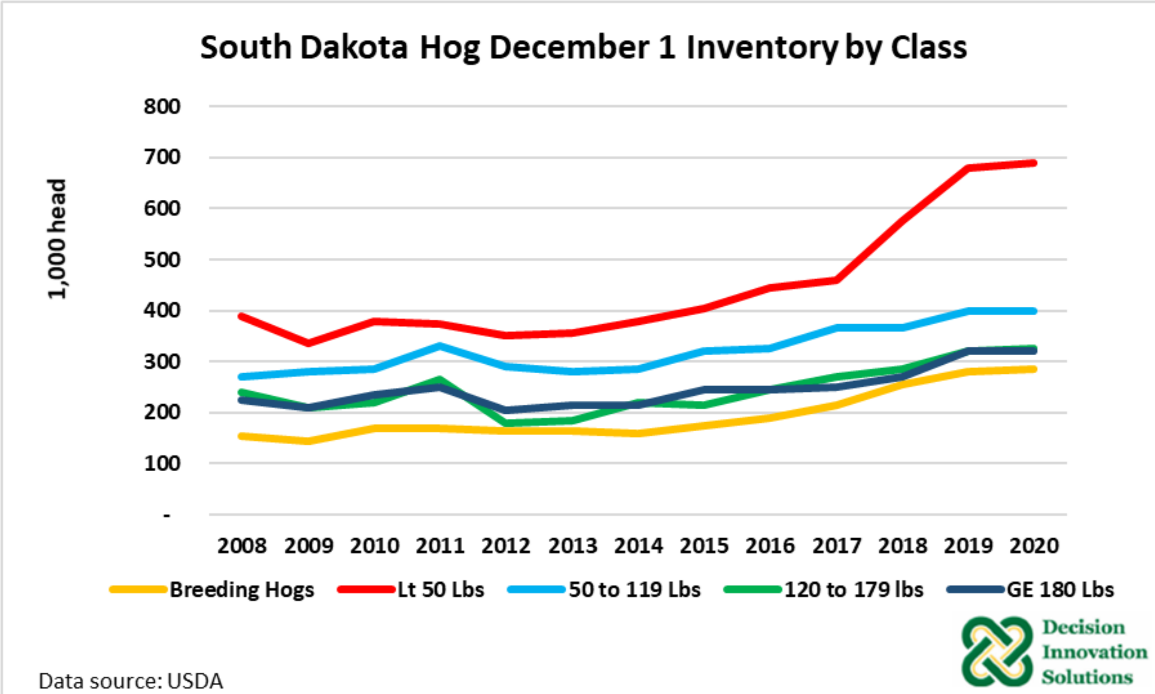


Figure 45. South Dakota Hog December 1 Inventory by Class

Based on USDA-NASS survey data, South Dakota is among the top hog producers in the U.S. On December 1, 2020, South Dakota had a total of 2.02 million hogs (including breeding and market hogs), placing the state as the 11th largest hog producer in the U.S., closely following Oklahoma and Kansas with 2.08 and 2.05 million head, respectively (see Figure 46). The top three hog producers were Iowa, Minnesota, and North Carolina.

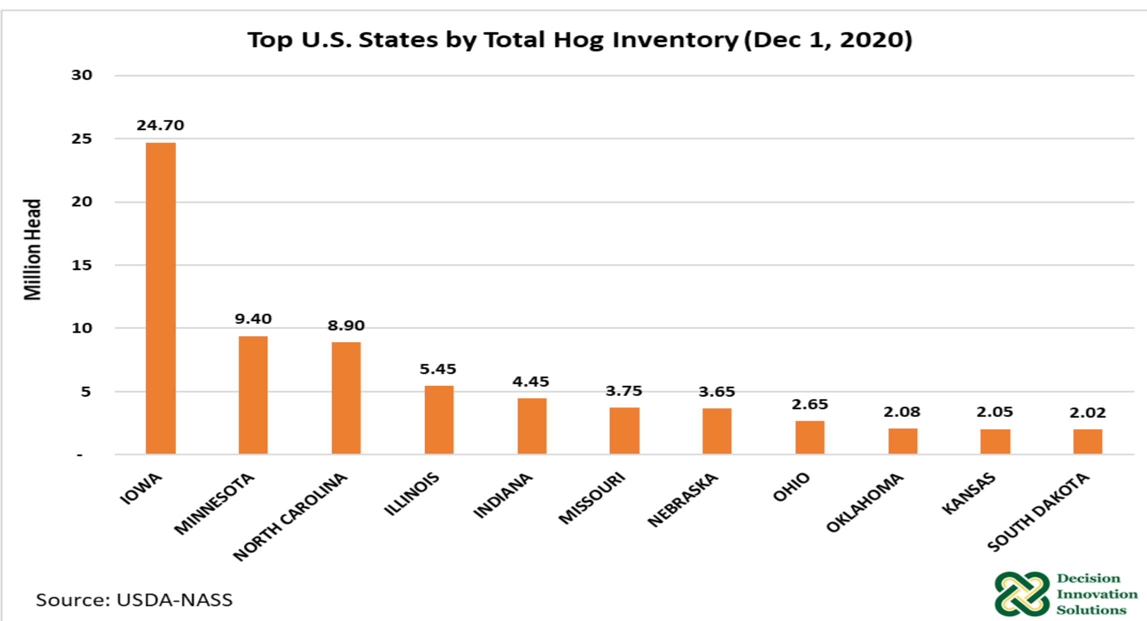


Figure 46. Top U.S. States by Total Hog Inventory (December 1, 2020, Head)

5.2.2 South Dakota Hog Inventory and Farm Distribution

USDA's Census of Agriculture data indicates South Dakota's hog inventories are mainly those with 5,000 or more head (Figure 47). Hog inventories on farms with 5,000 or more have grown over one million head from 1997 to the 2017 Census (1.3 million head). Inventories with 5,000 or more head represented 81% of total South Dakota's inventory in 2017 in contrast with 34% in 1997 (Figure 48). Farms holding 2,000 to 4,900 head increased from 201,784 head in 1997 to 281,906 million in 2002. Inventories in 2012 declined from 1997 numbers, but in 2017, inventories of this size increased 12% to 226,091 head compared with 1997. Farm with inventories holding 1,000 to 1,999 head declined through the census period from 156,796 head in 1997 to 44,588 head, down 72% from 1997 to 2017.

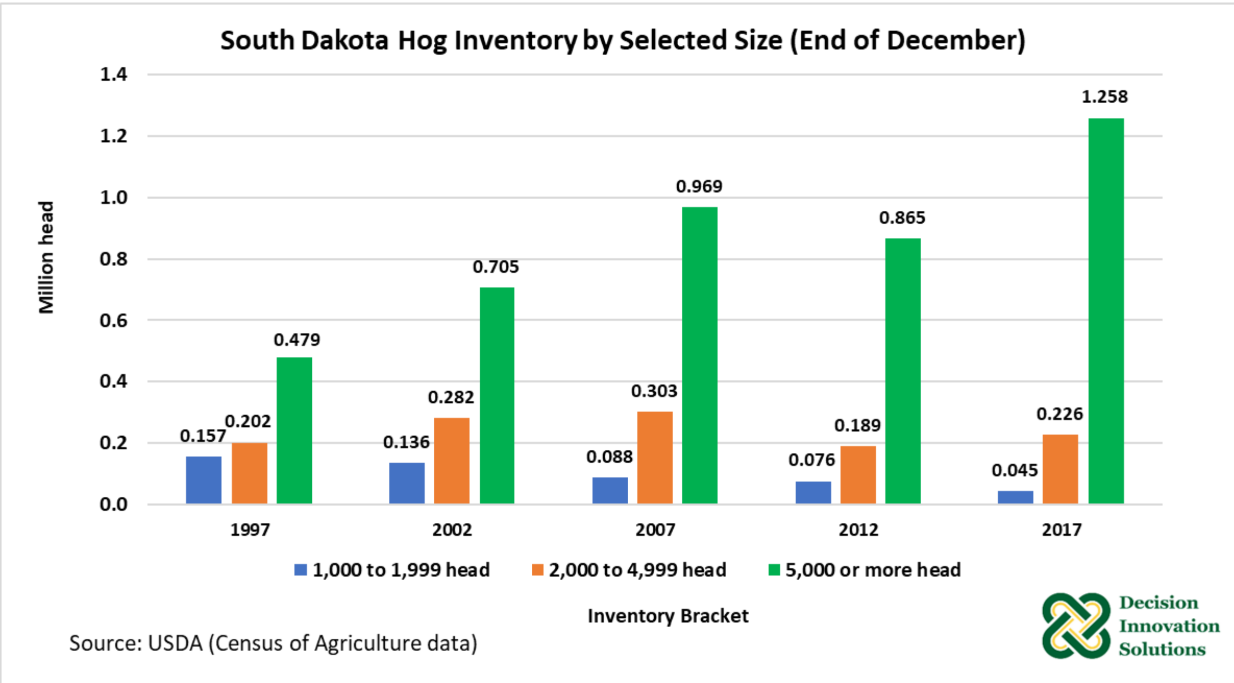


Figure 47. South Dakota Hog Inventory by Selected Size (End of December)

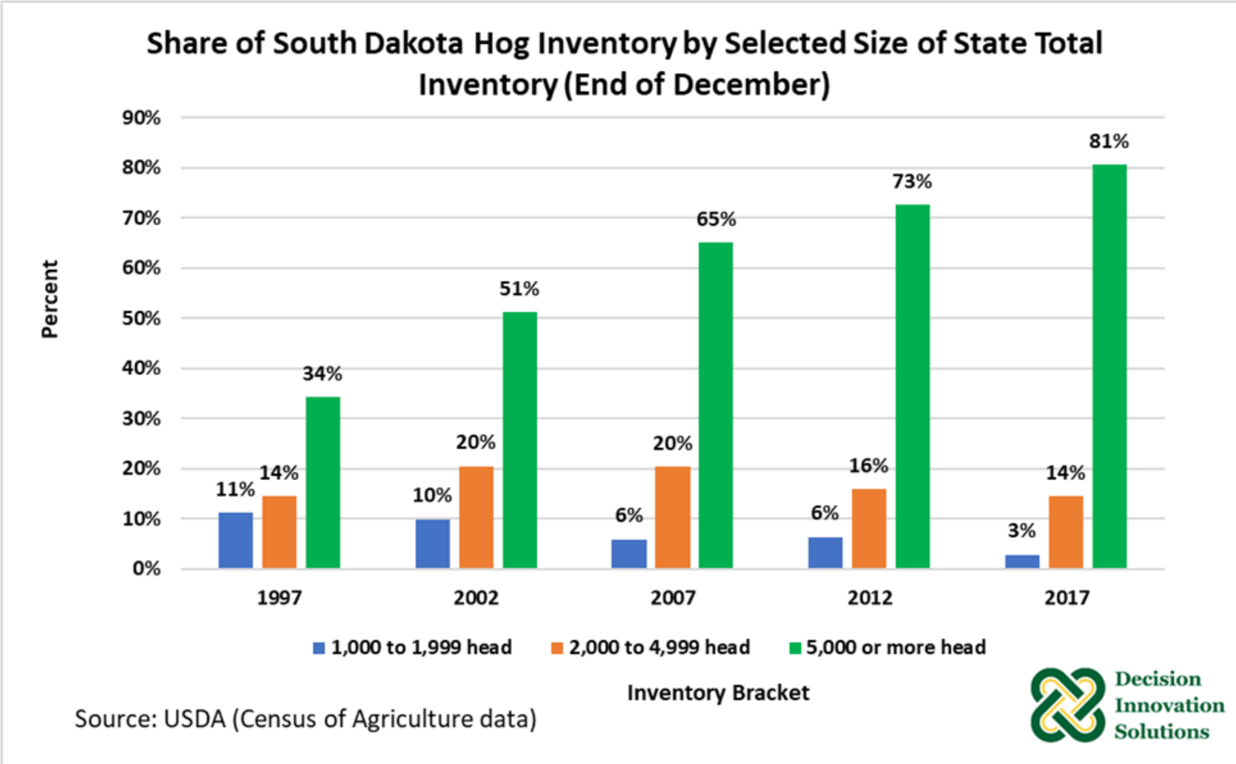


Figure 48. Share of South Dakota Hog Inventory by Selected Size of State Total Inventory (End of December)

5.2.2.1 South Dakota Hog Farm Distribution and Share of State Total Hog Farms

According to Census of Agriculture data South Dakota's total number of farms with hog inventories declined 81% from 3,027 farms in 1997 to 571 in 2017. During that period, farms holding 5,000 or more head and farms with 2,000 to 4,999 increased 88% and 19%, respectively, while farms with 1,000 to 1,999 fell 73% (see Figure 49). Relative to the total number of hog farms, the share of the largest farm was 18% in 2017, up from 2% in 1997. For hog farms with 2,000 to 4,999 head, the share in 2017 was 14%, up 2% as well from 1997. Farms with 1,000 to 1,999 head had a 4% share of total hog farms in 1997 and it increased to 6% in 2017 (see Figure 50).

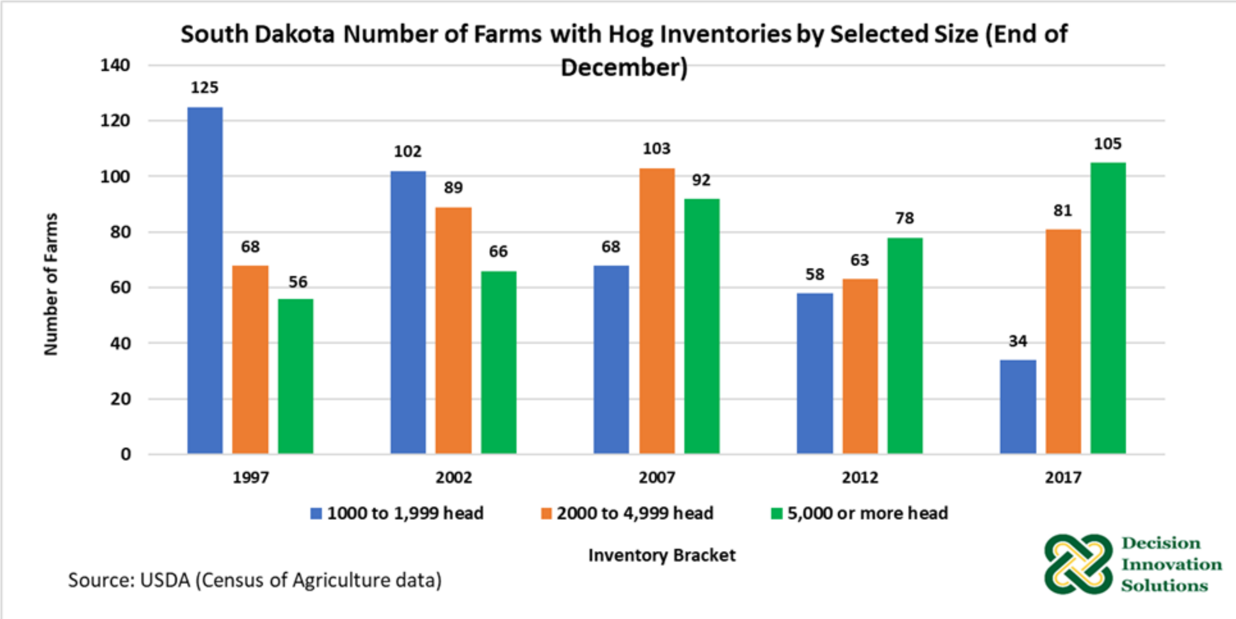


Figure 49. South Dakota Number of Farms with Hog Inventories by Selected Size (End of December)

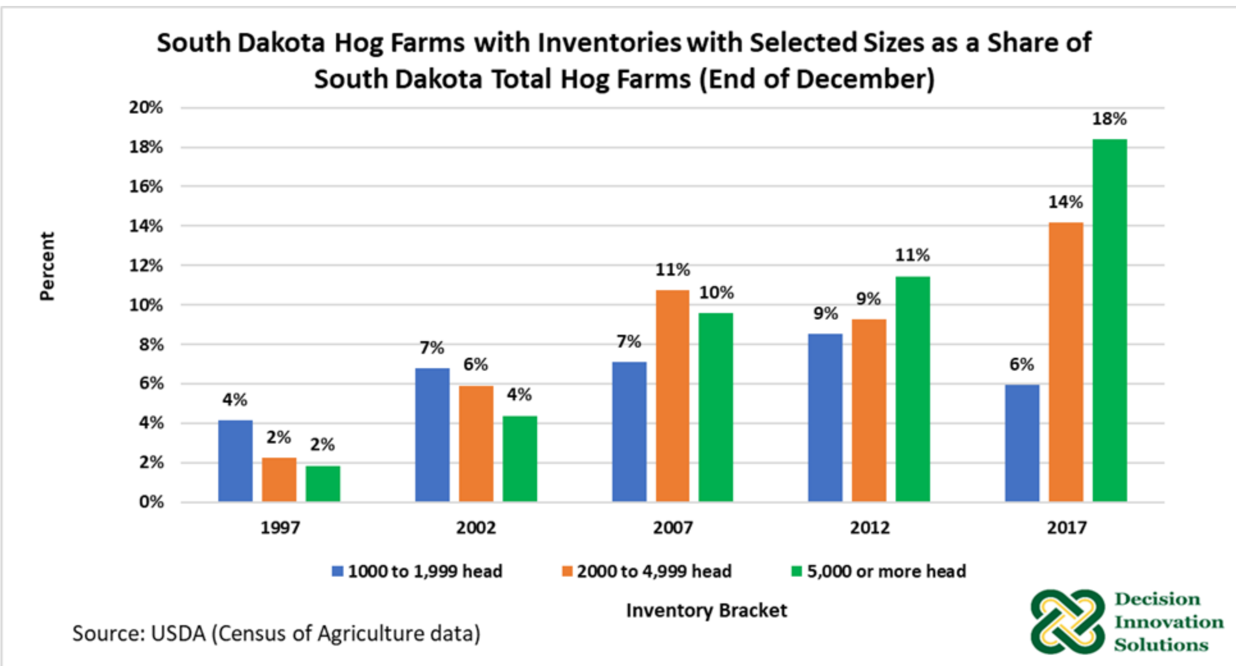


Figure 50. South Dakota Number of Farms with Hog Inventories by Selected Size (End of December)

5.2.2.2 Hog Farms per County (2017 Agricultural Census)

The 2017 USDA Census of Agriculture indicates the county with the most hog farms with inventories in South Dakota is Minnehaha County with 41 farms. Fifty-six percent of those farms have inventories between 1 to 24 head; 2% are farms with inventories between 100 to 199 head, 17% are farms of 200 to 499 head; 7% of farms have 500 to 999 head and 17% are farms with 1,000 or more head and (Figure

51). In second and third place, in terms of number of hog farms with inventories, are Hutchinson and Union Counties with 36 and 26 farms, respectively.

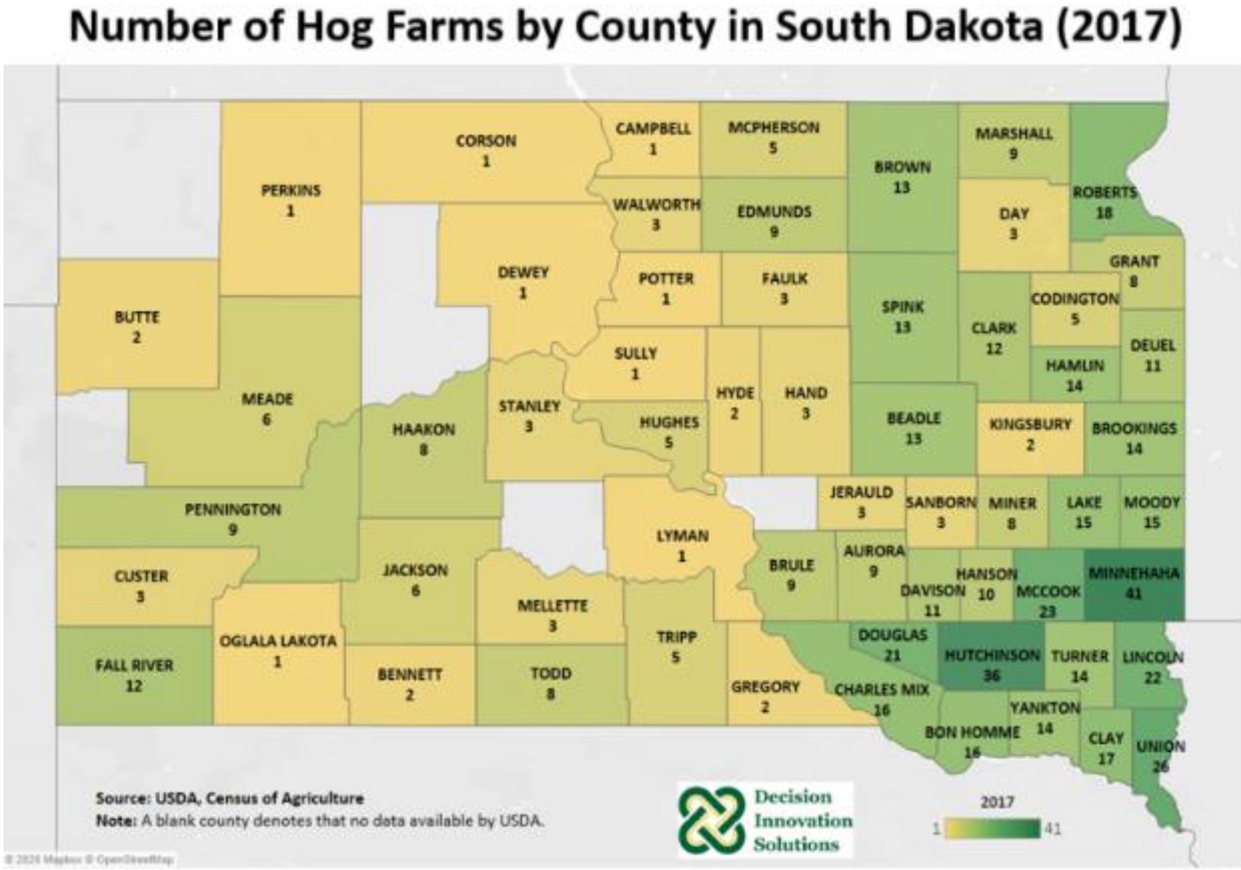


Figure 51. Number of Hog Farms by County in South Dakota (2017)

5.2.2.3 Percent Change in Number of Hog Farms by County in South Dakota

Based on the percent change in the number of hog farms from 2012 to 2017, there were five counties with the largest percentage growth in number of hog farms during these two census years: Aurora, Edmunds, Jackson, Mellette, and Walworth. All these counties had a 200% increase in their number of hog farms with inventories between these two census periods (Figure 52).

Percent Change in Number of Hog Farms by County in South Dakota (2012-2017)

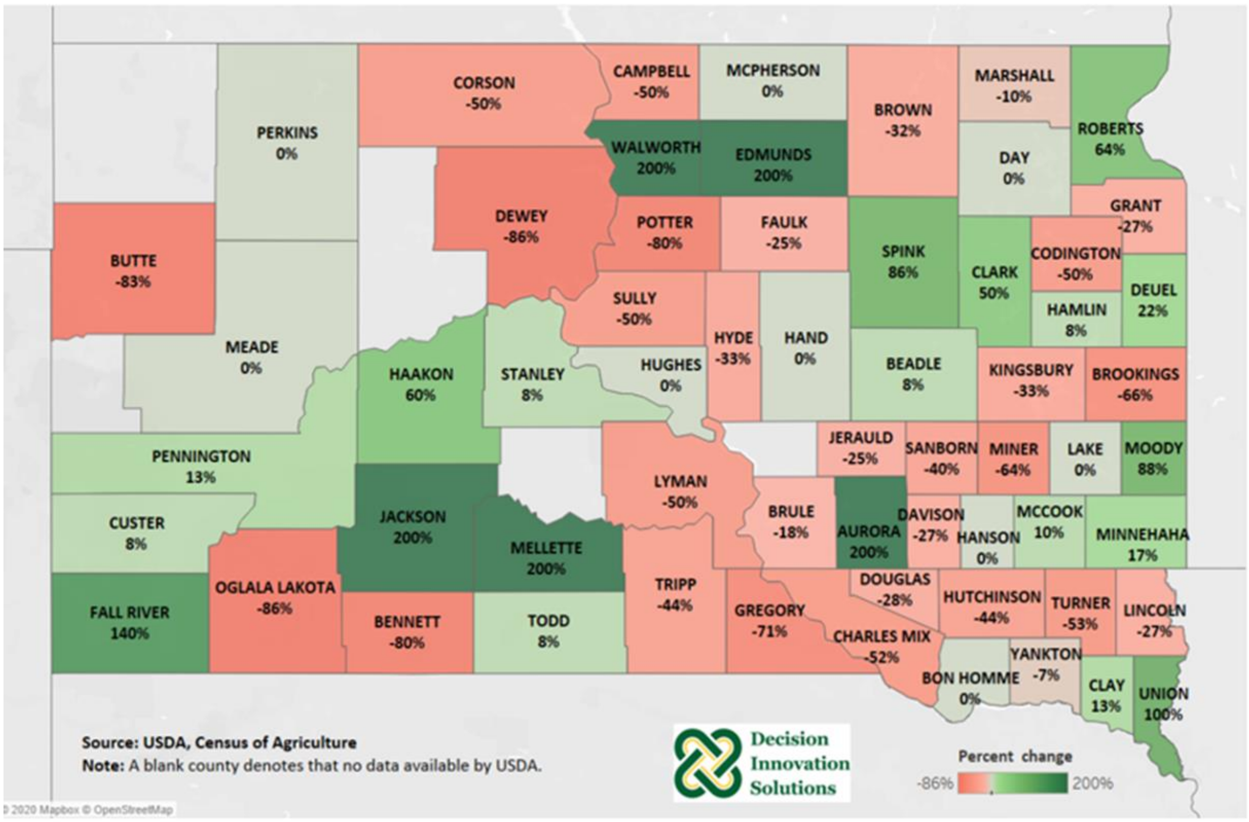


Figure 52. Percent Change in Number of Hog Farms by Country in South Dakota (2012-2017)

5.2.2.4 Value of Hog Sales by County in South Dakota

The 2017 Census of Agriculture data indicates Hutchinson County had the largest value of hog sales in South Dakota, which was estimated at $49.3 million (Figure 53). Hutchinson County has 36 hog farms. Of those, 21 are hog farms holding inventories with 1,000 or more head. Charles Mix County generated the second largest value of hog sales assessed at $36.8 million. Fourteen of the 16 hog farms in Charles Mix County have inventories of 1,000 or more head.

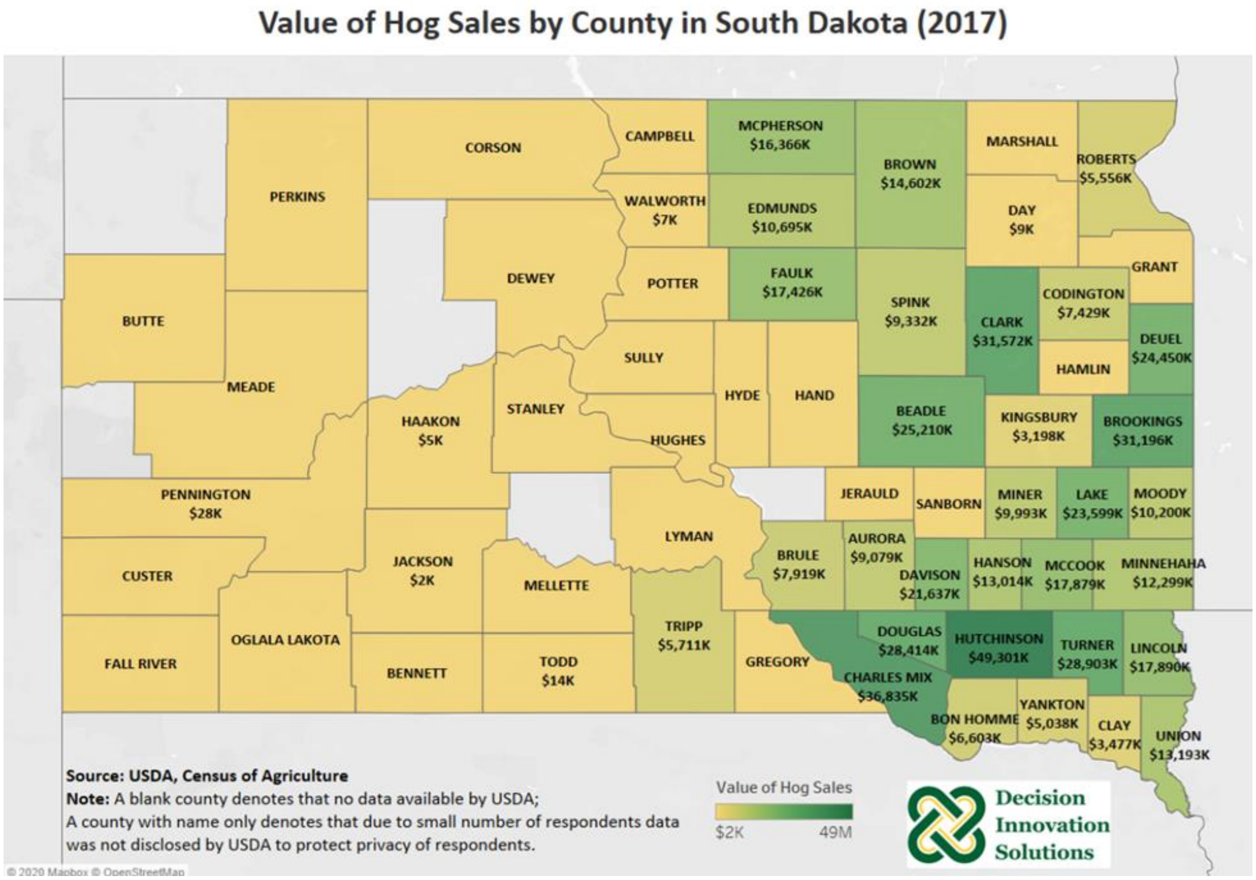


Figure 53. Value of Hog Sales by County in South Dakota (2017)

5.2.2.5 Number of Hog Sold by County in South Dakota

The county with the largest number of hogs sold in South Dakota was Clark County with 599,320 head (Figure 54). Charles Mix County is in second place in terms of number of hogs sold (514,283 head) in 2017. In third place was Douglas County with 452,470 head.

Number of Hog Sold by County in South Dakota (2017)

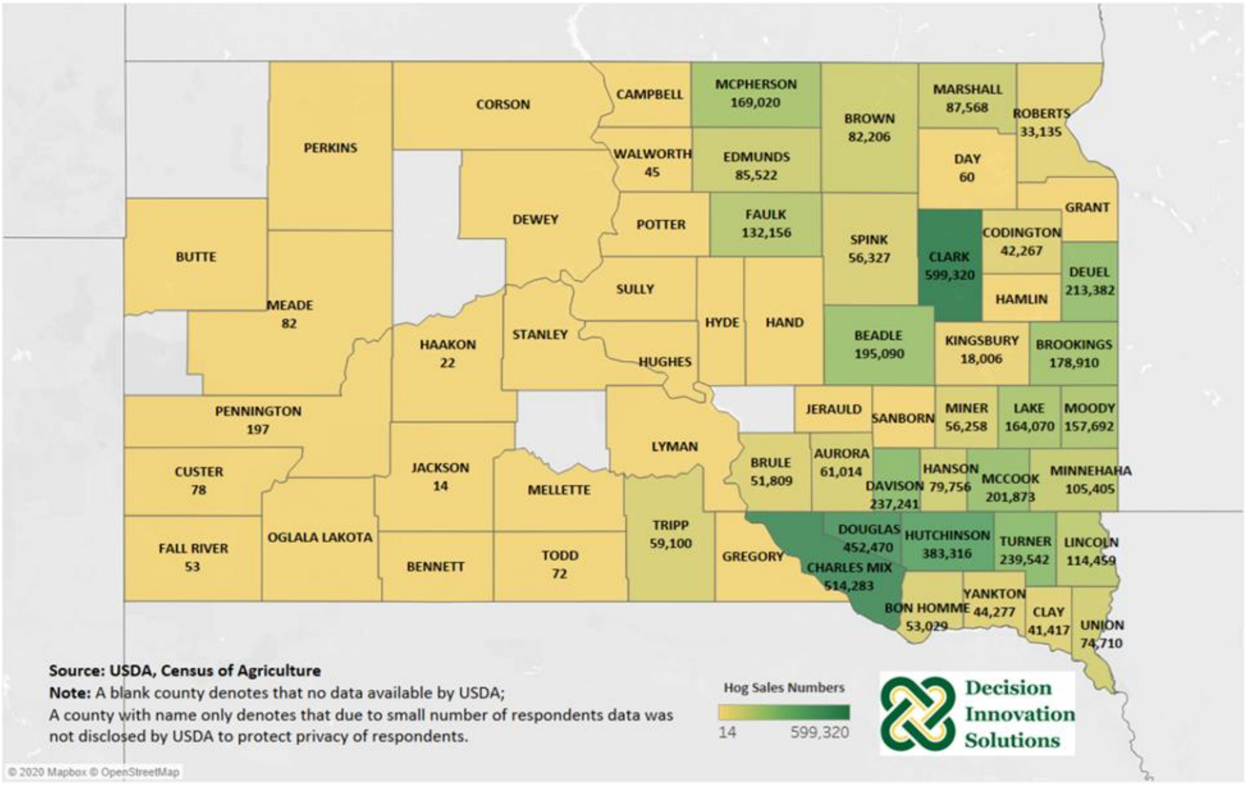


Figure 54. Number of Hog Sold by County in South Dakota (2017)

5.2.3 Hog Farms by Type & Size

South Dakota had 29 farms classified as farrow-feeder farms in 2017. Up from 22 in 2012. Five of those farms had 1 to 24 head; 16 had 25 to 49 head; 6 farms with 50 to 499 head, and 2 with more than 5,000 head. See (Figure 55).

There were 183 farrow-to-finish farms in South Dakota. Those with 5,000 or more head represented one third (61 farms) of the farrow-to-finish farms. Fifty-one farms under this classification had 1 to 24 head (see Figure 56).

South Dakota had a total of 38 farrow-to-wean farms. Of these, 32 were large farms handling 5,000 or more head (see Figure 57).

The 2017 Census of Agriculture indicates that 183 of all independent hog growers in South Dakota had farms ranging in size from 1 to 24 head (see Figure 58). The number of independent growers declined from 568 in 2012 to 473 in 2017. South Dakota also had 132 large independent hog growers managing 5,000 or more head in 2017, which grew from 111 in 2012.

Hog nursery farms represented the smallest number of hog farm in South Dakota in 2017 with 22 farms in total. Of those, 19 farms were managing 5,000 or more head (see Figure 59). The number of farms increased from 19 in 2012.

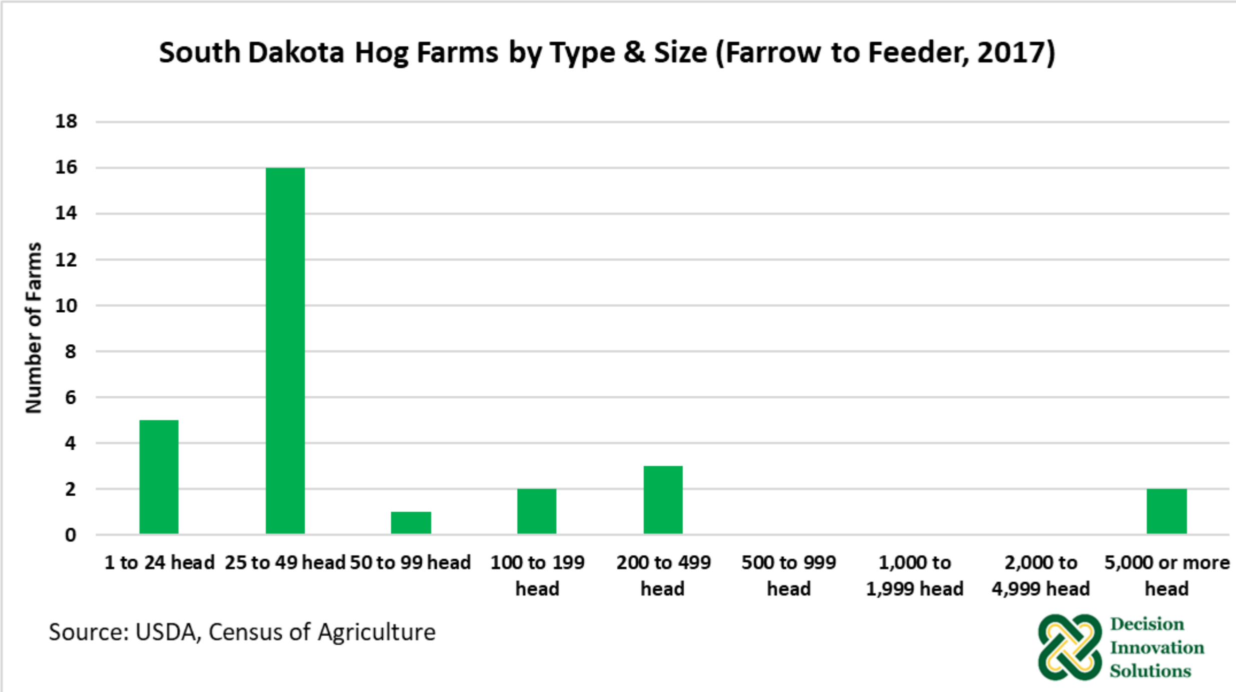


Figure 55. South Dakota Hog Farms by Type & Size (Farrow to Feeder, 2017)

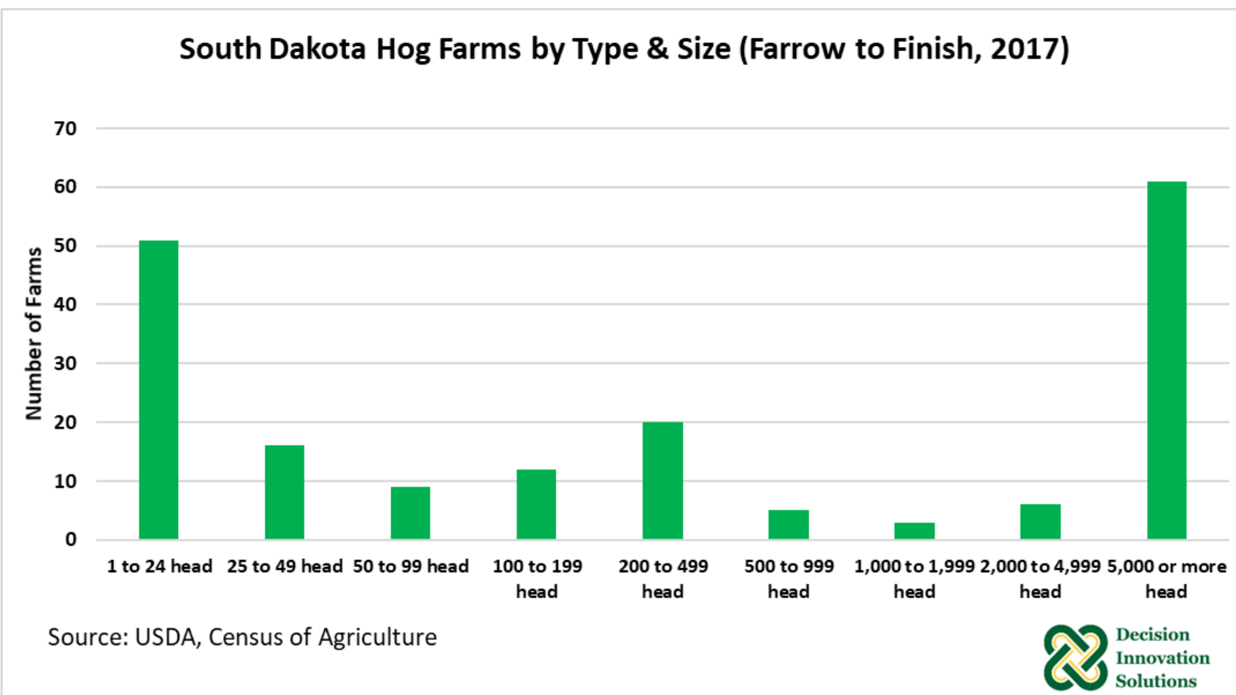


Figure 56. South Dakota Hog Farms by Type & Size (Farrow to Finish, 2017)

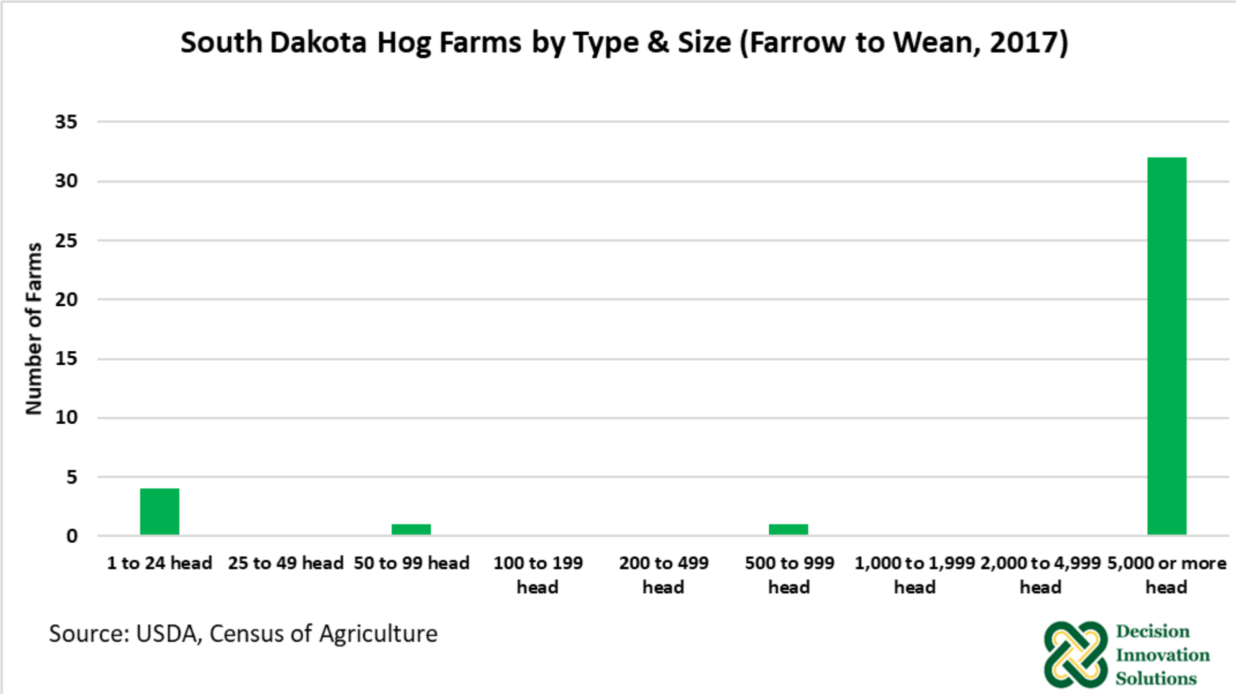


Figure 57. South Dakota Hog Farms by Type & Size (Farrow to Wean, 2017)

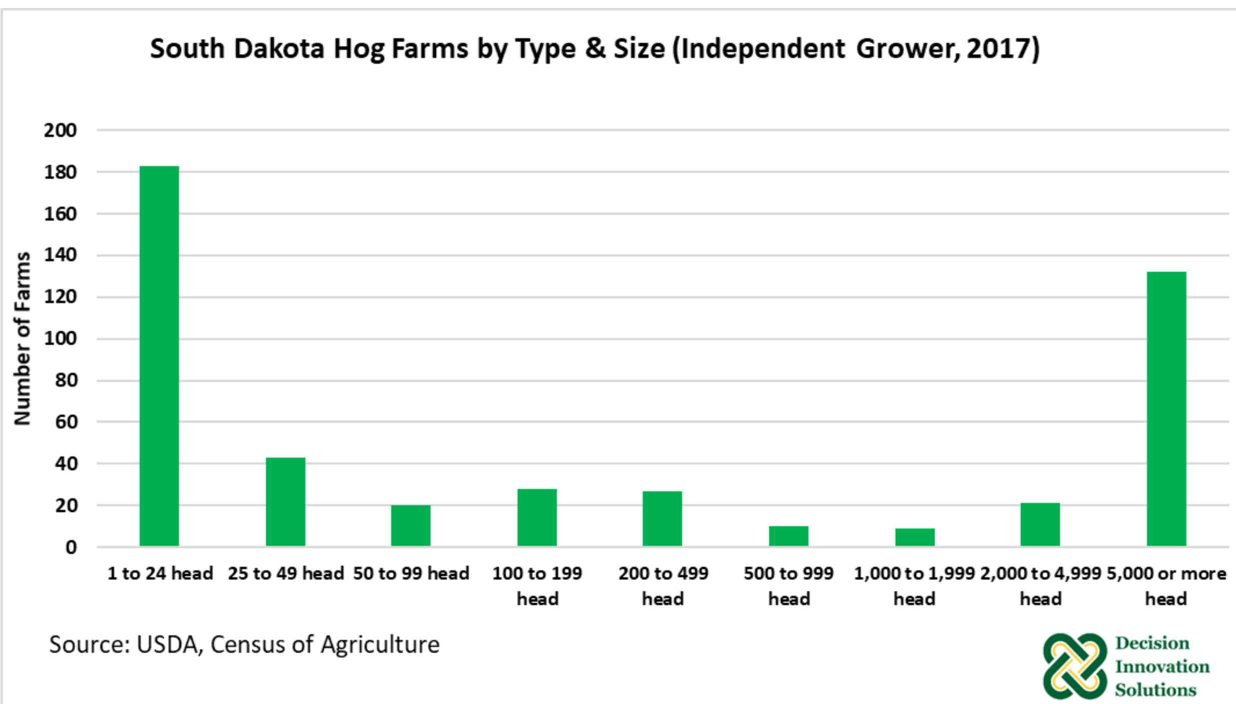


Figure 58. South Dakota Hog Farms by Type & Size (Independent Grower, 2017)

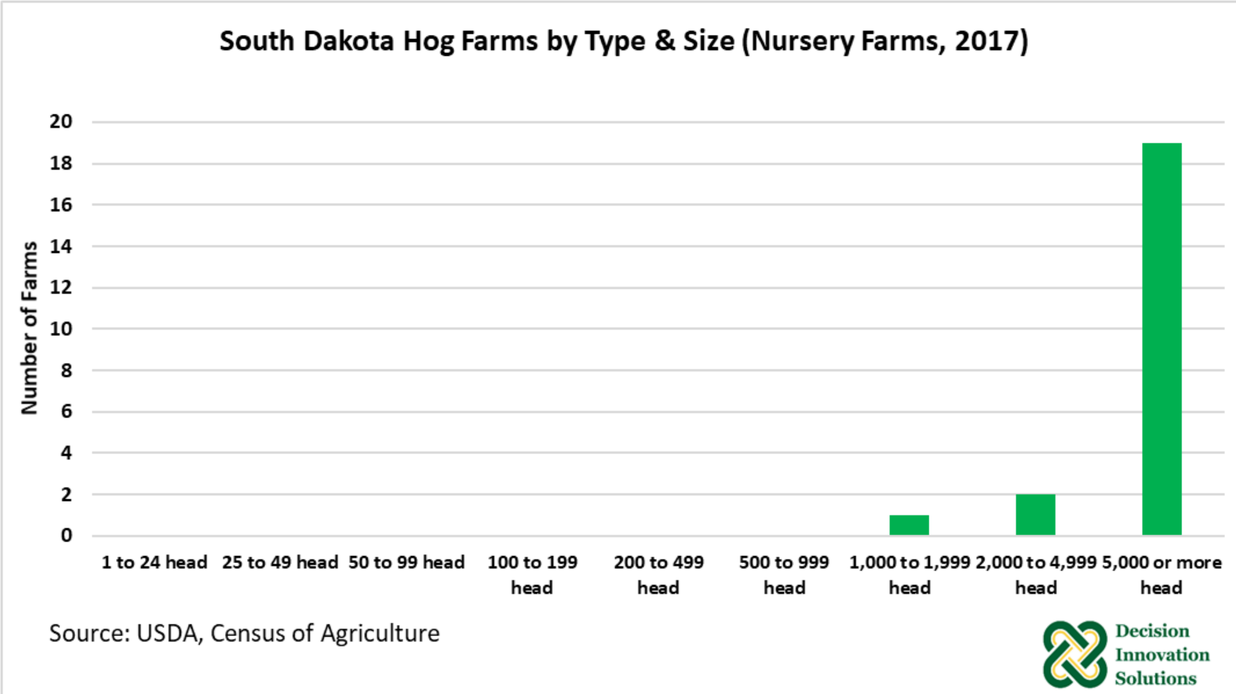


Figure 59. South Dakota Hog Farms by Type & Size (Nursery Farms, 2017)

5.2.4 Number of Hog Farms by Size; State Share of U.S. Hog Inventory by Size of Operation

Except for farms with more than 2,000 head, all sizes of farms reduced their numbers in South Dakota. Hog farms with 200 to 499 head lost the most farms from 1997 (754 farms) to 2017 (42 farms). Although losing 53% of its farms, hog farms with 1 to 24 head were the most numerous in South Dakota in 2017. In 1997, the most prevalent hog farms were those with 200 to 499 head (see Figure 60).

Among all sizes of farms by type and size in South Dakota, farms with 200 to 499 head and those with 5,000 or more head had the largest share to the national level (2.9%) in 2017. Note that the share for both size of farms (relative to the national level) declined compared with 1997 (see Table 9). Compared with the other sizes of operation in the state, hog farms with 1 to 24 head had the smallest share at the national level with 0.5% (in 2017).

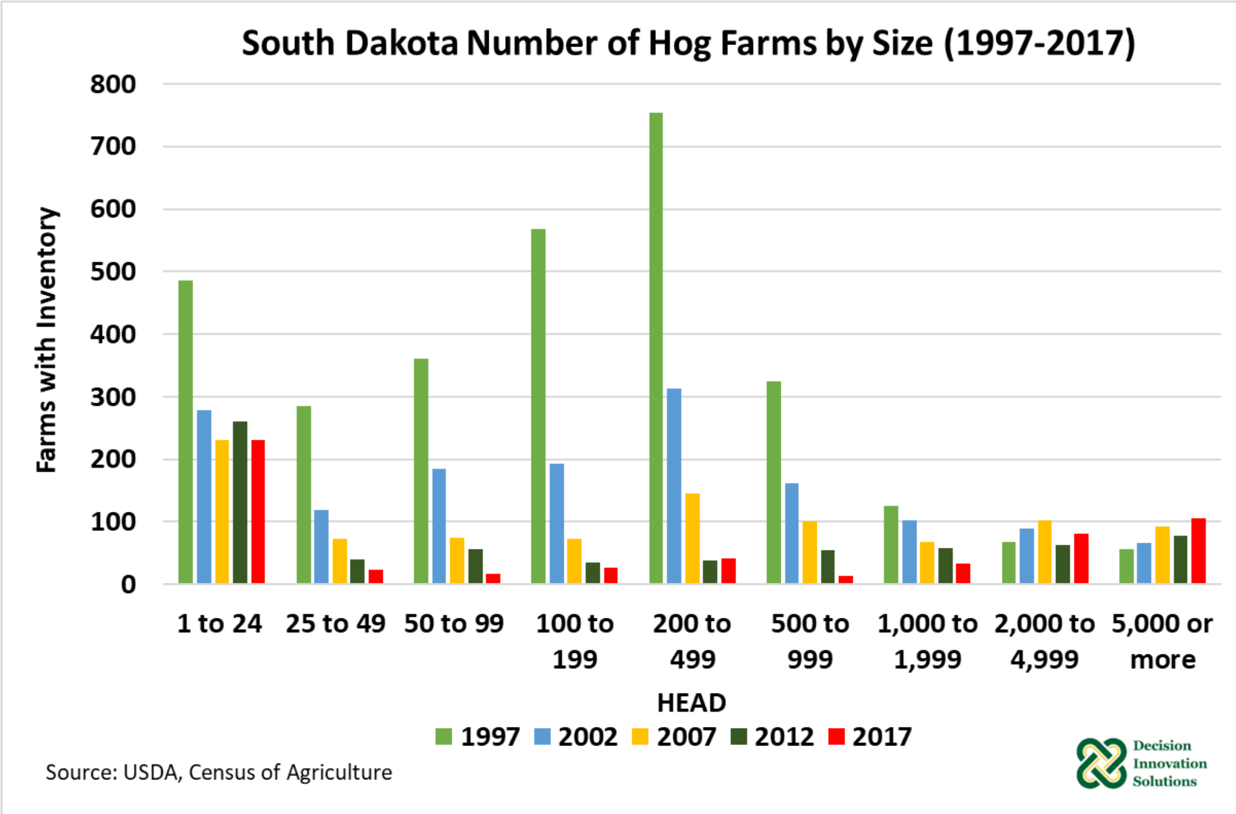


Figure 60. South Dakota Number of Hog Farms by Size (1997-2017)

Table 9. South Dakota Hog Inventory Share of U.S. Hog Inventory by Size of Farm (1997, 2002, 2012, 2017)

Inventory Size (Head)	1997	2002	2007	2012	2017
1 TO 24	0.87%	0.73%	0.51%	0.62%	0.49%
25 TO 49	3.03%	2.09%	1.68%	1.14%	0.61%
50 TO 99	3.87%	3.93%	2.33%	2.59%	0.85%
100 TO 199	5.48%	4.19%	2.82%	2.38%	2.13%
200 TO 499	4.56%	4.04%	3.21%	1.80%	2.89%
500 TO 999	3.12%	2.70%	2.81%	2.73%	1.07%
1,000 TO 1,999	1.89%	1.98%	1.69%	2.17%	1.69%
2,000 TO 4,999	1.57%	1.96%	1.92%	1.34%	1.71%
5,000 OR MORE	3.03%	2.99%	3.23%	2.59%	2.92%

Source: USDA, Census of Agriculture

5.2.5 Hog Slaughter Facility Capacity

Based on Fall 2020 data, South Dakota has one federally inspected plant (Morell Company) with a daily capacity of 19,500 head. This plant is located in Sioux Falls, SD.

5.2.5.1 South Dakota State-Inspected and Custom Livestock Slaughter (2020)

Figure 61 shows the location of state-inspected and custom livestock plants in South Dakota. There were 74 state-inspected and custom livestock slaughter plants in 2020. The plants were scattered across the state, but with a higher concentration in the eastern half of the state. The state has one federally inspected plant located in Sioux Falls.

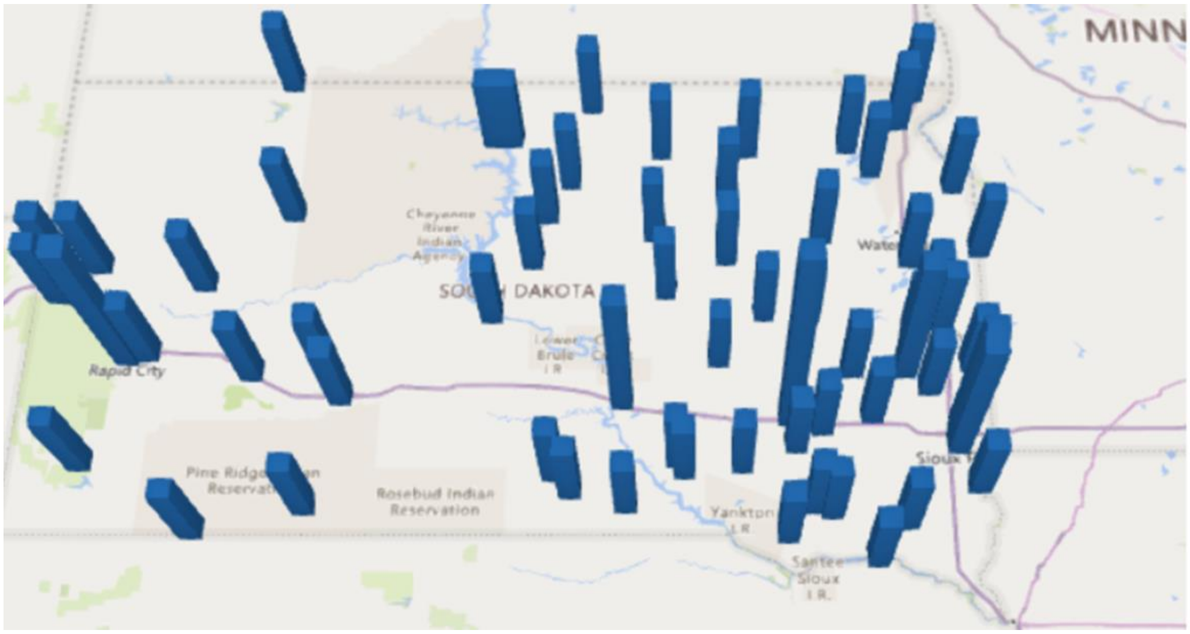


Figure 61. South Dakota State-Inspected and Custom Livestock Slaughter (2020)

5.3 South Dakota Dairy Industry

5.3.1 South Dakota Milk Cow Inventory Trend

South Dakota's milk cow inventory has varied for the last 22 years, but since 2012, numbers have followed a continuous upward trend (see Figure 62). Inventories increased from 90,000 head in 2012 to 141,000 in 2021 (January 1st). The share of South Dakota inventory to U.S. numbers grew from 0.98% to 1.5% during the same period.

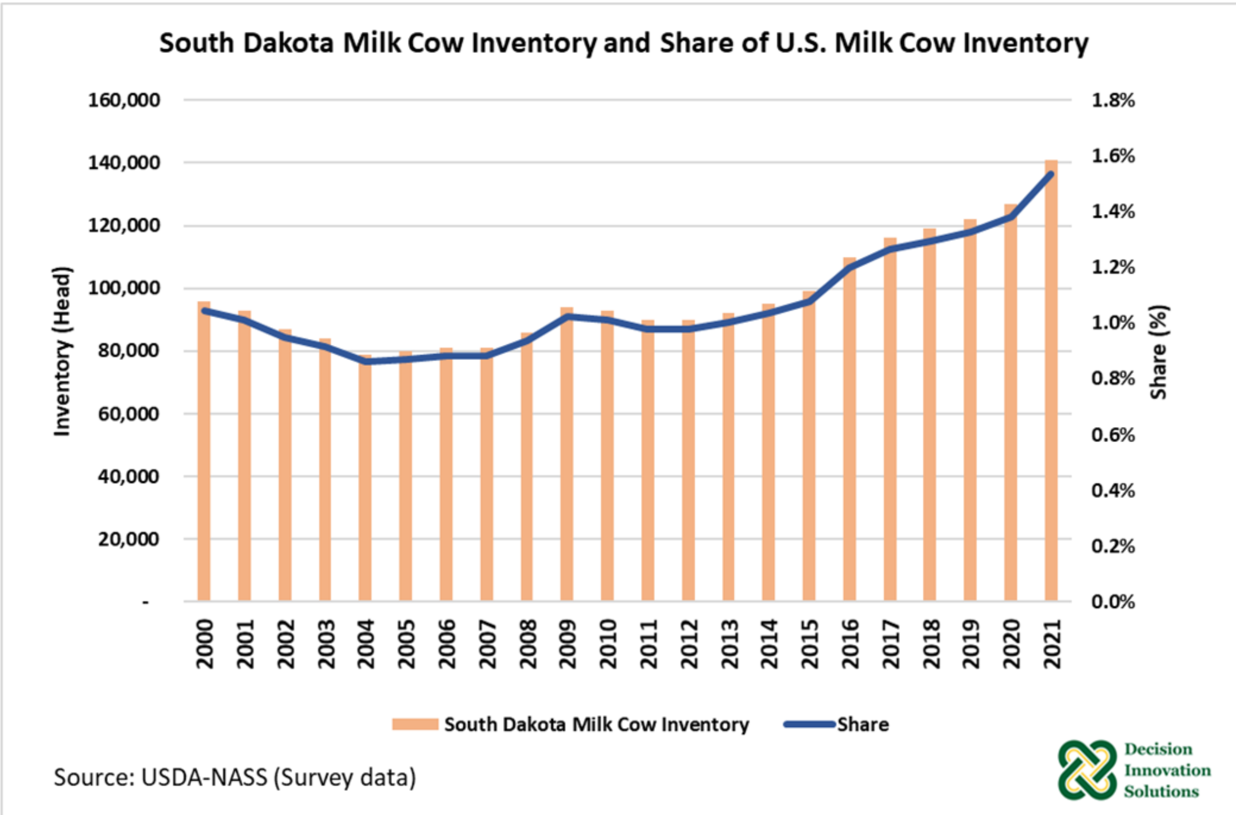


Figure 62. South Dakota Milk Cow Inventory and Share of U.S. Milk Cow Inventory

South Dakota ranked as the 17th largest state with milk cow inventory based on numbers on January 1, 2021. The top five states in term of milk cow inventories were California, Wisconsin, Idaho, New York and Texas (see Figure 63).

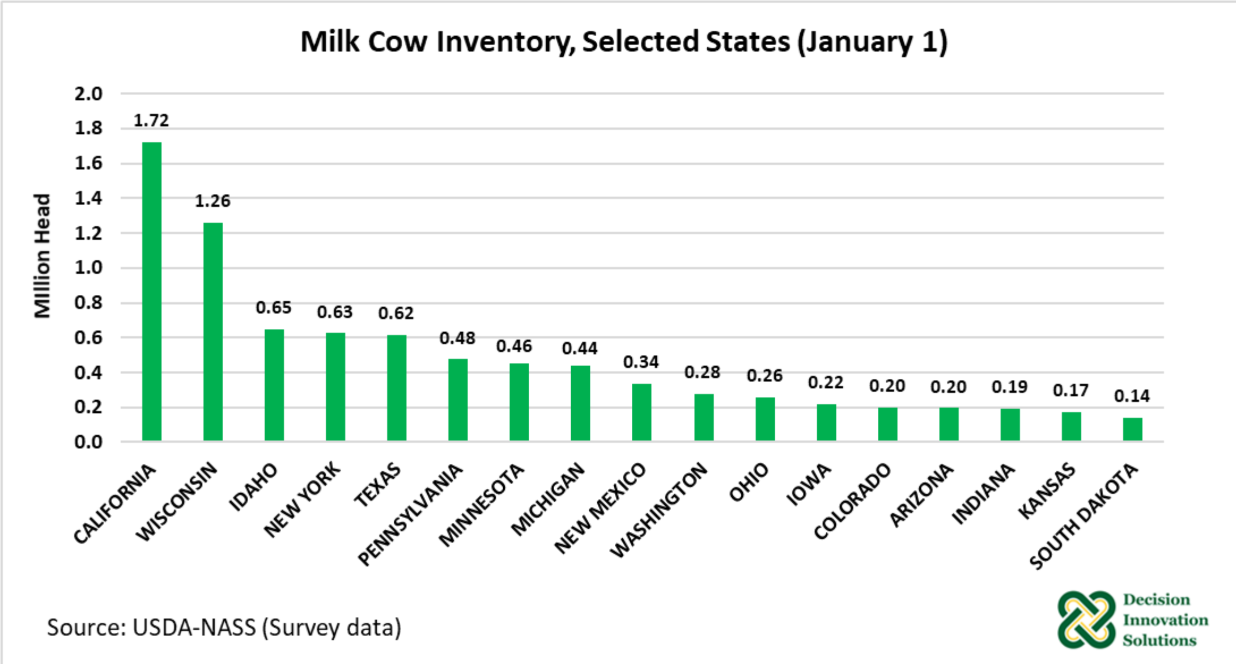


Figure 63. Milk Cow Inventory, Selected States (January 1)

5.3.2 South Dakota Milk Cow Inventory and Farm Distribution

USDA's Census of Agriculture data indicates South Dakota's milk cow inventories on farms with 1,000 to 2,499 head comprised 30% of total South Dakota milk cow inventory in 2017 (see Figure 65). In 2017, there were about 38,215 head in this type of farms, increasing 60% from the head count in 2007 (see Figure 64). Inventories on farms with herds of this size were not reported before 2007. Also increasing was milk cow inventory on farms holding 500 to 999 head, which was up 189% to 7,322 head in 2017 relative to the inventory in 1997; however, numbers were down from the previous two Censuses of Agriculture (see Figure 64).

The inventory of milk cows on farms with 50 to 99 head declined 83% from 32,845 head in 1997 to 5,606 head in 2017. Since 1997, farms holding 10 to 19 head experienced the largest drop in inventory. There were 1,964 head in 1997 compared with 106 head in 2017, down 95%. In addition, the inventory on farms holding 20 to 49 head declined 92% from 19,579 in 1997 to 1,487 in the last census.

Note that inventory of milk cows on farms with 2,500 or more head was assessed by the 2017 Census of Agriculture, but numbers were not disclosed by USDA to protect privacy of respondents. Milk cow inventory considering all size groups, except for the largest category (2,500 or more head), comprised about 72,383 head (57%) of total inventory (127,325 head) in 2017. Based on these numbers, the inventory on farm with 2,500 or more was about 54,942 head or 43% of total milk cow inventory. In 2017, the inventory on farms holding 2,500 or more was up 447% from 2007. Overall, most of the milk cow inventory in South Dakota in 2017 was concentrated on farms holding more than 200 head but less than 2,500.

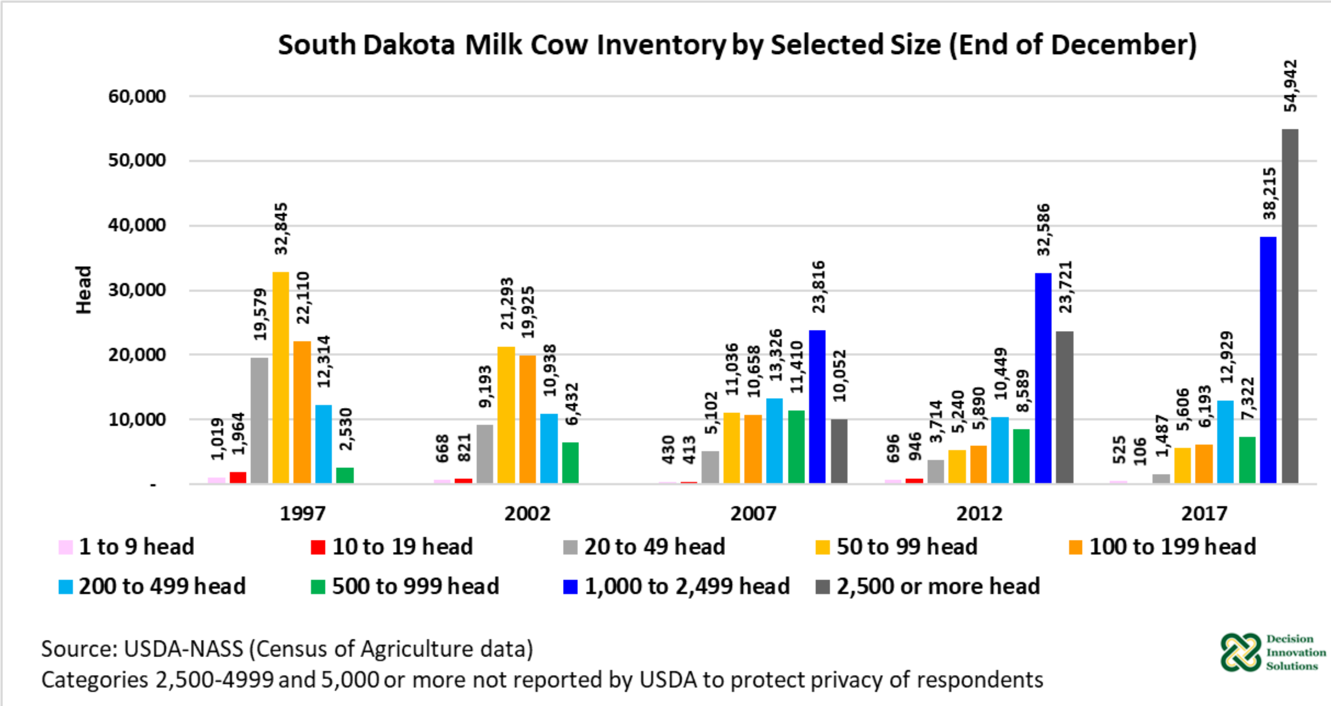


Figure 64. South Dakota Milk Cow Inventory by Selected Size (End of December)

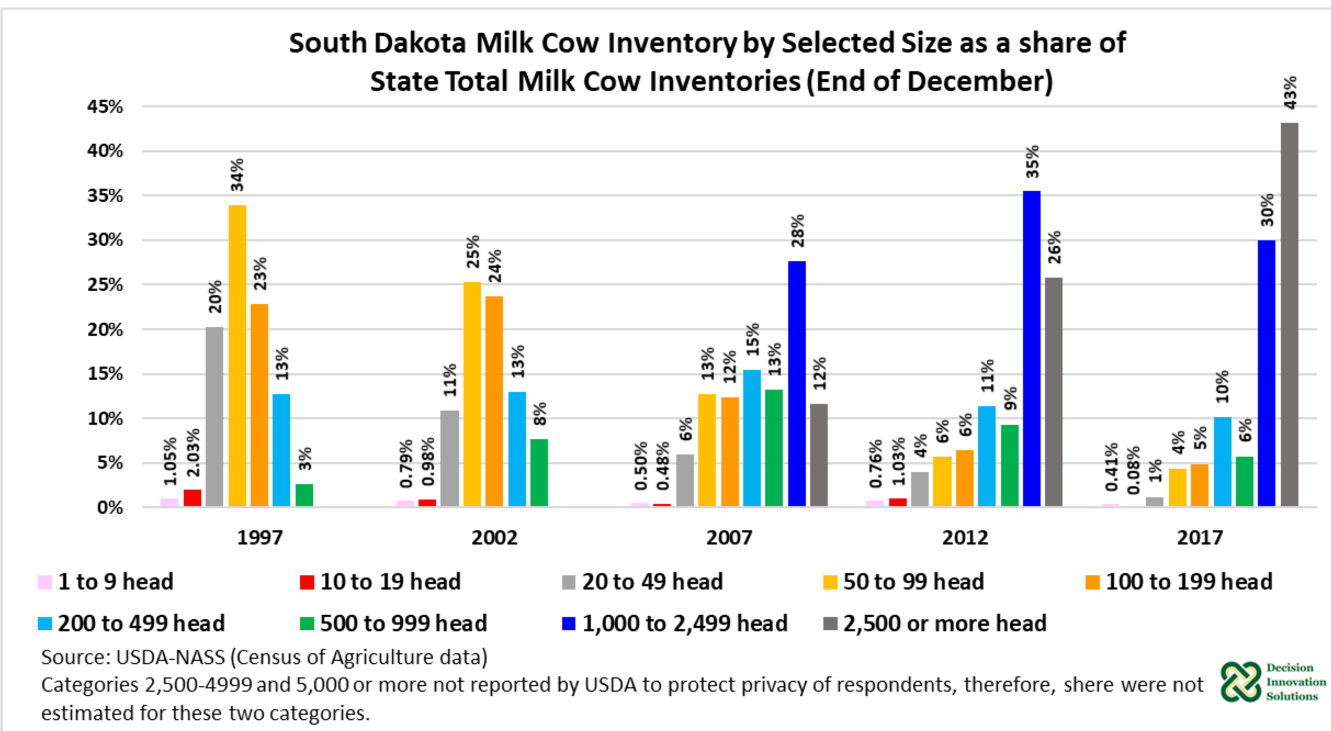


Figure 65. South Dakota Milk Cow Inventory by Selected Size as a share of State Total Milk Cow Inventories (End of December)

5.3.2.1 South Dakota Dairy Farm Distribution and Share of State Total Dairy Farms

In South Dakota, the total number of farms with milk cow inventories dropped from 1,854 in 1997 to 509 in 2017, indicating a 73% reduction in this type of farms. This is a trend followed at the national level. According to the Census of Agriculture data, the U.S. had 125,041 dairy farms in 1997 compared with 54,599 in 2017 (down 56%).

Despite the overall decline in the number of dairy farms in South Dakota, farms with 1,000 to 2,499 head increased from 16 in 2007 to 23 in 2017, reflecting a 44% growth (see Figure 66). In addition, based on the Census of Agriculture data, up to 2012 South Dakota did not have dairy farms holding more than 2,499 head; however, the 2017 census reported 8 dairy farms keeping 2,500 to 4,999 head and 2 farms with 5,000 or more head.

The number of dairy farms holding 1 to 9 head fell to 246 farms in 2017 from 404 farms in 1997, nonetheless this was the most numerous milk cow farm category in South Dakota, with a share of 48% relative to the total number of dairy farms in the state in 2017 (see Figure 67).

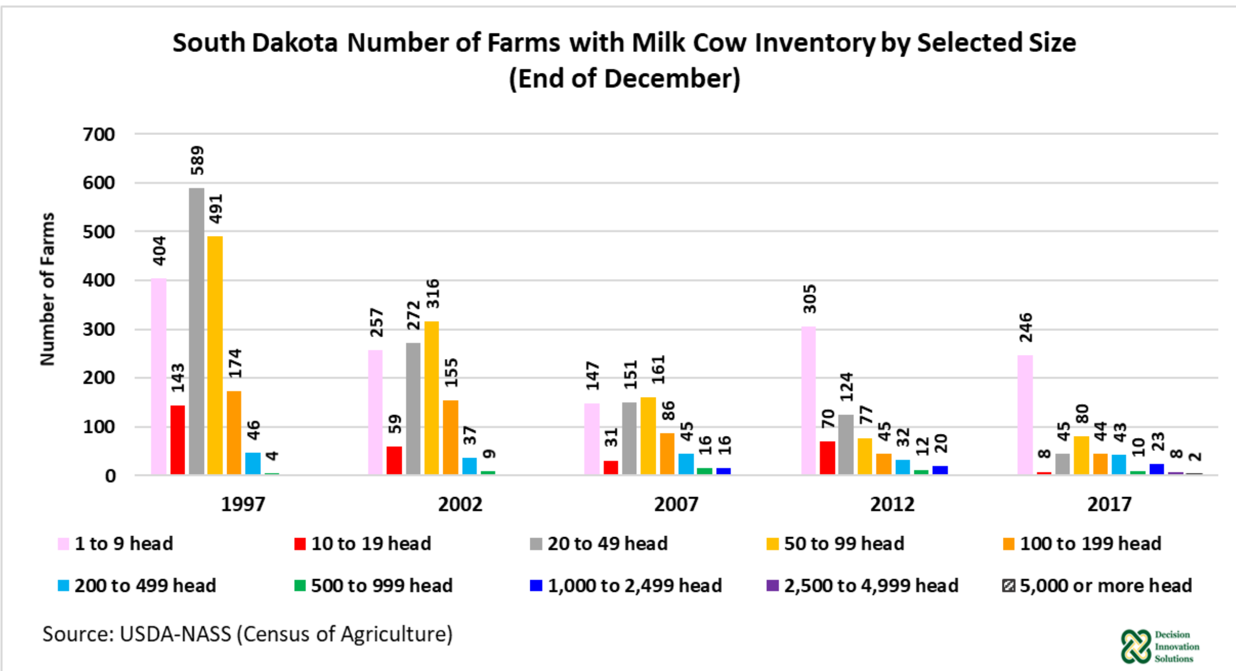


Figure 66. South Dakota Number of Farms with Milk Cow Inventory by Selected Size (End of December)

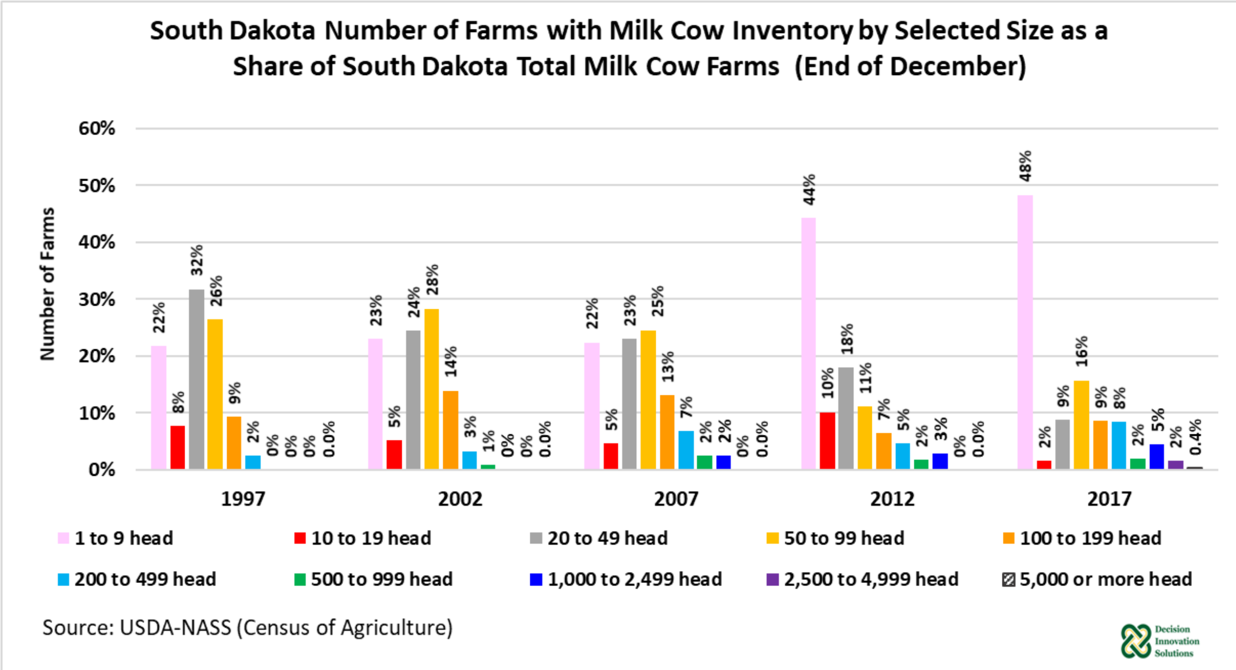


Figure 67. South Dakota Number of Farms with Milk Cow Inventory by Selected Size as a Share of South Dakota Total Dairy Farms (End of December)

5.3.3 South Dakota Dairy Farms per County

According to June 2021 data from the South Dakota Department of Agriculture and Natural Resources, Brookings County leads South Dakota in the number of dairy producers at 19 producers (see Figure 68). Grant, Minnehaha, and Hamlin Counties have 14, 12, and 11 dairy producers, respectively. South Dakota has 26 counties with 5 or fewer farms. The state has 30 counties without reported dairy farms.

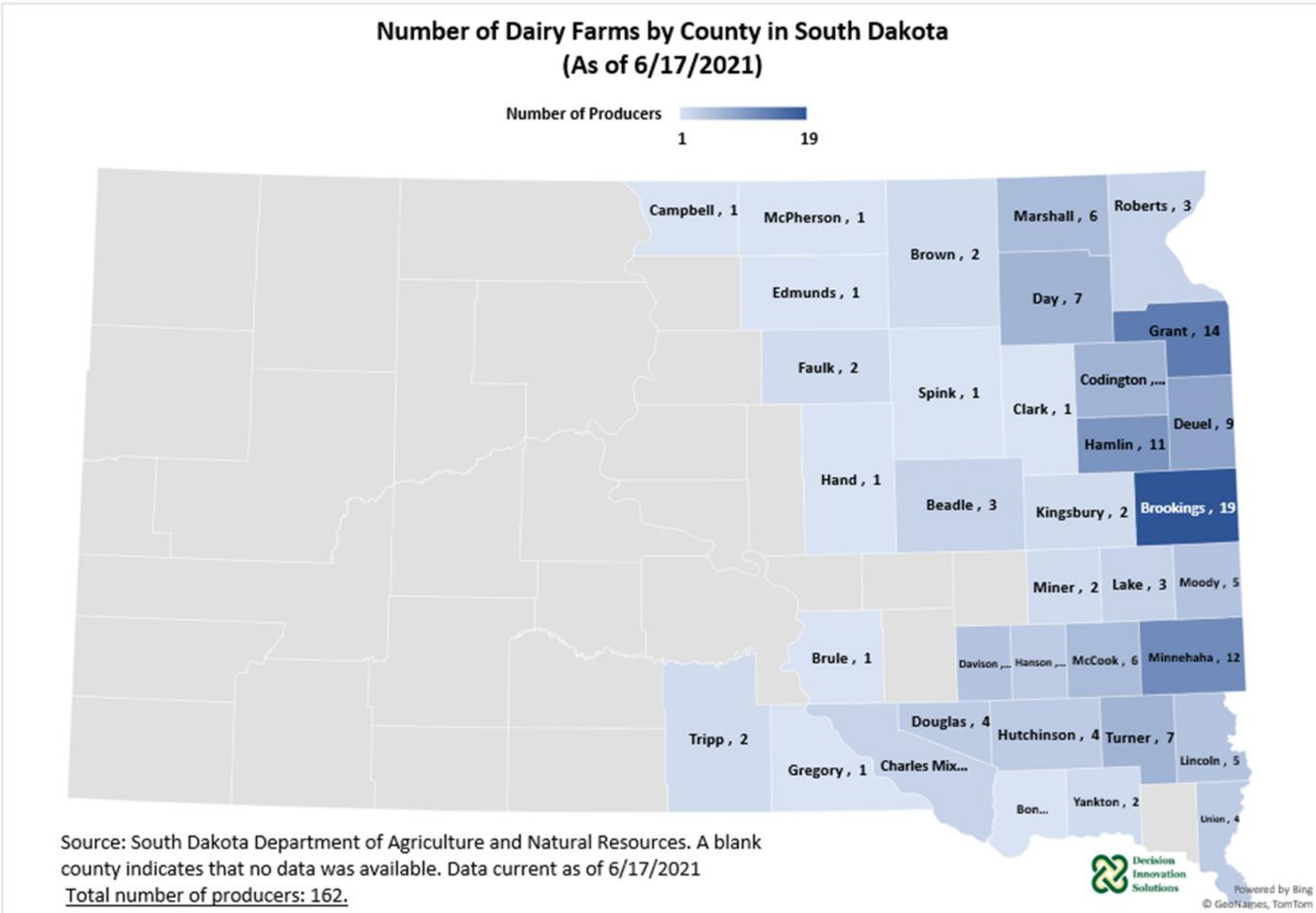


Figure 68. Number of Dairy Farms by County in South Dakota (As of 6/17/2021)

Based on June 2021 data from the South Dakota Department of Agriculture and Natural Resources, the county with the greatest number of milk cows was Minnehaha with 18,015 head, followed by Brookings (17,976 head), Hamlin (16,704 head) and Marshall (16,621 head) (see Figure 69).

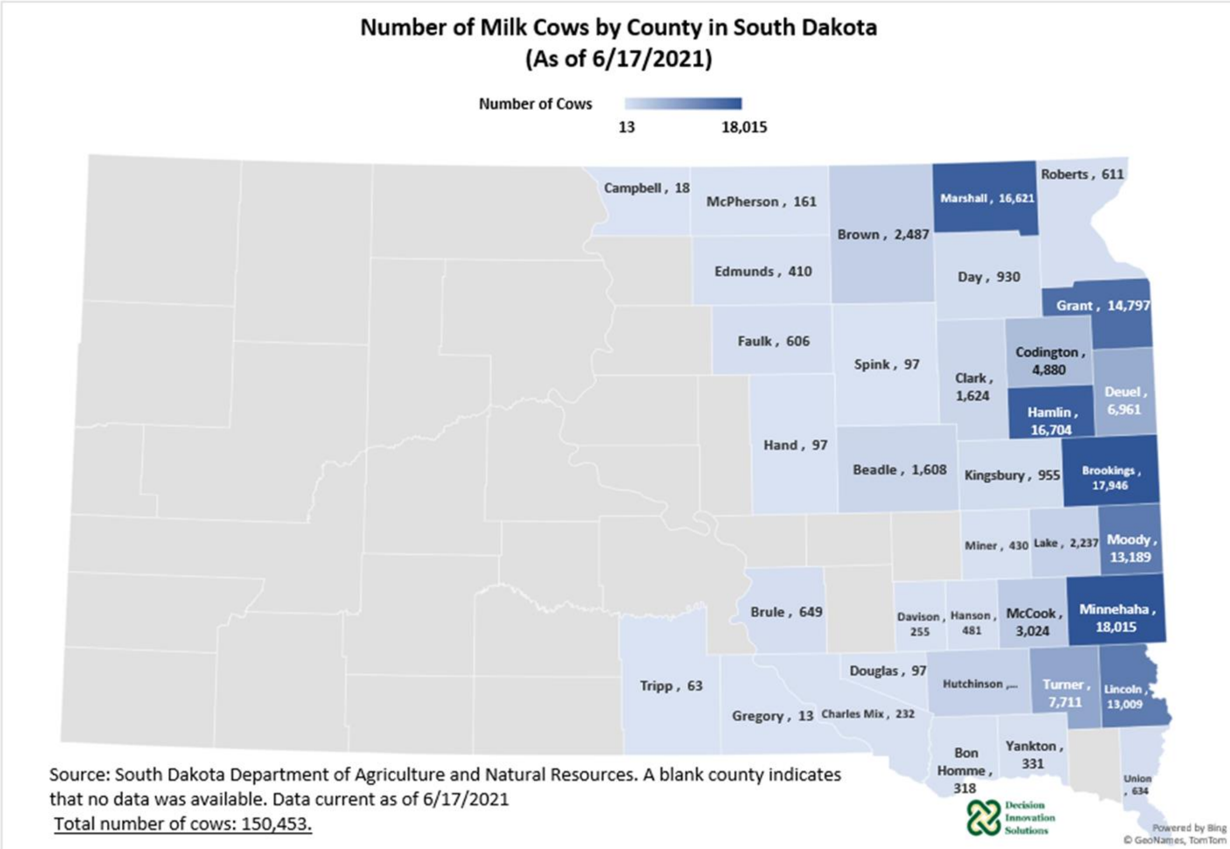


Figure 69. Number of Milk Cows by County in South Dakota (As of 6/17/2021)

5.3.3.1 Value of Milk Sales by County in South Dakota

In 2017, South Dakota's Brookings County had the largest value of milk sales with $75 million, followed by Grant County with $70 million. In a distant third place was Minnehaha County with $42 million (Figure 70). According to the Census Agriculture data, the total value of milk sales in South Dakota was over $490 million in 2017.

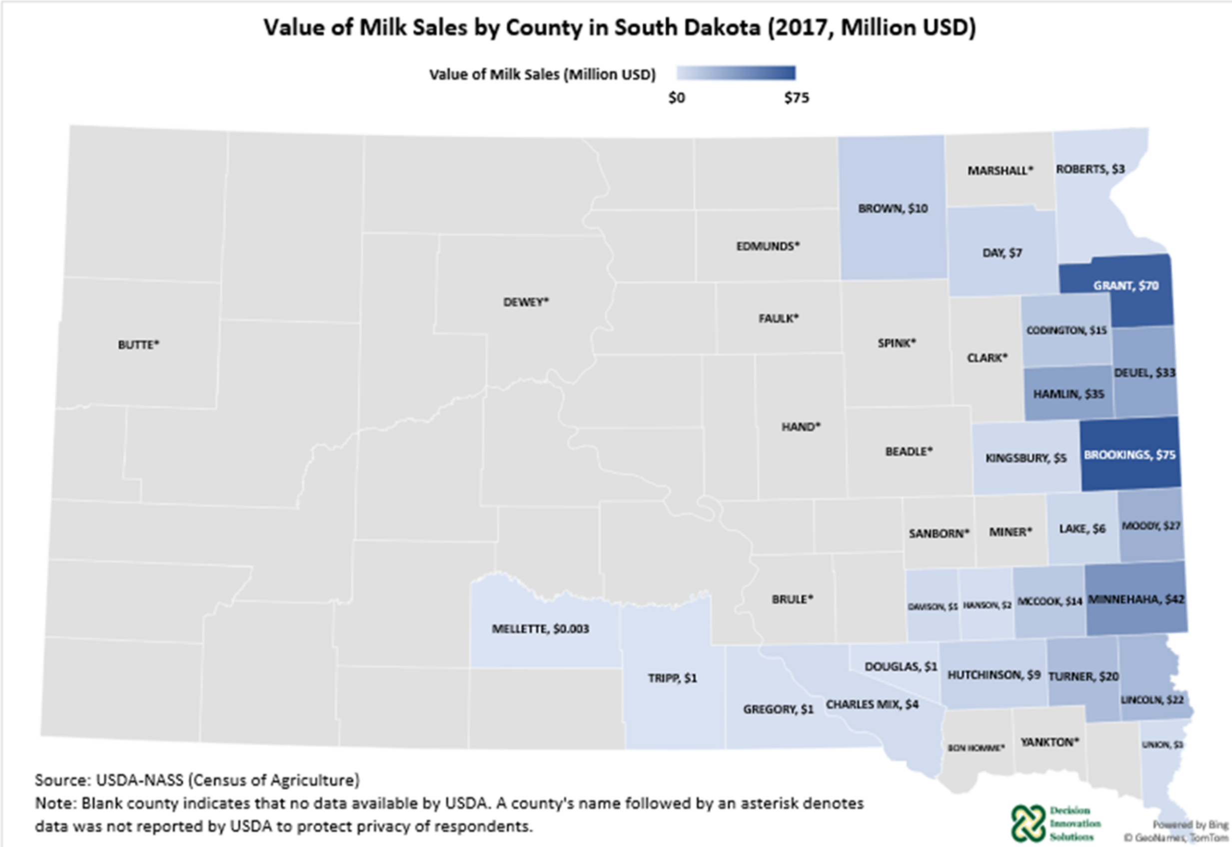


Figure 70. Value of Milk Sales by County in South Dakota (2017, Million USD)

5.3.4 South Dakota Milk Production

As shown in Figure 71, South Dakota milk production has followed a fairly steady growth trend since 2000, particularly since 2011. Production in 2020 was twice the volume in 2000 (1.474 billion pounds). South Dakota's milk production in 2020 was up 11% year-over-year from 2019. South Dakota's milk production share of U.S. total production increased from 0.9% in 2000 to 1.4% in 2020. The state's milk production per cow per year expanded from 15,516 head per head per year in 2000 to 23,111 pounds per head per year in 2020 (see Figure 72). Note that South Dakota dairy inventory has substantially increased since 2016, in particular, inventories expanded from 127,000 head in 2020 to 141,000 in 2021 (January 1st), up 11% year-over-year.

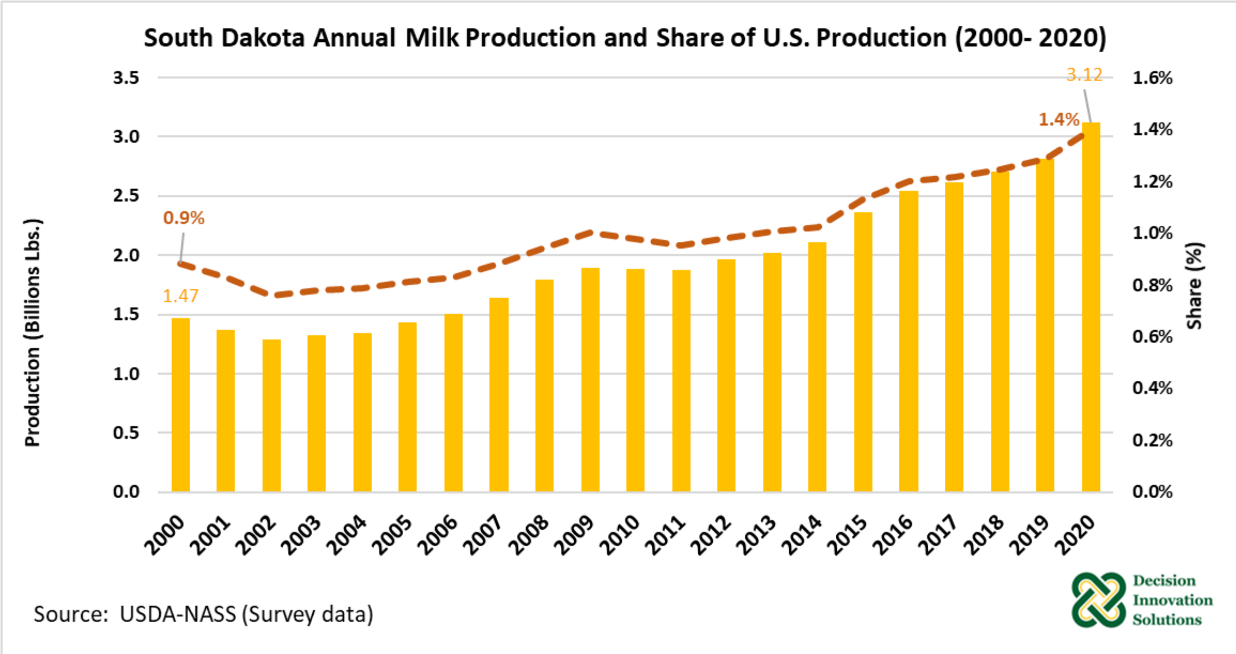


Figure 71. South Dakota Annual Milk Production and Share of U.S. Production (2000- 2020)

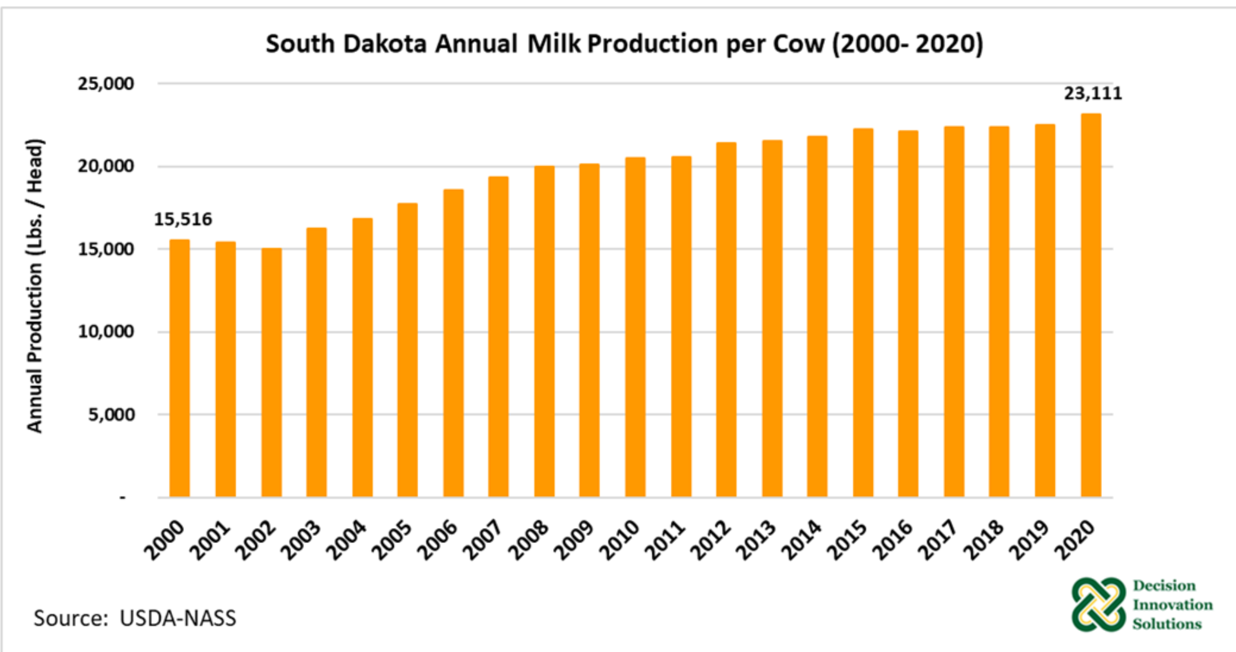


Figure 72. South Dakota Annual Milk Production per Cow (2000- 2020)

South Dakota produced 450 million pounds of cheese in 2020, which was three times higher than the volume produced in 2000 (see Figure 73). With the large volume of milk produced in 2020, South Dakota cheese production increased 30% from the previous year (347.7 million lbs.). South Dakota's share of cheese production relative to U.S. production, jumped from 1.8% in 2000 to 3.4% in 2020. The 2020 share was up from the 2019 share equal to 2.6%.

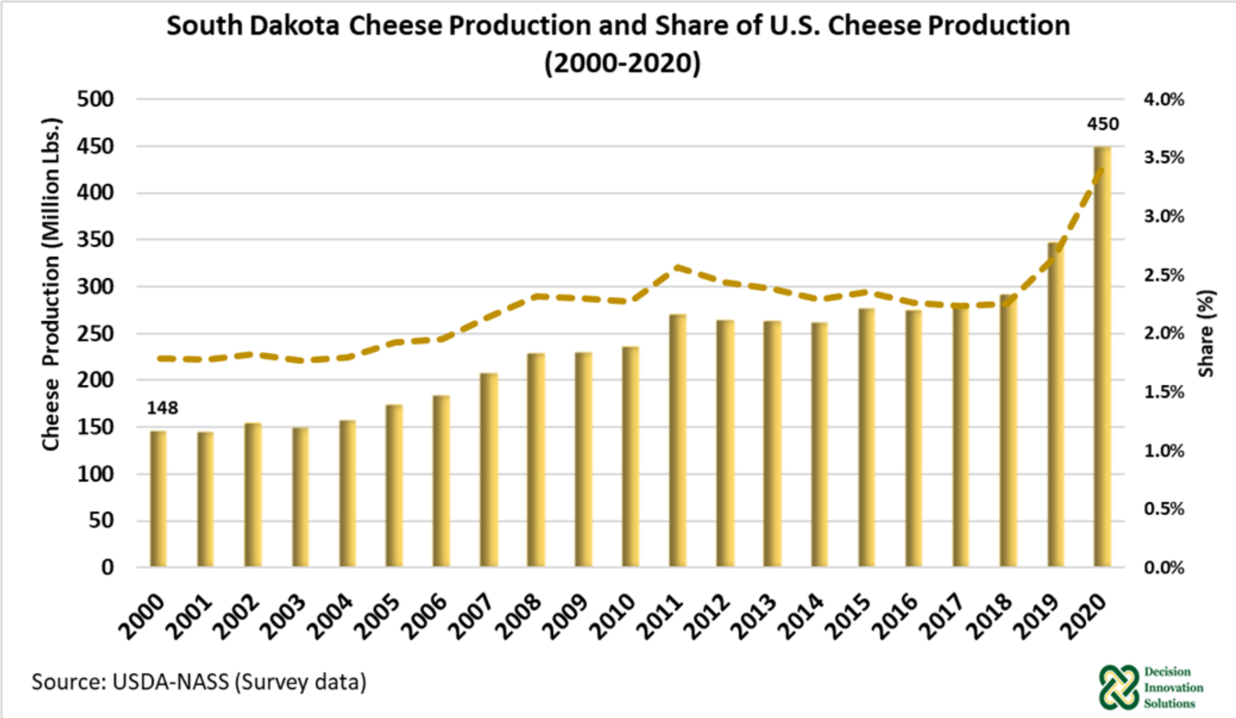


Figure 73. South Dakota Cheese Production

5.4 Farm Level Economic Impact Studies

5.4.1 Economic Impact Study Methodology

The term "Economic Impact Study" implies a change has taken place within a local economy. The change in a local economy typically comes from one of the following sources:

- Entrance/departure of a new business or industry
- Expansion/contraction of an existing business or industry

The entry of a new or expansion of an existing industry to South Dakota causes a measurable increase in economic activity within the state both in terms of construction and annual operations. The IMPLAN modeling system was used in calculating the following results. In this study, three scenarios were identified to model the economic impact of the following potential changes to the agriculture industry in South Dakota.

- Construction and operations of a new 2,400 head wean to finish hog farm in Douglas County (Section 5.4.2)
- Construction and operations of a new 5,000 head dairy with a rotary milking parlor in Minnehaha County (Section 5.4.3)
- Construction and operations of a new 1,600 head fully robotic dairy in Hamlin County (Section 5.4.4)

5.4.2 Economic Impact Study– Wean to Finish Hog Farm

This scenario examines the impact of a new 2,400 head wean to finish hog barn in a county with a large hog presence, specifically Douglas County. For this analysis, the impact of both the construction and the operation of the facility is considered.

For this scenario, the following assumptions were made:

- Construction costs were estimated based on budgets provided by partners in the pork industry
- Hogs reach slaughter in 24 weeks on average[21], meaning that a 2,400 head barn raises roughly 5,200 hogs annually
- Hogs produced by this facility reach the 2020 national average slaughter weight of 289 pounds as provided by USDA NASS
- Prices are assumed to remain at the 5-year average of $51.36 per cwt as provided by USDA NASS

Construction impacts are one-time occurrences and not annual ongoing impacts. Using the methodology and assumptions outlined in this report, the estimated total value added impact for construction, as shown in Table 10 is $317,670. The construction of this facility would support an estimated 4 jobs. Around $950,000 in total sales economic activity would occur within Douglas County.

[21] https://www.ers.usda.gov/topics/animal-products/hogs-pork/sector-at-a-glance/

Table 10. Total Impact Results, Construction Impact of New Wean to Finish Hog Farm

Construction				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	3.0	$162,756	$229,956	$768,847
Indirect Effect	0.6	$37,809	$53,543	$115,472
Induced Effect	0.4	$15,480	$34,172	$66,234
Total Effect	4.0	$216,045	$317,670	$950,552

This scenario also considers the annual operations impact of the new hog farm. This assumes that the new farm is running at full capacity. The operation impact of the new farm is an annual impact that would occur every year, not just a one-time impact like construction. As shown in Table 11, the estimated total value added impact for operations for the first year is $714,642. The operation of this facility would support an additional estimated 5.1 jobs each year. Over $1 million in total sales activity would occur in the county each year.

Table 11. Total Impact Results, Operations for First Year Impact of New Wean to Finish Hog Farm

Operations for First Year				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	3.6	$441,111	$573,023	$783,713
Indirect Effect	0.5	$43,112	$58,477	$108,321
Induced Effect	1.0	$37,539	$83,142	$161,218
Total Effect	5.1	$521,762	$714,642	$1,053,252

5.4.3 Economic Impact Study – 5,000 Head Rotary Dairy Farm

This scenario examines the impact of a new 5,000 head dairy farm with a rotary milking parlor in Minnehaha County, which has substantial existing dairy production. As in the previous scenario, the impacts of both the construction and the operation of the facility are considered.

For this scenario, the following assumptions were made:

- Construction costs were estimated based on budgets provided by partners in the dairy industry
- Revenue and employee compensation were estimated based on a Farm Credit Services of America study[22] of dairies in South Dakota, Minnesota, Iowa, and Nebraska.
    - It is assumed that milk production, revenue, and costs for this dairy would be consistent with the regional average
- Milk prices remain in line with their historical 5-year average of $17.45 per cwt as provided by USDA/NASS

[22] Information obtained from communication with Farm Credit Services of America

Construction of the new dairy facility is a one-time impact and not an annual ongoing impact. Using the methodology and assumptions outlined in this report, the estimated total value added impact for construction of the new dairy facility, as shown in Table 12, is $19.1 million. An estimated 198 jobs would be supported as a result of this new construction. Nearly $40 million in total sales economic activity would occur within Minnehaha County.

Table 12. Total Impact Results, Construction Impact of New Rotary Dairy Farm

Construction				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	118	$8,180,078	$11,282,883	$25,875,325
Indirect Effect	34	$2,236,794	$3,601,424	$6,820,088
Induced Effect	46	$2,416,869	$4,203,957	$7,276,154
Total Effect	198	$12,833,741	$19,088,264	$39,971,567

Under this scenario there is also an operations impact. This assumes that the new dairy facility is running at full capacity. The operation impact of the new dairy is an annual impact that would occur every year, not just a one-time impact like the construction of the facility. The estimated total value added impact for the operation of the new dairy facility, as shown in Table 13, is $13.8 million. The operation of this facility would support an estimated 125 additional jobs each year. A total of $40.1 in total sales economic activity would occur within Minnehaha County yearly.

Table 13. Total Impact Results, Operations for First Year Impact of New Rotary Dairy Farm

Operations for First Year				
Impact Type	Employment	Labor Income	Value Added	Sales
Direct Effect	35	$4,227,956	$5,385,376	$23,545,000
Indirect Effect	57	$3,229,139	$5,301,151	$11,312,660
Induced Effect	33	$1,763,419	$3,066,254	$5,305,218
Total Effect	125	$9,220,514	$13,752,781	$40,162,878

5.4.4 Economic Impact Study – 1,600 Head Robotic Dairy Farm

This scenario examines the impact of a new 1,600 head dairy utilizing a robotic milking system located in Hamlin County, which has substantial existing dairy production. As in the previous scenario, the impacts of both the construction and the operation of the facility are considered.

For this scenario, the following assumptions were made:

- Construction costs were estimated based on budgets provided by partners in the dairy industry
- Revenue and employee compensation were estimated based on the Farm Credit Services of America study of dairies in South Dakota, Minnesota, Iowa, and Nebraska mentioned in the previous section.

  - We assume that milk production, revenue, and costs for this dairy would be consistent with the regional average
  - Using discussions with industry partners as a basis, these figures were adjusted in order to be more in line with the farms of a fully robotic dairy facility. Specifically, it is assumed that labor costs are 30% lower for the robotic dairy[23]. Recent data suggests that there is not a significant difference in milk production between robotic and conventional dairies[24]
- Prices remain in line with their historical 5-year average of $17.45 per cwt as provided by USDA NASS

Construction of this new dairy facility is a one-time impact and not an annual ongoing impact. Using the methodology and assumptions outlined in this report, the estimated total value added impact for construction of the new dairy facility, as shown in Table 14, is $4.8 million. A total of $16 million in total sales economic activity would occur within Hamlin County. An estimated 78 jobs would be supported as a result of this new construction.

Table 14, Total Impact Results, Construction Impact of New Robotic Dairy Farm

Construction				
Impact Type	**Employment**	**Labor Income**	**Value Added**	**Sales**
Direct Effect	62	$2,704,775	$3,277,793	$12,890,000
Indirect Effect	11	$517,292	$956,846	$2,155,140
Induced Effect	6	$178,982	$572,013	$1,044,544
Total Effect	78	$3,401,049	$4,806,652	$16,089,684

The impact of the operation of this dairy facility is also considered in this scenario. This assumes that the new dairy facility is running at full capacity. The operation impact of the new dairy is an annual impact that would occur every year, not just a one-time impact like the construction of the facility. The estimated total value added impact for the operation of the new dairy facility is $2.7 million, as shown in Table 15. The operation of this facility would support an estimated 23 additional jobs each year. Over $10 million in total sales economic activity would occur within Hamlin County annually.

Table 15, Total Impact Results, Farms for First Year Impact of New Robotic Dairy Farm

Operations for First Year				
Impact Type	**Employment**	**Labor Income**	**Value Added**	**Sales**
Direct Effect	10	$803,622	$1,481,174	$7,534,400
Indirect Effect	11	$548,993	$975,696	$2,255,519
Induced Effect	3	$75,076	$239,770	$437,681
Total Effect	23	$1,427,690	$2,696,640	$10,227,600

[23] Bijl et al. (2007) - https://www.sciencedirect.com/science/article/pii/S0022030207726255
[24] Data from https://finbin.umn.edu/

6 Looking Ahead

6.1 Forestry

Forestry continues to be an important contributor to South Dakota's economy and is especially important to specific regions of the state. Referring to Figure 74, South Dakota's forested land is heavily concentrated in the Black Hills region of the state. While the Eastern survey unit is just 1.2 percent forested, the Western survey unit is 13.7 percent forested and contains roughly 75 percent of the state's total forest land area. Forested land is also expected to grow in the coming years[25]. With such a large region being concentrated with forest land it is expected that the forestry industry will continue to be a key contributor to South Dakota's economy.

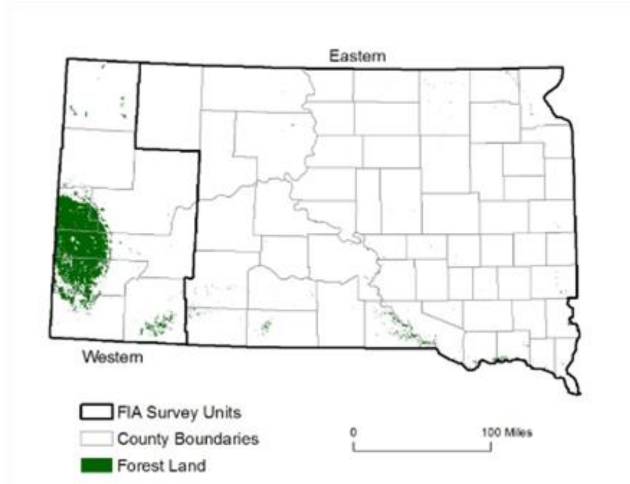


Figure 74. Forest Land, South Dakota, 2016[26]

6.2 Trends in Consumer Preferences

Organic, Cage-Free, and Non-GMO are just some of the more frequently mentioned terms in changing consumer food preferences. On one hand it is important that the consumer hears and understands the farmers side of the food chain. At the same time, producers need to be ready to adapt to a changing market.

South Dakota could be well-situated geographically to be at the center of more production of niche, but growing, segments of consumer-led products. But for this to occur, there will likely need to be development of marketing and distribution channels to supply those developing markets. This may include more non-GMO and/or organic feed production, segregated feedstuff processing and handling and, in some ways, a mind-set change by producers who are willing to move out of low-cost, high-volume commodity production and embrace differentiated production and marketing.

6.3 Technology Use and Access

Advancements in agricultural technology have allowed farmers and agricultural businesses to improve productivity, efficiency, and environmental sustainability. Examples of such advancements include GPS technology, temperature and moisture sensors, and advanced imaging technology.

Although USDA-NASS[27] reports that the average age of South Dakota farmers is over 56, technology adoption rates appear to be steadily increasing. According to the same source[28], computer usage and reliance on technology for farms have increased in recent years. South Dakota is above the national

[25] Based on historical average of 14,081 acres of non-forest land reverting to forest compared to 8,572 acres of forest land converting to non-forest annually. Source: https://www.fs.fed.us/nrs/pubs/ru/ru_fs230.pdf
[26] Source: USDA Forests of South Dakota, 2016
[27] https://quickstats.nass.usda.gov/results/E9EAF131-41F3-3315-B8F9-06915D58766F
[28] https://downloads.usda.library.cornell.edu/usda-esmis/files/h128nd689/8910k592p/qz20t442b/fmpc0819.pdf

average in terms of farm business computer, tablet, and smartphone use. Around 62% of farms report using computers for their business in 2019, which is 13 percentage points greater than the national average. The use of smartphones and tablets for farm business increased from 53% in 2017 to 65% in 2019, which is also 13 percentage points greater than the national average. Internet access among agricultural businesses has also increased from 79% in 2017 to 82% in 2019. With rural South Dakota utilizing technology at a higher rate than the national average additional local, state and federal investment in rural broadband is warranted.

6.4 COVID-19

Like all other states in the United States, the COVID-19 has impacted South Dakota; agriculture, agri-food and forestry industries were not spared. During the height of the pandemic, large meat processing plants in South Dakota were shut down because of COVID-19, causing disruptions in supply chains. Many pork producers struggled to market their hogs, and some were forced to euthanize hogs that could not be harvested. There remains a great deal of economic uncertainty. Some possible risk-mitigation strategies for strengthening agriculture, agri-food and forestry include:

- Insulating the food chain from interruptions by creating more redundancy on the supply side
- Increased support for local processing alternatives to large plants
- Assessing agri-food product markets to build redundancy on the demand side
- Expansion of rural broadband, enabling some farm-based workers to work remotely

7 Conclusions

The agriculture, forestry, and related industries in South Dakota have a significant impact on South Dakota's economy. These industries are important to South Dakota, with about 21% of the jobs being derived from the studied industries. In addition to having an impact on the state as a whole, agriculture, forestry, and related industries impact each county in the state with the percentage of jobs derived from impacted industries in South Dakota's counties ranging from 6%-72%. Counties located in the metropolitan parts of South Dakota tend to derive a large numbers of jobs and value added activity that is supported by impacted industries in those counties.

Industries have faced significant challenges recently by market disruptions, plentiful stocks of commodities, tariffs of goods and. most recently, COVID-19, but the response and willingness to adapt shows the resilience and long-term sustainability of these sectors. South Dakota's agriculture, forestry, and related industries are very diverse, which can be seen in the 6 supporting partners that commissioned this study. Using this diverse group of perspectives, many issues facing these industries can be addressed with future analyses.

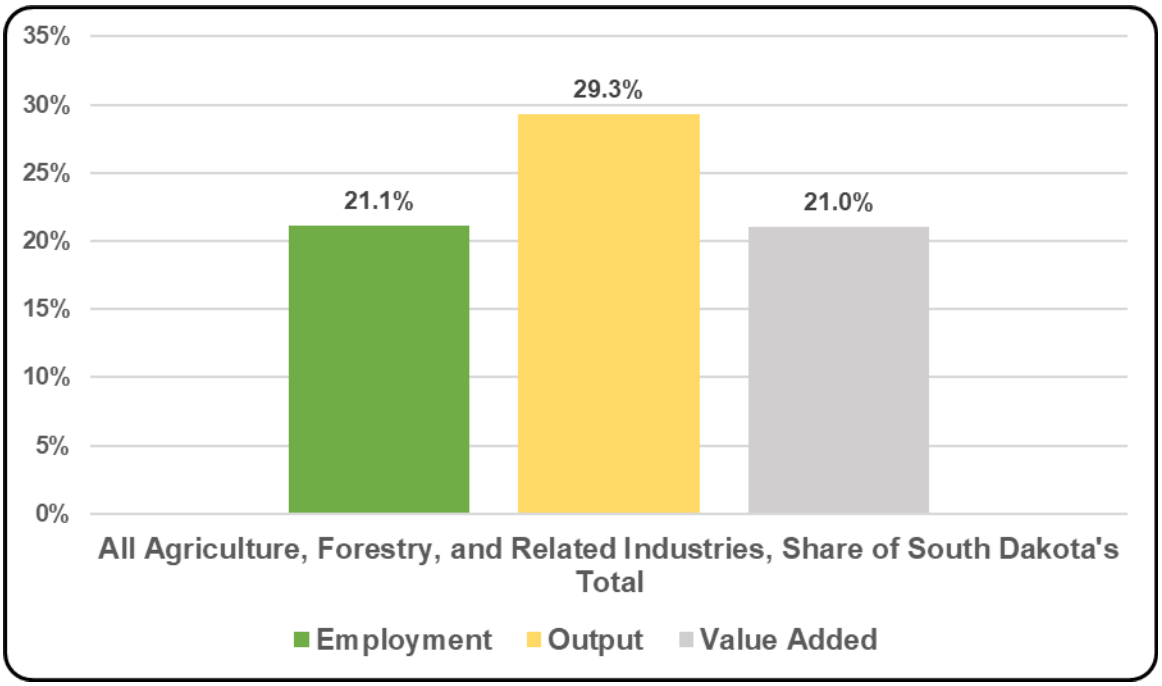


Figure 75. Agriculture, Forestry, and Related Industries Share of South Dakota's Total

8 Appendix A, IMPLAN Aggregation Scheme

8.1 All Industries Aggregation Scheme

IMPLAN Code	IMPLAN Description	Aggregation Name
1	Oilseed farming	Crops
2	Grain farming	Crops
3	Vegetable and melon farming	Crops
4	Fruit farming	Crops
5	Tree nut farming	Crops
6	Greenhouse, nursery, and floriculture production	Crops
7	Tobacco farming	Crops
8	Cotton farming	Crops
9	Sugarcane and sugar beet farming	Crops
10	All other crop farming	Crops
11	Beef cattle ranching and farming, including feedlots and dual-purpose ranching and farming	Livestock
12	Dairy cattle and milk production	Livestock
13	Poultry and egg production	Livestock
14	Animal production, except cattle and poultry and eggs	Livestock
15	Forestry, forest products, and timber tract production	Forestry
16	Commercial logging	Forestry
17	Commercial fishing	Livestock
18	Commercial hunting and trapping	Livestock
19	Support activities for agriculture and forestry	Other Ag
20	Oil and gas extraction	Mining
21	Coal mining	Mining
22	Copper, nickel, lead, and zinc mining	Mining
23	Iron ore mining	Mining
24	Gold ore mining	Mining
25	Silver ore mining	Mining
26	Uranium-radium-vanadium ore mining	Mining
27	Other metal ore mining	Mining
28	Stone mining and quarrying	Mining
29	Sand and gravel mining	Mining
30	Other clay, ceramic, refractory minerals mining	Mining
31	Potash, soda, and borate mineral mining	Other Ag
32	Phosphate rock mining	Other Ag
33	Other chemical and fertilizer mineral mining	Other Ag
34	Other nonmetallic minerals	Mining
35	Drilling oil and gas wells	Mining
36	Support activities for oil and gas operations	Mining
37	Metal mining services	Mining
38	Other nonmetallic minerals services	Mining
39	Electric power generation - Hydroelectric	Utilities
40	Electric power generation - Fossil fuel	Utilities
41	Electric power generation - Nuclear	Utilities
42	Electric power generation - Solar	Utilities
43	Electric power generation - Wind	Utilities
44	Electric power generation - Geothermal	Utilities
45	Electric power generation - Biomass	Utilities
46	Electric power generation - All other	Utilities
47	Electric power transmission and distribution	Utilities
48	Natural gas distribution	Utilities
49	Water, sewage and other systems	Utilities
50	Construction of new health care structures	Construction
51	Construction of new manufacturing structures	Construction
52	Construction of new power and communication structures	Construction
53	Construction of new educational and vocational structures	Construction
54	Construction of new highways and streets	Construction
55	Construction of new commercial structures, including farm structures	Construction
56	Construction of other new nonresidential structures	Construction
57	Construction of new single-family residential structures	Construction
58	Construction of new multifamily residential structures	Construction
59	Construction of other new residential structures	Construction
60	Maintenance and repair construction of nonresidential structures	Construction

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IMPLAN Code	IMPLAN Description	Aggregation Name
61	Maintenance and repair construction of residential structures	Construction
62	Maintenance and repair construction of highways, streets, bridges, and tunnels	Construction
63	Dog and cat food manufacturing	Other Ag
64	Other animal food manufacturing	Other Ag
65	Flour milling	Crops
66	Rice milling	Crops
67	Malt manufacturing	Crops
68	Wet corn milling	Crops
69	Soybean and other oilseed processing	Crops
70	Fats and oils refining and blending	Other Ag
71	Breakfast cereal manufacturing	Crops
72	Beet sugar manufacturing	Crops
73	Sugar cane mills and refining	Crops
74	Nonchocolate confectionery manufacturing	Other Ag
75	Chocolate and confectionery manufacturing from cacao beans	Other Ag
76	Confectionery manufacturing from purchased chocolate	Other Ag
77	Frozen fruits, juices and vegetables manufacturing	Other Ag
78	Frozen specialties manufacturing	Other Ag
79	Canned fruits and vegetables manufacturing	Crops
80	Canned specialties	Crops
81	Dehydrated food products manufacturing	Other Ag
82	Cheese manufacturing	Livestock
83	Dry, condensed, and evaporated dairy product manufacturing	Livestock
84	Fluid milk manufacturing	Livestock
85	Creamery butter manufacturing	Livestock
86	Ice cream and frozen dessert manufacturing	Livestock
87	Frozen cakes and other pastries manufacturing	Other Ag
88	Poultry processing	Livestock
89	Animal, except poultry, slaughtering	Livestock
90	Meat processed from carcasses	Livestock
91	Rendering and meat byproduct processing	Livestock
92	Seafood product preparation and packaging	Livestock
93	Bread and bakery product, except frozen, manufacturing	Other Ag
94	Cookie and cracker manufacturing	Other Ag
95	Dry pasta, mixes, and dough manufacturing	Other Ag
96	Tortilla manufacturing	Other Ag
97	Roasted nuts and peanut butter manufacturing	Other Ag
98	Other snack food manufacturing	Other Ag
99	Coffee and tea manufacturing	Other Ag
100	Flavoring syrup and concentrate manufacturing	Other Ag
101	Mayonnaise, dressing, and sauce manufacturing	Other Ag
102	Spice and extract manufacturing	Other Ag
103	All other food manufacturing	Other Ag
104	Bottled and canned soft drinks & water	Other Ag
105	Manufactured ice	Other Ag
106	Breweries	Other Ag
107	Wineries	Other Ag
108	Distilleries	Other Ag
109	Tobacco product manufacturing	Other Ag
110	Fiber, yarn, and thread mills	Manfacturing
111	Broadwoven fabric mills	Manfacturing
112	Narrow fabric mills and schiffli machine embroidery	Manfacturing
113	Nonwoven fabric mills	Manfacturing
114	Knit fabric mills	Manfacturing
115	Textile and fabric finishing mills	Manfacturing
116	Fabric coating mills	Manfacturing
117	Carpet and rug mills	Manfacturing
118	Curtain and linen mills	Manfacturing
119	Textile bag and canvas mills	Manfacturing
120	Rope, cordage, twine, tire cord and tire fabric mills	Manfacturing
121	Other textile product mills	Manfacturing
122	Hosiery and sock mills	Manfacturing
123	Other apparel knitting mills	Manfacturing
124	Cut and sew apparel contractors	Manfacturing
125	Men's and boys' cut and sew apparel manufacturing	Manfacturing
126	Women's and girls' cut and sew apparel manufacturing	Manfacturing
127	Other cut and sew apparel manufacturing	Manfacturing
128	Apparel accessories and other apparel manufacturing	Manfacturing
129	Leather and hide tanning and finishing	Manfacturing
130	Footwear manufacturing	Manfacturing

IMPLAN Code	IMPLAN Description	Aggregation Name
131	Other leather and allied product manufacturing	Manfacturing
132	Sawmills	Forestry
133	Wood preservation	Forestry
134	Veneer and plywood manufacturing	Forestry
135	Engineered wood member and truss manufacturing	Forestry
136	Reconstituted wood product manufacturing	Forestry
137	Wood windows and door manufacturing	Forestry
138	Cut stock, resawing lumber, and planing	Forestry
139	Other millwork, including flooring	Forestry
140	Wood container and pallet manufacturing	Forestry
141	Manufactured home (mobile home) manufacturing	Manfacturing
142	Prefabricated wood building manufacturing	Forestry
143	All other miscellaneous wood product manufacturing	Forestry
144	Pulp mills	Forestry
145	Paper mills	Forestry
146	Paperboard mills	Forestry
147	Paperboard container manufacturing	Forestry
148	Paper bag and coated and treated paper manufacturing	Forestry
149	Stationery product manufacturing	Forestry
150	Sanitary paper product manufacturing	Forestry
151	All other converted paper product manufacturing	Forestry
152	Printing	Services
153	Support activities for printing	Services
154	Petroleum refineries	Manfacturing
155	Asphalt paving mixture and block manufacturing	Manfacturing
156	Asphalt shingle and coating materials manufacturing	Manfacturing
157	Petroleum lubricating oil and grease manufacturing	Manfacturing
158	All other petroleum and coal products manufacturing	Manfacturing
159	Petrochemical manufacturing	Manfacturing
160	Industrial gas manufacturing	Manfacturing
161	Synthetic dye and pigment manufacturing	Manfacturing
162	Other basic inorganic chemical manufacturing	Manfacturing
163	Other basic organic chemical manufacturing	Other Ag
164	Plastics material and resin manufacturing	Manfacturing
165	Synthetic rubber manufacturing	Manfacturing
166	Artificial and synthetic fibers and filaments manufacturing	Manfacturing
167	Nitrogenous fertilizer manufacturing	Other Ag
168	Phosphatic fertilizer manufacturing	Other Ag
169	Fertilizer mixing	Other Ag
170	Pesticide and other agricultural chemical manufacturing	Other Ag
171	Medicinal and botanical manufacturing	Manfacturing
172	Pharmaceutical preparation manufacturing	Manfacturing
173	In-vitro diagnostic substance manufacturing	Manfacturing
174	Biological product (except diagnostic) manufacturing	Manfacturing
175	Paint and coating manufacturing	Manfacturing
176	Adhesive manufacturing	Manfacturing
177	Soap and other detergent manufacturing	Manfacturing
178	Polish and other sanitation good manufacturing	Manfacturing
179	Surface active agent manufacturing	Manfacturing
180	Toilet preparation manufacturing	Manfacturing
181	Printing ink manufacturing	Manfacturing
182	Explosives manufacturing	Manfacturing
183	Custom compounding of purchased resins	Manfacturing
184	Photographic film and chemical manufacturing	Manfacturing
185	Other miscellaneous chemical product manufacturing	Manfacturing
186	Plastics packaging materials and unlaminated film and sheet manufacturing	Manfacturing
187	Unlaminated plastics profile shape manufacturing	Manfacturing
188	Plastics pipe and pipe fitting manufacturing	Manfacturing
189	Laminated plastics plate, sheet (except packaging), and shape manufacturing	Manfacturing
190	Polystyrene foam product manufacturing	Manfacturing
191	Urethane and other foam product (except polystyrene) manufacturing	Manfacturing
192	Plastics bottle manufacturing	Manfacturing
193	Other plastics product manufacturing	Manfacturing
194	Tire manufacturing	Manfacturing
195	Rubber and plastics hoses and belting manufacturing	Manfacturing
196	Other rubber product manufacturing	Manfacturing
197	Pottery, ceramics, and plumbing fixture manufacturing	Manfacturing
198	Brick, tile, and other structural clay product manufacturing	Manfacturing
199	Flat glass manufacturing	Manfacturing
200	Other pressed and blown glass and glassware manufacturing	Manfacturing

IMPLAN Code	IMPLAN Description	Aggregation Name
201	Glass container manufacturing	Manfacturing
202	Glass product manufacturing made of purchased glass	Manfacturing
203	Cement manufacturing	Manfacturing
204	Ready-mix concrete manufacturing	Manfacturing
205	Concrete block and brick manufacturing	Manfacturing
206	Concrete pipe manufacturing	Manfacturing
207	Other concrete product manufacturing	Manfacturing
208	Lime manufacturing	Manfacturing
209	Gypsum product manufacturing	Manfacturing
210	Abrasive product manufacturing	Manfacturing
211	Cut stone and stone product manufacturing	Manfacturing
212	Ground or treated mineral and earth manufacturing	Manfacturing
213	Mineral wool manufacturing	Manfacturing
214	Miscellaneous nonmetallic mineral products manufacturing	Manfacturing
215	Iron and steel mills and ferroalloy manufacturing	Manfacturing
216	Iron, steel pipe and tube manufacturing from purchased steel	Manfacturing
217	Rolled steel shape manufacturing	Manfacturing
218	Steel wire drawing	Manfacturing
219	Alumina refining and primary aluminum production	Manfacturing
220	Secondary smelting and alloying of aluminum	Manfacturing
221	Aluminum sheet, plate, and foil manufacturing	Manfacturing
222	Other aluminum rolling, drawing and extruding	Manfacturing
223	Nonferrous metal (exc aluminum) smelting and refining	Manfacturing
224	Copper rolling, drawing, extruding and alloying	Manfacturing
225	Nonferrous metal, except copper and aluminum, shaping	Manfacturing
226	Secondary processing of other nonferrous metals	Manfacturing
227	Ferrous metal foundries	Manfacturing
228	Nonferrous metal foundries	Manfacturing
229	Custom roll forming	Manfacturing
230	Crown and closure manufacturing and metal stamping	Manfacturing
231	Iron and steel forging	Manfacturing
232	Nonferrous forging	Manfacturing
233	Cutlery, utensil, pot, and pan manufacturing	Manfacturing
234	Handtool manufacturing	Manfacturing
235	Prefabricated metal buildings and components manufacturing	Manfacturing
236	Fabricated structural metal manufacturing	Manfacturing
237	Plate work manufacturing	Manfacturing
238	Metal window and door manufacturing	Manfacturing
239	Sheet metal work manufacturing	Manfacturing
240	Ornamental and architectural metal work manufacturing	Manfacturing
241	Power boiler and heat exchanger manufacturing	Manfacturing
242	Metal tank (heavy gauge) manufacturing	Manfacturing
243	Metal cans manufacturing	Manfacturing
244	Metal barrels, drums and pails manufacturing	Manfacturing
245	Hardware manufacturing	Manfacturing
246	Spring and wire product manufacturing	Manfacturing
247	Machine shops	Manfacturing
248	Turned product and screw, nut, and bolt manufacturing	Manfacturing
249	Metal heat treating	Manfacturing
250	Metal coating and nonprecious engraving	Manfacturing
251	Electroplating, anodizing, and coloring metal	Manfacturing
252	Valve and fittings, other than plumbing, manufacturing	Manfacturing
253	Plumbing fixture fitting and trim manufacturing	Manfacturing
254	Ball and roller bearing manufacturing	Manfacturing
255	Small arms ammunition manufacturing	Manfacturing
256	Ammunition, except for small arms, manufacturing	Manfacturing
257	Small arms, ordnance, and accessories manufacturing	Manfacturing
258	Fabricated pipe and pipe fitting manufacturing	Manfacturing
259	Other fabricated metal manufacturing	Manfacturing
260	Farm machinery and equipment manufacturing	Other Ag
261	Lawn and garden equipment manufacturing	Other Ag
262	Construction machinery manufacturing	Manfacturing
263	Mining machinery and equipment manufacturing	Manfacturing
264	Oil and gas field machinery and equipment manufacturing	Manfacturing
265	Semiconductor machinery manufacturing	Manfacturing
266	Food product machinery manufacturing	Other Ag
267	Sawmill, woodworking, and paper machinery	Forestry
268	Printing machinery and equipment manufacturing	Manfacturing
269	All other industrial machinery manufacturing	Manfacturing
270	Optical instrument and lens manufacturing	Manfacturing

IMPLAN Code	IMPLAN Description	Aggregation Name
271	Photographic and photocopying equipment manufacturing	Manfacturing
272	Other commercial service industry machinery manufacturing	Manfacturing
273	Air purification and ventilation equipment manufacturing	Manfacturing
274	Heating equipment (except warm air furnaces) manufacturing	Manfacturing
275	Air conditioning, refrigeration, and warm air heating equipment manufacturing	Manfacturing
276	Industrial mold manufacturing	Manfacturing
277	Special tool, die, jig, and fixture manufacturing	Manfacturing
278	Cutting tool and machine tool accessory manufacturing	Manfacturing
279	Machine tool manufacturing	Manfacturing
280	Rolling mill and other metalworking machinery manufacturing	Manfacturing
281	Turbine and turbine generator set units manufacturing	Manfacturing
282	Speed changer, industrial high-speed drive, and gear manufacturing	Manfacturing
283	Mechanical power transmission equipment manufacturing	Manfacturing
284	Other engine equipment manufacturing	Manfacturing
285	Pump and pumping equipment manufacturing	Manfacturing
286	Air and gas compressor manufacturing	Manfacturing
287	Elevator and moving stairway manufacturing	Manfacturing
288	Conveyor and conveying equipment manufacturing	Manfacturing
289	Overhead cranes, hoists, and monorail systems manufacturing	Manfacturing
290	Industrial truck, trailer, and stacker manufacturing	Manfacturing
291	Power-driven handtool manufacturing	Manfacturing
292	Welding and soldering equipment manufacturing	Manfacturing
293	Packaging machinery manufacturing	Manfacturing
294	Industrial process furnace and oven manufacturing	Manfacturing
295	Fluid power cylinder and actuator manufacturing	Manfacturing
296	Fluid power pump and motor manufacturing	Manfacturing
297	Scales, balances, and miscellaneous general purpose machinery manufacturing	Manfacturing
298	Electronic computer manufacturing	Manfacturing
299	Computer storage device manufacturing	Manfacturing
300	Computer terminals and other computer peripheral equipment manufacturing	Manfacturing
301	Telephone apparatus manufacturing	Manfacturing
302	Broadcast and wireless communications equipment manufacturing	Manfacturing
303	Other communications equipment manufacturing	Manfacturing
304	Audio and video equipment manufacturing	Manfacturing
305	Printed circuit assembly (electronic assembly) manufacturing	Manfacturing
306	Bare printed circuit board manufacturing	Manfacturing
307	Semiconductor and related device manufacturing	Manfacturing
308	Capacitor, resistor, coil, transformer, and other inductor manufacturing	Manfacturing
309	Electronic connector manufacturing	Manfacturing
310	Other electronic component manufacturing	Manfacturing
311	Electromedical and electrotherapeutic apparatus manufacturing	Manfacturing
312	Search, detection, and navigation instruments manufacturing	Manfacturing
313	Automatic environmental control manufacturing	Manfacturing
314	Industrial process variable instruments manufacturing	Manfacturing
315	Totalizing fluid meter and counting device manufacturing	Manfacturing
316	Electricity and signal testing instruments manufacturing	Manfacturing
317	Analytical laboratory instrument manufacturing	Manfacturing
318	Irradiation apparatus manufacturing	Manfacturing
319	Watch, clock, and other measuring and controlling device manufacturing	Manfacturing
320	Blank magnetic and optical recording media manufacturing	Manfacturing
321	Software and other prerecorded and record reproducing	Manfacturing
322	Electric lamp bulb and part manufacturing	Manfacturing
323	Lighting fixture manufacturing	Manfacturing
324	Small electrical appliance manufacturing	Manfacturing
325	Household cooking appliance manufacturing	Manfacturing
326	Household refrigerator and home freezer manufacturing	Manfacturing
327	Household laundry equipment manufacturing	Manfacturing
328	Other major household appliance manufacturing	Manfacturing
329	Power, distribution, and specialty transformer manufacturing	Manfacturing
330	Motor and generator manufacturing	Manfacturing
331	Switchgear and switchboard apparatus manufacturing	Manfacturing
332	Relay and industrial control manufacturing	Manfacturing
333	Storage battery manufacturing	Manfacturing
334	Primary battery manufacturing	Manfacturing
335	Fiber optic cable manufacturing	Manfacturing
336	Other communication and energy wire manufacturing	Manfacturing
337	Wiring device manufacturing	Manfacturing
338	Carbon and graphite product manufacturing	Manfacturing
339	All other miscellaneous electrical equipment and component manufacturing	Manfacturing
340	Automobile manufacturing	Manfacturing

IMPLAN Code	IMPLAN Description	Aggregation Name
341	Light truck and utility vehicle manufacturing	Manfacturing
342	Heavy duty truck manufacturing	Manfacturing
343	Motor vehicle body manufacturing	Manfacturing
344	Truck trailer manufacturing	Manfacturing
345	Motor home manufacturing	Manfacturing
346	Travel trailer and camper manufacturing	Manfacturing
347	Motor vehicle gasoline engine and engine parts manufacturing	Manfacturing
348	Motor vehicle electrical and electronic equipment manufacturing	Manfacturing
349	Motor vehicle transmission and power train parts manufacturing	Manfacturing
350	Motor vehicle seating and interior trim manufacturing	Manfacturing
351	Motor vehicle metal stamping	Manfacturing
352	Other motor vehicle parts manufacturing	Manfacturing
353	Motor vehicle steering, suspension component (except spring), and brake systems manufacturir	Manfacturing
354	Aircraft manufacturing	Manfacturing
355	Aircraft engine and engine parts manufacturing	Manfacturing
356	Other aircraft parts and auxiliary equipment manufacturing	Manfacturing
357	Guided missile and space vehicle manufacturing	Manfacturing
358	Propulsion units and parts for space vehicles and guided missiles manufacturing	Manfacturing
359	Railroad rolling stock manufacturing	Manfacturing
360	Ship building and repairing	Manfacturing
361	Boat building	Manfacturing
362	Motorcycle, bicycle, and parts manufacturing	Manfacturing
363	Military armored vehicle, tank, and tank component manufacturing	Manfacturing
364	All other transportation equipment manufacturing	Manfacturing
365	Wood kitchen cabinet and countertop manufacturing	Forestry
366	Upholstered household furniture manufacturing	Manfacturing
367	Nonupholstered wood household furniture manufacturing	Forestry
368	Other household nonupholstered furniture manufacturing	Manfacturing
369	Institutional furniture manufacturing	Manfacturing
370	Wood office furniture manufacturing	Forestry
371	Custom architectural woodwork and millwork	Forestry
372	Office furniture, except wood, manufacturing	Manfacturing
373	Showcase, partition, shelving, and locker manufacturing	Manfacturing
374	Mattress manufacturing	Manfacturing
375	Blind and shade manufacturing	Manfacturing
376	Surgical and medical instrument manufacturing	Manfacturing
377	Surgical appliance and supplies manufacturing	Manfacturing
378	Dental equipment and supplies manufacturing	Manfacturing
379	Ophthalmic goods manufacturing	Manfacturing
380	Dental laboratories	Manfacturing
381	Jewelry and silverware manufacturing	Manfacturing
382	Sporting and athletic goods manufacturing	Manfacturing
383	Doll, toy, and game manufacturing	Manfacturing
384	Office supplies (except paper) manufacturing	Manfacturing
385	Sign manufacturing	Manfacturing
386	Gasket, packing, and sealing device manufacturing	Manfacturing
387	Musical instrument manufacturing	Manfacturing
388	Fasteners, buttons, needles, and pins manufacturing	Manfacturing
389	Broom, brush, and mop manufacturing	Manfacturing
390	Burial casket manufacturing	Manfacturing
391	All other miscellaneous manufacturing	Manfacturing
392	Wholesale - Motor vehicle and motor vehicle parts and supplies	Wholesale
393	Wholesale - Professional and commercial equipment and supplies	Wholesale
394	Wholesale - Household appliances and electrical and electronic goods	Wholesale
395	Wholesale - Machinery, equipment, and supplies	Wholesale
396	Wholesale - Other durable goods merchant wholesalers	Wholesale
397	Wholesale - Drugs and druggists' sundries	Wholesale
398	Wholesale - Grocery and related product wholesalers	Wholesale
399	Wholesale - Petroleum and petroleum products	Wholesale
400	Wholesale - Other nondurable goods merchant wholesalers	Wholesale
401	Wholesale - Wholesale electronic markets and agents and brokers	Wholesale
402	Retail - Motor vehicle and parts dealers	Retail
403	Retail - Furniture and home furnishings stores	Retail
404	Retail - Electronics and appliance stores	Retail
405	Retail - Building material and garden equipment and supplies stores	Retail
406	Retail - Food and beverage stores	Retail
407	Retail - Health and personal care stores	Retail
408	Retail - Gasoline stores	Retail
409	Retail - Clothing and clothing accessories stores	Retail
410	Retail - Sporting goods, hobby, musical instrument and book stores	Retail

IMPLAN Code	IMPLAN Description	Aggregation Name
411	Retail - General merchandise stores	Retail
412	Retail - Miscellaneous store retailers	Retail
413	Retail - Nonstore retailers	Retail
414	Air transportation	Transportation
415	Rail transportation	Transportation
416	Water transportation	Transportation
417	Truck transportation	Transportation
418	Transit and ground passenger transportation	Transportation
419	Pipeline transportation	Transportation
420	Scenic and sightseeing transportation and support activities for transportation	Transportation
421	Couriers and messengers	Transportation
422	Warehousing and storage	Services
423	Newspaper publishers	Information
424	Periodical publishers	Information
425	Book publishers	Information
426	Directory, mailing list, and other publishers	Information
427	Greeting card publishing	Information
428	Software publishers	Information
429	Motion picture and video industries	Entertainment
430	Sound recording industries	Entertainment
431	Radio and television broadcasting	Entertainment
432	Cable and other subscription programming	Entertainment
433	Wired telecommunications carriers	Information
434	Wireless telecommunications carriers (except satellite)	Information
435	Satellite, telecommunications resellers, and all other telecommunications	Information
436	Data processing, hosting, and related services	Information
437	News syndicates, libraries, archives and all other information services	Information
438	Internet publishing and broadcasting and web search portals	Information
439	Nondepository credit intermediation and related activities	Financial
440	Securities and commodity contracts intermediation and brokerage	Financial
441	Monetary authorities and depository credit intermediation	Financial
442	Other financial investment activities	Financial
443	Direct life insurance carriers	Financial
444	Insurance carriers, except direct life	Financial
445	Insurance agencies, brokerages, and related activities	Financial
446	Funds, trusts, and other financial vehicles	Financial
447	Other real estate	Financial
448	Tenant-occupied housing	Government/Remainder
449	Owner-occupied dwellings	Government/Remainder
450	Automotive equipment rental and leasing	Services
451	General and consumer goods rental except video tapes and discs	Services
452	Video tape and disc rental	Entertainment
453	Commercial and industrial machinery and equipment rental and leasing	Services
454	Lessors of nonfinancial intangible assets	Services
455	Legal services	Services
456	Accounting, tax preparation, bookkeeping, and payroll services	Services
457	Architectural, engineering, and related services	Services
458	Specialized design services	Services
459	Custom computer programming services	Services
460	Computer systems design services	Services
461	Other computer related services, including facilities management	Services
462	Management consulting services	Services
463	Environmental and other technical consulting services	Services
464	Scientific research and development services	Services
465	Advertising, public relations, and related services	Services
466	Photographic services	Services
467	Veterinary services	Other Ag
468	Marketing research and all other miscellaneous professional, scientific, and technical services	Services
469	Management of companies and enterprises	Services
470	Office administrative services	Services
471	Facilities support services	Services
472	Employment services	Services
473	Business support services	Services
474	Travel arrangement and reservation services	Services
475	Investigation and security services	Services
476	Services to buildings	Services
477	Landscape and horticultural services	Other Ag
478	Other support services	Services
479	Waste management and remediation services	Services
480	Elementary and secondary schools	Services

IMPLAN Code	IMPLAN Description	Aggregation Name
481	Junior colleges, colleges, universities, and professional schools	Services
482	Other educational services	Services
483	Offices of physicians	Services
484	Offices of dentists	Services
485	Offices of other health practitioners	Services
486	Outpatient care centers	Services
487	Medical and diagnostic laboratories	Services
488	Home health care services	Services
489	Other ambulatory health care services	Services
490	Hospitals	Services
491	Nursing and community care facilities	Services
492	Residential mental retardation, mental health, substance abuse and other facilities	Services
493	Individual and family services	Services
494	Child day care services	Services
495	Community food, housing, and other relief services, including rehabilitation services	Services
496	Performing arts companies	Entertainment
497	Commercial Sports Except Racing	Entertainment
498	Racing and Track Operation	Entertainment
499	Independent artists, writers, and performers	Entertainment
500	Promoters of performing arts and sports and agents for public figures	Entertainment
501	Museums, historical sites, zoos, and parks	Entertainment
502	Amusement parks and arcades	Entertainment
503	Gambling industries (except casino hotels)	Entertainment
504	Other amusement and recreation industries	Entertainment
505	Fitness and recreational sports centers	Entertainment
506	Bowling centers	Entertainment
507	Hotels and motels, including casino hotels	Services
508	Other accommodations	Services
509	Full-service restaurants	Services
510	Limited-service restaurants	Services
511	All other food and drinking places	Services
512	Automotive repair and maintenance, except car washes	Services
513	Car washes	Services
514	Electronic and precision equipment repair and maintenance	Services
515	Commercial and industrial machinery and equipment repair and maintenance	Services
516	Personal and household goods repair and maintenance	Services
517	Personal care services	Services
518	Death care services	Services
519	Dry-cleaning and laundry services	Services
520	Other personal services	Services
521	Religious organizations	Services
522	Grantmaking, giving, and social advocacy organizations	Services
523	Business and professional associations	Services
524	Labor and civic organizations	Services
525	Private households	Services
526	Postal service	Government/Remainder
527	Federal electric utilities	Government/Remainder
528	Other federal government enterprises	Government/Remainder
529	State government passenger transit	Government/Remainder
530	State government electric utilities	Government/Remainder
531	Other state government enterprises	Government/Remainder
532	Local government passenger transit	Government/Remainder
533	Local government electric utilities	Government/Remainder
534	Other local government enterprises	Government/Remainder
535	* Not an industry (Used and secondhand goods)	Services
536	* Not an industry (Scrap)	Government/Remainder
537	* Not an industry (Rest of world adjustment)	Government/Remainder
538	* Not an industry (Noncomparable foreign imports)	Government/Remainder
539	* Employment and payroll of state govt, education	Government/Remainder
540	* Employment and payroll of state govt, non-education	Government/Remainder
541	* Employment and payroll of local govt, education	Government/Remainder
542	* Employment and payroll of local govt, non-education	Government/Remainder
543	* Employment and payroll of federal govt, military	Government/Remainder
544	* Employment and payroll of federal govt, non-military	Government/Remainder

8.2 Detailed Agriculture and Forestry Aggregation Scheme

IMPLAN Code	IMPLAN Description	Aggregation Name
1	Oilseed farming	Oilseeds
2	Grain farming	Grains
3	Vegetable and melon farming	Other Crop Production
4	Fruit farming	Other Crop Production
5	Tree nut farming	Other Crop Production
6	Greenhouse, nursery, and floriculture production	Other Crop Production
7	Tobacco farming	Other Crop Production
8	Cotton farming	Other Crop Production
9	Sugarcane and sugar beet farming	Other Crop Production
10	All other crop farming	Other Crop Production
11	Beef cattle ranching and farming, including feedlots and dual-purpose ranching and farming	Cattle
12	Dairy cattle and milk production	Dairy
13	Poultry and egg production	Poultry
14	Animal production, except cattle and poultry and eggs	Hogs and Other Livestock
15	Forestry, forest products, and timber tract production	Forestry
16	Commercial logging	Forestry
17	Commercial fishing	Hogs and Other Livestock
18	Commercial hunting and trapping	Hogs and Other Livestock
19	Support activities for agriculture and forestry	Ag Support
31	Potash, soda, and borate mineral mining	Ag Chemical and Fertilizer
32	Phosphate rock mining	Ag Chemical and Fertilizer
33	Other chemical and fertilizer mineral mining	Ag Chemical and Fertilizer
63	Dog and cat food manufacturing	Animal and Pet Food
64	Other animal food manufacturing	Animal and Pet Food
65	Flour milling	Primary Food Processing - Crops
66	Rice milling	Primary Food Processing - Crops
67	Malt manufacturing	Primary Food Processing - Crops
68	Wet corn milling	Primary Food Processing - Crops
69	Soybean and other oilseed processing	Primary Food Processing - Crops
70	Fats and oils refining and blending	Other Food Processing
71	Breakfast cereal manufacturing	Primary Food Processing - Crops
72	Beet sugar manufacturing	Primary Food Processing - Crops
73	Sugar cane mills and refining	Primary Food Processing - Crops
74	Nonchocolate confectionery manufacturing	Other Food Processing
75	Chocolate and confectionery manufacturing from cacao beans	Other Food Processing
76	Confectionery manufacturing from purchased chocolate	Other Food Processing
77	Frozen fruits, juices and vegetables manufacturing	Other Food Processing
78	Frozen specialties manufacturing	Other Food Processing
79	Canned fruits and vegetables manufacturing	Primary Food Processing - Crops
80	Canned specialties	Primary Food Processing - Crops
81	Dehydrated food products manufacturing	Other Food Processing
82	Cheese manufacturing	Primary Food Processing - Dairy
83	Dry, condensed, and evaporated dairy product manufacturing	Primary Food Processing - Dairy
84	Fluid milk manufacturing	Primary Food Processing - Dairy
85	Creamery butter manufacturing	Primary Food Processing - Dairy
86	Ice cream and frozen dessert manufacturing	Primary Food Processing - Dairy
87	Frozen cakes and other pastries manufacturing	Other Food Processing
88	Poultry processing	Primary Food Processing - Meat
89	Animal, except poultry, slaughtering	Primary Food Processing - Meat
90	Meat processed from carcasses	Primary Food Processing - Meat
91	Rendering and meat byproduct processing	Primary Food Processing - Meat
92	Seafood product preparation and packaging	Primary Food Processing - Meat
93	Bread and bakery product, except frozen, manufacturing	Other Food Processing
94	Cookie and cracker manufacturing	Other Food Processing
95	Dry pasta, mixes, and dough manufacturing	Other Food Processing
96	Tortilla manufacturing	Other Food Processing
97	Roasted nuts and peanut butter manufacturing	Other Food Processing
98	Other snack food manufacturing	Other Food Processing
99	Coffee and tea manufacturing	Other Food Processing
100	Flavoring syrup and concentrate manufacturing	Other Food Processing

IMPLAN Code	IMPLAN Description	Aggregation Name
101	Mayonnaise, dressing, and sauce manufacturing	Other Food Processing
102	Spice and extract manufacturing	Other Food Processing
103	All other food manufacturing	Other Food Processing
104	Bottled and canned soft drinks & water	Other Food Processing
105	Manufactured ice	Other Food Processing
106	Breweries	Other Food Processing
107	Wineries	Other Food Processing
108	Distilleries	Other Food Processing
109	Tobacco product manufacturing	Other Food Processing
132	Sawmills	Forestry
133	Wood preservation	Forestry
134	Veneer and plywood manufacturing	Forestry
135	Engineered wood member and truss manufacturing	Forestry
136	Reconstituted wood product manufacturing	Forestry
137	Wood windows and door manufacturing	Forestry
138	Cut stock, resawing lumber, and planing	Forestry
139	Other millwork, including flooring	Forestry
140	Wood container and pallet manufacturing	Forestry
142	Prefabricated wood building manufacturing	Forestry
143	All other miscellaneous wood product manufacturing	Forestry
144	Pulp mills	Forestry
145	Paper mills	Forestry
146	Paperboard mills	Forestry
147	Paperboard container manufacturing	Forestry
148	Paper bag and coated and treated paper manufacturing	Forestry
149	Stationery product manufacturing	Forestry
150	Sanitary paper product manufacturing	Forestry
151	All other converted paper product manufacturing	Forestry
163	Other basic organic chemical manufacturing	Ag Chemical and Fertilizer
167	Nitrogenous fertilizer manufacturing	Ag Chemical and Fertilizer
168	Phosphatic fertilizer manufacturing	Ag Chemical and Fertilizer
169	Fertilizer mixing	Ag Chemical and Fertilizer
170	Pesticide and other agricultural chemical manufacturing	Ag Chemical and Fertilizer
260	Farm machinery and equipment manufacturing	Ag Support
261	Lawn and garden equipment manufacturing	Ag Support
266	Food product machinery manufacturing	Ag Support
267	Sawmill, woodworking, and paper machinery	Forestry
365	Wood kitchen cabinet and countertop manufacturing	Forestry
367	Nonupholstered wood household furniture manufacturing	Forestry
370	Wood office furniture manufacturing	Forestry
371	Custom architectural woodwork and millwork	Forestry
467	Veterinary services	Ag Support
477	Landscape and horticultural services	Ag Support

9 Appendix B, Detailed County Level Results

9.1 Value Added

Value Added Derived from Crops ($M)

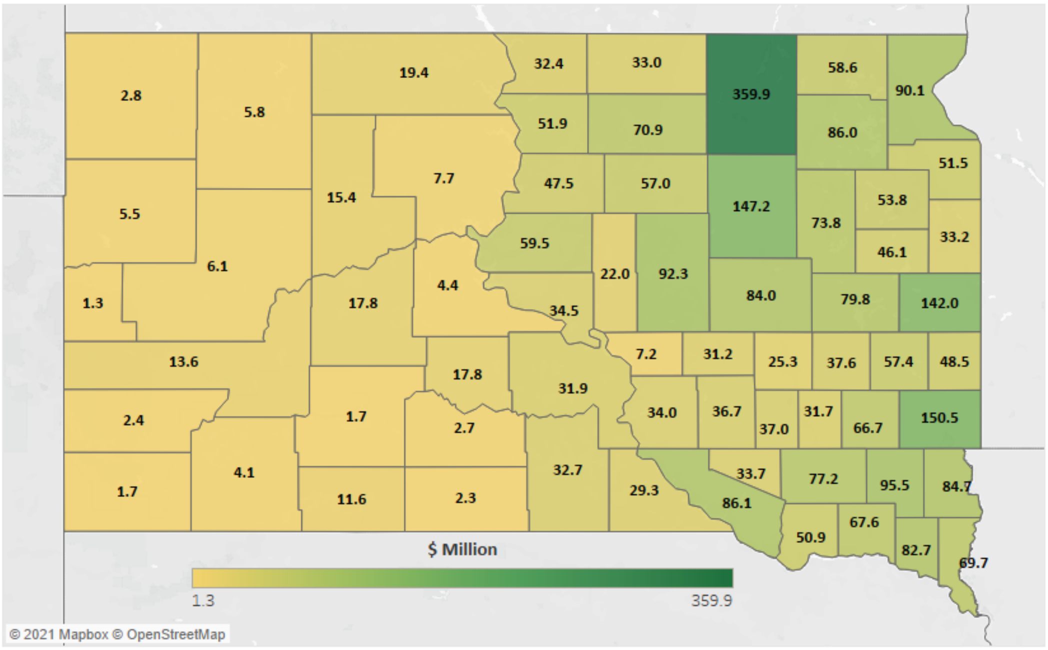

Figure 76. Value Added Derived from Crops (by County) ($M)

Percent of Total Value Added Derived from Crops

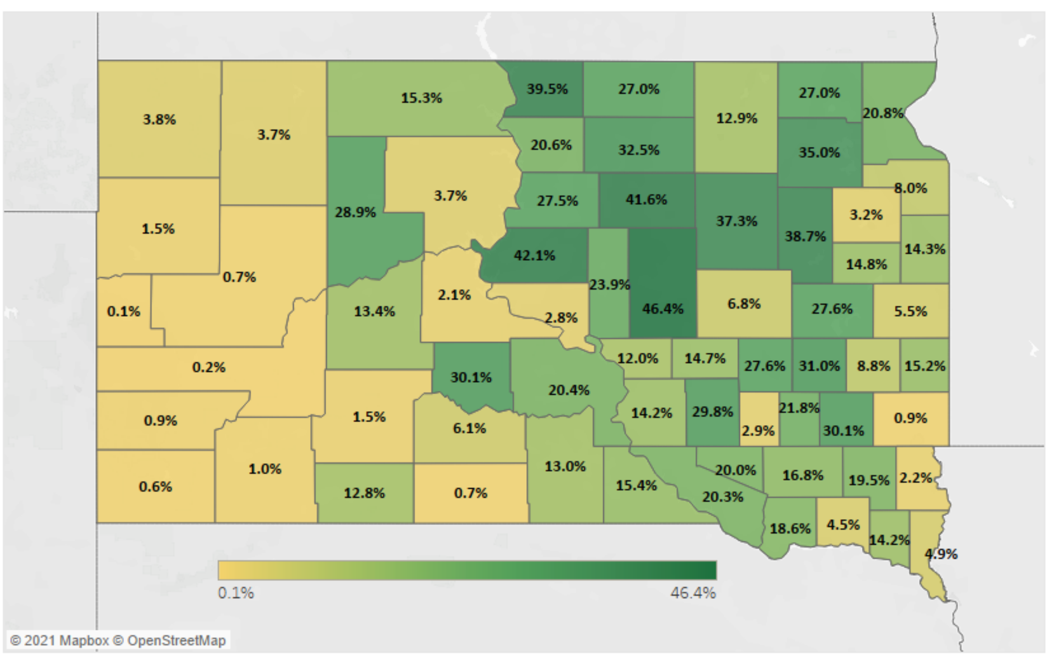

Figure 77. Percent of Value Added Derived from Crops (by County)

Value Added Derived from Forestry ($M)

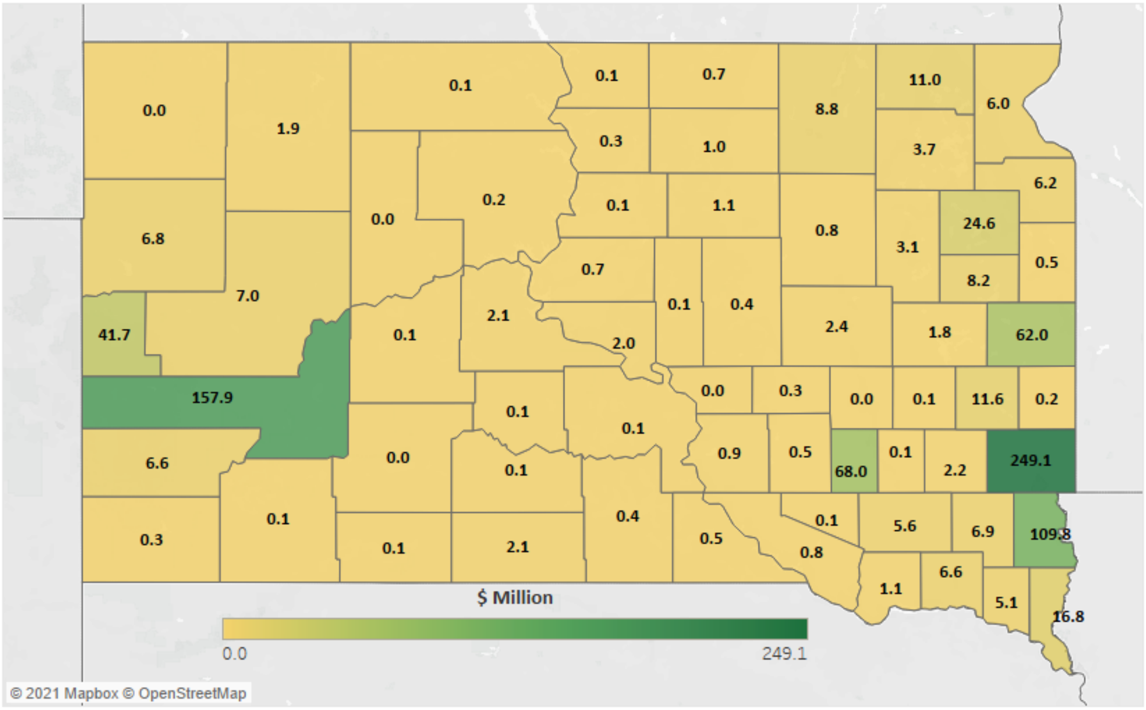

Figure 78. Value Added Derived from Forestry (by County) ($M)

Percent of Total Value Added Derived from Forestry

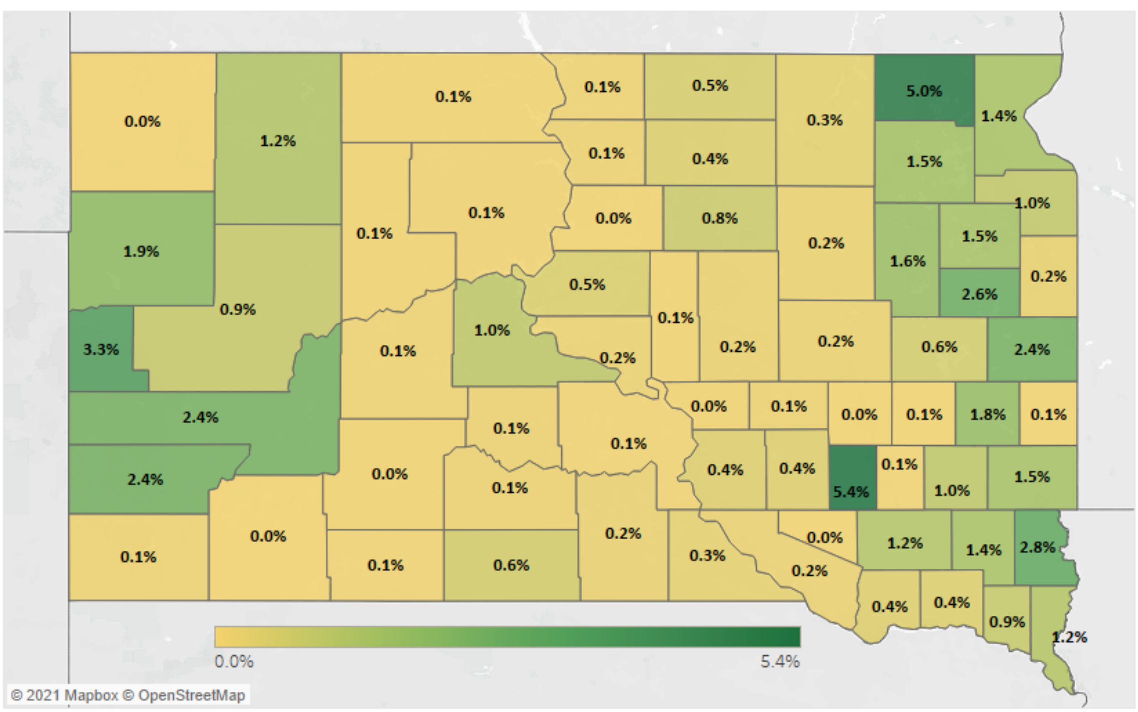

Figure 79. Percent of Value Added Derived from Forestry (by County)

Value Added Derived from Livestock ($M)

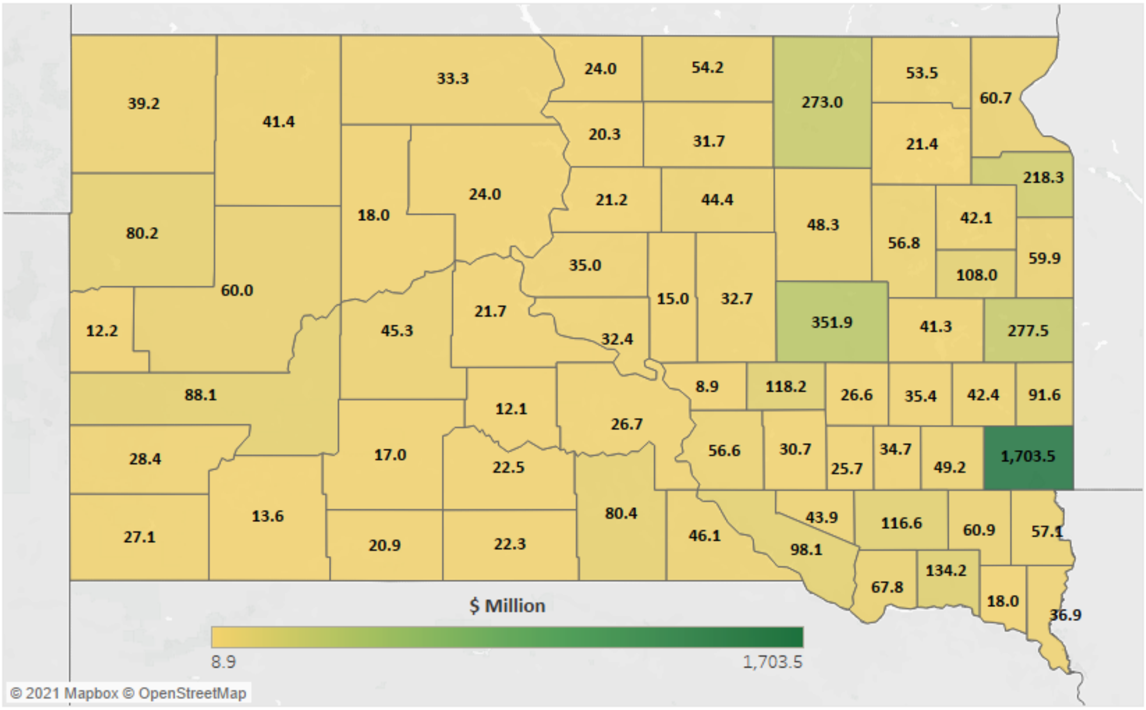

Figure 80. Value Added Derived from Livestock (by County) ($M)

Percent of Total Value Added Derived from Livestock

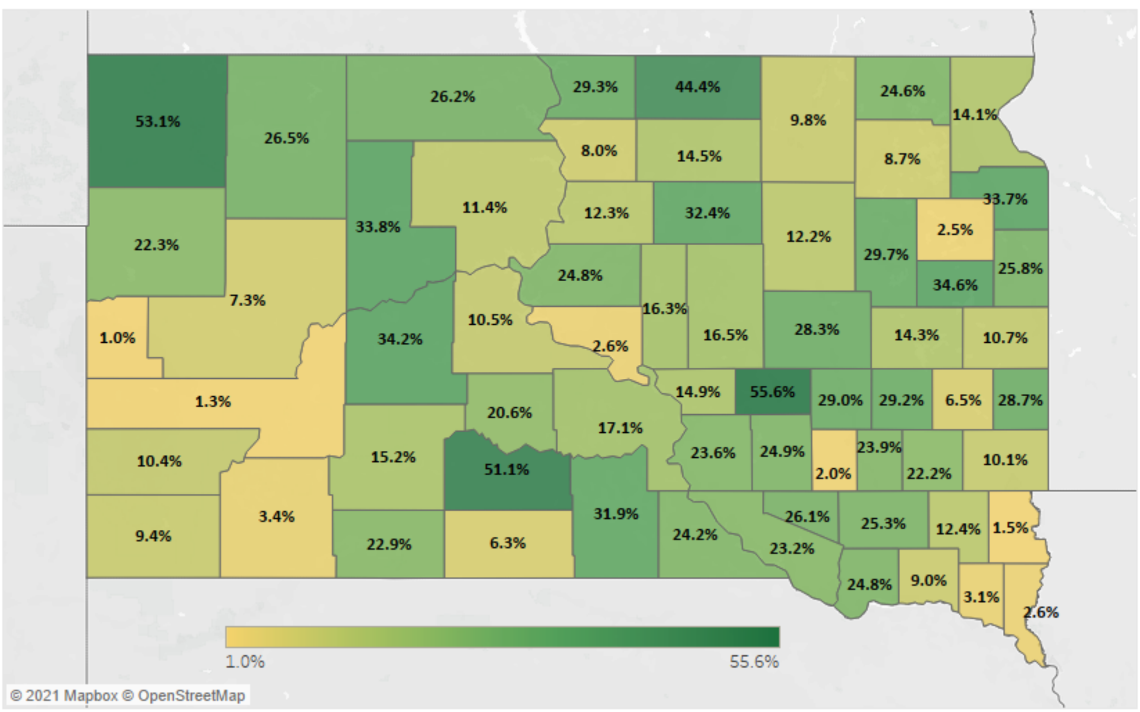

Figure 81. Percent of Value Added Derived from Livestock (by County)

Value Added Derived from Other Agriculture ($M)

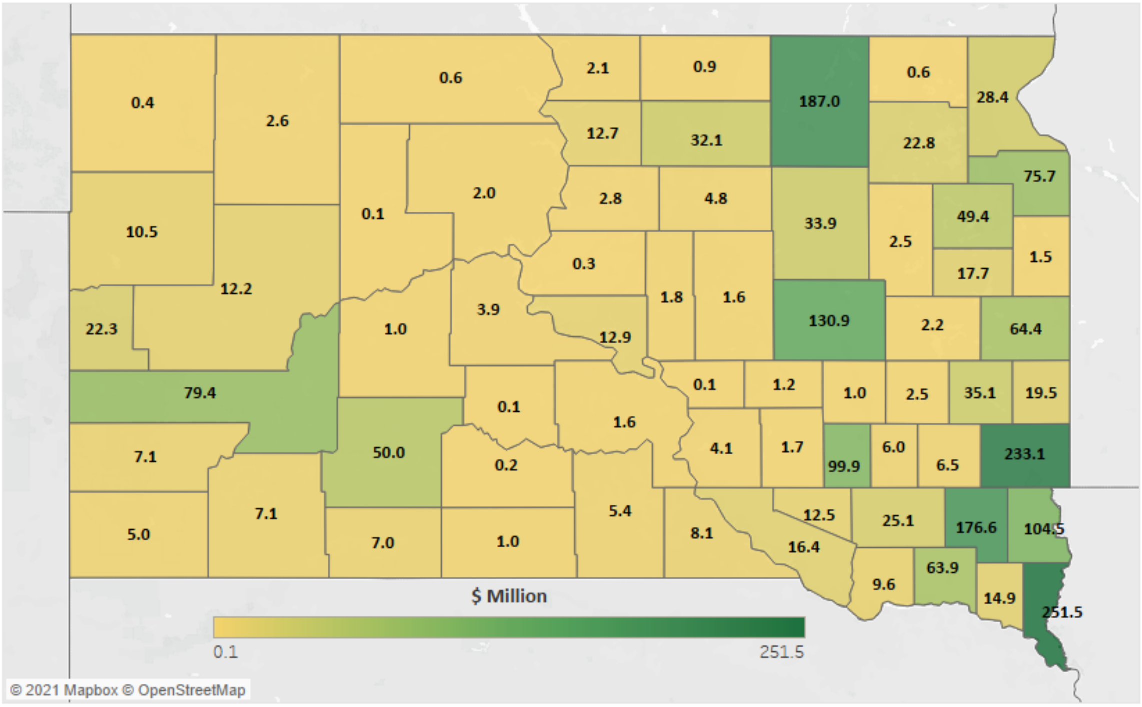

Figure 82. Value Added Derived from Other Agriculture (by County) ($M)

Percent of Total Value Added Derived from Other Agriculture

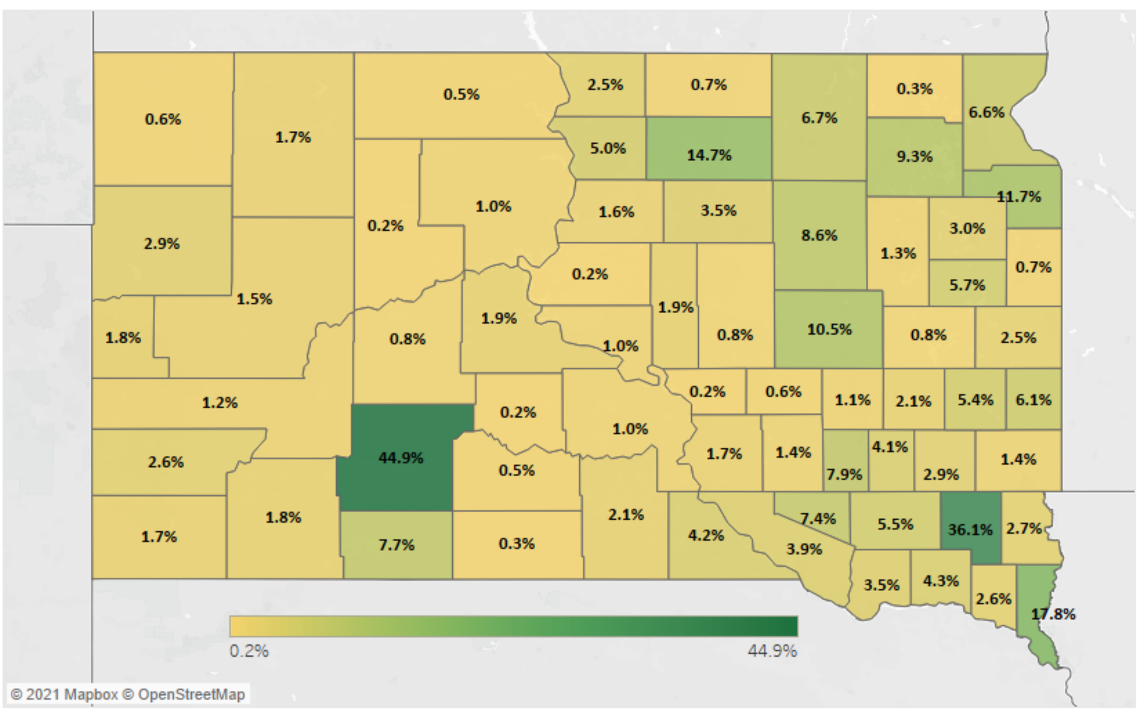

Figure 83. Percent of Value Added Derived from Other Agriculture (by County)

Value Added Derived from All Agriculture (Excluding Forestry) ($M)

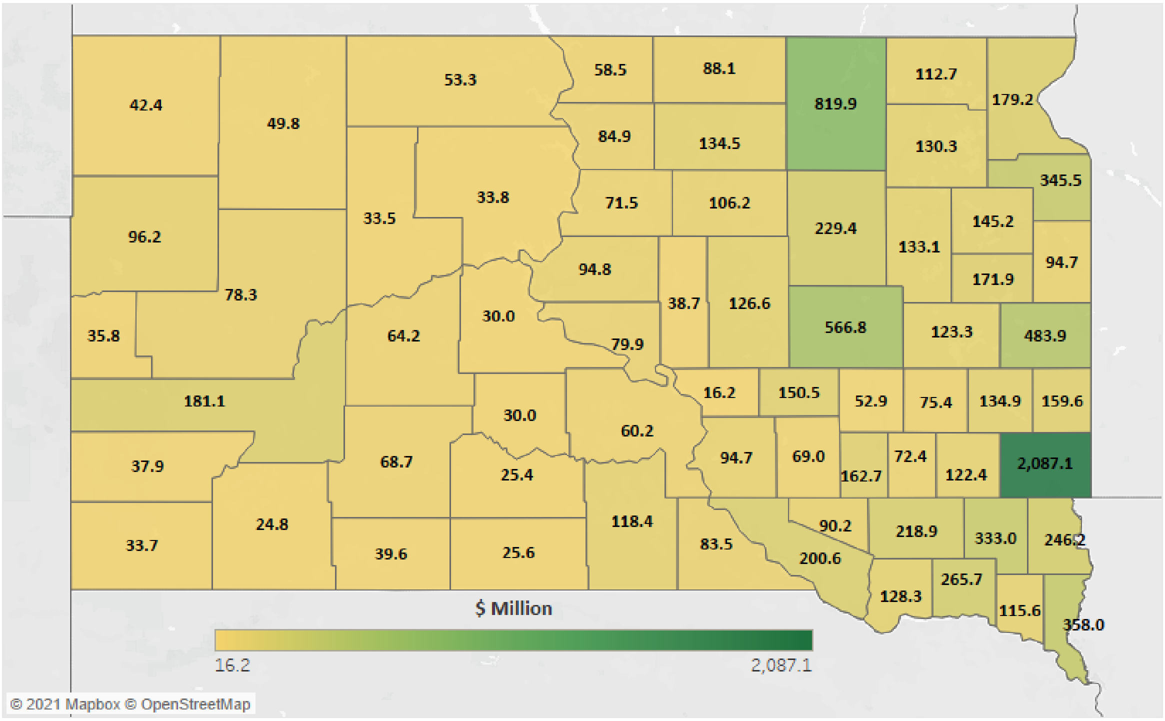

Figure 84, Value Added Derived from All Agriculture (by County)

Percent of Total Value Added for All Agriculture (Excluding Forestry)

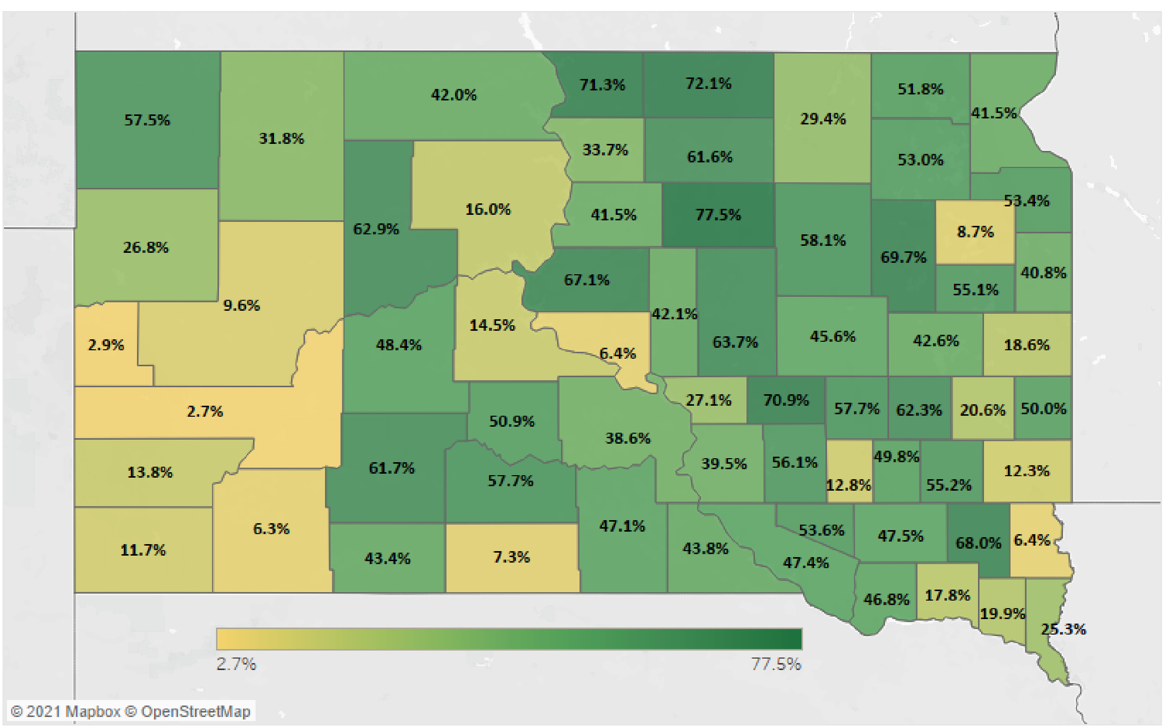

Figure 85, Percent of Value Added Derived from All Agriculture (by County)

9.2 Jobs

Jobs Derived from Crops

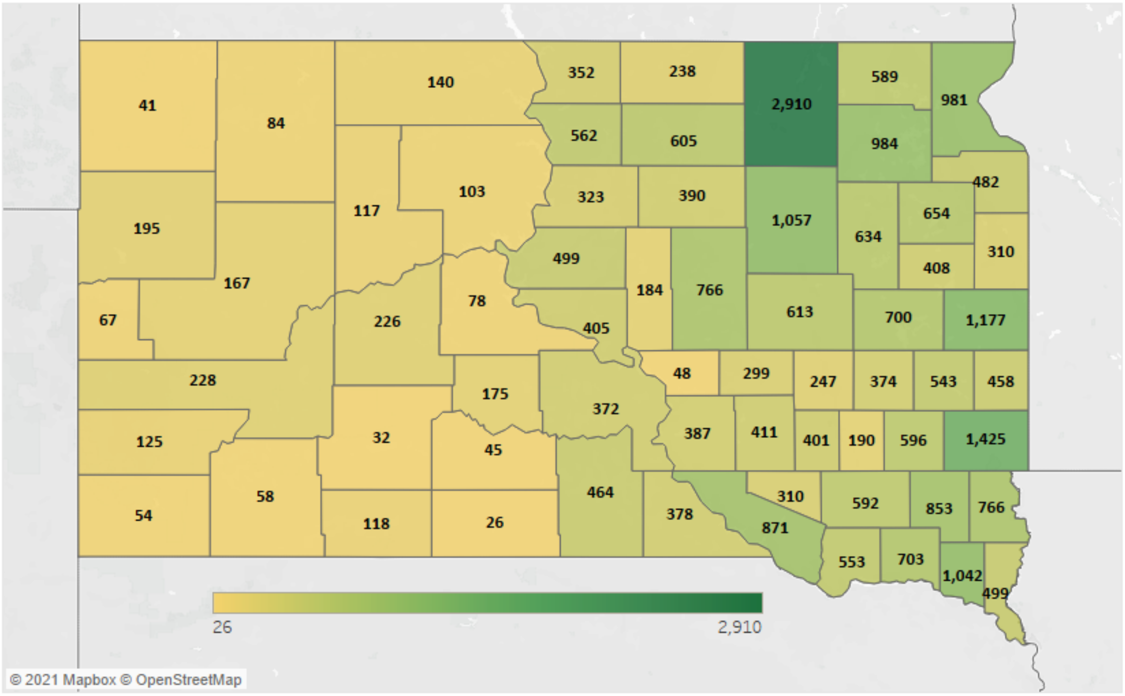

Figure 86. Jobs Derived from Crops (by County)

Percent of Total Jobs Derived from Crops

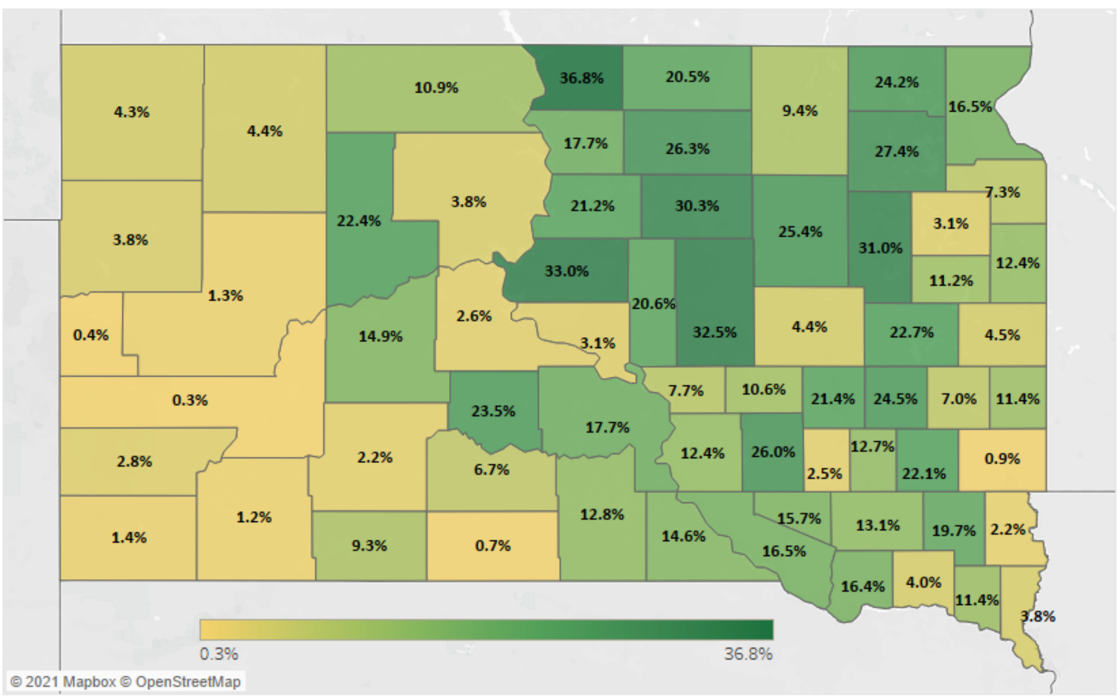

Figure 87. Percent of Jobs Derived from Crops (by County)

Jobs Derived from Forestry

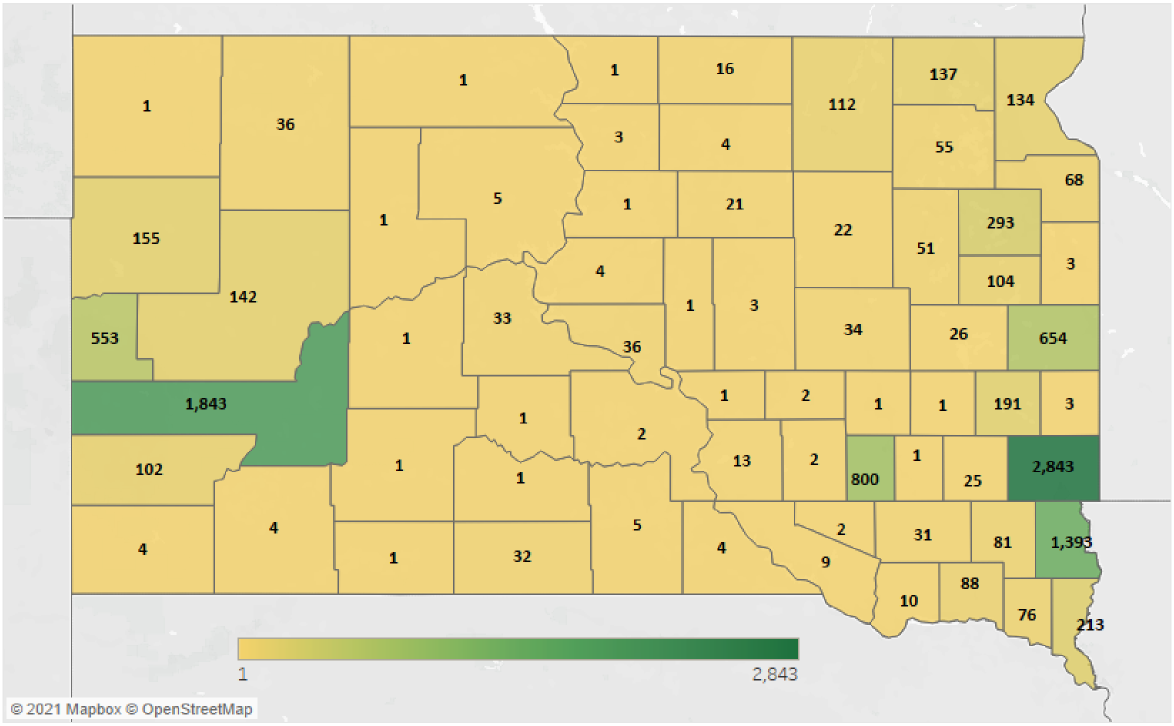

Figure 88. Jobs Derived from Forestry (by County)

Percent of Total Jobs Derived from Forestry

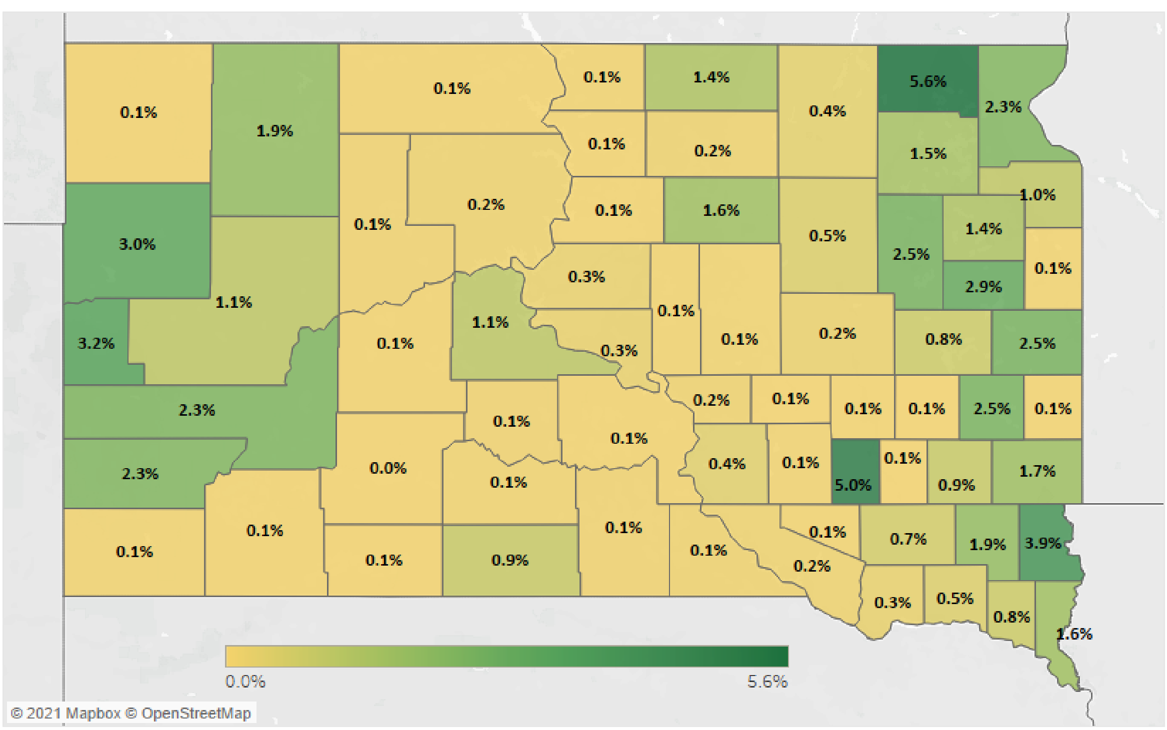

Figure 89. Percent of Jobs Derived from Forestry (by County)

Jobs Derived from Livestock

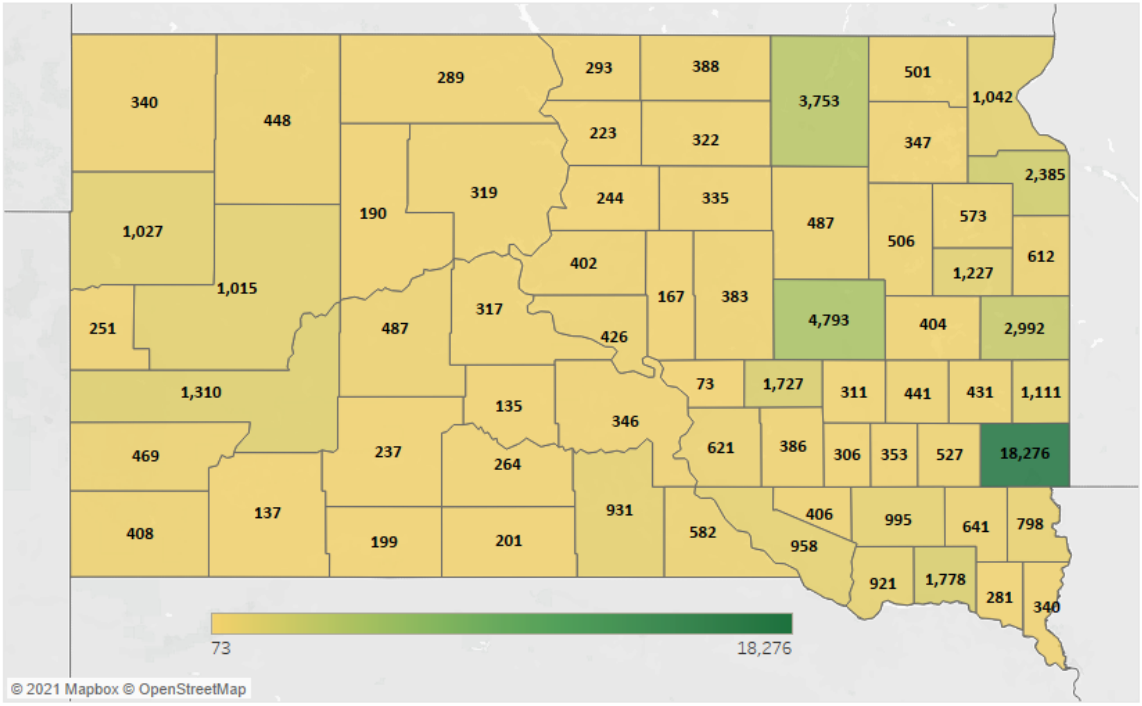

Figure 90. Jobs Derived from Livestock (by County)

Percent of Total Jobs Derived from Livestock

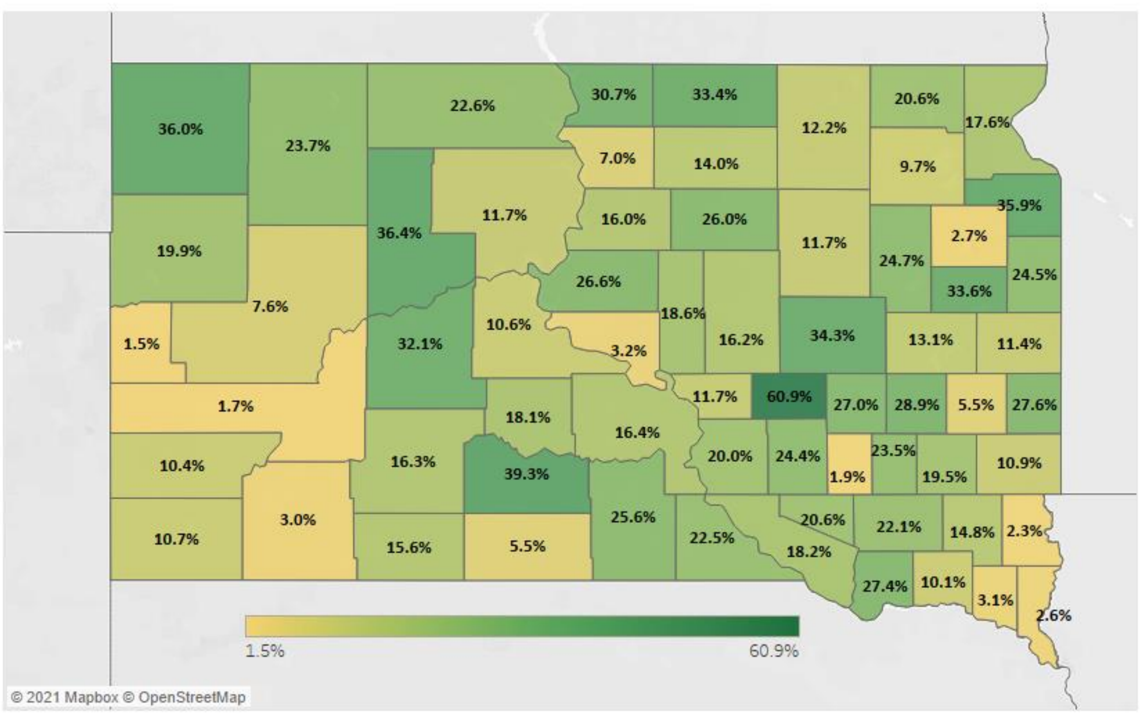

Figure 91. Percent of Jobs Derived from Livestock (by County)

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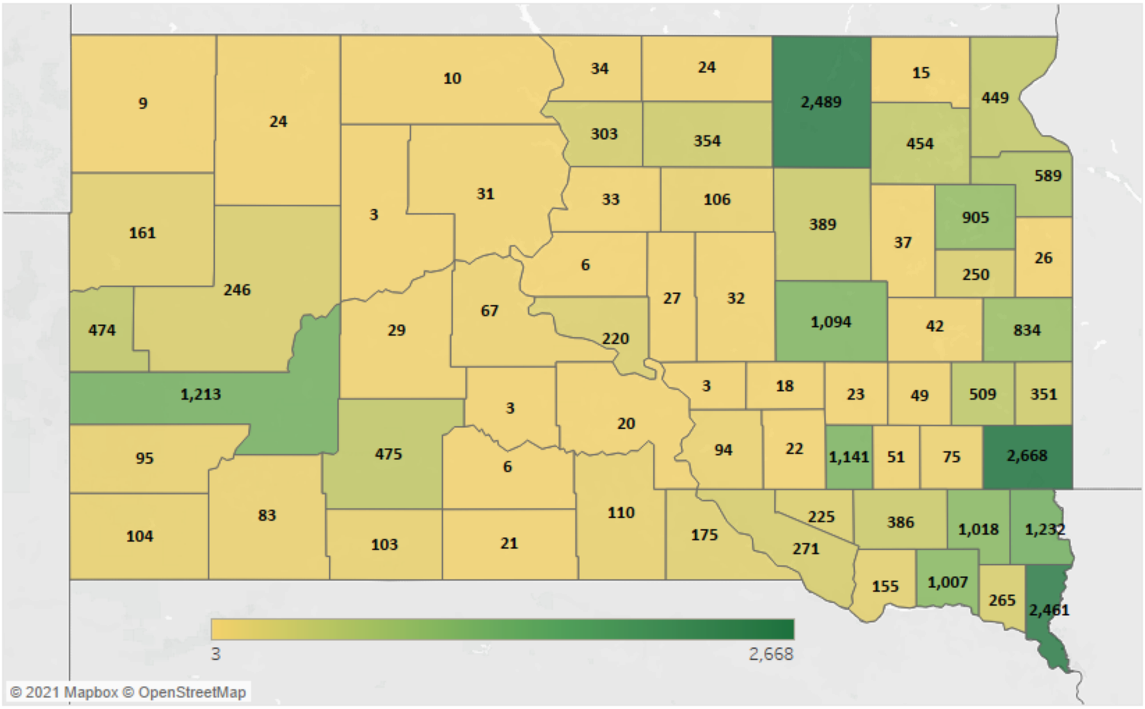

Figure 92. Jobs Derived from Processing and Other Agriculture (by County)

Percent of Total Jobs Derived from Other Agriculture

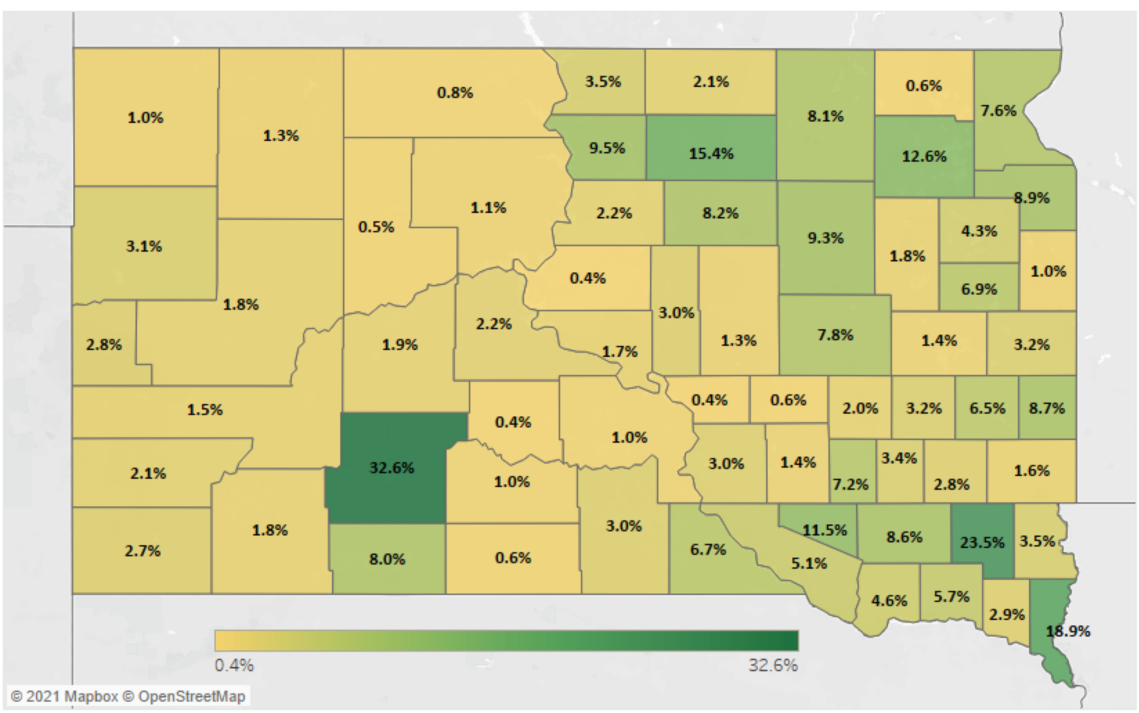

Figure 93, Percent of Jobs Derived from Processing and Other Agriculture (by County)

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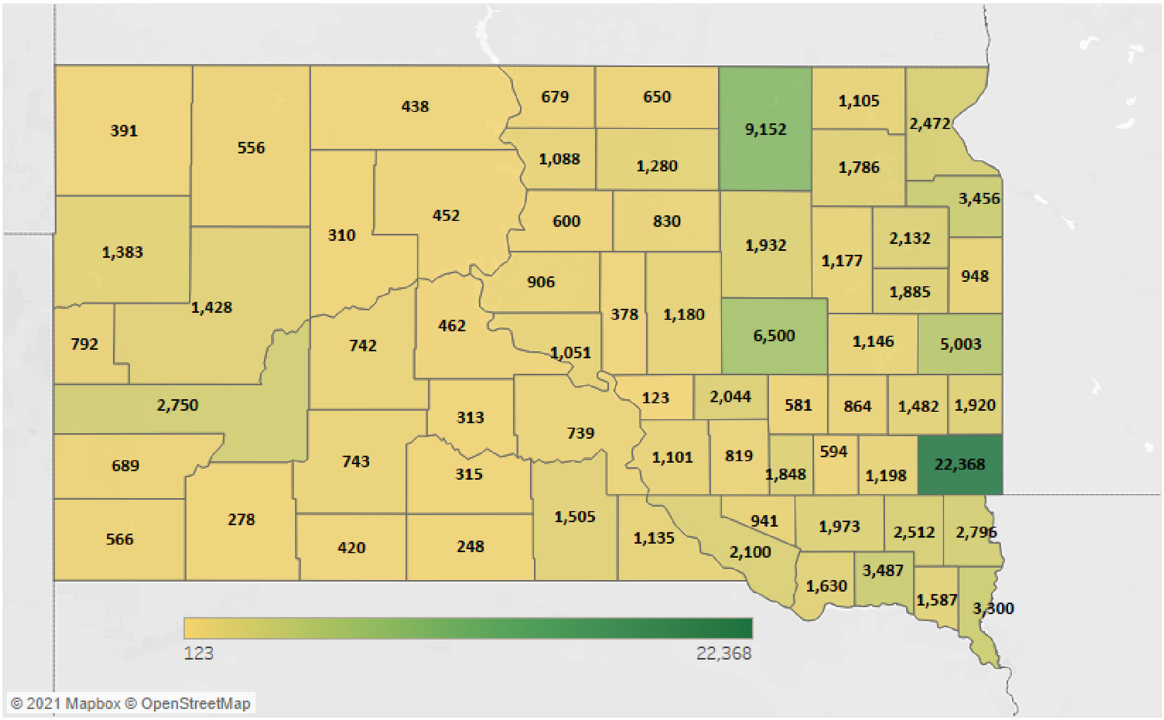

Figure 94, Jobs Derived from All Agriculture (by County)

Percent of Total Jobs Derived from All Agriculture (Excluding Forestry)

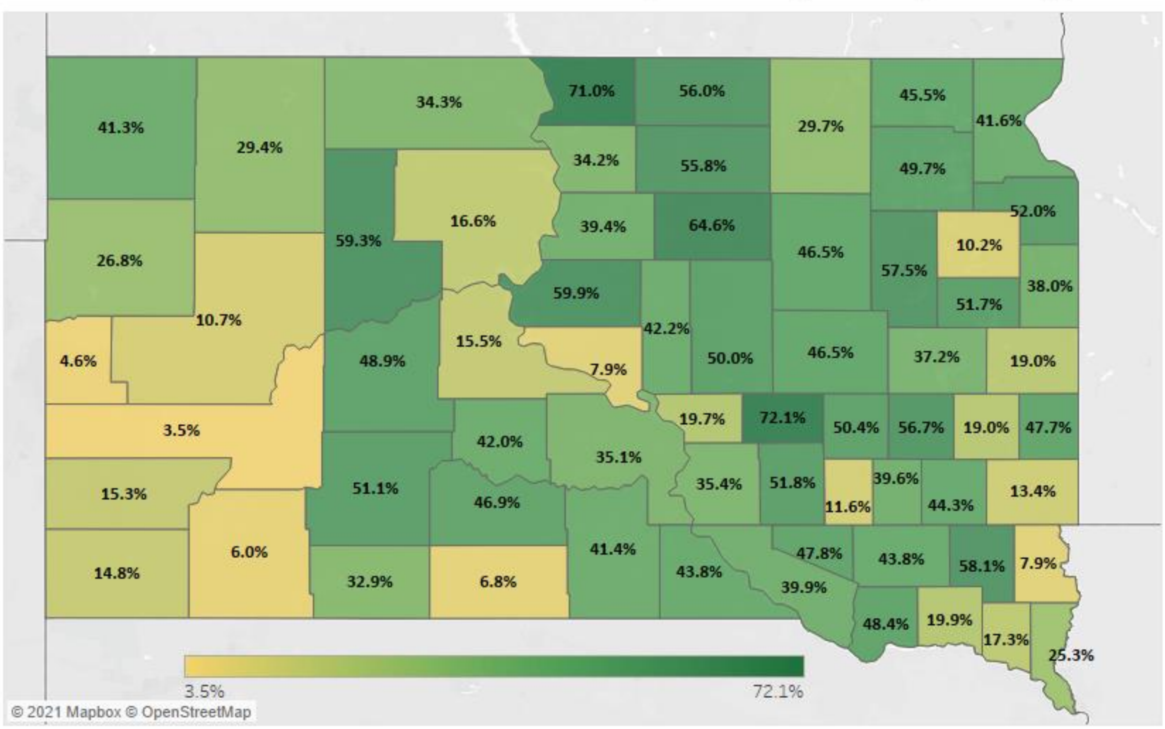

Figure 95, Percent of Jobs Derived from All Agriculture (by County)

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The 2017 Economic Impact of the Nebraska Agricultural Production Complex

by

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N -

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The 2017 Economic Impact of the Nebraska Agricultural Production Complex

Executive Summary

Nebraska is home to a large and diverse agricultural production complex involved in growing, processing, and transporting agricultural products as well as supplying agricultural producers. Included in this complex are: crop production, livestock production, agriculture-related manufacturing, transportation, and wholesaling, and agri-tourism.

This study has been conducted to provide a benchmark assessment of the economic impact of Nebraska agriculture on the state's economy. The impact is estimated for 2017, the year of the most recently completed Census of Agriculture. That Census provides detailed information on production, employment, and other activity in crop and livestock production.

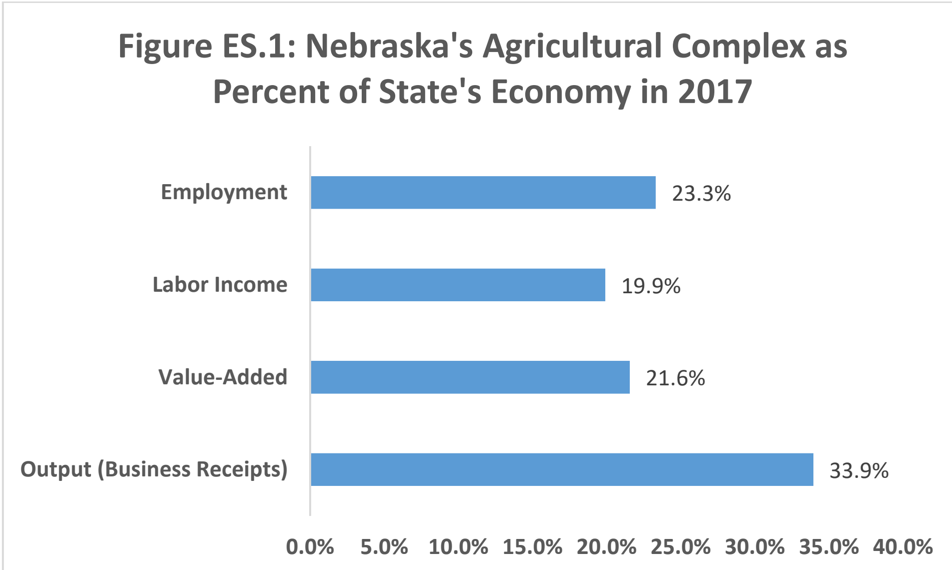
The study relies on this Census data and the IMPLAN (IMpact analysis for PLANning) model. The IMPLAN model provides detailed information about state and local activity in manufacturing, transportation, and wholesaling, including information for the year 2017. The IMPLAN model is also able to assess how economic activity in a particular agricultural or agriculture-related industry ripples throughout the area economy. Such multiplier impacts are added to direct industry activity to yield the total economic impact. Total impacts can be estimated for multiple measures including total dollar output (business receipts), gross state product (a value-added measure), labor income, and employment numbers.

Both statewide and sub-state economic impacts are estimated for the agricultural production complex. Sub-state analysis is undertaken given the diversity of natural resource endowments, demographics, and transportation infrastructure within the state of Nebraska. The structure of the agricultural production complex varies throughout the state due to these factors.

The Findings:

The combined direct and multiplier impacts of the agricultural production complex account for a significant share of Nebraska's economy. For the year 2017, total dollar output (business receipts) was $81.8 billion accounting for 33.9% of the state's total output, as seen in Figure ES.1. In terms of gross state product (analogous to gross domestic product, the broadest measure of the U.S. economy), the amount was $25.7 billion which represents 21.6% of the state's GSP. Even in a year like 2017 with low commodity prices and modest farm incomes, between one-fifth and one-fourth of Nebraska's economy can be attributed to the agricultural production complex. Few other states have an economy with this degree of agricultural prominence.

The labor income and employment impacts also are significant. The labor income impact (proprietor income, wages, salaries, and benefits) of the complex was estimated to be $14.3 billion in 2017, or 19.9% of the Nebraska total. In terms of employment numbers, the complex accounted for 321,000 positions or 23.3% of Nebraska's total wage and salary and proprietor employment. Many of these positions are full-time, although part-time and seasonal employment at farms, ranches, or other businesses also are included.



Within the state, Northeast Nebraska's regional economy is especially influenced by agriculture. Large volumes of both crop and livestock commodities are produced in the region along with agricultural inputs and processing activity. In Northeast Nebraska, the agricultural production complex accounted for 64% of industry output in 2017 and 46% of the region's gross regional product (value-added), while employing or supporting 48% of the region's workforce and 45% of its labor income. Agriculture's prominence also was quite high in the Central, North, South, and Southeast Nebraska regional economies where more than one-third of the gross regional product, labor income, and employment were agriculture-related in 2017. The agricultural product complex accounted for 23.9% of gross regional product in Northwest Nebraska and 20.7% in Southwest Nebraska. Finally, the East region of the state generated the largest regional dollar volume of agricultural activity and agriculture-related employment numbers. However, given the presence of the state's two largest urban centers, agriculture's portion of the East region's broader-based economy was smaller, but still quite important.

Chapter 1
Introduction

Agriculture is a pillar of the Nebraska economy. Nebraska's total net farm income has averaged a little over 5% of the state's total personal income and about 7% of the state's gross domestic product in recent years. Those percentages rank Nebraska third highest of the 50 states and the highest of any state with a population over 1 million. These figures represent only the direct agricultural production sector and grow substantially when closely related industries are considered such as farm suppliers and merchandisers, food processing firms, agriculturally related manufacturing firms, and transportation companies that haul agricultural inputs and products. These industries are collocated due to the abundance of agricultural crop and livestock production in Nebraska. Together, these agriculture production and agricultural-related entities create a multi-faceted ***agricultural production complex*** that accounts for a substantial share of Nebraska's economic activity and output.

This agricultural production complex is an important part of Nebraska's economic history, dictating many of the early settlement patterns still observed throughout the state today. But the complex will also be a very important part of Nebraska's economic future. This is because the state's production agriculture and its related manufacturing, wholesale, and transportation industries are leaders in an intensely competitive international food industry. To thrive in that industry, this state's agricultural producers and manufacturers have been innovative, being early adopters of cutting-edge technologies and management techniques. These features allow the complex to be a leader in international trade and create a solid foundation for the Nebraska economy. Data from the Nebraska Rural Poll, an annual survey of Nebraskans outside the Omaha and Lincoln metropolitan areas, confirms widespread acknowledgement of this impact. More than three-fourths (78%) of rural Nebraskans responding to the poll in 2017 viewed their economic well-being as dependent on agriculture. This was never clearer than during the "Great Recession," when the export strength of Nebraska agriculture helped the state stave off the worst effects of that recession or during the COVID-19 pandemic when Nebraska's economy fared stronger than most during the initial economic slowdown due in part to the strength and output of the essential agricultural sector.

Thinking long-term, the Nebraska agriculture production complex will likely continue to grow, exporting more with the ongoing development of the global middle classes in China, India, and other countries of Asia and in Latin America. In many instances, that growth will help preserve employment and family-based agricultural operations. But, employment and income also will grow in other industries of the agricultural production complex such as food processing, agricultural manufacturers and biotechnology companies, and in the transportation entities that carry agricultural inputs and products between stages of production and on to international markets.

Given the importance and diversity of Nebraska's agricultural production, an up-to-date study estimating the economic impact of the Nebraska agricultural production complex was deemed necessary. The most recent studies were done with available data for 2010 and for 2002 (Thompson, et al., 2012 and Lamphear, 2006) while there are historical analyses as well (Taylor, et al., 1994 and Lamphear and Turner, 1979). For this study, 2017 was chosen as the benchmark year of analysis. While the year 2017 was the lowest net farm income year for Nebraska agriculture since 2006, it was also a Census of Agriculture year. Leveraging the census data results provides a more accurate analysis of the economic impact of the complex across the state.

The study focuses on the statewide economic impact of agriculture in Nebraska. However, sub-state results also are presented for eight Nebraska regions (which correspond directly to the sub-state Agricultural Statistics Districts as used by the National Agricultural Statistics Service of USDA). This sub-state analysis indicates the significance of the economic impact within different regions of Nebraska. As would be expected, the agricultural production complex is a critical part of the economy throughout the state; but is the dominant industry in several non-metropolitan regions of Nebraska.

This study is a joint collaborative effort of the University of Nebraska-Lincoln (UNL) Department of Agricultural Economics and the Bureau of Business Research within the UNL Department of Economics and is funded internally by the Institute of Agricultural and Natural Resources (IANR) at UNL. It draws on substantial expertise in key issues affecting agriculture such as irrigation, natural resources, the agricultural equipment industry, and community economic development.

This report is organized into six chapters. Following this introduction, the second chapter provides a description of the agricultural production complex in Nebraska. Chapter 3 describes the economic impact methodology utilized in the study. The statewide economic impact of the agricultural production complex is presented in the Chapter 4 while Chapter 5 presents the economic impact of agriculture within the eight sub-state regions. Conclusions and implications are presented in Chapter 6.

Chapter 2
Industry Statistics within the Agricultural Production Complex

The agricultural production complex in Nebraska is a large and diverse set of sectors involved in raising and processing crops and livestock, along with agriculture-related activities in the manufacturing, wholesale, transportation, and tourism sectors. This Chapter describes characteristics of the complex including basic information such as industry output in each of its segments. Data on farm and ranch activity in Nebraska primarily comes from the 2017 Census of Agriculture (National Agricultural Statistics Service) while information about output in agricultural-related manufacturing, wholesale, transportation and tourism activity comes from the IMPLAN (IMpact analysis for PLANing) model. IMPLAN is an input-output analysis software package and database which provides a detailed picture of the economy in each state and county in the United States. IMPLAN data for 2017 is utilized.

A. Agricultural Production Complex

The agricultural production complex includes a set of entities closely involved in the growing and processing of food products. The complex is therefore much broader than farms and ranches, including closely related industries such as food processors, farm suppliers and merchandisers, farm equipment manufacturers, trucking and rail services, and wholesalers. Nebraska also has a small but growing agri-tourism industry.

To understand the agricultural production complex, it is important to consider the linkages that include crop and livestock production. Figure 2.1 shows both “backward” and “forward” linked industries in crop production for the example of corn production. Backward linked industries are suppliers to crop production such as farm machinery, production inputs, and transportation services that haul crops to market or supplies and equipment to farms. Forward linked industries are the customers of crop production and are often highly dependent on local supplies in order to be viable businesses. A large supply of local grain is the basis of grain processing businesses such as grain elevators and ethanol plants.

There are also forward linkages to a variety of livestock feeding operations such as beef cattle, swine, and dairy cattle. Figure 2.2 shows selected backward and forward linkages for livestock operations for the example of beef cattle. Livestock producers utilize pharmaceutical products and feed grains. Forward linked industries include meat processors and wholesalers.

Figure 2.1 Backward and Forward Linked Industries for Corn Production

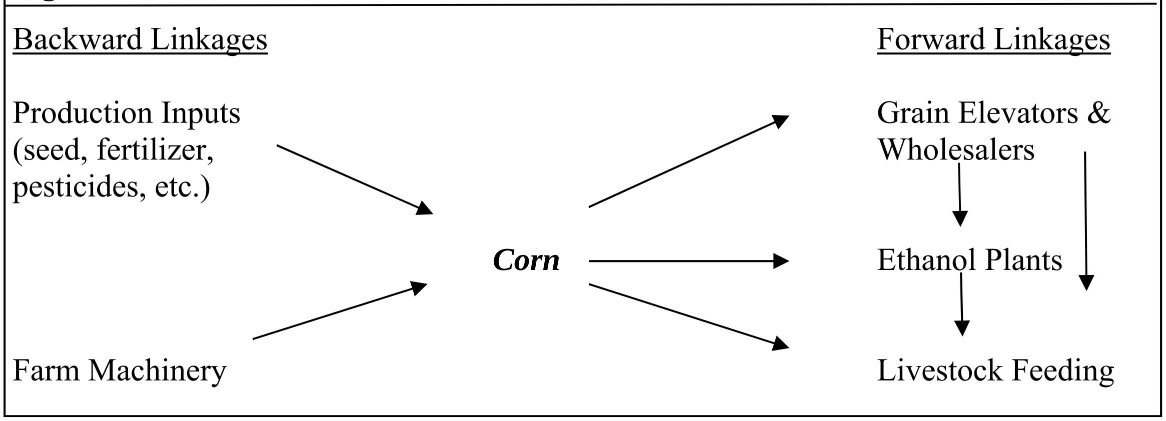
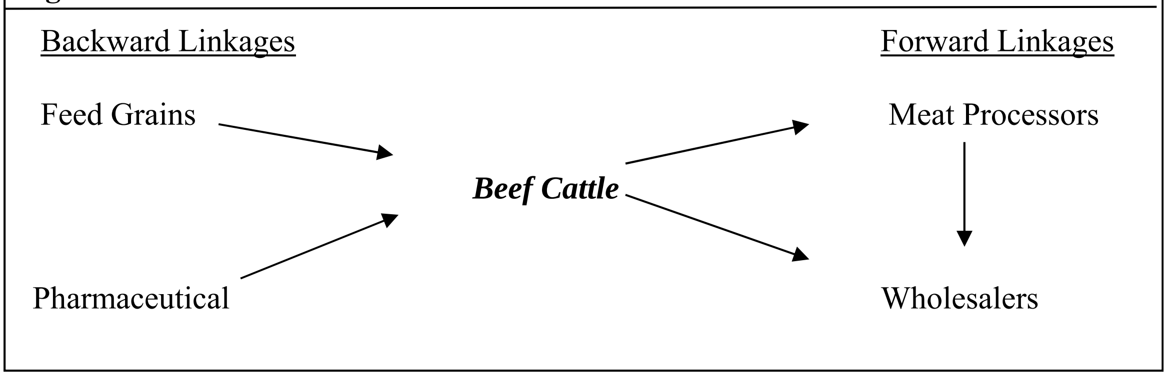


Figure 2.2 Backward and Forward Linked Industries for Beef Cattle Production



The interrelationships featured in Figures 2.1 and 2.2 point to the presence of an agricultural production complex with significant trade between agricultural producers, food wholesalers, and input providers. This study examines Nebraska businesses within these industries; as these businesses trade with each other and export to the outside world (beyond the state borders). The income and business activity generated by the agricultural production complex also creates an economic impact on the larger Nebraska economy. The components of the complex include crop and livestock production and ancillary economic activity that occur on Nebraska farms and ranches, such as agri-tourism. In addition, the complex includes other industries that service or process crops and livestock, and are collocated in Nebraska because of the abundant production of corn, soybeans, and other crops as well as cattle, hogs, and other livestock. The components of the agricultural production complex are:

- Crop production (Irrigated and Nonirrigated)
- Livestock Production
- Agricultural-Related Manufacturing (Durable and Non-durable)
- Agricultural-Related Wholesaling and Transportation
- Agri-Tourism

This definition includes many important agricultural service industries, but also excludes several relevant support activities for agriculture including finance, veterinary services, and consultant services, among others. It would be appropriate to include these agricultural services providers within the agricultural production complex in the analysis that follows; however, doing so is beyond the scope of the current report. Fortunately, economic activity in these industries will be captured as part of the economic multiplier of the agricultural production complex.

B. Description of the Complex

The first component is the total production of crops in Nebraska. In Table 2.1, output estimates are provided for the state's major crop categories as well as other important crops. The covered crops are corn, soybeans, wheat, grain sorghum, alfalfa hay and other hay as well as sugar beets, dry beans, sunflowers, dry peas, proso millet, oats, and barley. Separate sales information is provided for irrigated and nonirrigated acres for corn and soybeans. Data on harvested acres of 2017 production and prices are primarily from the 2017 Census of Agriculture.

Data from the 2017 Census of Agriculture indicates that 19.0 million acres of these major crops were harvested in Nebraska in 2017. Total values of the selected crops were $9.31 billion. Three-fifths (60%) of the dollar value was corn, from both irrigated and nonirrigated acres. Soybean sales accounted for another 31% of all crop proceeds in

2017. The remaining 9% of sales were divided among wheat, alfalfa hay, and other hay, as well as sugar beets, dry beans, oats, grain sorghum, sunflowers, dry peas, proso millet, oats, and barley. Not all crop production is included; specifically, $149 million in fruit, vegetable and horticultural production is not included in the analysis.

Table 2.1: Nebraska 2017 Crop Production for Selected Crops

Industry	Harvested Crop Acres	Yield/Acre	Production (1000s)	Price per Unit	Total Value (Millions $)
Irrigated Corn	5,077,724	209 bu.	1,061,435	$3.31	$3,512
Nonirrigated Corn	4,377,307	145 bu.	633,464	$3.30	$2,091
Irrigated Soybeans	2,509,026	64 bu.	160,838	$9.00	$1,448
Nonirrigated Soybeans	3,155,199	49 bu.	155,438	$8.98	$1,396
Wheat	1,060,786	44 bu.	47,165	$3.58	$169
Grain Sorghum	116,266	82 bu.	9,545	$4.54	$43
Sunflowers	41,438	1.3 cwt.	53	$20.40	$11
Dry Peas	56,813	1.4 cwt.	821	$12.10	$10
Proso Millet	86,355	32 bu.	2,774	$3.13	$9
Oats	34,136	55 bu.	1,884	$2.62	$5
Barley	2,518	39 bu.	98	$5.86	$1
Sugar Beets	47,418	30 tn.	1,407	$33.70	$47
Dry Edible Beans	153,926	25 cwt.	3,865	$25.50	$99
Alfalfa Hay	958,720	3.4 tn.	3,300	$97.00	$320
Other Hay	1,324,731	1.5 tn.	2,006	$77.00	$154
Total	19,000,363				$9,314

Source: USDA-NASS/2017 Census of Agriculture.

Table 2.2 shows the total estimated production value for livestock in Nebraska in 2017. Estimates are provided for the four major livestock groupings including cattle production (including dairy cattle), hog production, milk production, and poultry and egg production, as well as for horses (and other equine), sheep and goats. The total sales were $12.64 billion in 2017. Approximately 84% of total livestock sales were in cattle production. Hog production was the next largest category, accounting for nearly 12% of total sales. As with crops, not all livestock production is included; specifically, $31 million dollars of other livestock production is not included in the analysis.

Table 2.2: Nebraska 2017 Livestock Production

Industry	Total Value (Millions $)
Cattle Production (Beef and Dairy)	$10,642
Milk Production	$288
Poultry and Egg Production	$194
Hog Production	$1,489
Sheep and Goats (Wool, Mohair & Milk)	$12
Equine	$16
Total	$12,641

Source: USDA-NASS/2017 Census of Agriculture.

Table 2.3 shows the sales of agriculture-related manufacturing industries in Nebraska. Data on industry sales were gathered primarily from the IMPLAN model. There are three primary types of agriculture-related manufacturing industries: food processing, ethanol production, and machinery, structures, and pharmaceuticals. The total sales of agriculture-related manufacturing industries were $32.63 billion in 2017, approximately 50% more than the combined production value of crops and livestock at the farm/ranch level.

Animal slaughtering (except poultry) was the largest industry, accounting for 43% of all sales of agriculture-related manufacturing industries. This corresponds to the fact that Nebraska ranks 1st among the 50 states in commercial red meat production. Four other food processing industries had over $1 billion in sales during 2017, including dog and cat food manufacturing, other animal food manufacturing, meat rendered from carcasses, and soybean and other oilseed processing. Ethanol sales were approximately $3.76 billion in 2017. There also were substantial sales in machinery, structures and pharmaceuticals for agriculture. Farm machinery and equipment sales were $2.16 billion in 2017. The sales of botanical, pharmaceutical, and biological products were $1.49 billion.

Table 2.3: 2017 Nebraska Sales in Agriculture-Related Manufacturing Industries	
Industry	Sales (Millions $)
Food Processing	
Animal Slaughtering (except Poultry)	$14,544
Meat Rendered from Carcasses	$2,623
Rendering and Meat Byproduct Manufacturing	$180
Animal Slaughtering (Poultry)	$226
Dog and Cat Food Manufacturing	$1,886
Other Animal Food Manufacturing	$1,478
Flour Milling and Malt Manufacturing	$464
Malt Manufacturing	$32
Soybean and Other Oilseed Processing	$1,286
Fats and Oils Refining and Blending	$173
Breakfast Cereal Manufacturing	$689
Sugar Beet Manufacturing	$157
Dry, Condensed and Evaporated Dairy Manufacturing	$67
Fluid Milk Manufacturing	$282
Butter Manufacturing	$231
Cheese Manufacturing	$25
Other Food Processing	$726
Ethanol Production	$3,764
Machinery, Structures, and Pharmaceuticals	
Farm Machinery & Equipment	$2,161
Fabricated Metal Buildings	$152
Botanical, Pharmaceutical, and Biological Products	$1,485
Total	$32,630

Source: IMPLAN and Economic Impacts of the Nebraska Ethanol and Ethanol Co-Products Industry 2015-2017.

Table 2.4 shows the sales of agriculture-related wholesale and transportation industries. The table shows the total sales of farm suppliers and merchandisers, farm machinery wholesalers, and an estimate of state trucking and rail services supported by Nebraska agriculture. Data on sales for both wholesale industries were gathered from the 2017 Economic Census. Data on wholesale sales are adjusted to account for only the "mark-up" portion of sales, excluding the cost of goods sold. The mark-up portion is what supports employment and operating activity within the state's wholesale sector. Focusing on the mark-up also avoids double-counting the value of agricultural products produced in Nebraska. The share of industry activity which is due to a mark-up is estimated using the IMPLAN model. Trucking and rail services are estimated using IMPLAN, which provides an estimate of the share of trucking and rail services purchased from in-state providers by crop producers, livestock producers, food processing businesses, and farm suppliers, and merchandisers. Nebraska agriculture-related trucking activity, at $2.12 billion, accounted for 40%of all Nebraska trucking activity in 2017. Nebraska agriculture-related rail activity accounted for 5%of Nebraska rail activity in 2017. The total adjusted sales of agriculture-related wholesaling and transportation activity was $4.20 billion.

Table 2.4: 2017 Sales of Agriculture-Related Wholesaling and Transportation Activity

Industry	Sales (Millions $)
Farm Supply and Merchandising	$961
Truck Transportation	$2,121
Rail Transportation	$296
Equipment Dealers	$819
Total	$4,197

Source: IMPLAN.

Table 2.5 shows the estimated agri-tourism sales in Nebraska in 2017. Statewide sales data were derived utilizing the IMPLAN model, which provided information on the share of sales of "other amusement and recreation" services on farms and ranches. Such other recreation refers to the agri-tourism activity occurring on these farms and ranches such as leasing land for hunting, birding, or other on-farm recreation activities or hosting events such as fruit or vegetable harvesting opportunities, agricultural festivals, or themed events (such as pumpkin farms and other entertainment venues). Information on commodity sales from Table 2.1 is combined with IMPLAN data on the share of other amusement and recreation sales to yield the estimate in the Table below.

Table 2.5: 2017 Agri-Tourism Sales in Nebraska

Region	Sales (Millions $)
Nebraska	$85

Source: 2017 Census of Agriculture and IMPLAN.

Chapter 3

Method for Evaluating the Economic Impact

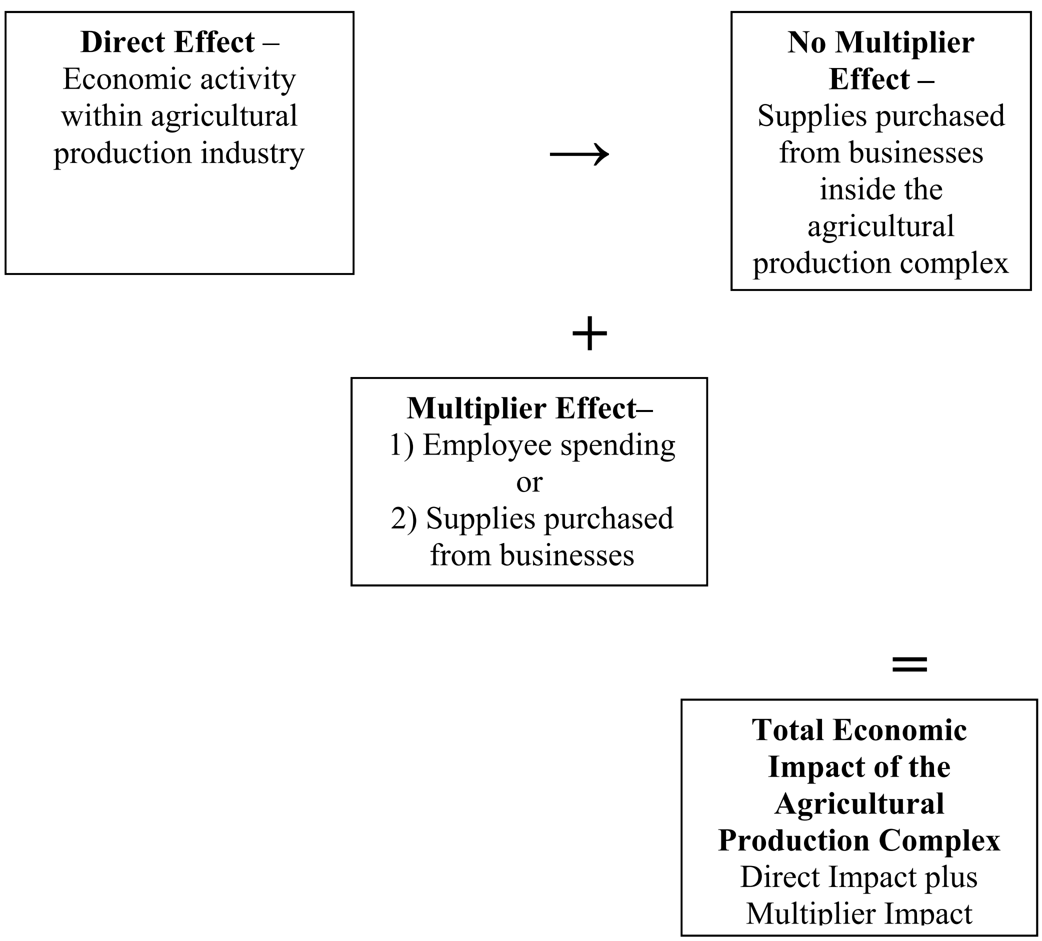
This chapter discusses the methodology for calculating the total economic impact on Nebraska of the agricultural production complex, including the jobs and economic activity in the complex itself as well as the jobs and economic activity which it supports in the larger economy. Economic activity within the complex itself includes the business sales, employment, and labor income (wages and salaries, proprietor's income, and employee benefits) within crop and livestock production businesses and agriculture-related manufacturing, wholesale, transportation, and tourism activity. Businesses in other sectors of the economy also benefit from production in the agricultural production complex, by providing goods and services to the complex, and from workers in the complex spending their paychecks in a variety of industries. These sales generate additional jobs, salaries, and other regional business activity known as ***multiplier impacts***.

The multiplier impact refers to economic activity supported in other industries besides those in the agricultural production complex itself. This multiplier impact therefore includes purchased business supplies such as accounting services, veterinary services, legal services, or construction activities. The multiplier impact also includes businesses throughout the economy where workers in the agricultural production complex would spend their paychecks such as retail businesses, eating and drinking places, entertainment and recreation businesses, utilities, housing, health care, and insurance businesses. The multiplier impact therefore captures how business activity throughout the economy benefits from the agricultural production complex.

The total economic impact on Nebraska from the agricultural production complex is the sum of the direct impact and the multiplier impact. Figure 3.1 shows how the total economic impact is calculated for each industry within the agricultural production complex. As the figure shows, purchases by firms from businesses outside of the agricultural production complex are part of the multiplier effect. Further, purchases by employees of the complex also contribute to the multiplier impact. The multiplier impact is added to the direct impact to yield the total economic impact.

It is important to note that a distinction is made between these outside purchases and purchases from other businesses and industries within the agricultural production complex. Those purchases from other entities within the complex are not part of the multiplier impact and do not contribute to the total economic impact. This is done to avoid double-counting, since the business receipts, employment, and labor income of these industries are already part of the direct economic impact of the agricultural production complex

Figure 3.1 Approach for Calculating the Economic Impact of Industry with the Agricultural Production Complex



In this analysis, business receipts, contribution to gross state product, employment, and labor income are estimated for each industry within the agricultural production complex.[1] Then, the multiplier impact is estimated for each industry, showing the additional business receipts, contribution to gross state product, employment, and labor income generated at businesses outside of the agricultural production complex. More specifically, a set of "economic multipliers" is estimated for each industry within the agricultural production complex. One economic multiplier shows the business receipts generated at businesses outside of the agricultural production complex for each $1 of business receipts in an agricultural production complex industry. Another economic multiplier shows the jobs generated at businesses outside of the agricultural production complex for each job in a complex industry. A similar economic multiplier is calculated for labor income while there is another multiplier for the contribution to gross state product. The economic multipliers always show the additional economic activity generated outside of the agricultural production complex for $1 (or 1 job) of economic activity in an agricultural production complex industry.

Consider a hypothetical example of an economic multiplier for business receipts from hog farming, which is one of the industries within the agricultural production complex. In the example, assume that the total business receipts (i.e., sales) of the hog farming industry were $1 billion in 2017 and that the economic multiplier for business receipts is 0.5. The direct economic impact measured in business receipts is $1 billion. The multiplier impact on Nebraska businesses outside of the agricultural production complex is $0.5 billion (i.e., 0.5 multiplied by each $1 in business receipts in the hog farm industry). So, the total economic impact of the hog farm industry in Nebraska would be $1.5 billion. A similar set of calculations could be made for the total employment impact, labor income impact, or gross state product impact of the hog farming industry. All that is required is information on the direct economic activity in hog farming (whether business receipts, contribution to gross state product, employment, or labor income) and the appropriate economic multiplier.

Appropriate economic multipliers must be calculated for each specific industry. This is because the value of the economic multipliers can vary, sometimes substantially, across specific industries within the agricultural production complex. For example, crop

[1] Formally, the IMPLAN model provides estimates of contributions to value-added but these are the same as contributions to gross state product

production will have different economic multipliers than agriculture-related manufacturing or the trucking industry.

Unique economic multiplier impacts are calculated for each industry in this study using the 2017 IMPLAN software. This software can generate economic impact estimates for hundreds of individual industries in every U.S. county or state, or combinations of counties and states.

In this report, a set of four economic multipliers (business receipts, gross state product, labor income, employment) were generated for the State of Nebraska in each specific industry within the agricultural production complex. Additionally, another set of multipliers were calculated for each specific industry within the complex for each of the eight sub-state regions of Nebraska. Multiplier values for the eight regions are typically less than the statewide multipliers, since some suppliers are located within a different region of Nebraska. The sum of regional economic impacts, therefore, will not add to the statewide impact.

Economic multipliers were then applied to the industry data presented in Chapter 2 in order to calculate the total economic impact of the agricultural production complex in Nebraska. Statewide economic impacts are presented in Chapter 4. Economic impacts for each sub-state region are presented in Chapter 5.

Chapter 4

Statewide Economic Impact

The large and diverse agricultural production complex in Nebraska includes a variety of inter-related industries such as crop production, livestock, food processing, transportation, and wholesale services, as was noted in the previous chapter. This chapter considers the total economic impact of the complex, providing an estimate of the economic impact of the complex itself, and the additional business and employment opportunities it supports throughout the Nebraska economy. The analysis is calculated for each component of the agricultural production complex. Results are then summarized for the complex overall, and the impact of the complex is compared with the aggregate Nebraska economy.

A. Statewide Economic Impact of Crop Production in Nebraska

As noted in Chapter 3, the estimated value of crop production among the covered crops of corn, soybeans, wheat, grain sorghum, oats, sugar beets, dry beans, alfalfa hay, other hay, and other crops was $9.31 billion in 2017. This figure, with one adjustment, represents the direct economic impact of the crop sector on the Nebraska economy. The required adjustment is for seed purchases. Part of the sales for corn, soybeans, and many of the other crops is to produce seeds used to grow these crops in Nebraska. Total Nebraska value of production for each crop must be adjusted to account for estimated seed purchases within Nebraska, as is done in Table 4.1A below. This adjustment is naturally minimal for the case of alfalfa and other hay.

Table 4.1A also shows the economic impact calculation for each of the crops. This includes the direct impact and the multiplier impact. As has been noted, the multiplier impact includes impacts on businesses outside of the agricultural production complex, and therefore, does not include economic impacts on farm suppliers and merchandisers or transportation businesses. The total economic impact is the direct impact plus the multiplier impact.

Results from Table 4.1A show that irrigated crop production accounts for more than half of the total economic impact of the crop sector. Irrigated corn ($5.23 billion) and irrigated soybeans ($2.35 billion) together account for $7.58 billion of a $14.43

billion crop impact, or 53% of the total. The share would grow further if irrigated sugar beets, alfalfa hay, other hay, wheat, or other types of production were included.

Table 4.1A 2017 Economic Impact (Business Receipts) of Crop Production Industries

Industry	Total Value (Millions $)	Direct Impact (Millions $)	Multiplier (Millions $)	Total (Millions $)
Irrigated Corn	$3,512	$3,203	$2,030	$5,233
Nonirrigated Corn	$2,091	$1,920	$1,191	$3,111
Irrigated Soybeans	$1,448	$1,418	$934	$2,352
Nonirrigated Soybeans	$1,396	$1,362	$958	$2,321
Wheat	$169	$160	$67	$227
Grain Sorghum	$43	$43	$27	$69
Sunflowers	$11	$11	$5	$15
Dry Peas	$10	$9	$6	$15
Proso Millet	$9	$8	$3	$12
Oats	$5	$5	$2	$6
Barley	$1	$1	$0	$1
Sugar Beets	$47	$43	$25	$68
Dry Beans	$99	$92	$73	$165
Alfalfa	$320	$320	$249	$569
Other Hay	$154	$154	$116	$271
Total	$9,314	$8,747	$5,687	$14,434

Source: USDA-NASS (for sales) and authors' calculations using IMPLAN.
Note: Direct and Indirect values may not sum to total due to rounding.

Nonirrigated corn and soybean production also had a significant economic impact. The total economic impact of nonirrigated corn production was $3.11 billion, the second largest among any sector. The total impact of nonirrigated soybean production was $2.32 billion. Among remaining crops, alfalfa hay had the 5th largest economic impact at $569 million followed by $271 million for other hay production and $227 million for wheat production.

The multiplier impact was 61% as large as the direct impact. This implies that each $1 of crop production value would yield $0.61 in additional receipts for Nebraska businesses outside of the agricultural production complex.

Table 4.1B shows the contribution of crop production to gross state product (value-added) in Nebraska. This measure is of interest since it is akin to gross domestic product, the official measure for the size of the U.S. economy. Recall that the IMPLAN model can calculate the direct gross state product within an industry based on industry sales. Thus, the direct economic impact in Table 4.1B is the gross state product within crop production industries while the multiplier impact shows the impact on gross state product of Nebraska industries outside of the agricultural production complex. The total GSP impact is the direct impact plus the multiplier impact. For the crop sector as a whole, the GSP multiplier impact was 212% as large as the direct impact, meaning that each $1.00 of GSP generated by the sector results in an addition of $2.12 of GSP. The multiplier is so large due in part to poor profitability in agriculture during 2017.

Table 4.1B: 2017 GSP (Value-added) Impact of Crop Production Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Irrigated Corn	$278	$1,060	$1,338
Nonirrigated Corn	$139	$622	$762
Irrigated Soybeans	$465	$546	$1,010
Nonirrigated Soybeans	$438	$559	$997
Wheat	$17	$36	$53
Grain Sorghum	$3	$16	$19
Sunflowers	$4	$3	$6
Dry Peas	$1	$3	$4
Proso Millet	$1	$2	$3
Oats	$0.4	$1	$1
Barley	$0.1	$0.2	$0.3
Sugar Beets	$10	$13	$22
Edible Dry Beans	$8	$41	$49
Alfalfa	$71	$151	$221
Other Hay	$33	$70	$103
Total	$1,469	$3,121	$4,590

Source: Authors' calculations using IMPLAN.
Note: Direct and Indirect values may not sum to total due to rounding.

Note that the combined direct and multiplier impacts of irrigated corn and irrigated soybean production accounted for more than half (51%) of the total GSP impact of Nebraska's crop production sector in 2017, implying a heavy reliance on irrigation for enhanced productivity.

Table 4.1C focuses on the labor income impact of crop farming. In agriculture, most of this labor income is in the form of proprietor income rather than compensation for wage and salary workers. Labor income is a key component of gross state product, implying that the labor income impact will be smaller than the GSP impact.

The total labor income impact of crop production in Nebraska was $2.60 billion in 2017. Irrigated corn and soybean production continue to account for approximately half of this economic impact. Once again, the next largest impacts were in nonirrigated soybeans and corn, followed by alfalfa hay, other hay, and wheat production.

Table 4.1C: 2017 Labor Income Impact of Crop Production Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Irrigated Corn	$230	$545	$775
Nonirrigated Corn	$110	$312	$423
Irrigated Soybeans	$295	$283	$578
Nonirrigated Soybeans	$275	$285	$561
Wheat	$15	$20	$35
Sorghum for Grain	$3	$8	$10
Sunflowers	$2	$1	$4
Dry Peas	$1	$1	$2
Proso Millet	$1	$1	$2
Oats	$0	$1	$1
Barley	$0	$0	$0
Sugar beets	$5	$7	$12
Edible Dry Beans	$7	$20	$27
Alfalfa	$40	$77	$117
Hay	$18	$34	$52
Total	$1,002	$1,596	$2,598

Source: Authors' calculations using IMPLAN.

Table 4.1D shows a similar pattern for the employment impact of crop production. The direct impact reflects employment of both proprietors and hired labor on farms which are primarily engaged in crop production. The direct impact does not include unpaid farm labor. The total employment impact including the multiplier is estimated at 88,936 employment positions in 2017.

Table 4.1D 2017 Employment Impact of Crop Production Industries			
Industry	Direct	Multiplier	Total
Irrigated Corn	17,980	12,172	30,152
Nonirrigated Corn	12,344	7,210	19,553
Irrigated Soybeans	6,660	5,776	12,436
Nonirrigated Soybeans	7,325	5,976	13,302
Wheat	1,806	512	2,318
Grain Sorghum	101	155	256
Sunflowers	30	29	58
Dry Peas	51	34	86
Proso Millet	74	20	94
Oats	22	10	33
Barley	1	2	4
Sugar Beets	151	158	309
Edible Dry Beans	286	411	697
Alfalfa	3,704	1,475	5,179
Hay	3,825	634	4,459
Total	54,362	34,574	88,936

Source: Authors' calculations using IMPLAN.

B. Statewide Economic Impact of Livestock Production in Nebraska

The livestock sector also has a considerable economic impact in Nebraska, with substantial production volume, as was noted in Chapter 3. Further, the industry has a broad base of economic impact. Some of that impact is within the agricultural production complex, such as the impact from livestock industry purchases of animal feed or transportation services. But much of the impact is on businesses and workers from all types of industries outside of the agricultural production complex. This section focuses on both the direct impact of the livestock industry as well as the multiplier impact that occurs outside of the agricultural production complex.

Table 4.2A shows the relationship between livestock industry sales, direct impact, and the multiplier impact. Results are shown for cattle production (including dairy cattle), hog production, milk production, and chicken and egg production, as well as for sheep and goat and equine production. These estimates, therefore, account for nearly all livestock production in Nebraska.

Table 4.2A: 2017 Economic Impact (Business Receipts) of Livestock Production Industries				
Industry	Total Value (Millions $)	Direct Impact (Millions $)	Multiplier (Millions $)	Total (Millions $)
Cattle (Beef and Dairy)	$10,642	$8,405	$5,963	$14,368
Milk	$288	$288	$124	$412
Poultry and Eggs	$194	$188	$53	$241
Hogs	$1,489	$1,455	$675	$2,130
Sheep and Goats	$12	$12	$5	$17
Equine	$16	$15	$7	$22
Total	$12,641	$10,363	$6,828	$17,191

Source: USDA-NASS (for sales) and authors' calculations using IMPLAN.

Data on sales comes from the 2017 Census of Agriculture (USDA). As was true with crop production, there is a difference between the direct impact and the value of production. Feeder cattle, feeder pigs, and chickens as well as breeding stock are a significant part of livestock industry production,= and are inputs purchased by cattle feeders, hog producers, and other livestock operations. For this reason, the direct impact is often significantly smaller than the total value of production, especially in the case of cattle. Overall, the total value of livestock production is $12.64 billion but final sales for livestock are $10.36 billion, or 92%. The multiplier impact outside of the agricultural production complex was $6.83 billion in 2017, or 66% as large as the direct impact. In other words, each $1 of livestock sales will yield $0.66 in additional final sales for Nebraska businesses outside of the agricultural production complex. We note, however, that the livestock industry also has a substantial economic impact within the agricultural production complex including crop producers, food processors, wholesalers, and transportation businesses. These impacts are not included in the multiplier impact in Table 4.2A.

As expected, the cattle industry accounts for most of the total economic impact of Nebraska livestock production. Cattle production had an annual economic impact of $14.37 billion in 2017, including a $5.96 billion multiplier impact on businesses and workers outside of the agricultural production complex. This represents 84% of the total economic impact of livestock production in Nebraska. Hog production is the next largest livestock industry with a total economic impact of $2.13 billion in 2017. Milk production had an estimated impact of $412 million in 2017 while the poultry and egg production industry had an estimated impact of $241 million. The economic impact from sheep and goat production and the equine sector is much less.

Table 4.2B shows the gross state product (value-added) impact of the livestock industry in Nebraska. The cattle industry continues to dominate, accounting for 79% of the total GSP impact of livestock production in Nebraska. Note also the GSP multiplier for the livestock industry. The GSP multiplier impact outside of the agricultural industrial complex is larger than the direct impact, showing the industry's strong impact on the balance of the Nebraska economy and that Nebraska farm income (a key component of direct value-added) was limited in 2017 for livestock producers. The GSP multiplier impact is $1.32 of additional value-added for every $1.00 of direct livestock value-added.

Table 4.2B: 2017 GSP (Value-added) Impact of Livestock Production Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Cattle (Beef and Dairy)	$1,699	$2,607	$4,307
Milk	$69	$74	$143
Poultry and Eggs	$32	$28	$59
Hogs	$532	$371	$903
Sheep and Goats	$4	$3	$7
Equine	$6	$4	$10
Total	$2,342	$3,087	$5,429

Source: Authors' calculations using IMPLAN.

Tables 4.2C and 4.2D show the labor market impacts of livestock production in Nebraska. The first table shows the labor income impact while the second table shows the total employment associated with that labor income. As with crop production, a large share of the direct labor income impact is proprietor income. The total labor income impact of livestock production was $3.08 billion in 2017, with 81% of the labor income impact attributed to cattle. Hogs had the second largest share of the labor income impact. Milk had a larger impact on labor income than poultry and eggs. Income impacts were smaller for sheep and goats and equine. Similar patterns hold for the employment impact of livestock production in Nebraska. The total employment impact was approximately 87,100 jobs in 2017, with 81% of the impact due to the cattle industry. Direct employment impacts were relatively large for sheep and goats and equine, due to proprietor employment on small operations. More generally, direct employment numbers capture proprietor and hired labor in the 2017 Census of Agriculture but do not include unpaid labor.

Table 4.2C: 2017 Labor Income Impact of Livestock Production Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Cattle (Beef and Dairy)	$1,020	$1,474	$2,494
Milk	$39	$41	$80
Poultry and Eggs	$17	$16	$33
Hogs	$256	$210	$466
Sheep and Goats	$2	$2	$4
Equine	$3	$2	$5
Total	$1,337	$1,745	$3,082

Source: Authors' calculations using IMPLAN.

Table 4.2D: 2017 Employment of Livestock Production Industries

Industry	Direct	Multiplier	Total
Cattle (Beef and Dairy)	36,379	33,855	70,235
Milk	993	797	1,790
Poultry and Eggs	889	336	1,226
Hogs	4,363	4,469	8,833
Sheep and Goats	1,354	36	1,390
Equine	3,620	47	3,667
Total	47,599	39,542	87,141

Source: Authors' calculations using IMPLAN.

C. Statewide Economic Impact of Agriculture-Related Manufacturing in Nebraska

Agriculture-related manufacturing includes food processing firms as well as agricultural input manufacturers that serve national and international markets such as implement manufacturers, agricultural building manufacturers, and biological, pharmaceutical, and botanic products firms. These manufacturing firms are a central component of the agricultural production complex in Nebraska. These manufacturers have collocated with Nebraska's large and productive crop and livestock production sector either as a processor of those abundant agricultural products, or as a key supplier that historically served the large farm industry of the Plains and Midwest.

The total value of production and direct impact of the agriculture-related manufacturing industry is listed in Table 4.3A. This distinction is necessary because some firms in these manufacturing industries buy supplies from firms within the same industry. Total value of production of the industries was $33.63 billion in 2017 while direct impact was $33.16 billion.

The total economic impact of the agriculture-related manufacturing industry was $42.79 billion in 2017, larger than the economic impact of the crop and livestock production sectors combined. As part of that total, agriculture-related manufacturers delivered a $10.63 billion multiplier impact. Animal slaughtering was by far the largest industry among agriculture-related manufacturers, generating an $18.87 billion impact in 2017, or 44% of the overall impact. Ethanol production, meat processed from carcasses, and farm machinery and equipment were the other key industries. Ethanol plants had a $4.12 billion impact on the Nebraska economy in 2017 while meat processed from carcasses had a $3.69 billion impact and farm machinery and equipment manufacturers had a $3.10 billion impact. Dog and cat food manufacturing had a $2.47 billion impact and botanicals, pharmaceuticals, and biological products had a $2.17 billion impact. While some firms in this industry produce non-agricultural products, most are focused on agriculture, and furthermore, agricultural markets were key to the foundation of many of these manufacturing facilities in the state. Two other food processing industries had over a $1 billion impact in 2017: animal food manufacturers and soybean processing facilities. The other food processing sector also had a combined economic impact of over $1 billion.

Table 4.3A: 2017 Economic Impact (Business Receipts) of Agriculture-Related Manufacturing Industries

Industry	Total Value (Millions $)	Direct Impact (Millions $)	Multiplier (Millions $)	Total (Millions $)
Food Processing				
Dog and Cat Food Manufacturing	$1,886	$1,884	$582	$2,466
Other Animal Food Manufacturing	$1,478	$1,473	$465	$1,938
Flour Milling	$464	$459	$211	$670
Malt Manufacturing	$32	$32	$17	$49
Soybean and Other Oilseed Processing	$1,286	$1,255	$356	$1,611
Fats and Oils Refining and Blending	$173	$171	$43	$215
Breakfast Cereal Manufacturing	$689	$689	$245	$933
Beet Sugar Manufacturing	$157	$157	$66	$223
Fluid Milk Manufacturing	$282	$267	$124	$391
Creamery Butter Manufacturing	$231	$221	$70	$290
Cheese Manufacturing	$25	$25	$7	$32
Dry, Condensed and Evaporated Dairy Product Manufacturing	$67	$67	$23	$90
Animal Slaughtering (Except Poultry)	$14,544	$14,287	$4,580	$18,867
Meat Processed From Carcasses	$2,623	$2,528	$1,165	$3,692
Rendering and Meat Byproduct Processing	$180	$174	$92	$265
Poultry Processing	$226	$221	$82	$303
All Other Food Manufacturing	$726	$721	$420	$1,141
Ethanol Production	$3,764	$3,764	$357	$4,121
Machinery, Structures and Pharmaceuticals				
Farm Machinery & Equipment	$2,161	$2,141	$955	$3,097
Plate Work and Fabricated Buildings	$153	$152	$75	$227
Botanical, Pharmaceutical, and Biological Products	$1,484	$1,468	$702	$2,170
Total	$32,630	$32,155	$10,638	$42,793

Source: Authors' calculations using IMPLAN.

Table 4.3B lists the GSP (value-added) impact for the agriculture-related manufacturing industries during 2017. GSP impacts are much smaller than the output impacts. This is because manufacturing industries use many intermediate supplies, food products, or other inputs. The GSP measure simply captures the value that is added to these intermediate products during manufacturing. As seen in Table 4.3B, the multiplier impact on GSP ($5.35 billion) is less than the direct GSP impact ($5.88 billion). One dollar of direct GSP would lead a $0.91 multiplier impact. The total GSP impact is $11.23 billion.

Note that this GSP impact of $11.23 billion exceeds the combined $10.0 billion GSP impact of the crop and livestock production industries. Animal slaughtering (except poultry) is the largest segment of the agriculture-related manufacturing industry. The total GSP impact of this animal slaughtering industry is $4.26 billion, or 38% of total impact.

Table 4.3B: 2017 GSP (Value-added) Impact of Agriculture-Related Manufacturing Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Food Processing			
Dog and Cat Food Manufacturing	$440	$323	$763
Other Animal Food Manufacturing	$163	$276	$438
Flour Milling	$63	$121	$184
Malt Manufacturing	$5	$10	$15
Soybean and Other Oilseed Processing	$52	$202	$255
Fats and Oils Refining and Blending	$13	$24	$37
Breakfast Cereal Manufacturing	$299	$133	$432
Beet Sugar Manufacturing	$40	$39	$79
Fluid Milk Manufacturing	$38	$63	$102
Creamery Butter Manufacturing	$31	$38	$69
Cheese Manufacturing	$1	$4	$6
Dry, Condensed and Evaporated Dairy Product Manufacturing	$8	$13	$21
Animal Slaughtering (Except Poultry)	$2,159	$2,105	$4,263
Meat Processed From Carcasses	$364	$548	$912
Rendering and Meat Byproduct Processing	$31	$44	$75
Poultry Processing	$42	$42	$85
All Other Food Manufacturing	$120	$235	$354
Ethanol Production	$475	$146	$621
Machinery, Structures and Pharmaceuticals			
Farm Machinery & Equipment	$659	$538	$1,197
Plate Work and Fabricated Buildings	$54	$42	$93
Botanical, Pharmaceutical, and Biological Products	$822	$404	$1,226
Total	$5,880	$5,352	$11,231

Source: Authors' calculations using IMPLAN.

The second largest agriculture-related industry in terms of GSP impact is botanical, pharmaceutical, and biological products, with a $1.23 billion GSP impact. Farm machinery and equipment is the third largest industry accounting for a $1.20 billion of the GSP impact. Meat processed from carcasses is the fourth largest.

Table 4.3C: 2017 Labor Income Impact of Agriculture-Related Manufacturing Industries

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Food Processing			
Dog and Cat Food Manufacturing	$96	$195	$291
Other Animal Food Manufacturing	$77	$158	$234
Flour Milling	$34	$70	$104
Malt Manufacturing	$2	$6	$8
Soybean and Other Oilseed Processing	$19	$112	$130
Fats and Oils Refining and Blending	$8	$14	$21
Breakfast Cereal Manufacturing	$78	$80	$158
Beet Sugar Manufacturing	$16	$25	$41
Fluid Milk Manufacturing	$25	$37	$62
Creamery Butter Manufacturing	$9	$21	$30
Cheese Manufacturing	$1	$3	$3
Dry, Condensed and Evaporated Dairy Product Manufacturing	$4	$8	$12
Animal Slaughtering (Except Poultry)	$1,170	$1,293	$2,462
Meat Processed From Carcasses	$259	$338	$597
Rendering and Meat Byproduct Processing	$28	$28	$56
Poultry Processing	$36	$26	$60
All Other Food Manufacturing	$89	$141	$229
Ethanol Production	$109	$125	$234
Machinery, Structures and Pharmaceuticals			
Farm Machinery & Equipment	$393	$321	$714
Plate Work and Fabricated Buildings	$37	$22	$62
Botanical, Pharmaceutical, and Biological Products	$153	$252	$405
Total	$2,640	$3,276	$5,915

Source: Authors' calculations using IMPLAN.

Table 4.3C and Table 4.3D show the 2017 labor income and employment impact of agriculture-related manufacturing. The total labor income impact was $5.92 billion in 2017, exceeding the combined labor income impact of the crop and livestock production.

The total employment impact of the agriculture-related manufacturing industry in 2017 was an estimated 100,437. This is less than the combined job impact of crop and livestock production (176,079), but manufacturing jobs are more likely to be full-time. The animal slaughtering (except poultry) industry accounted for 45% of employment. Farm machinery and equipment was the second largest industry followed by meat processed from carcasses and botanical, pharmaceutical and biological products.

Table 4.3D: 2017 Employment Impact of Agriculture-Related Manufacturing Industries

Industry	Direct	Multiplier	Total
Food Processing			
Dog and Cat Food Manufacturing	1,377	3,356	4,733
Other Animal Food Manufacturing	1,226	2,625	3,851
Flour Milling	375	1,190	1,565
Malt Manufacturing	19	88	107
Soybean and Other Oilseed Processing	271	1,808	2,079
Fats and Oils Refining and Blending	112	231	342
Breakfast Cereal Manufacturing	712	1,402	2,114
Beet Sugar Manufacturing	261	383	643
Fluid Milk Manufacturing	376	643	1,019
Creamery Butter Manufacturing	133	345	487
Cheese Manufacturing	29	41	71
Dry, Condensed and Evaporated Dairy Product Manufacturing	48	126	174
Animal Slaughtering (Except Poultry)	21,121	24,176	45,297
Meat Processed From Carcasses	4,968	6,077	11,045
Rendering and Meat Byproduct Processing	354	476	830
Poultry Processing	752	498	1,250
All Other Food Manufacturing	2,056	2,398	4,454
Ethanol Production	1,453	1,327	2,780
Machinery, Structures and Pharmaceuticals			
Farm Machinery & Equipment	4,989	6,081	11,071
Plate Work and Fabricated Buildings	527	505	1,032
Botanical, Pharmaceutical, and Biological Products	1,395	4,109	5,504
Total	42,554	57,882	100,437

Source: Authors' calculations using IMPLAN.

D. Statewide Economic Impact of Agriculture-Related Transportation and Wholesaling in Nebraska

Nebraska has large transportation and wholesaling sectors. This results in large part from agriculture-related activities. In particular, trucking and rail businesses haul Nebraska agricultural inputs and products around the country and also within the state. Agriculture also is related to specific segments of the wholesale industry. Specifically, farm suppliers and merchandisers and farm implement dealers are a key part of Nebraska wholesaling.

Table 4.4 lists the total economic impact of agriculture-related transportation and wholesaling, as well as the total GSP impact, and the total labor income and employment impacts. These total estimates were calculated using the same basic methodology used in the previous three sections. Summary total impact results are presented here for brevity. Detailed impacts are available in Appendix 1.

The total economic impact was $7.21 billion in 2017, with truck transportation accounting for the largest share of this impact, followed by farm suppliers and merchandisers. The GSP impact is $4.37 billion, including $2.68 billion in labor income. This labor income impact was sufficient to support 42,264 jobs.

Table 4.4: 2017 Economic, GSP (Value-added), Labor Income, and Employment Impact of Agriculture-Related Transportation and Wholesaling

Industry	Output (Millions $)	GSP (Millions $)	Labor Income (Millions $)	Employment (Millions $)
Farm Supply and Merchandising	$1,619	$1,093	$617	8,283
Truck Transportation	$3,737	$1,969	$1,318	24,016
Rail Transportation	$434	$304	$156	1,574
Equipment Dealers	$1,421	$1,005	$591	8,390
Total	$7,211	$4,371	$2,682	42,264

Source: Authors' calculations using IMPLAN.

E. Statewide Economic Impact of Agri-Tourism in Nebraska

Agricultural tourism (or agri-tourism) is an industry that some agricultural producers choose to engage in to grow or diversify their income. Agri-tourism can include leasing land for hunting, birding, or other on-farm recreation activities or hosting events such as fruit or vegetable harvesting opportunities, agricultural festivals, or themed events (such as pumpkin farms at Halloween and other entertainment venues).

The IMPLAN model reports the share of farm and ranch revenue that comes from providing “other recreation services,” in other words, from agri-tourism. In Nebraska, the largest share of revenue from “other recreation services” occurs on grain farms, and the total annual revenue was $85 million during 2017. Table 4.5 below shows the economic, GSP, labor income, and employment impact of such on-farm agri-tourism activity in 2017, based on this $85 million in revenue. Details on both the direct economic impact and the multiplier impact are provided. The total annual economic impact of agri-tourism in 2017 was $148 million. In terms of gross state product, the total impact was $80 million, including $47 million in labor income. This labor income was sufficient to support an estimated 1,865 Nebraska jobs during 2017.

Table 4.5: 2017 Economic, GSP, Labor Income and Employment Impact of Agri-Tourism

Measure	Direct	Multiplier	Total
Output (Business Receipts ($ Millions)	$85	$63	$148
GSP ($ Millions)	$44	$37	$80
Labor Income ($ Millions)	$28	$19	$47
Employment	1,435	430	1,865

Source: Authors’ calculation and IMPLAN.

F. Summary of the Statewide Economic Impact of the Agricultural Production Complex

The proceeding sections summarized the 2017 economic impact on Nebraska from crop and livestock production and the agriculture-related manufacturing, transportation, wholesale, and agri-tourism sectors. The combined annual economic impacts across all five of these industry groups is summarized below in Table 4.6. Table 4.7 compares these combined impacts from the agricultural production complex to the aggregate Nebraska economy. For internal consistency, values for statewide aggregates were taken from the IMPLAN model, even though those IMPLAN model estimates may differ somewhat from estimates for 2017 Nebraska GSP, labor income, or employment developed by U.S. government statistical agencies. IMPLAN estimates for crop and livestock sectors, and therefore state aggregate values, were adjusted to match values developed based on the 2017 Census of Agriculture.

The agriculture production complex was found to have a combined economic impact on output of $81.78 billion in 2017. Sixty-eight percent of that impact, or $55.55 billion, was the direct output of businesses in the complex, while the remaining 32%was the multiplier impact on other Nebraska industries. As seen in Table 4.7, the total impact of $81.78 billion is 33.9%of the total output of the Nebraska economy.

The output of the Nebraska economy includes both the value of purchased inputs (including those purchased out of state) plus the value added to those inputs by Nebraska businesses. Gross state product, by contrast, focuses on value-added. As seen in Table 4.6, the total gross state product impact of the agricultural production complex was $25.70 billion in 2017. Forty-eight percent of that impact was due to the direct value-added in the agricultural production complex with the remainder of the impact on other industries in Nebraska. As seen in Table 4.7, the gross state product impact of the agricultural production complex was 21.6%of total gross state product in 2017. In short, on the basis of this metric, the complex accounts for between one-fifth and one-quarter of the Nebraska economy.

Table 4.6: 2017 Economic Impact of the Agriculture Production Complex in Nebraska

	Output (Business Receipts) (Millions $)		Gross State Product (Value-added) (Millions $)		Labor Income (Millions $)		Employment	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Crops	$8,747	$14,434	$1,469	$4,590	$1,002	$2,598	54,362	88,936
Livestock	$10,363	$17,191	$2,342	$5,429	$1,337	$3,082	47,599	87,141
Agriculture-Related Manufacturing	$32,155	$42,793	$5,880	$11,231	$2,640	$5,915	42,544	100,437
Transportation and Wholesaling	$4,197	$7,212	$2,614	$4,371	$1,653	$2,683	20,988	42,264
Agri-Tourism	$85	$148	$44	$81	$28	$47	1,435	1,865
Total	$55,547	$81,777	$12,349	$25,701	$6,661	$14,325	166,939	320,642

Source: Authors' calculation and IMPLAN.

Table 4.7: The Agricultural Production Complex's Share of the 2017 Nebraska Economy

	Output (Millions $)	Gross State Product (Value-added) (Millions $)	Labor Income (Millions $)	Employment
Impact of Agricultural Production Complex	$81,777	$25,701	$14,325	320,642
Nebraska Total	$240,916	$119,182	$71,943	1,375,294
Percentage	33.9%	21.6%	19.9%	23.3%

Source: Authors' calculation and IMPLAN.

Labor income is the largest component of gross state product. The labor income impact of the agriculture production complex was $14.33 billion in 2017. Labor income includes wages, salaries, benefits, and proprietor's income. Forty-six percent of the labor income impact was income earned at businesses in the complex with the remaining income earned in other industries. The labor income impact was 19.9% of the total labor income in Nebraska. The total employment impact of the agricultural production complex was estimated to be 320,642 jobs in 2017**,** or 23.3% of total Nebraska employment. The employment share exceeds the labor income share since some farm proprietor's run small operations and farm income was low overall in Nebraska during the year 2017.

Chapter 5

Sub-State Economic Impact

Statewide analysis portrayed Nebraska's agricultural production complex as a large and diverse set of inter-related industries that account for 23.3% of the state's employment and 21.6% of its gross state product. This diversity (and economic significance) is also evident in the sub-state regional economies, and in several instances, is even more profound. The agricultural production complexes in the Northeast, South, and Southeast regions are quite diverse, showing the types of inter-related crop, livestock, agriculture-related manufacturing, transportation, and wholesaling industries that are found at the state level. Other regions are more specialized with a smaller set of collocated manufacturing industries. Western regions are more focused on livestock production, and the production of wheat, sugar beets, and dry beans.

Given this diversity, the current chapter examines the economic impact of the agricultural production complex within each of eight different sub-state regions of the Nebraska economy (Figure 5.1), utilizing the delineation of the agricultural statistics districts for the state as defined by the National Agricultural Statistics Service. The analysis focuses on production within each region, treating economic activity in other parts of the state as external. Sub-state economic multipliers are utilized rather than the state economic multipliers used in Chapter 4. This approach allows an estimate of the share of each sub-state economy accounted for by the agricultural production complex.

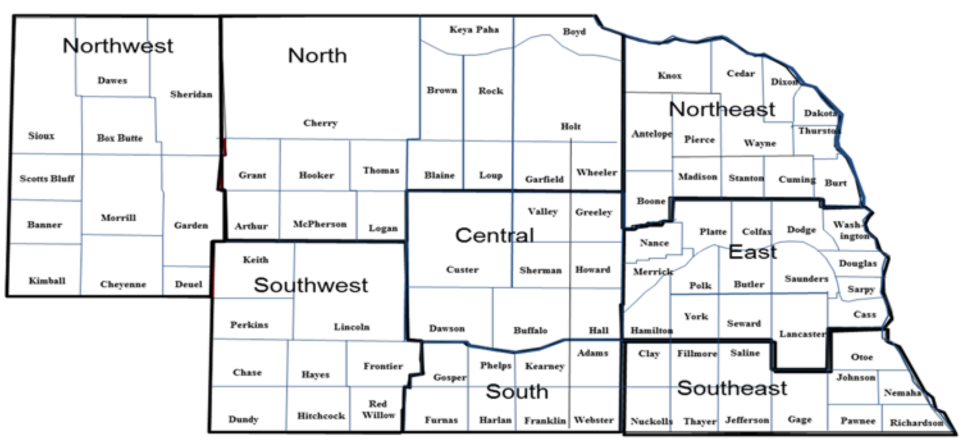
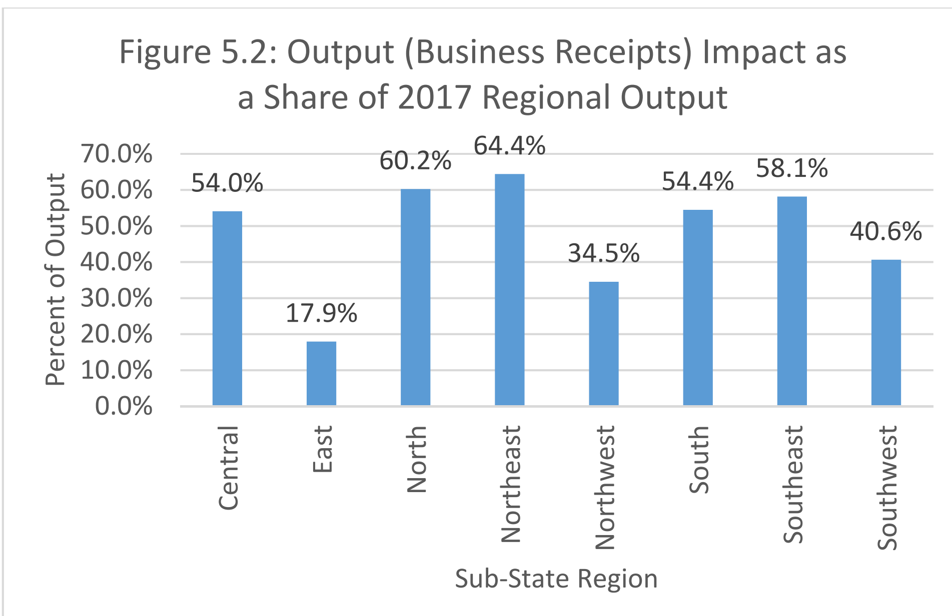


Figure 5.1 Nebraska Sub-State Economic Regions

Table 5.1 shows the direct and total output for each of the six components of the agricultural production complex in each region. Figure 5.2 shows the economic impact of the agricultural production complex as a share of total output in each region. The total output measure includes intermediate goods purchased as well as the gross product produced within the region.[2] As a result, the output measure of economic impact is a less precise measure of the economic activity that occurs within the regional economy. The gross regional product (i.e., gross state product for a region), labor income, and employment impact measures all provide a more accurate picture. Still, the output results are striking. The total economic impact of the agricultural production complex accounts for over 64% of the total output of the Northeast Nebraska region. The output share is also above 60% in the North region and above 50% in the Central, South, and Southeast regions.



[2] As is true at the state level, the total output impact does not include intermediate goods purchased from other agricultural production complex businesses from in the region.

Table 5.1: 2017 Economic Impact of Agriculture in Nebraska -- Output (Business Receipts) by Region (Millions $)

	Central		East		North		Northeast		Northwest		South		Southeast		Southwest	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Crops	$970.5	$1,409.0	$2,092.6	$3,663.8	$432.5	$543.6	$1,676.7	$2,258.9	$517.3	$708.0	$876.1	$1,186.4	$1,419.1	$1,852.1	$762.7	$1,011.0
Livestock	$1,587.5	$2,234.1	$1,620.7	$2,403.7	$1,107.1	$1,678.7	$2,374.0	$3,311.1	$931.8	$1,519.4	$998.3	$1,473.2	$638.7	$806.8	$1,104.9	$1,529.8
Agriculture-Related Manufacturing	$5,959.9	$7,148.3	$14,136.9	$18,889.2	$228.7	$257.2	$5,349.1	$6,342.4	$488.0	$604.3	$1,351.9	$1,567.3	$4,201.1	$4,721.4	$439.1	$498.7
Transportation and Wholesaling	$637.8	$985.6	$1,556.3	$2,750.3	$204.6	$273.0	$813.4	$1,138.9	$210.2	$309.4	$234.0	$327.1	$312.9	$416.5	$227.8	$326.9
Agri-Tourism	$11.5	$17.4	$15.9	$29.3	$7.2	$9.6	$17.9	$24.9	$7.0	$9.9	$8.4	$11.5	$8.3	$10.8	$8.7	$12.1
Total	$9,167.2	$11,794.4		$27,736.3		$2,762.2		$13,076.2		$3,150.9		$4,565.5		$7,807.7		$3,378.5
Region Total		$21,824.9		$154,929.3		$4,585.4		$20,313.0		$9,126.7		$8,385.1		$13,432.3		$8,319.5
Percentage		**54.0%**		**17.9%**		**60.2%**		**64.4%**		**34.5%**		**54.4%**		**58.1%**		**40.6%**

Table 5.2 presents the economic impact estimates for major crop and livestock categories in each of the eight agricultural regions. Results show that corn and cattle are a focus of agricultural production across the eight agricultural regions. Production of other crops and livestock shows a more regional nature.

Central Nebraska exhibits a production pattern which is similar to the eastern regions of the state. South Nebraska also features a dual emphasis on corn and soybean production but has less hog production than areas to the east. Wheat production also is more common in the South region.

Another regional pattern is the concentration of soybean production and hog production in the eastern third of the state, as is evident in Northeast, East, and Southeast regions. Recent increases in poultry production in eastern Nebraska were not in place during 2017.

Western regions reflect a greater reliance on wheat and grain sorghum production but less hog production. Beef production is an even greater focus in these regions. Increased beef production is associated with a focus on raising alfalfa and hay products in the North region. The Northwest and Southwest regions exhibit even greater diversity. Nebraska's production of dry beans and sugar beets are concentrated in these two regions. More generally, Northwest Nebraska is the most diversified crop production region within the state of Nebraska.

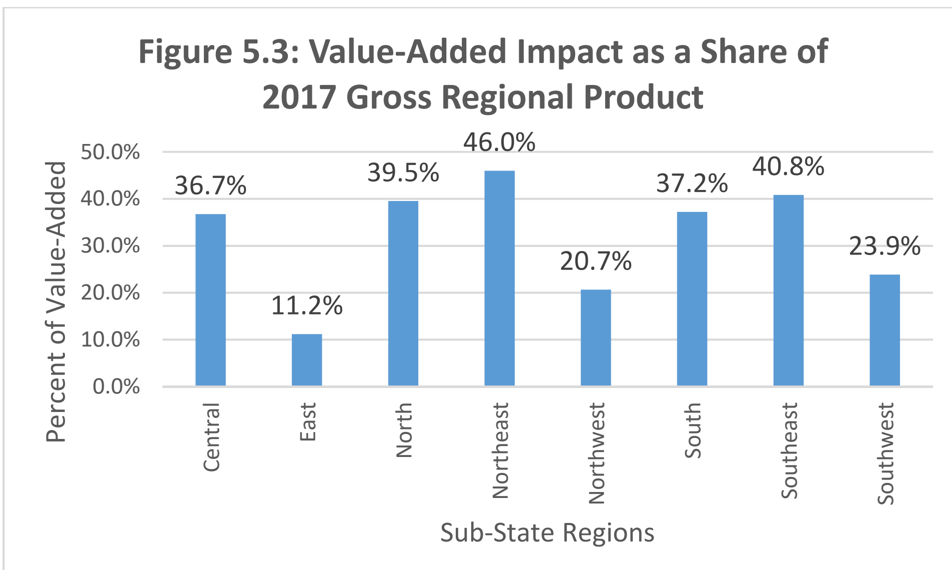
Table 5.2: 2017 Economic Impact of Agriculture in Nebraska -- Output (Business Receipts) by Region and by Crop and Livestock (Millions $)

	Central		East		North		Northeast		Northwest		South		Southeast		Southwest	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Irrigated Corn	$577.2	$823.9	$670.0	$1,134.8	$179.6	$223.0	$424.4	$555.0	$185.1	$251.9	$421.2	$566.9	$375.3	$483.2	$370.5	$487.8
Nonirrigated Corn	$78.3	$115.3	$547.8	$979.9	$31.2	$39.6	$519.7	$698.0	$38.1	$53.1	$133.7	$181.6	$421.7	$552.8	$149.2	$201.0
Irrigated Soybeans	$200.0	$293.5	$373.9	$650.6	$69.7	$88.8	$248.2	$336.2	$4.8	$6.8	$208.5	$284.0	$222.6	$289.9	$89.9	$122.8
Nonirrigated Soybeans	$38.8	$57.9	$455.8	$816.3	$20.4	$26.3	$407.8	$559.7	$1.0	$1.3	$67.2	$91.9	$360.5	$474.5	$11.0	$15.2
Wheat	$2.3	$3.0	$2.2	$3.3	$2.1	$2.4	$0.6	$0.7	$66.2	$82.0	$15.9	$19.8	$8.9	$10.6	$61.4	$74.0
Grain Sorghum	$2.4	$3.2	$3.4	$5.9	$1.7	$2.1	$0.7	$0.9	$3.9	$5.2	$6.8	$8.9	$6.1	$7.8	$17.5	$22.7
Sugar Beets	$0.3	$0.4	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$42.4	$59.5	$0.0	$0.0	$0.0	$0.0	$0.3	$0.4
Dry Beans	$0.0	$0.0	$0.0	$0.0	$4.7	$6.2	$0.9	$1.2	$72.1	$103.6	$0.0	$0.0	$0.0	$0.0	$14.5	$20.1
Alfalfa	$59.9	$94.6	$32.6	$60.8	$42.6	$54.1	$65.8	$95.1	$61.2	$87.5	$17.1	$25.2	$16.4	$22.8	$24.4	$34.6
Other Hay	$10.7	$16.3	$6.5	$11.7	$79.7	$100.1	$7.0	$9.9	$21.8	$30.5	$4.9	$7.1	$7.2	$10.0	$16.6	$23.0
Cattle	$1,437.8	$2,037.1	$1,012.7	$1,522.6	$979.7	$1,519.8	$1,816.0	$2,604.2	$827.1	$1,379.0	$921.3	$1,373.7	$365.9	$475.1	$1,044.0	$1,452.1
Milk	$9.0	$11.9	$77.0	$115.0	$22.6	$26.9	$112.5	$141.5	$10.8	$14.1	$14.3	$18.1	$34.6	$41.9	$7.2	$9.0
Poultry	$15.9	$18.9	$59.7	$75.7	$6.9	$7.8	$42.9	$53.2	$8.3	$9.9	$1.6	$1.9	$44.8	$51.5	$8.0	$9.2
Hogs	$121.0	$161.2	$465.8	$682.3	$94.8	$120.4	$399.4	$508.1	$81.9	$111.4	$59.3	$77.4	$189.3	$233.4	$43.7	$56.8

Table 5.3: 2017 Economic Impact of Agriculture in Nebraska – Gross Regional Product (Value-Added) by Region (Millions $)

	Central		East		North		Northeast		Northwest		South		Southeast		Southwest	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Crops	$150.0	$374.9	$376.4	$1,305.5	$74.6	$123.6	$303.6	$597.5	$66.4	$157.5	$143.4	$291.3	$258.8	$460.7	$95.4	$212.3
Livestock	$341.2	$624.5	$405.5	$840.1	$240.5	$427.9	$548.5	$923.7	$202.5	$434.1	$212.3	$391.7	$160.5	$230.3	$230.9	$402.2
Agriculture-Related Manufacturing	$961.4	$1,500.4	$3,073.8	$5,715.2	$25.9	$39.8	$804.3	$1,222.4	$84.1	$148.2	$154.5	$249.9	$714.1	$947.0	$61.3	$90.0
Transportation and Wholesaling	$389.6	$577.7	$946.5	$1,660.7	$136.5	$169.4	$482.9	$656.8	$140.1	$194.4	$159.7	$207.9	$204.4	$257.0	$154.7	$207.8
Agri-Tourism	$6.0	$9.1	$8.3	$16.3	$3.7	$4.9	$9.3	$13.1	$3.6	$5.2	$4.4	$5.9	$4.3	$5.6	$4.5	$6.3
Total		$3,086.6		$9,537.8		$765.5		$3,413.5		$939.3		$1,146.7		$1,900.5		$918.6
Region Total		$8,399.6		$85,285.4		$1,937.3		$7,424.1		$4,547.8		$3,080.7		$4,655.8		$3,851.0
Percentage		**36.7%**		**11.2%**		**39.5%**		**46.0%**		**20.7%**		**37.2%**		**40.8%**		**23.9%**

Table 5.3 shows the direct and total impact of the agricultural production complex in terms of gross regional product. Figure 5.3 shows shares of gross regional product for each region. This provides a truer measure of the share of the economy in each sub-state region that is the impact of the agricultural production complex. The largest total dollar impact is found in the East region, at $9.54 billion in 2017. However, as a share of the overall regional economy, the agricultural production complex accounts for just 11.2 % of the gross regional product of the more metropolitan East region. While much of the impact in the East region is due to the large agriculture-related manufacturing industry, it is worth noting that the economic impact of the crop production sector is larger in the East than in any other region.



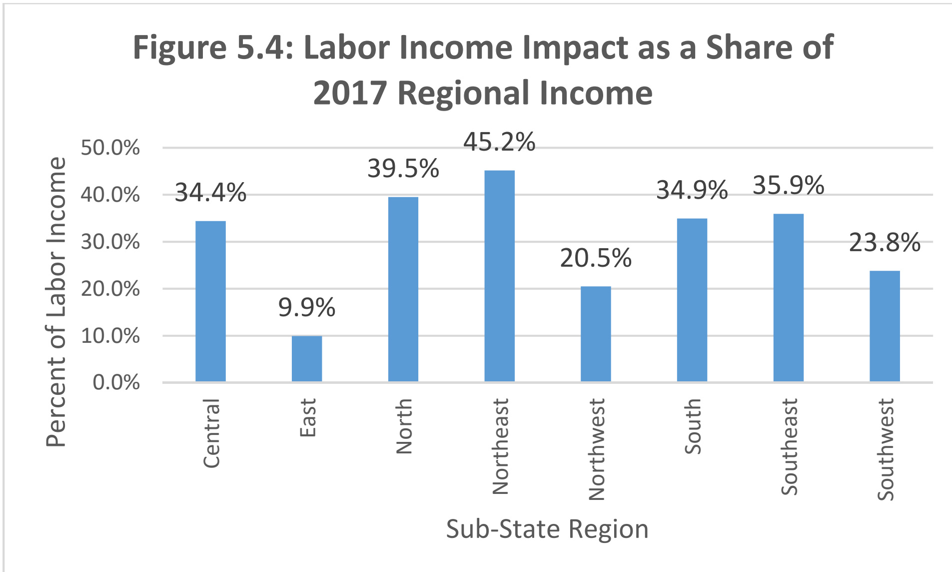
The next largest impact from the crop production sector is found in the Northeast region. The Northeast region also has the largest gross regional product impact from the livestock sector, and the third largest impact from the agriculture-related manufacturing sector. In other words, the Northeast region has the same type of large, diverse agricultural impacts that are found in the East region. Though the impact in the Northeast region is smaller than the East region in terms of absolute gross regional product, the impact is much larger in terms of share of the economy. The gross regional product impact of the agriculture production complex is 46.0 % of the gross regional product of the Northeast region economy. In other words, nearly half of the regional economy is due to agriculture and closely related industries.

The impact from the agriculture production complex accounts for 36.7% of the economy of the Central region. Much of that impact is due to the large agriculture-related manufacturing sector, but there is also a large crop and livestock impact in the region. In terms of magnitude, the Central region has the third largest impact from the agricultural production sector, at $3.09 billion in 2017.

The dollar value of the impact is smaller in the remaining five regions. These regions tend to have significantly smaller agriculture-related manufacturing sectors. The gross regional product impact is $1.90 billion in the Southeast, $1.15 billion in the South, $0.94 billion in the Northwest, $0.92 billion in the Southwest and $0.77 billion in the North. However, the agricultural production complex remains a large share of the gross regional product in most of those regions. The complex accounts for 37.2% of gross regional product in the South region, 40.8% in the Southeast and 39.5% in the North region, Overall, then, the gross regional product impact of the agricultural production complex accounts for 35% of the economy or more in five of the eight Nebraska regions. Shares are smaller in the Southwest (23.9%) and Northwest region (20.7%). Both of these regions have relatively little agriculture-related manufacturing activity. Apparently, the total output of crop and livestock products in these regions is not large or concentrated enough to attract a large set of collocating processors.

Similar patterns are observed for labor income, though the agricultural production complex accounts for a smaller share of labor income in most regions. Relevant data are presented in Table 5.4 and Figure 5.4. The complex accounts for more than 45% of income in the Northeast region and more than 34% in the Central, South, Southeast and North regions. The income impact was $5.1 billion in 2017 in the East region but this large figure accounts for just one-tenth of total income in this metropolitan region.

These broad patterns may often differ from perceptions about agriculture which are found in Nebraska. It is often surprising to metropolitan residents that the agricultural production complex accounts for such a large share of the economy, such as between one-fifth and one-quarter of the economy, as estimated in this report, while among non-metropolitan residents, it can be surprising that the agricultural production complex does not account for an even larger share of the regional and state economy.



As seen in Table 5.5 and Figure 5.5, the employment impact follows the same patterns as the labor income impact, though employment impacts are generally larger as a share of the economy. This is for two reasons. First, farm proprietor incomes were relatively weak in 2017. Second, there are a large number of part-time and seasonal job opportunities on farms and ranches, implying employment counts which are large relative to labor income. The employment impact of the complex was approximately 95,900 jobs in the East region and between 43,000 to 50,000 jobs in the Central and Northeast. The impact of the complex accounted for 54.2% of employment in the North, 47.8% in the Northeast, and between 34% and 39% in the Central, South, Southeast, and Southwest regions. The complex accounted for just 28.3% of employment in the Northwest and just 10.7% in the East.

Table 5.4: 2017 Economic Impact of Agriculture in Nebraska – Labor Income by Region (Millions $)

	Central		East		North		Northeast		Northwest		South		Southeast		Southwest	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Crops	$104.7	$228.7	$255.0	$721.8	$48.7	$74.6	$203.9	$357.4	$46.2	$101.3	$99.6	$187.6	$174.6	$280.6	$69.8	$132.2
Livestock	$199.2	$358.8	$221.7	$471.1	$139.8	$242.8	$310.4	$515.2	$117.7	$246.2	$124.7	$231.9	$87.2	$124.9	$136.5	$229.4
Agriculture-Related Manufacturing	$498.5	$802.0	$1,277.5	$2,914.9	$10.9	$18.2	$424.6	$671.9	$39.1	$75.1	$65.8	$120.2	$296.7	$422.3	$26.5	$41.7
Transportation and Wholesaling	$250.3	$360.5	$604.6	$1,023.8	$82.8	$101.8	$314.8	$416.2	$86.2	$118.7	$96.0	$125.2	$125.1	$155.7	$93.6	$124.9
Agri-Tourism	$3.8	$5.5	$5.3	$9.4	$2.4	$3.0	$5.9	$7.9	$2.3	$3.1	$2.8	$3.7	$2.7	$3.4	$2.9	$3.8
Total		$1,755.5		$5,141.0		$440.4		$1,968.5		$544.4		$668.5		$986.9		$532.1
Region Total		$5,103.8		$51,807.9		$1,114.7		$4,359.3		$2,659.3		$1,914.3		$2,746.7		$2,237.4
Percentage		**34.4%**		**9.9%**		**39.5%**		**45.2%**		**20.5%**		**34.9%**		**35.9%**		**23.8%**

Table 5.5: 2017 Economic Impact of Agriculture in Nebraska Employment By Region

	Central		East		North		Northeast		Northwest		South		Southeast		Southwest	
Industry	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Crops	5,885	9,162	12,064	21,542	4,159.8	4,999.1	10,036	13,964	3,806.5	5,195.0	5,085.3	7,373.5	8,287.1	11,381.2	5,037	6,936
Livestock	7,453	11,878	7,362	12,519	5,282.7	8,574.0	10,158	15,553	4,618.3	7,955.8	4,488.9	7,326.3	3,090.0	4,214.7	5,146	7,801
Agriculture-Related Manufacturing	9,022	16,361	18,635	45,493	240.1	412.6	7,261	12,622	696.2	1,349.6	1,181.6	2,291.8	5,053.2	8,619.3	466	876
Transportation and Wholesaling	3,280	6,090	7,864	16,000	951.6	1,570.0	4,246	6,892	1,021.0	1,799.4	1,079.6	1,857.8	1,477.6	2,387.1	1,068	1,895
Agri-Tourism	195	242	269	357	121.4	142.0	302	355	117.6	140.6	142.6	168.2	140.3	161.5	148	174
Total		43,732.9		95,911.2		15,697.6		49,387.6		16,440.4		19,017.6		26,763.8		17,683.2
Region Total		122,302.9		892,294.8		28,938.2		103,316.3		58,139.7		49,072.2		69,268.9		51,961.4
Percentage		**35.8%**		**10.7%**		**54.2%**		**47.8%**		**28.3%**		**38.8%**		**38.6%**		**34.0%**

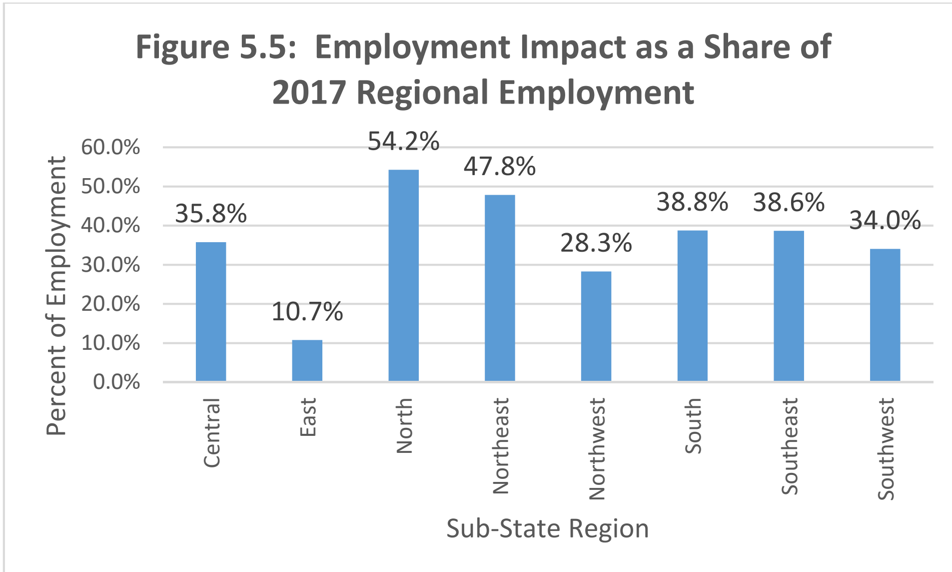


Figure 5.5: Employment Impact as a Share of
2017 Regional Employment
Percent of Employment
60.0%
50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
35.8%
10.7%
54.2%
47.8%
28.3%
38.8%
38.6%
34.0%
Central
East
North
Northeast
Northwest
South
Southeast
Southwest
Sub-State Region

Chapter 6
Conclusions and Implications

This study examines the economic impact of Nebraska's agricultural production complex during 2017, the year of the most recent agricultural Census. The complex includes the production, processing, wholesaling, and transportation of agricultural goods. The complex gains a number of advantages from operating in Nebraska including (1) a rich and diverse natural resource endowment conducive to agricultural production; (2) skilled human capital and management tapping the efficiency gains of modern technology and production science; (3) a centralized location with good transportation infrastructure; and (4) a synergistic system of both crop and livestock enterprises together with related industries.

To understand Nebraska's agricultural production complex, it is useful to first consider the economic activity directly generated and then the basic contribution of the complex in supporting many other businesses and industries which contribute to the state's economy.

In terms of direct economic activity generated by the agricultural production complex in 2017:

- Total dollar volume (business receipts) was $55.55 billion in 2017—23.1% of Nebraska's total activity
- Total gross state product (value-added) was $12.35 billion—10.4% of the state's total gross state product
- Direct employment in the complex was over 166,900 Nebraskans—12.1% of the Nebraska workforce
- Wages, benefits, and proprietor income earned in direct employment totaled $6.66 billion—9.3% of Nebraska labor income

The total economic impact of the agricultural production complex includes a multiplier impact as well as these direct impacts. The multiplier impact refers to the spillover of new sales, employment, and other economic activity to businesses outside of the complex.

- Total dollar volume (business receipts) was $81.78 billion—33.9% of the state's total activity
- Total GSP (value-added) was $25.70 billion—21.6% of Nebraska's total gross state product
- Employment generated totaled 320,600 jobs—23.3% of the Nebraska workforce
- Total wages and proprietor's income were $14.33 billion—19.9% of the State's labor income

The above state-level metrics for the 2017 calendar year show that the agricultural production complex is a key driving force for the Nebraska economy. The predominance of agricultural complex is even larger in many of the sub-state regions of Nebraska.

- The total impact of agricultural production complex accounts for 46.0%of gross value-added in the Northeast region of Nebraska.
- The impact of the complex accounts for more than 35%of gross regional product in 4 other regions, Central, South, Southeast and North Nebraska.
- The impact of the complex accounts 23.9%of gross regional product in Southwest Nebraska, 20.7%in Northwest Nebraska and 11.2%in East Nebraska.

Total impacts reflect that the agricultural production complex is a basic industry which spills over significantly into the rest of the state's economy. In fact, the economic multipliers calculated in this analysis suggest that these spillover effects result in direct economic effects being more than doubled for gross state product and labor income, and nearly doubled for employment. This occurred even in a year such as 2017, when commodity prices were low and farm incomes were modest. One implication is that while farm incomes may be volatile, agricultural-related manufacturing, transportation, and wholesaling are more stable, as are multiplier impacts for businesses and workers outside of the production complex.

The importance of the greater agricultural production complex to the state reinforces the importance of sustaining and growing both the production agriculture sector and the broader ag-related business sector. Farm income and farm productivity are critical to the viability of the production agriculture sector. Similarly, farm productivity and production are vital to drive the broader sector and generate the added value that helps make agriculture a key component of the state's economy. Investments in research and development that support continued growth in agricultural productivity and a policy environment that facilitates agricultural production and related manufacturing activity are both important for the future success of Nebraska's agricultural production complex.

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Appendix 1

Table A.1.4.4A: 2017 Economic Impact (Business Receipts) of Agriculture Related Transportation and Wholesaling

Industry	Total Value (Millions $)	Direct Impact (Millions $)	Multiplier (Millions $)	Total (Millions $)
Farm Supply and Merchandising	$961	$961	$658	$1,619
Truck Transportation	$2,122	$2,122	$1,615	$3,737
Rail Transportation	$296	$296	$138	$434
Equipment Dealers	$819	$819	$602	$1,421
Total	**$4,197**	**$4,197**	**$3,014**	**$7,211**

Table A.1.4.4B: 2017 GSP (Value-Added) Impact of Agriculture-Related Transportation and Wholesaling

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Farm Supply and Merchandising	$710	$383	$1,093
Truck Transportation	$1,021	$948	$1,969
Rail Transportation	$227	$77	$304
Equipment Dealers	$657	$348	$1,005
Total	**$2,614**	**$1,756**	**$4,371**

Table A.1.4.4C: 2017 Labor Income Impact of Agriculture-Related Transportation and Wholesaling

Industry	Direct (Millions $)	Multiplier (Millions $)	Total (Millions $)
Farm Supply and Merchandising	$397	$221	$617
Truck Transportation	$757	$561	$1,318
Rail Transportation	$110	$46	$156
Equipment Dealers	$390	$201	$591
Total	**$1,653**	**$1,030**	**$2,683**

Table A.1.4.4D: 2017 Employment Impact of Agriculture-Related Transportation and Wholesaling

Industry	Direct	Multiplier	Total
Farm Supply and Merchandising	3,613	4,670	8,283
Truck Transportation	12,666	11,350	24,016
Rail Transportation	601	973	1,574
Equipment Dealers	4,109	4,281	8,390
Total	**20,988**	**21,376**	**42,264**

Testimony HB1371

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Testimony in Opposition for HB 1371

Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee. I am here today to deliver testimony on behalf of the members of Dakota Resource Council.

Dakota Resource Council is a family farm and conservation organization. We were founded in 1978 by farmers and ranchers that wanted to protect their way of life and interests in the face of widespread energy development, but at the heart of it, we've always stood to protect family farms. Dakota Resource Council opposes HB 1371 because the bill opens North Dakota to industrialized corporate agriculture.

It's been said time and time again that we lag behind our neighbors in animal agriculture and the governor appears to have a 5 year plan for developing an entire animal livestock industry. But I have yet to hear the stress this will bring to our state and communities.
Please consider the consequences of passing HB1371:

Communities and Family Farms aren't ready for Industrial Agriculture

Let's start out with the narrative that South Dakota, Minnesota and Nebraska are "kicking our butts" in livestock production. It seems to be implied that South Dakota didn't allow corporate farming and then when they did it supercharged their industry. I will get to this a bit further in my testimony but South Dakota already had 1.3 million pigs on around 1500 farms in 2002 before their law was put into place. It is extremely clear that there are other reasons that North Dakota doesn't have livestock, cold weather, lack of processing, and high transportation costs.

We currently have 169,000 hogs in the State of North Dakota. If we wanted to crack the top 15 we'd need about a million pigs, to get to 10 we'd have to add around 2 million pigs to beat South Dakota, 3.5 million to beat Nebraska, and 7.5 million if we wanted to beat Minnesota. But what do those numbers mean? The population of North Dakota is around 774 thousand people for comparison.

Pigs excrete an average of 11 pounds[1] of manure and urine every day. A CAFO that houses 5,000 pigs is comparable to a town that houses 50,000 humans, a greater population than all but 3 cities in North Dakota. Iowa, that has a human population of 3 million, has a hog population that produces sewage that would be produced by 168 million people, nearly half the population of the United States. In ND, CAFO's and their wastes will most likely be concentrated in the east because the western counties don't have the infrastructure that allows the hog or turkey farms to be most profitable. So it will be the eastern side of the state taking all of the pollution while a portion of the profit leaves the state.

Look no further than a state like Iowa, which has massive corporate hog farms to see the result of corporate agriculture. Des Moines, Iowa's most populous city recently had to spend millions of dollars to clean up its drinking water after it was contaminated by manure spreading and runoff from corporate agriculture operations[2]. The Iowa Department of Resources had to defend itself against Des Moines who tried to sue for damages to the Raccoon River. Many of our communities, like Valley City, Fargo, and Grand Forks rely directly on river water for drinking and CAFO runoff will cost our local governments millions of dollars to ensure there is clean drinking water for humans.

This isn't about putting a few extra barns in North Dakota. We make this point in order to make sure you as a body understand the possible scale of animal agriculture this change in law could create. And once you invite animal agriculture at such a scale, it is very difficult to reverse course.

<u>HB 1371 will threaten control of the Family Farm</u>

We foresee one of two scenarios occurring if this law is passed in its present form:

1. Family Farms maintain full control of their operation because of their majority interest. However, corporate interests may not want to invest in operations they cannot control, so there is not a large amount of corporate investment.

2. Despite having control of the farm on paper, family farms become dependent on outside capital from corporations and the corporations through financial leverage and access to necessary capital are able to control family farms because without the capital the family farmer cannot have an animal agriculture feeding operation.

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1 https://www.forbes.com/sites/bethhoffman/2014/05/13/what-the-pork-china-pigs-and-poop/?sh=5edd24aa4d17

2 https://www.circleofblue.org/2020/world/des-moines-river-essentially-unusable-for-drinking-water-due-to-algae-toxins/

We would predict that scenario 2 would be the most likely scenario play out in North Dakota. If corporations own a stake in your farm, and if the majority interest makes a decision that can hurt their interests, the minority shareholder can sue the farm for damages.

Presently, North Dakota law allows two unrelated North Dakota resident farmers to partner with each other through general partnerships, limited partnerships, LLPs, LLLPs, and cooperatives. In fact, the current law even allows unrelated family corporations to farm or ranch together through any partnership structure. If farmers in North Dakota want to pool their resources, they can, and they already do through these structures. And as a result, make this law unnecessary.

HB 1371 will devastate rural communities

Corporate animal agriculture socially and economically devastates rural communities. According to a Food and Water Watch Report, "Counties that sold the most hogs and those with the largest farms suffered declines across several economic indicators — including real median household income and total wage jobs — over roughly the same time period[3]. These counties also experienced significant population decline — twice the rate of Iowa's more rural counties." It might take people to run the animal farms, and there will be truckers, feed, and some support industries, but it's all going to be from one company when they strongarm every competitor out of business regardless of how much control the family farm has on paper.

South Dakota overturned its anti corporate farming law in 2003. National Agricultural Statistics Service(NASS) data from 2002 shows **1506** farms raising a total of 1.37 million hogs. 191 were farms with 1000-4999 hogs and 66 had over 5000 hogs. By 2007, the number of farms with hogs was down to **959**, in 2017, this number was down to **571** but farms with over 5000 hogs were up 60% at 105. Clearly the smaller operations are getting squeezed out. The data clearly shows that farms are being lost by policy decisions making small farms harder to run a profitable enterprise and no amount of corporate cash will stop that.

year	#Total hogs	#farms	#farms 1000-4999 hogs	#farms over 5000 hogs
2002	1,375,000	**1506**	191	66
2007	1,490,000	**959**	171	92
2017	1,560,522	**571**	115	105

[3] https://onlineacademiccommunity.uvic.ca/asri/tag/water/

CAFO operations need permitting, inspections and enforcement of regulations

1. The Department of Environmental Quality has the authority to permit, inspect and enforce CAFO operations. This body needs to fund additional FTEs in the Department of Environmental Quality to deal with the influx of operations seeking permitting. Assuming that your target goal is cracking the top ten in animal agriculture, you'd need about 400 operations of 5,000 hogs each, 800 if you were permitting 2,500 animal barns. That's not even counting other types of livestock operations.
2. More FTEs at the Agriculture Department specializing in CAFOs to deal with the increased number of operations on an ongoing basis. These facilities need to be inspected annually, submit data throughout the year. The Livestock Manual needs to be reviewed and revised to establish that its provisions have the force of law and provide for clear, reasonable, enforceable regulations that will minimize these operation effects on surrounding communities, human health and natural resources.
3. More FTEs in the Secretary of State and Attorney General's office to ensure that these contracts fall under the new guidelines and violations are addressed promptly.

Passing this law will have serious implications to our state's environment and economic state. We urge a DO NOT PASS and stand for questions.

Senator Luick and members of the Senate Ag and Veterans Affairs Committee,

I am in opposition of HB 1371.

Anytime an outside source of investment is invited, the local community suffers as well the rest of the state.
Land prices escalate exponentially, putting the local producers out of the expansion or even the investment process.
Succession would come to a standstill, not allowing another generation to come back home to the farm/ranch.
Is North Dakota's infrastructure ready for Corporate farming on any scale?
Is there enough veterinarians in the state to accommodate the added workload that would be thrust upon them?
Is the State Veterinarians office ready and staffed enough to accommodate the influx of permits, licenses, investigations, diseases etc, etc.?

Adding any type of corporate farming to North Dakota would benefit very few, but would negatively affect the entire Ag Industry in the state.

There's too many variables coming into play and North Dakota is not ready for those.

North Dakota should NOT be for sale.

Please recommend a DO NOT PASS on HB 1371.

Thank You

Frank Tomac

Opposition to HB 1371

Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee,

As a resident, I value how historic protections have allowed small and mid-size producers to continue as a pillar of North Dakota's heritage. As a consumer, I seek regional diversified food and other agriculture-based products that don't threaten rural livelihood. Please oppose HB 1371. HB 1371 presents an unnecessary risk to small and mid-size producers and threatens the economic livelihood and public health of rural communities at large.

Rather than ushering in the next generation of agriculture, the exemptions in HB 1371 set us up to repeat recent history and ignore lessons from other midwest states, where large-scale hog and dairy operations have pushed out smaller farms and have out-paced any safeguards for public health and water quality.

I am not a farmer, I come from a family of teachers and accountants. I understand the need for capital investment and innovative solutions to support farm business and economic livelihood. But the potential benefit of investment via the exemptions codified in HB 1371 do not outweigh the risks to rural communities.

Diversified and value-added agriculture should be a part of a prosperous North Dakota, but paving the path forward should be a thoughtful process, rather than a hasty exemption poised to allow corporate takeover of land and communities.

Thank you for your consideration.

Olivia Johnson
Jamestown, ND
Resident and Dakota Resource Council Member

Senate Agriculture & Veterans Affairs Committee
March 24th, 2023
HB 1371 - Testimony in Opposition

Chair Luick and members of the Senate Agriculture & Veterans Affairs Committee, my name is Whitney Oxendahl, and I am writing in opposition of House Bill 1371.

In 2016, Rolling Green Family Farms received a permit for a 9,000-hog CAFO near Buffalo, ND, and concerned citizens there challenged the permit and were able to stop the CAFO from coming to their area.

They didn't do this to be difficult. They were concerned about the environmental impacts of this large animal operation on their community - to the air, land, and water.

Now this is where I come in. I heard about their concerns and learned that the CAFO, so near to my home in Fargo, could impact me and my family. The potential for manure run-off from the area had the great potential to make its way into the Red River. This is not just a rural issue; it is also an urban issue. It would not impact only those nearby but could have a wide-reaching impact on our region.

If you pass this bill, it invites corporations to establish large animal operations in Cass County where they could pollute the air and our waterways. The massive amount of waste products would not stay isolated near the CAFO, especially because of the topography of our region.

The anti-corporate farming law is popular in North Dakota. I supported it at the ballot box a few years ago and will again if voters are given a voice in this. I like that our farms stay with our North Dakota's family farmers who value our soil, our waterways, and care about the impacts on the region. I ask that you give this bill a Do Not Pass.

Thank you for the opportunity to share my testimony.

NORTH DAKOTA ETHANOL PRODUCERS ASSOCIATION

Testimony of Jeff Zueger

Director, North Dakota Ethanol Producers Association

In Support of HB 1371

March 24, 2023

Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee,

Thank you for the opportunity to testify before you today, I am Jeff Zueger. I am the CEO of Harvestone Low Carbon Partners (formally known as Midwest Ag Energy) which owns two plants in North Dakota, Blue Flint in Underwood and Dakota Spirit in Spiritwood. I am also a director on the North Dakota Ethanol Producers Association (NDEPA) board, which represents North Dakota's six ethanol plants, industry stakeholders and associated businesses. I am here today on behalf of NDEPA to voice support for HB 1371, which helps expand livestock development within the state.

Thanks to North Dakota's innovative private sector and supportive state government, North Dakota's ethanol industry is strong and diverse. The industry converts 40-60 percent of the state's corn crop into more than 550 million gallons of ethanol, 1.5 million tons of high-value livestock feed (distillers grain) and 20 million gallons of corn oil used in renewable diesel. According to a recent study conducted by North Dakota State University, the ethanol industry contributes nearly $1.7 billion annually to the state's economy and provides thousands of direct and indirect jobs.

NDEPA identified livestock expansion in North Dakota as a top priority during its strategic planning in the spring of 2022. The state's ethanol industry produces 1.5 million tons of dried distillers grains (DDGs), a high-quality, protein-rich feed that is consumed by various livestock. Our plants currently export 90% of the distillers grain produced out of the state. As our industry makes investments to lower the carbon intensity of our renewable fuels the energy used to dry this feed has a negative impact to our primary product. Enhanced livestock development is essential to keeping more of the product in the state, and this bill provides a more favorable climate for investing in livestock development projects.

Thank you for your time, and I respectfully urge a 'Do Pass' recommendation on HB 1371. I stand for any questions.

23.0721.03002

FIRST ENGROSSMENT

Sixty-eighth Legislative Assembly of North Dakota

ENGROSSED HOUSE BILL NO. 1371

Introduced by

Representatives Thomas, D. Anderson, Fisher, Hagert, Headland, Lefor

Senators Conley, Hogue, Luick, Wanzek

A BILL for an Act to create and enact four new sections to chapter 10-06.1 of the North Dakota~~-~~ Century Code, relating to authorized livestock farm corporation and authorized livestock farm limited liability company requirements, and initial and annual reporting requirements for authorized livestock farm corporations~~,~~ and authorized livestock farm limited liability companies; to amend and reenact sections 10-06.1-01, 10-06.1-02, ~~and~~10-06.1-03, 10-06.1-04, ~~subsection 2 of section~~10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, 10-06.1-11, 10-06.1-12, ~~and sections~~10-06.1-13, 10-06.1-14, 10-06.1-15, 10-06.1-16, 10-06.1-17, 10-06.1-18, 10-06.1-19, 10-06.1-20, 10-06.1-21, 10-06.1-22, 10-06.1-23, 10-06.1-24, 10-06.1-25, 10-06.1-26, and 10-06.1-27 of the North Dakota Century Code, relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, ~~cattle~~livestock backgrounding and feedlot operations, raising or producing of livestock by persons that have limited landholdings, and required reporting for corporate farming; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-01. Definitions.

For the purposes of this chapter, unless the language or context clearly indicates that a different meaning is intended:

1. "Agricultural support services" means the business of providing aerial or surface application services for others of seed, fertilizer, pesticides, or soil amendments, or the business of custom harvesting.
2. "Aquaculture agriculture" means the breeding, growing, or harvesting of fish or the growing of aquatic plants or crops.

3. "Authorized livestock farm corporation" means a corporation, joint-stock company or association formed for ~~cattle~~livestock backgrounding, ~~cattle~~livestock finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which is allowed to engage in the business of farming or ranching under section 13 of this Act, which, at all times, complies with the requirements of this chapter.

4. "Authorized livestock farm limited liability company" means a limited liability company formed for ~~cattle~~livestock backgrounding, ~~cattle~~livestock finishing, or the production of poultry products, milk or dairy products, or swine or swine products which is allowed to engage in the business of farming or ranching under section 13 of this Act, which, at all times, complies with the requirements of this chapter.

5. ~~"Cattle backgrounding" means the feeding or growing of cattle from weaning until the cattle enter a cattle finishing feedlot.~~

~~6. "Cattle finishing" means the feeding or growing of cattle for the purpose of expeditiously preparing the cattle for harvest~~"Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries.

~~7.~~6. "Custom harvesting" means the business of providing crop harvesting services for others.

~~8.~~7. a. "Farming or ranching" means cultivating ~~land~~farmland or ranchland for production of agricultural crops or livestock, livestock backgrounding, livestock finishing, or the raising or producing of livestock or livestock products, swine or swine products, poultry or poultry products, milk or dairy products, or fruit or horticultural products. ~~It~~

b. The term does not include:

~~a.~~ (1) Agricultural support services;

~~b.~~ (2) Aquaculture agriculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4) The production of timber or forest products~~, the~~;

~~c.~~ (5) The growing or processing of marijuana under chapter 19-24.1~~,~~;

~~d. Custom harvesting;~~

~~e. Aquaculture agriculture or greenhouse agriculture by a person that has agricultural landholding not exceeding forty acres [16.19 hectares];~~ or ~~a~~

~~f.~~ (6) A contract ~~whereby~~under which a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

~~2.~~~~9.~~8. "Farming or ranching corporation" means a farm or ranch corporation, joint-stock company, or association allowed to engage in the business of farming or ranching under section 10-06.1-12, which, at all times, complies with the requirements of this chapter.

~~3.~~~~10.~~9. "Farming or ranching limited liability company" means a farm or ranch limited liability company allowed to engage in the business of farming or ranching under section 10-06.1-12, which, at all times, complies with the requirements of this chapter.

10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching.

11. "Greenhouse agriculture" means the growing of plants or crops primarily under a controlled environment in a sheltered structure with walls and a roof, both made primarily of transparent or translucent material.

~~4.~~12. "Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot.

14. "Livestock finishing" means the feeding or growing of livestock, usually in a livestock finishing feedlot, for the purpose of expeditiously preparing the livestock for harvest.

15. "Nonprofit organization" means an organization or trust that has tax-exempt status under at least one of the following sections of the Internal Revenue Code:

a. An organization that was in existence on December 31, 1984, and that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals under section 501(c)(3), or is a domestic fraternal organization under section 501(c)(10).

b. A charitable, religious, educational, or scientific organization classified as either a private foundation or as a public charity having status as an organization described in section 509(a)(1) or (3).

c. A trust described in section 4947 for which a deduction is allowable under section 170.

~~5.~~~~13.~~16. "Operating the farm or ranch" means engaging in ~~day-to-day~~ personal labor or ~~day-to-day~~ management activities on or off the farm or ranch, which contribute ~~significantly~~ to the farm or ranch operations.

SECTION 2. AMENDMENT. Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

1. All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing ~~land used for farming or ranching~~farmland or ranchland and from engaging in the business of farming or ranching.

2. A corporation or a limited liability company may be a partner in a partnership ~~that is~~under title 45 which owns or leases farmland or ranchland or engages in the business of farming or ranching only if that corporation or limited liability company complies with this chapter.

3. Notwithstanding any other provision of law, an authorized livestock farm corporation or authorized livestock farm limited liability company ~~is prohibited from being~~ may not be a partner in a partnership ~~owning or leasing land used for farming or ranching or engaging~~under title 45 which owns or leases farmland or ranchland or engages in the business of farming or ranching~~, a shareholder of an authorized livestock farm corporation, or a member of an authorized livestock farm limited liability company~~.

SECTION 3. AMENDMENT. Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter.

SECTION 4. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

1. A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation or an authorized livestock farm corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching corporation or an authorized livestock farm corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 ~~and~~or section ~~11~~21 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching.

~~**SECTION 8. AMENDMENT. Subsection 2 of section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:**~~

~~2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.~~

SECTION 5. AMENDMENT. Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~ the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~ - Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.
2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:
    a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.
    b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.
    c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.
    d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.
    e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.
    f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county

auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

   b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

   c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

   d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~.

SECTION 13. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or authorized livestock farm limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing ~~real estate~~farmland or ranchland and engaging in the business of farming or ranching if the authorized livestock farm corporation meets all the requirements of chapter 10-19.1 or the authorized livestock farm limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If ~~a~~an authorized livestock farm corporation, the corporation may not have more than ten shareholders.

   b. If ~~a~~an authorized livestock farm limited liability company, the limited liability company may not have more than ten members.

2. a. If ~~a~~an authorized livestock farm corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are actively engaged in ~~operating a farm or ranch~~the business of farming or ranching, farming or ranching corporations ~~that meet the requirements of chapter 10-06.1-12~~, or farming or ranching limited liability companies ~~that meet the requirements of chapter 10-06.1-12~~.

   b. If ~~a~~an authorized livestock farm limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are actively engaged in ~~operating a farm or ranch~~the business of farming or ranching, farming or ranching corporations ~~that meet the requirements of chapter 10-06.1-12~~, or farming or ranching limited liability companies ~~that meet the requirements of chapter 10-06.1-12~~.

3. a. If ~~a~~an authorized livestock farm corporation~~, all~~

      (1) All shareholders who are individuals must be citizens of the United States ~~or permanent resident aliens of the United States, and all~~ or an authorized individual under section 47-10.1-02.

(2) All shareholders that are persons otherwise eligible under this chapter, and any controlling person of the ~~corporation~~person, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States ~~or~~, permanent resident aliens of the United States, or an authorized individual under section 47-10.1-02.

b. If ~~a~~an authorized livestock farm limited liability company~~, all~~:

(1) All members who are individuals must be citizens of the United States ~~or~~, permanent resident aliens of the United States, ~~and all~~ or an authorized individual under section 47-10.1-02; and

(2) All members that are persons otherwise eligible under this chapter, and any controlling person limited liability ~~company~~person, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States ~~or~~, permanent resident aliens of the United States, or an authorized individual under section 47-10.1-02.

4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~at any time, directly or indirectly,~~ own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of ~~land~~farmland or ranchland.

5. a. If ~~a~~an authorized livestock farm corporation, none of its shareholders ~~are shareholders in~~ may hold direct or indirect interests in other authorized livestock farm corporations~~,~~ or ~~members~~ in authorized livestock farm limited liability companies~~,~~ that ~~directly or indirectly~~ in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of ~~land~~farmland or ranchland.

b. If ~~a~~an authorized livestock farm limited liability company, none of its members ~~are members~~may hold direct or indirect interests in other authorized livestock farm limited liability companies or ~~shareholders~~ in other authorized livestock farm corporations that ~~directly or indirectly~~ in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of ~~land~~farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

6. a. If ~~a~~an authorized livestock farm corporation, the officers and directors of the corporation must be shareholders who are individuals and who are actively engaged in operating the ~~authorized livestock farm~~ corporation.

b. If ~~a~~an authorized livestock farm limited liability company, the governors, managers, and ~~officers~~members authorized under a statement of authority, must be members who are individuals and who are actively engaged in operating the ~~authorized farm~~ limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from livestock backgrounding, livestock finishing, or the production of ~~cattle,~~ poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the authorized livestock farm corporation or authorized livestock farm limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company.

9. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~directly or indirectly~~ engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock on farmland or ranchland.

10. ~~The~~If the authorized livestock farm corporation or authorized livestock farm limited liability company ~~must begin~~ is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding~~.~~

~~11. The corporation or limited liability company must have~~ ; and

b. Have a fully operational animal feeding operation or concentrated animal feeding operation within ~~three~~six years of obtaining the ~~agricultural landholding~~farmland or ranchland.

~~12.~~11. An authorized livestock farm corporation or limited liability company violating ~~subsection 10 or 11~~this section, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

SECTION 14. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations and authorized livestock farm corporations, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 15. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1~~, except those sections which pertain to foreign limited liability companies,~~ is applicable to farming or ranching limited liability companies and authorized livestock farm limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 16. AMENDMENT. Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

      (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

      (3) The relationship of each;

      (4) A statement of whether each is a citizen or permanent resident alien of the United States; and

      (5) A statement of whether each will be actively engaged in operating the farm or ranch~~ and whether each will reside on the farm or ranch~~.

   c. With respect to management:

      (1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

      (2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

   d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company~~ and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland~~ in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching~~ operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation~~ or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state.

SECTION 17. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Applicability of restriction on alien ownership of land.

The provisions of chapter 47-10.1 ~~supersede this chapter~~take precedence in the event of any conflict with this chapter.

SECTION 18. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Initial report - Authorized livestock farm ~~corporations~~corporation shareholder and authorized livestock farm limited liability ~~companies~~company member requirements.

1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation~~ or~~, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers, or in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each~~, including the names and addresses and relationships of trusts and estates that own shares or membership interests~~;

      (2) If ~~an organization~~a person other than an individual, the state of incorporation or domicile;

      (3) The number of shares or membership interests or percentage of shares or membership interests of each;

      (4) Each person's percentage of total shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;

      (5) Each person's percentage of total capital and financial interests;

      (6) ~~A~~As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States;~~ and~~

      (7) As to individuals, a statement of whether each will be actively engaged in ~~operating the farm or ranch and whether each will reside on the farm or ranch~~the business of farming or ranching; and

      (8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02.

   c. With respect to management:

(1) If ~~a~~an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors~~.~~, and a statement whether each will be actively engaged in the operation of the corporation; or

(2) If ~~a~~an authorized livestock farm limited liability company, the names and addresses of the managers, members of the board of governors, and ~~officers~~members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company.

d. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~and will not directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of farmland and ranchland.

e. If the purchase or lease of ~~land~~farmland or ranchland is final at the time of the initial report, a statement listing the acreage ~~and the number of hectares~~[hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of ~~land~~farmland or ranchland is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease ~~land in the state~~farmland or ranchland.

f. A statement that no ~~investors are~~ shareholders or members hold a direct or indirect interest in ~~any~~ other authorized livestock farm ~~corporation~~corporations or authorized livestock farm limited liability ~~company~~companies that ~~directly or indirectly~~in combination with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares] of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

g. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from ~~farming or ranching~~authorized livestock farm operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

h. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company will not engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock on farmland or ranchland.

i. If the authorized livestock farm corporation facility or authorized livestock farm limited liability company facility is not operational, a statement as to the planned date of the commencement of facility operations.

~~j. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.~~

2. ~~A~~An authorized livestock farm corporation or ~~a~~authorized livestock farm limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation ~~or~~, articles of organization, or certificate of authority.

3. The authorized livestock farm corporation or authorized livestock farm limited liability company shall furnish to the official county newspaper of each county ~~or counties~~ in which it has ~~any~~an interest in ~~any land~~farmland and ranchland a legal notice reporting the following:

a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the authorized livestock farm corporation or authorized livestock farm limited liability company has reported that it holds an interest in ~~land~~farmland or ranchland in the county, the use of the land, and that a description of that land is available for inspection at the ~~secretary of state's~~ office of the secretary of state.

c. A statement ~~to the effect~~ that each of the shareholders of the authorized livestock farm corporation or members of the authorized livestock farm limited liability company do not ~~directly or indirectly in combination with interests in any other person own~~ hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in more than six hundred forty acres [259 hectares] of ~~agricultural land~~farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

SECTION 19. AMENDMENT. Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number

of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred.

SECTION 20. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Farming or ranching corporations and farming or ranching limited liability companies - Contents - Filing requirements.

1. Except for the first annual report, the annual report of a farming or ranching corporation ~~engaged in farming or ranching after June 30, 1981, and~~or a farming or ranching limited liability company engaged in the business of farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority.

2. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a farming or ranching corporation and subsection 49 of section 10-32.1-02 if a farming or ranching limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, ~~it~~ the annual report must be signed on behalf of the corporation or limited liability company by the receiver or trustee.

3. An annual report of the farming or ranching corporation or the farming or ranching limited liability company must include the following information with respect to the preceding calendar year:

   ~~1.~~ a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   ~~2.~~ b. The name of the registered agent of the farming or ranching corporation or farming or ranching limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

   ~~3.~~ c. With respect to each farming or ranching corporation:

~~a.~~ (1) A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

~~b.~~ (2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

~~4.~~ d. With respect to each farming or ranching limited liability company:

~~a.~~ (1) A statement of the aggregate ~~number of units~~ membership interests the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

~~b.~~ (2) A statement of the aggregate ~~number of issued units~~membership interests, itemized by classes and series, if any, within a class.

~~5.~~ e. With respect to each shareholder or member:

~~a.~~ (1) The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

~~b.~~ (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

~~c.~~ (3) The relationship of each; and

~~d.~~ (4) A statement of whether each is a citizen or permanent resident alien of the United States~~; and~~

~~e. A statement of whether at least one is an individual residing on or operating the farm or ranch~~.

~~5.~~6. f. With respect to management:

~~a.~~ (1) If a farming or ranching corporation, ~~then~~ the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

~~b.~~ (2) If a farming or ranching limited liability company, ~~then~~ the name and address of each manager~~ and~~, member of the board of governors, and member authorized under a statement of authority, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~~~7.~~ g. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~~~8.~~ h. A statement of the percentage of the annual average gross income of the farming or ranching corporation or farming or ranching limited liability company which has been derived from engaging in the business of farming or ranching ~~operations~~ over the previous five years or for each year of existence if less than five years.

~~8.~~~~9.~~ i. A statement of the percentage of gross income of the farming or ranching corporation or farming or ranching limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~~~10.~~4. A farming or ranching corporation engaged in the business of farming or ranching which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required ~~by~~under this section.

~~10.~~~~11.~~5. A farming or ranching limited liability company engaged in the business of farming or ranching which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required ~~by~~under this section.

SECTION 21. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Authorized livestock farm corporations and authorized livestock farm limited liability companies - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the

effective date of the articles of incorporation~~ or~~, articles of organization, or certificate of authority.

2. The annual report must be signed as defined in subsection 58 of section 10-19.1-01 if ~~a~~an authorized livestock farm corporation ~~or~~and subsection 49 of section 10-32.1-02 if ~~a~~an authorized livestock farm limited liability company and submitted on a form prescribed by the secretary of state. If the authorized livestock farm corporation or authorized livestock farm limited liability company is in the hands of a receiver or trustee, the annual report must be signed on behalf of the authorized livestock farm corporation or authorized livestock farm limited liability company by the receiver or trustee.

3. An annual report of the authorized livestock farm corporation or the authorized livestock farm limited liability company must include the following information with respect to the preceding calendar year:

a. The name of the ~~registered agent of the~~authorized livestock farm corporation or authorized livestock farm limited liability company~~ as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state~~.

b. The name of the ~~corporation or limited liability company~~registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock limited liability company in this state.

c. With respect to each authorized livestock farm corporation:

(1) A statement of the aggregate number of shares the authorized livestock farm corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

d. With respect to each authorized livestock farm limited liability company:

(1) A statement of the aggregate ~~number of units~~membership interests the authorized livestock farm limited liability company has authority to issue, itemized by classes and series, if any, within a class.

(2) A statement of the aggregate number of issued ~~units~~membership interests, itemized by classes and series, if any, within a class.

e. With respect to each shareholder or member:

(1) The name and address of each~~, including the names and addresses and relationships of trusts and estates that own shares or membership interests~~;

(2) If ~~an organization~~a person other than an individual, the state of incorporation, organization, or domicile;

(3) The number of shares or membership interests or percentage of shares or membership interests of each;

(4) Each person's percentage of total shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of total capital and financial interests;

(6) ~~A~~As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States;~~ and~~

(7) As to individuals, a statement of whether each will be actively engaged in ~~operating the farm or ranch and whether each will reside on the farm or ranch~~the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02.

f. With respect to management:

(1) If ~~a~~an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors~~.~~, and a statement whether each actively is engaged in the operation of the corporation; or

(2) If ~~a~~an authorized livestock farm limited liability company, the names and addresses of the managers and members of the board of governors, and a

statement whether each actively is engaged in the operation of the limited liability company.

g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of farmland or ranchland.

h. A statement providing the ~~land~~farmland or ranchland description and listing the acreage~~, the total number of hectares~~ [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest.

i. A statement that no ~~investors are~~ shareholders or members hold a direct or indirect interest in ~~any~~ other authorized livestock farm ~~corporation~~corporations or authorized livestock farm limited liability ~~company~~companies that ~~directly or indirectly~~in combination with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares] of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

j. ~~A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.~~

~~k.~~ A statement that the authorized livestock farm corporation or authorized livestock limited liability company does not engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock.

~~l.~~k. The first date of livestock operations.

~~m. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.~~

~~n. The statement also must designate which, if any, of the acreage and the total number of hectares is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage and the total number of hectares.~~

~~o.~~l. A statement of the percentage of the annual average gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company which has been derived from ~~farming or ranching~~authorized livestock farm operations over the previous five years or for each year of existence if less than five years.

~~p.~~m. A statement of the percentage of gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~2. A~~

4. An authorized livestock corporation engaged in ~~farming which~~authorized livestock farm operations that fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required ~~by~~under this section.

~~3. A~~

5. An authorized livestock farm limited liability company engaged in ~~farming which~~authorized livestock farm operations that fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required ~~by~~under this section.

SECTION 22. AMENDMENT. Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation~~ and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.
2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.
3. The acreage [hectarage] and location listed by section, township, range, and county of all such ~~land in the state~~farmland or ranchland owned or leased by the corporation or limited liability company~~ and used for farming or ranching~~.
4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor.

SECTION 25. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 or section ~~5~~13 of this Act, the secretary of state shall transmit ~~such~~the information to the attorney general and the governor.

SECTION 26. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from engaging in the business of farming or ranching ~~operations~~ and shall compare ~~such~~the returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 and section ~~11~~21 of this Act and shall forward any apparent violations to the attorney general and the governor.

SECTION 27. AMENDMENT. Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

   d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee,

corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees.

SECTION 30. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

1. If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation or authorized livestock farm corporation ~~doing~~engaged in the business of farming and ranching under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder.

2. Any shareholder who desires to withdraw from the farming and ranching corporation or authorized livestock farm corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any

other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation.

3. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the farming or ranching corporation or authorized livestock farm corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 31. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

1. If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company or authorized livestock farm limited liability company ~~doing~~engaged in the business of farming and ranching under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined ~~by~~under this section upon the withdrawal of the member.

2. Any member who desires to withdraw from the farming or ranching limited liability company or authorized livestock farm limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the

membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company.

3. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or authorized livestock farm limited liability company itself or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code.

NORTH DAKOTA
Farmers Union

Contact:
Matt Perdue, Lobbyist
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Testimony of
Mark Watne
North Dakota Farmers Union
Before the
Senate Agriculture and Veterans Affairs Committee
March 24, 2023

Chairman Luick and members of the committee,

Thank you for the opportunity to comment on House Bill 1371. NDFU's official position on the bill before you is "neutral."

As you know, North Dakota Farmers Union's Policy & Action opposes changing the corporate farming law. For 90 years, we have defended that law as a way to keep agriculture in the hands of family farmers and ranchers. That underlying philosophy has not changed.

In early February, our Board of Governors voted to pursue amendments to HB 1371 that addresses each of our members' most significant concerns with the original bill. We worked diligently with the bill's prime sponsor to develop the agreement before you. We met with each of the bill's sponsors to discuss that agreement. Since the bill passed the House, we have continued to work with the Department of Agriculture to make several additional clarifying changes.

The bill before you protects the core principle of family farmer and rancher control. The bill creates new authorized livestock farm corporations and authorized livestock farm LLCs. These new entities must be majority-owned by family farmers and ranchers.

HB 1371 includes several additional changes from the original bill. Those include stronger acreage limitations, restrictions on foreign ownership, and a limitation on the number of shareholders. The bill also ensures these new entities are subject to the same reporting and enforcement standards as family farm corporations and family farm LLCs.

We recognize this legislature's interest in reforming our state's corporate farming law. While our members don't necessarily agree with that motivation, this bill offers a meaningful solution for all sides of the discussion. It allows unrelated farmers to incorporate together. The bill allows farmers and ranchers to access outside investment. And it preserves family farmer and rancher control of these new operations.

Thank you for your consideration. I will ask my staff to address any remaining technical questions with the bill and the amendments.

Testimony in support of 1371

Chairman and committee, my name is Phil Murphy representing the ND Soybean Growers.

The NDSGA stands in support of this bill which protects family farms while giving new opportunities for investment in our state. We would like to thank the parties who painstakingly crafted this legislation under pressures of time and consequence for a job well done and ask for your favorable consideration.

North Dakota Native Vote
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1-888-425-1483
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Statement of Sharnell Seaboy regarding HB 1371
Field Organizer at North Dakota Native Vote
March 24, 2023
Senate Agriculture and Veterans AffairsCommittee

Chairman and members of the Senate Agriculture and Veterans Affairs Committee, my name is Sharnell Seaboy. I am an enrolled citizen of the Mni Wakan Oyate (Spirit Lake Nation) and I am a Field Organizer at North Dakota Native Vote. We are here in opposition of HB 1371.

North Dakota Native Vote is a non-partisan grassroots organization. Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota.

The First Engrossment of HB 1371 raises many concerns about how passing this bill could damage North Dakota's economy and people. A major concern for North Dakota Native Vote is if the legislation would abandon control of the state's fee patent lands to foreign or domestic corporations for purchase. If so, these corporate purchases would lead to relinquishing an irreplaceable asset and destroying the livelihoods of thousands of North Dakotans whose lands have been protected for over a century.

As others have testified, the First Engrossment version of the bill, to be effective, would require additional staff and a strong willingness of officials to enforce the anti-corporate farming law. Is the Legislature willing to fund the necessary personnel increase to make sure the regulations in this bill are enforced? This is critically important because left on its own the 160 acre per person rule would provide an easy place for corporations to create and hide an infinite number of corporations to obtain fee patents. Even with stronger enforcement efforts than we have now, this law could enable circumventing regulations and protections.

North Dakotans are well aware that corporate farms in other parts of the country have brought negative impacts to rural communities. In fact, Dr. Curtis Stofferahn, a University of North Dakota Rural Sociologist, in a review of research found corporate, industrialized operations were less likely to sustain middle class communites.

In 2016, a statewide vote rejected a weakening of the corporate farm law with 76% of the vote. This current attempt to again circumvent the will of voters is a direct action aimed at harming many citizens of North Dakota to benefit a few.

Because of the many negative consequences from increased corporatization of our agriculture, North Dakota Native Vote urges the Senate Agriculture and Veterans Affairs Committee to recommend Do Not Pass on HB 1371.

Testimony of Brenda Elmer, executive director

North Dakota Corn Growers Association

In SUPPORT of HB 1371

March 23, 2023

Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee,

Thank you for allowing me to share our support of House Bill 1371. For the record, my name is Brenda Elmer, and I am the executive director of the North Dakota Corn Growers Association (NDCGA), which is the voice of the more than 13,000 corn growers across the state at the grass roots level for issues that impact corn producers.

Agriculture has an incredible impact on the economy and the lives of North Dakotans. According to NDSU in 2020, agriculture contributed nearly $31 billion to the economy and more than 110,000 jobs. We believe the future of agriculture in North Dakota is promising. The various bills focused on livestock development this session will only help increase the economic contribution made to North Dakota by agriculture.

HB 1371 will expand opportunities to support and grow agriculture in North Dakota. We have seen the opportunities adding livestock to operations has provided for producers in neighboring states. Promoting and growing the livestock industry in North Dakota is a top priority for NDCGA. Further developing livestock in the state will open opportunities for individual North Dakota producers and will also provide an additional in-state market for the corn we grow in the state. North Dakota annually produces about 400 million bushels of corn with about half dedicated to ethanol production throughout the state. Each bushel of corn processed by North Dakota ethanol plants produces about 15 pounds of livestock feed (dried distillers grains), yielding nearly 1.5 million total tons of livestock feed, including dry distillers grains, a high-protein feed sought after by livestock producers. Increasing the livestock in North Dakota would expand the currently small in state market for dry distillers grains, increasing opportunities for corn producers across the state.

23.0721.03002

Sixty-eighth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1371

Introduced by

Representatives Thomas, D. Anderson, Fisher, Hagert, Headland, Lefor

Senators Conley, Hogue, Luick, Wanzek

A BILL for an Act to create and enact four new sections to chapter 10-06.1 of the North Dakota~~-~~ Century Code, relating to authorized livestock farm corporation and authorized livestock farm limited liability company requirements, and initial and annual reporting requirements for authorized livestock farm corporations~~,~~ and authorized livestock farm limited liability companies; to amend and reenact sections 10-06.1-01, 10-06.1-02, ~~and~~10-06.1-03, 10-06.1-04, ~~subsection 2 of section~~10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, 10-06.1-11, 10-06.1-12, ~~and sections~~10-06.1-13, 10-06.1-14, 10-06.1-15, 10-06.1-16, 10-06.1-17, 10-06.1-18, 10-06.1-19, 10-06.1-20, 10-06.1-21, 10-06.1-22, 10-06.1-23, 10-06.1-24, 10-06.1-25, 10-06.1-26, and 10-06.1-27 of the North Dakota Century Code, relating to agricultural definitions, ownership exceptions for beekeeping, agriculture support services, ~~cattle~~livestock backgrounding and feedlot operations, raising or producing of livestock by persons that have limited landholdings, and required reporting for corporate farming; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-01. Definitions.

For the purposes of this chapter, unless the language or context clearly indicates that a different meaning is intended:

1. "Agricultural support services" means the business of providing aerial or surface application services for others of seed, fertilizer, pesticides, or soil amendments, or the business of custom harvesting.
2. "Aquaculture agriculture" means the breeding, growing, or harvesting of fish or the growing of aquatic plants or crops.

3. "Authorized livestock farm corporation" means a corporation, joint-stock company or association formed for ~~cattle~~livestock backgrounding, ~~cattle~~livestock finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which is allowed to engage in the business of farming or ranching under section 13 of this Act, which, at all times, complies with the requirements of this chapter.

4. "Authorized livestock farm limited liability company" means a limited liability company formed for ~~cattle~~livestock backgrounding, ~~cattle~~livestock finishing, or the production of poultry products, milk or dairy products, or swine or swine products which is allowed to engage in the business of farming or ranching under section 13 of this Act, which, at all times, complies with the requirements of this chapter.

5. ~~"Cattle backgrounding" means the feeding or growing of cattle from weaning until the cattle enter a cattle finishing feedlot.~~

~~6. "Cattle finishing" means the feeding or growing of cattle for the purpose of expeditiously preparing the cattle for harvest~~"Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries.

~~7.~~6. "Custom harvesting" means the business of providing crop harvesting services for others.

~~8.~~7. a. "Farming or ranching" means cultivating ~~land~~farmland or ranchland for production of agricultural crops or livestock, livestock backgrounding, livestock finishing, or the raising or producing of livestock or livestock products, swine or swine products, poultry or poultry products, milk or dairy products, or fruit or horticultural products. ~~It~~

b. The term does not include:

~~a.~~ (1) Agricultural support services;

~~b.~~ (2) Aquaculture agriculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4) The production of timber or forest products~~, the~~;

~~c.~~ (5) The growing or processing of marijuana under chapter 19-24.1~~,~~;

~~d. Custom harvesting;~~

~~e. Aquaculture agriculture or greenhouse agriculture by a person that has agricultural landholding not exceeding forty acres [16.19 hectares];~~ or ~~a~~

~~f.~~ (6) A contract ~~whereby~~under which a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

~~2.~~~~9.~~8. "Farming or ranching corporation" means a farm or ranch corporation, joint-stock company, or association allowed to engage in the business of farming or ranching under section 10-06.1-12, which, at all times, complies with the requirements of this chapter.

~~3.~~~~10.~~9. "Farming or ranching limited liability company" means a farm or ranch limited liability company allowed to engage in the business of farming or ranching under section 10-06.1-12, which, at all times, complies with the requirements of this chapter.

10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching.

11. "Greenhouse agriculture" means the growing of plants or crops primarily under a controlled environment in a sheltered structure with walls and a roof, both made primarily of transparent or translucent material.

~~4.~~12. "Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot.

14. "Livestock finishing" means the feeding or growing of livestock, usually in a livestock finishing feedlot, for the purpose of expeditiously preparing the livestock for harvest.

15. "Nonprofit organization" means an organization or trust that has tax-exempt status under at least one of the following sections of the Internal Revenue Code:

a. An organization that was in existence on December 31, 1984, and that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals under section 501(c)(3), or is a domestic fraternal organization under section 501(c)(10).

b. A charitable, religious, educational, or scientific organization classified as either a private foundation or as a public charity having status as an organization described in section 509(a)(1) or (3).

c. A trust described in section 4947 for which a deduction is allowable under section 170.

~~5.~~~~13.~~16. "Operating the farm or ranch" means engaging in ~~day-to-day~~ personal labor or ~~day-to-day~~ management activities on or off the farm or ranch, which contribute ~~significantly~~ to the farm or ranch operations.

SECTION 2. AMENDMENT. Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

1. All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing ~~land used for farming or ranching~~farmland or ranchland and from engaging in the business of farming or ranching.

2. A corporation or a limited liability company may be a partner in a partnership ~~that is~~under title 45 which owns or leases farmland or ranchland or engages in the business of farming or ranching only if that corporation or limited liability company complies with this chapter.

3. Notwithstanding any other provision of law, an authorized livestock farm corporation or authorized livestock farm limited liability company ~~is prohibited from being~~ may not be a partner in a partnership ~~owning or leasing land used for farming or ranching or engaging~~under title 45 which owns or leases farmland or ranchland or engages in the business of farming or ranching~~, a shareholder of an authorized livestock farm corporation, or a member of an authorized livestock farm limited liability company~~.

SECTION 3. AMENDMENT. Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter.

SECTION 4. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

1. A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation or an authorized livestock farm corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching corporation or an authorized livestock farm corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 ~~and~~or section ~~11~~21 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching.

~~**SECTION 8. AMENDMENT. Subsection 2 of section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:**~~

~~2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.~~

SECTION 5. AMENDMENT. Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~ the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.
2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:
    a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.
    b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.
    c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.
    d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.
    e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.
    f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county

auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

   b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

   c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

   d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~.

SECTION 13. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or authorized livestock farm limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing ~~real estate~~farmland or ranchland and engaging in the business of farming or ranching if the authorized livestock farm corporation meets all the requirements of chapter 10-19.1 or the authorized livestock farm limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If ~~a~~an authorized livestock farm corporation, the corporation may not have more than ten shareholders.

   b. If ~~a~~an authorized livestock farm limited liability company, the limited liability company may not have more than ten members.

2. a. If ~~a~~an authorized livestock farm corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are actively engaged in ~~operating a farm or ranch~~the business of farming or ranching, farming or ranching corporations ~~that meet the requirements of chapter 10-06.1-12~~, or farming or ranching limited liability companies ~~that meet the requirements of chapter 10-06.1-12~~.

   b. If ~~a~~an authorized livestock farm limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are actively engaged in ~~operating a farm or ranch~~the business of farming or ranching, farming or ranching corporations ~~that meet the requirements of chapter 10-06.1-12~~, or farming or ranching limited liability companies ~~that meet the requirements of chapter 10-06.1-12~~.

3. a. If ~~a~~an authorized livestock farm corporation~~, all~~

      (1) All shareholders who are individuals must be citizens of the United States ~~or~~ permanent resident aliens of the United States, ~~and all~~ or an authorized individual under section 47-10.1-02.

(2) All shareholders that are persons otherwise eligible under this chapter, and any controlling person of the ~~corporation~~person, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States ~~or~~, permanent resident aliens of the United States, or an authorized individual under section 47-10.1-02.

b. If ~~a~~an authorized livestock farm limited liability company~~, all~~:

(1) All members who are individuals must be citizens of the United States ~~or~~, permanent resident aliens of the United States, ~~and all~~ or an authorized individual under section 47-10.1-02; and

(2) All members that are persons otherwise eligible under this chapter, and any controlling person limited liability ~~company~~person, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States ~~or~~, permanent resident aliens of the United States, or an authorized individual under section 47-10.1-02.

4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~at any time, directly or indirectly,~~ own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of ~~land~~farmland or ranchland.

5. a. If ~~a~~an authorized livestock farm corporation, none of its shareholders ~~are shareholders in~~ may hold direct or indirect interests in other authorized livestock farm corporations~~,~~ or ~~members~~ in authorized livestock farm limited liability companies~~,~~ that ~~directly or indirectly~~ in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of ~~land~~farmland or ranchland.

b. If ~~a~~an authorized livestock farm limited liability company, none of its members ~~are members~~may hold direct or indirect interests in other authorized livestock farm limited liability companies or ~~shareholders~~ in other authorized livestock farm corporations that ~~directly or indirectly~~ in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of ~~land~~farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

6. a. If ~~a~~an authorized livestock farm corporation, the officers and directors of the corporation must be shareholders who are individuals and who are actively engaged in operating the ~~authorized livestock farm~~ corporation.

b. If ~~a~~an authorized livestock farm limited liability company, the governors, managers, and ~~officers~~members authorized under a statement of authority, must be members who are individuals and who are actively engaged in operating the ~~authorized farm~~ limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from livestock backgrounding, livestock finishing, or the production of ~~cattle,~~ poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the authorized livestock farm corporation or authorized livestock farm limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company.

9. The authorized livestock farm corporation or authorized livestock farm limited liability company may not ~~directly or indirectly~~ engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock on farmland or ranchland.

10. ~~The~~If the authorized livestock farm corporation or authorized livestock farm limited liability company ~~must begin~~ is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding~~.~~

~~11. The corporation or limited liability company must have~~ ; and

b. Have a fully operational animal feeding operation or concentrated animal feeding operation within ~~three~~six years of obtaining the ~~agricultural landholding~~farmland or ranchland.

~~12.~~11. An authorized livestock farm corporation or limited liability company violating ~~subsection 10 or 11~~this section, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

SECTION 14. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations and authorized livestock farm corporations, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 15. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1~~, except those sections which pertain to foreign limited liability companies,~~ is applicable to farming or ranching limited liability companies and authorized livestock farm limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 16. AMENDMENT. Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

      (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

      (3) The relationship of each;

      (4) A statement of whether each is a citizen or permanent resident alien of the United States; and

      (5) A statement of whether each will be actively engaged in operating the farm or ranch~~ and whether each will reside on the farm or ranch~~.

   c. With respect to management:

      (1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

      (2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

   d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company~~ and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state.

SECTION 17. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Applicability of restriction on alien ownership of land.

The provisions of chapter 47-10.1 ~~supersede this chapter~~take precedence in the event of any conflict with this chapter.

SECTION 18. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Initial report - Authorized livestock farm ~~corporations~~corporation shareholder and authorized livestock farm limited liability ~~companies~~company member requirements.

1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation~~ or~~, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers, or in the case of a certificate of authority, an authorized person, and must contain the following:

    a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.

    b. With respect to each shareholder or member:

        (1) The name and address of each~~, including the names and addresses and relationships of trusts and estates that own shares or membership interests~~;

        (2) If ~~an organization~~a person other than an individual, the state of incorporation or domicile;

        (3) The number of shares or membership interests or percentage of shares or membership interests of each;

        (4) Each person's percentage of total shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;

        (5) Each person's percentage of total capital and financial interests;

        (6) ~~A~~As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States;~~ and~~

        (7) As to individuals, a statement of whether each will be actively engaged in ~~operating the farm or ranch and whether each will reside on the farm or ranch~~the business of farming or ranching; and

        (8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02.

    c. With respect to management:

(1) If ~~a~~an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors~~.~~, and a statement whether each will be actively engaged in the operation of the corporation; or

(2) If ~~a~~an authorized livestock farm limited liability company, the names and addresses of the managers, members of the board of governors, and ~~officers~~members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company.

d. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~and will not directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of farmland and ranchland.

e. If the purchase or lease of ~~land~~farmland or ranchland is final at the time of the initial report, a statement listing the acreage ~~and the number of hectares~~[hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of ~~land~~farmland or ranchland is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease ~~land in the state~~farmland or ranchland.

f. A statement that no ~~investors are~~ shareholders or members hold a direct or indirect interest in ~~any~~ other authorized livestock farm ~~corporation~~corporations or authorized livestock farm limited liability ~~company~~companies that ~~directly or indirectly~~in combination with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares] of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

g. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from ~~farming or ranching~~authorized livestock farm operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

h. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company will not engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock on farmland or ranchland.

i. If the authorized livestock farm corporation facility or authorized livestock farm limited liability company facility is not operational, a statement as to the planned date of the commencement of facility operations.

~~j. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.~~

2. ~~A~~An authorized livestock farm corporation or ~~a~~authorized livestock farm limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation ~~or~~, articles of organization, or certificate of authority.

3. The authorized livestock farm corporation or authorized livestock farm limited liability company shall furnish to the official county newspaper of each county ~~or counties~~ in which it has ~~any~~an interest in ~~any land~~farmland and ranchland a legal notice reporting the following:

a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the authorized livestock farm corporation or authorized livestock farm limited liability company has reported that it holds an interest in ~~land~~farmland or ranchland in the county, the use of the land, and that a description of that land is available for inspection at the ~~secretary of state's~~ office of the secretary of state.

c. A statement ~~to the effect~~ that each of the shareholders of the authorized livestock farm corporation or members of the authorized livestock farm limited liability company do not ~~directly or indirectly in combination with interests in any other person own~~ hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in more than six hundred forty acres [259 hectares] of ~~agricultural land~~farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

SECTION 19. AMENDMENT. Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number

of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred.

SECTION 20. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Farming or ranching corporations and farming or ranching limited liability companies - Contents - Filing requirements.

1. Except for the first annual report, the annual report of a farming or ranching corporation ~~engaged in farming or ranching after June 30, 1981, and~~or a farming or ranching limited liability company engaged in the business of farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority.

2. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a farming or ranching corporation and subsection 49 of section 10-32.1-02 if a farming or ranching limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, ~~it~~ the annual report must be signed on behalf of the corporation or limited liability company by the receiver or trustee.

3. An annual report of the farming or ranching corporation or the farming or ranching limited liability company must include the following information with respect to the preceding calendar year:

~~1.~~ a. The name of the farming or ranching corporation or farming or ranching limited liability company.

~~2.~~ b. The name of the registered agent of the farming or ranching corporation or farming or ranching limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

~~3.~~ c. With respect to each farming or ranching corporation:

~~a.~~ (1) A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

~~b.~~ (2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

~~4.~~ d. With respect to each farming or ranching limited liability company:

~~a.~~ (1) A statement of the aggregate ~~number of units~~ membership interests the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

~~b.~~ (2) A statement of the aggregate ~~number of issued units~~membership interests, itemized by classes and series, if any, within a class.

~~5.~~ e. With respect to each shareholder or member:

~~a.~~ (1) The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

~~b.~~ (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

~~c.~~ (3) The relationship of each; and

~~d.~~ (4) A statement of whether each is a citizen or permanent resident alien of the United States~~; and~~

~~e. A statement of whether at least one is an individual residing on or operating the farm or ranch~~.

~~5.6.~~ f. With respect to management:

~~a.~~ (1) If a farming or ranching corporation, ~~then~~ the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

~~b.~~ (2) If a farming or ranching limited liability company, ~~then~~ the name and address of each manager ~~and~~, member of the board of governors, and member authorized under a statement of authority, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~7. g. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company~~ and used for farming or ranching~~. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~8. h. A statement of the percentage of the annual average gross income of the farming or ranching corporation or farming or ranching limited liability company which has been derived from engaging in the business of farming or ranching ~~operations~~ over the previous five years or for each year of existence if less than five years.

~~8.~~9. i. A statement of the percentage of gross income of the farming or ranching corporation or farming or ranching limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~~~10.~~4. A farming or ranching corporation engaged in the business of farming or ranching which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required ~~by~~under this section.

~~10.~~~~11.~~5. A farming or ranching limited liability company engaged in the business of farming or ranching which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required ~~by~~under this section.

SECTION 21. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Authorized livestock farm corporations and authorized livestock farm limited liability companies - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the

effective date of the articles of incorporation~~ or~~, articles of organization, or certificate of authority.

2. The annual report must be signed as defined in subsection 58 of section 10-19.1-01 if ~~a~~an authorized livestock farm corporation ~~or~~and subsection 49 of section 10-32.1-02 if ~~a~~an authorized livestock farm limited liability company and submitted on a form prescribed by the secretary of state. If the authorized livestock farm corporation or authorized livestock farm limited liability company is in the hands of a receiver or trustee, the annual report must be signed on behalf of the authorized livestock farm corporation or authorized livestock farm limited liability company by the receiver or trustee.

3. An annual report of the authorized livestock farm corporation or the authorized livestock farm limited liability company must include the following information with respect to the preceding calendar year:

a. The name of the ~~registered agent of the~~authorized livestock farm corporation or authorized livestock farm limited liability company~~ as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state~~.

b. The name of the ~~corporation or limited liability company~~registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock limited liability company in this state.

c. With respect to each authorized livestock farm corporation:

(1) A statement of the aggregate number of shares the authorized livestock farm corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

d. With respect to each authorized livestock farm limited liability company:

(1) A statement of the aggregate ~~number of units~~membership interests the authorized livestock farm limited liability company has authority to issue, itemized by classes and series, if any, within a class.

(2) A statement of the aggregate number of issued ~~units~~membership interests, itemized by classes and series, if any, within a class.

e. With respect to each shareholder or member:

(1) The name and address of each~~, including the names and addresses and relationships of trusts and estates that own shares or membership interests~~;

(2) If ~~an organization~~a person other than an individual, the state of incorporation, organization, or domicile;

(3) The number of shares or membership interests or percentage of shares or membership interests of each;

(4) Each person's percentage of total shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of total capital and financial interests;

(6) ~~A~~As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States;~~ and~~

(7) As to individuals, a statement of whether each will be actively engaged in ~~operating the farm or ranch and whether each will reside on the farm or ranch~~the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02.

f. With respect to management:

(1) If ~~a~~an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors~~.~~, and a statement whether each actively is engaged in the operation of the corporation; or

(2) If ~~a~~an authorized livestock farm limited liability company, the names and addresses of the managers and members of the board of governors, and a

statement whether each actively is engaged in the operation of the limited liability company.

g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not ~~directly or indirectly~~ own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of farmland or ranchland.

h. A statement providing the ~~land~~farmland or ranchland description and listing the acreage~~, the total number of hectares~~ [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest.

i. A statement that no ~~investors are~~ shareholders or members hold a direct or indirect interest in ~~any~~ other authorized livestock farm ~~corporation~~corporations or authorized livestock farm limited liability ~~company~~companies that ~~directly or indirectly~~in combination with the corporation or limited liability company own, lease, or hold any interest in more than six hundred forty acres [259 hectares] of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02.

j. ~~A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.~~

~~k.~~ A statement that the authorized livestock farm corporation or authorized livestock limited liability company does not engage in the ~~cultivation of land for the~~ production of crops or the grazing of livestock.

~~l.~~k. The first date of livestock operations.

~~m. A statement that the corporation or limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company.~~

~~n. The statement also must designate which, if any, of the acreage and the total number of hectares is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage and the total number of hectares.~~

~~o.~~l. A statement of the percentage of the annual average gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company which has been derived from ~~farming or ranching~~authorized livestock farm operations over the previous five years or for each year of existence if less than five years.

~~p.~~m. A statement of the percentage of gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~2. A~~

4. An authorized livestock corporation engaged in ~~farming which~~authorized livestock farm operations that fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required ~~by~~under this section.

~~3. A~~

5. An authorized livestock farm limited liability company engaged in ~~farming which~~authorized livestock farm operations that fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required ~~by~~under this section.

SECTION 22. AMENDMENT. Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.
2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.
3. The acreage [hectarage] and location listed by section, township, range, and county of all such ~~land in the state~~farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.
4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor.

SECTION 25. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 or section ~~5~~13 of this Act, the secretary of state shall transmit ~~such~~the information to the attorney general and the governor.

SECTION 26. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from engaging in the business of farming or ranching~~ operations~~ and shall compare ~~such~~the returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 and section ~~11~~21 of this Act and shall forward any apparent violations to the attorney general and the governor.

SECTION 27. AMENDMENT. Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

   d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee,

corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees.

SECTION 30. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

1. If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation or authorized livestock farm corporation ~~doing~~engaged in the business of farming and ranching under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder.
2. Any shareholder who desires to withdraw from the farming and ranching corporation or authorized livestock farm corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any

other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation.

3. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the farming or ranching corporation or authorized livestock farm corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 31. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

1. If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company or authorized livestock farm limited liability company ~~doing~~engaged in the business of farming and ranching under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined ~~by~~under this section upon the withdrawal of the member.

2. Any member who desires to withdraw from the farming or ranching limited liability company or authorized livestock farm limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the

membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company.

3. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or authorized livestock farm limited liability company itself or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code.

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Testimony on House Bill 1371
Dutch Bialke
General Counsel & Senior Policy Advisor
North Dakota Department of Agriculture

Senate Agriculture and Veterans Affairs Committee
Thursday, March 30, 2023, 8:30 a.m.
Fort Union Room, State Capitol

Chairman Luick and members of the Senate Agriculture and Veteran's Affairs Committee, I am Dutch Bialke. I will testify this morning on behalf of North Dakota Agriculture Commissioner, Doug Goehring.

Chairman Luick and members of the Committee, <u>the Commissioner supports and respectfully recommends acceptance and implementation of the attached proposed minor amendments to the amended version of the first engrossed version of House Bill 1371, specifically amendment version 23.0721.03002</u>.

After the March 24, 2023 initial committee hearing on HB 1371 – the North Dakota Animal Agriculture Farm Freedom Act – and consistent with the history of the development of this bill being a team effort, various agricultural stakeholders continued to review the bill and consequently provided additional valuable input in relation to it.

Accordingly, these several additional proposed minor amendments before you are jointly proposed by the North Dakota Stockman's Association, the North Dakota Farmer's Union, and the Commissioner. Most of these proposed amendments have been coordinated with other agriculture organizations as well.

These proposed minor amendments would clarify meanings, remove unnecessary language, and add words that were unintentionally omitted from the previous version.

Specifically, we propose that the term “aquaculture agriculture” be replaced with just “aquaculture”, which is the much more common reference.

Moreover, the definition of “farming or ranching” on page 2, lines 19-23, currently says:

> "Farming or ranching" means cultivating farmland or ranchland for production of agricultural crops or livestock, livestock backgrounding, livestock finishing, or the raising or producing of livestock or livestock products, swine or swine products, poultry or poultry products, milk or dairy products, or fruit or horticultural products.

This current definition is unnecessarily wordy, so we propose it be replaced simply with:

> Farming or ranching means raising or producing agricultural crops, fruit, horticultural products, livestock or livestock products, or livestock backgrounding, or livestock finishing.

The reasons for this proposed change to the definition of “farming and ranching” is that ranchland is not generally cultivated. Further, in the original definition, all the species listed as well as all the species-products listed would already be captured under the phrase “livestock or livestock products,” so it is not then necessary to list each one of them in the definition. In short, the proposed new replacement definition says the same thing as the old definition, but it is more concise, summarized, and much more readable.

“Livestock backgrounding” is defined on page 3, lines 19-20, no. 13. It basically says that all livestock go to a feedlot. However, not all livestock species go to a feedlot. Given that the term “feedlot” is not defined in the chapter, adding the words “or facility” at the end of the definition would clarify that animals may be backgrounded in facilities other than feedlots. Accordingly, we propose a minor revision to the definition, specifically adding the words “or facility” at the end. The new proposed definition would read: “livestock backgrounding means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.”

Likewise, we propose the definition for "livestock finishing" be slightly amended. The definition currently says that livestock finishing usually occurs in a feedlot. This is not necessarily the case for all livestock species. Accordingly, deletion of the words "usually in a livestock feedlot" would consequently clarify the definition. Because the words "usually in a feedlot" add very little to the definition, and could result in confusion, we recommend those words be deleted.

Finally, in everyone further reviewing the proposed amendment, we noticed some minor drafting errors, specifically unintentional word omissions. For example, the word "farm" was left out of "authorized livestock farm corporation" on several occasions. A few other words were unintentionally omitted as well. Accordingly, we propose amendments to correct these omissions and consequently to clarify this proposed legislation.

Chairman Luick and committee members, thank you for your consideration of these additional proposed minor amendments to House Bill 1371. I will respectfully stand for any questions.

23.0721.03002 March 30, 2023

ADDITIONAL PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1371

Pg 1, line 23, remove “agriculture”

Pg 2, line 9, insert “poultry or” before “poultry products”

Pg 2, lines 19-23, amend and replace with:

> 7 . a . "Farming or ranching” means raising or producing agricultural crops, fruit, horticultural products, or livestock or livestock products, or livestock backgrounding, or livestock finishing.

Pg 2, line 26, remove “agriculture” after “Aquaculture”

Pg 3, line 6, insert “which is” before “allowed”

Pg 3, line 10, insert “which is” before “allowed”

Pg 3, line 20, insert “or facility” after “feedlot”

Pg 3, lines 22-23, delete “, usually in a livestock finishing feedlot,”

Pg 6, line 12, insert “farm” between “livestock” and “limited”

Pg 13, line 11, insert “of the” before “limited liability person”

Pg 13, line 11, delete “limited liability”

Pg 15, lines 9-11, new text is not underlined and should be underlined on the engrossed version 3002: “or which is inactive for three consecutive years as determined by the Agriculture Commission, is subject to the divestment provisions of section 10-06.1-24.”

Pg 18, line 14, insert “organization,” between “incorporation,” and “or”

Pg 25, line 22, insert “farm” between “livestock” and “limited”

Pg 27, line 28, insert “farm” immediately before “limited liability company”

Pg 27, line 29, after “livestock” insert “on farmland or ranchland”

Pg 28, line 18, insert “farm” between “livestock” and “corporation”

Pg 29, line 16, replace “such” with “the”

Renumber accordingly

23.0721.03002
Title.

Prepared by the Legislative Council staff for Representative Thomas
March 23, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1371

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 18, after the third underscored comma insert "or"

Page 1, line 18, after "or" insert "the business of"

Page 1, line 22, after the second "corporation" insert ", joint-stock company or association"

Page 1, line 22, replace "cattle" with "livestock"

Page 1, line 23, replace "cattle" with "livestock"

Page 2, line 1, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act, "

Page 2, line 4, replace the first "cattle" with "livestock"

Page 2, line 4, replace the second "cattle" with "livestock"

Page 2, line 5, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act, "

Page 2, line 7, remove ""Cattle backgrounding" means the feeding or growing of cattle from weaning until the"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "expeditiously preparing the cattle for harvest" with ""Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries"

Page 2, line 11, replace "7." with "6."

Page 2, line 13, replace "8." with "7. a."

Page 2, line 13, overstrike "land" and insert immediately thereafter "farmland or ranchland"

Page 2, line 14, after the first comma insert "livestock backgrounding, livestock finishing,"

Page 2, line 14, after the second comma insert "swine or swine products"

Page 2, line 15, overstrike "It" and insert immediately thereafter:

"b. The term"

Page 2, line 17, replace "a." with "(1)"

Page 2, line 18, replace "b." with "(2) Aquaculture agriculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];

(3) Beekeeping;

(4)"

Page 2, line 19, replace "c." with "(5)"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "agricultural landholding not exceeding forty acres [16.19 hectares];"

Page 2, line 23, replace "f." with "(6)"

Page 2, line 25, replace "9." with "8."

Page 2, line 26, after "association" insert "allowed to engage in the business of farming or ranching under section 10-06.1-12, "

Page 2, line 28, replace "10." with "9."

Page 2, line 29, after "company" insert "allowed to engage in the business of farming or ranching under section 10-06.1-12, "

Page 2, after line 29, insert:

"10. "Farmland or ranchland" means agricultural land in this state used for farming or ranching."

Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot.

14. "Livestock finishing" means the feeding or growing of livestock, usually in a livestock finishing feedlot, for the purpose of expeditiously preparing the livestock for harvest.

15."

Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farmer or ranching corporation or a farming or ranching limited liability company~~ allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own or lease farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit

organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~farmland or ranchland may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

   a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

   b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a farming or ranching corporation or farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

   c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

   d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

   e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

   f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. a. Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

   b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

   c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

Page 4, line 25, after the "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.
(2) All"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 21, replace "company" with "person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

   a. The name of the farming or ranching corporation or farming or ranching limited liability company.

   b. With respect to each shareholder or member:

      (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

      (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

      (3) The relationship of each;

      (4) A statement of whether each is a citizen or permanent resident alien of the United States; and

      (5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

   c. With respect to management:

      (1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

      (2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among

and between the corporation and its respective shareholders or holders of interest.

b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "of the farming or ranching corporation or the farming or ranching limited liability company"

Page 10, line 13, overstrike "1." and insert immediately thereafter "a."

Page 10, line 13, after "the" insert "farming or ranching"

Page 10, line 13, after "or" insert "farming or ranching"

Page 10, line 14, overstrike "2." and insert immediately thereafter "b."

Page 10, line 14, after the second "the" insert "farming or ranching"

Page 10, line 14, after "or" insert "farming or ranching"

Page 10, line 17, overstrike "3." and insert immediately thereafter "c."

Page 10, line 17, after "each" insert "farming or ranching"

Page 10, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 10, line 23, overstrike "4." and insert immediately thereafter "d."

Page 10, line 23, after "each" insert "farming or ranching"

Page 10, line 24, replace "a." with "(1)"

Page 10, line 24, replace "number of units" with "membership interests"

Page 10, line 26, replace "b." with "(2)"

Page 10, line 26, replace "number of issued units" with "membership interests"

Page 10, line 28, replace "5." with "e."

Page 10, line 29, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 1, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 3, overstrike "c." and insert immediately thereafter "(3)"

Page 11, line 3, after the semicolon insert "and"

Page 11, line 4, overstrike "d." and insert immediately thereafter "(4)"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "6." with "f."

Page 11, line 9, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 9, after "a" insert "farming or ranching"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 12, after "a" insert "farming or ranching"

Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 18, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

Page 13, line 6, remove ", including the names and addresses and"

Page 13, line 7, remove "relationships of trusts and estates that own shares or membership interests"

Page 13, line 8, replace "an organization" with "a person other than an individual"

Page 13, line 8, after "of" insert "incorporation, organization, or"

Page 13, line 9, after "interests" insert "or percentage of shares or membership interests of each"

Page 13, line 10, after "of" insert "total"

Page 13, line 12, after "of" insert "total"

Page 13, line 13, replace "A" with "As to individuals, a"

Page 13, line 14, remove "and"

Page 13, remove line 16

Page 13, line 17, replace "ranch" with "the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 13, line 19, replace "a" with "an authorized livestock farm"

Page 13, line 20, replace the underscored period with ", and a statement whether each actively is engaged in the operation of the corporation; or"

Page 13, line 21, replace "a" with "an authorized livestock farm"

Page 13, line 22, after "governors" insert ", and a statement whether each actively is engaged in the operation of the limited liability company"

Page 13, line 23, after "the" insert "authorized livestock farm"

Page 13, line 23, after the first "or" insert "authorized livestock farm"

Page 13, line 23, remove "directly or"

Page 13, line 24, remove "indirectly"

Page 13, line 25, after the underscored closing bracket insert "of farmland or ranchland"

Page 13, line 26, replace "land" with "farmland or ranchland"

Page 13, line 26, remove ", the total"

Page 13, line 27, replace "number of hectares" with "[hectarage]"

Page 13, line 28, replace "land in the state" with "farmland or ranchland"

Page 13, line 28, after the second "the" insert "authorized livestock farm"

Page 13, line 28, after "or" insert "authorized livestock farm"

Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.

3. The acreage [hectarage] and location listed by section, township, range, and county of all such ~~land in the state~~farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.

4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

   c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

   d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or

corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees."

Page 15, after line 20, insert:

"1."

Page 15, line 22, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 15, line 22, after "business" insert "of farming and ranching"

Page 15, line 27, after the period insert:

"2."

Page 15, line 28, after the first "the" insert "farming and ranching"

Page 15, line 28, after "corporation" insert "or authorized livestock farm corporation"

Page 16, line 5, after the period insert:

"3."

Page 16, line 6, after the third "the" insert "<u>farming or ranching</u>"

Page 16, line 7, after "corporation" insert "<u>or authorized livestock farm corporation</u>"

Page 16, after line 18 insert:

"<u>1.</u>"

Page 16, line 20, overstrike "doing" and insert immediately thereafter "<u>engaged in the</u>"

Page 16, line 20, after "business" insert "<u>of farming and ranching</u>"

Page 16, line 25, overstrike "by" and insert immediately thereafter "<u>under</u>"

Page 16, line 26, after the period insert:

"<u>2.</u>"

Page 16, line 26, after the third "the" insert "<u>farming or ranching</u>"

Page 16, line 27, after "company" insert "<u>or authorized livestock farm limited liability company</u>"

Page 17, line 5, after the period insert:

"<u>3.</u>"

Page 17, line 7, after "company" insert "<u>or authorized livestock farm limited liability company itself</u>"

Renumber accordingly

23.0721.03004
Title.05000

Adopted by the Conference Committee

April 13, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1371

That the Senate recede from its amendments as printed on pages 1537-1561 of the House Journal and pages 1268-1293 of the Senate Journal and that Engrossed House Bill No. 1371 be amended as follows:

Page 1, line 2, after "corporation" insert "and authorized livestock farm limited liability company"

Page 1, line 2, after the second comma, insert "and"

Page 1, line 3, remove the comma

Page 1, line 4, replace the second "and" with "10-06.1-03,"

Page 1, line 5, replace "subsection 2 of section" with "10-06.1-05, 10-06.1-06, 10-06.1-07, and 10-06.1-08, subsection 1 of section 10-06.1-09, and sections 10-06.1-10, and 10-06.1-11,"

Page 1, line 5, remove "and sections"

Page 1, line 5, after the fourth comma insert "10-06.1-15, 10-06.1-16,"

Page 1, line 6, after the first comma insert "10-06.1-18, 10-06.1-19, 10-06.1-20,"

Page 1, line 6, after the third comma insert "10-06.1-23, 10-06.1-24, 10-06.1-25,"

Page 1, line 8, replace "cattle" with "livestock"

Page 1, line 9, remove the second "and"

Page 1, line 10, after "penalty" insert "; and to declare an emergency"

Page 1, line 18, after the third underscored comma insert "or"

Page 1, line 18, after "or" insert "the business of"

Page 1, line 20, remove "agriculture"

Page 1, line 22, after the second "corporation" insert ", joint-stock company or association"

Page 1, line 22, replace "cattle" with "livestock"

Page 1, line 23, replace "cattle" with "livestock"

Page 2, line 1, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act,"

Page 2, line 4, replace the first "cattle" with "livestock"

Page 2, line 4, replace the second "cattle" with "livestock"

Page 2, line 4, after "of" insert "poultry or"

Page 2, line 5, after the second "products" insert "which is allowed to engage in the business of farming or ranching under section 13 of this Act," Page 2, line 7, remove ""<u>Cattle backgrounding" means the feeding or growing of cattle from weaning until the</u>"

Page 2, remove lines 8 and 9

Page 2, line 10, replace "<u>expeditiously preparing the cattle for harvest</u>" with ""<u>Beekeeping" means the breeding or rearing of bee colonies or the owning, maintenance, or management of bee apiaries</u>"

Page 2, line 11, replace "<u>7.</u>" with "<u>6.</u>"

Page 2, line 13, replace "<u>8.</u>" with "<u>7.</u> <u>a.</u>"

Page 2, line 13, overstrike "cultivating land for production of agricultural crops or"

Page 2, line 14, overstrike "livestock, or the"

Page 2, line 14, overstrike "of" and insert immediately thereafter "<u>agricultural crops, fruit, horticultural products, or</u>"

Page 2, line 14, overstrike "poultry or"

Page 2, line 15, overstrike "poultry products, milk or dairy products, or fruit or horticultural products. It" and insert immediately thereafter "<u>or livestock backgrounding, or livestock fishing.</u>

<u>b.</u> <u>The term</u>"

Page 2, line 17, replace "<u>a.</u>" with "<u>(1)</u>"

Page 2, line 18, replace "<u>b.</u>" with "<u>(2)</u> <u>Aquaculture or greenhouse agriculture by a person that has farmland or ranchland holdings not exceeding forty acres [16.19 hectares];</u>

<u>(3)</u> <u>Beekeeping;</u>

<u>(4)</u>"

Page 2, line 19, replace "<u>c.</u>" with "<u>(5)</u>"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "<u>agricultural landholding not exceeding forty acres [16.19 hectares];</u>"

Page 2, line 23, replace "<u>f.</u>" with "<u>(6)</u>"

Page 2, line 25, replace "<u>9.</u>" with "<u>8.</u>"

Page 2, line 26, after "association" insert "<u>which is allowed to engage in the business of farming or ranching under section 10-06.1-12,</u>"

Page 2, line 28, replace "<u>10.</u>" with "<u>9.</u>"

Page 2, line 29, after "company" insert "<u>which is allowed to engage in the business of farming or ranching under section 10-06.1-12,</u>"

Page 2, after line 29, insert:

"<u>10.</u> <u>"Farmland or ranchland" means agricultural land in this state used for farming or ranching.</u>"

Page 3, line 4, after "12." insert ""Livestock" includes beef cattle, dairy cattle, elk, bison, poultry, swine, sheep, goats, llamas, and alpacas.

13. "Livestock backgrounding" means the feeding or growing of livestock from weaning until the livestock enter a livestock finishing feedlot or facility.

14. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest.

15."

Page 3, line 16, replace "13." with "16."

Page 3, line 16, remove "day-to-day"

Page 3, line 17, remove "day-to-day"

Page 3, line 18, remove "significantly"

Page 3, after line 22, insert:

"1."

Page 3, line 24, overstrike "land used for farming or ranching" and insert immediately thereafter "farmland or ranchland"

Page 3, line 25, after the period insert:

"2."

Page 3, line 26, overstrike "that is" and insert immediately thereafter "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 27, after the period insert:

"3."

Page 3, line 27, after "provision" insert "of law"

Page 3, line 28, remove "is"

Page 3, line 29, replace "prohibited from being" with "may not be"

Page 3, line 29, remove "owning or leasing land used for farming or"

Page 3, line 30, replace "ranching or engaging" with "under title 45 which owns or leases farmland or ranchland or engages"

Page 3, line 30, remove ", a shareholder of an authorized"

Page 3, line 31, remove "livestock farm corporation, or a member of an authorized livestock farm limited liability company"

Page 3, after line 31, insert:

"**SECTION 3. AMENDMENT.** Section 10-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-03. Retention of mineral interests prohibited.

For land and minerals acquired after July 1, 1985, any corporation or limited liability company that acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and which is prohibited from owning or leasing ~~land used in farming or ranching~~farmland or ranchland, is prohibited from retaining mineral interests in ~~land used for farming or ranching~~farmland or ranchland when the corporation or limited liability company divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation or limited liability company divests itself of the land under this chapter."

Page 4, after line 3 insert:

"1."

Page 4, line 5, after "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 9, after "10-06.1-15" insert "or section 18 of this Act"

Page 4, line 9, after the period insert:

"2."

Page 4, line 9, after the first "corporation" insert "or an authorized livestock farm corporation"

Page 4, line 13, replace "and" with "or"

Page 4, line 13, replace "11" with "21"

Page 4, replace lines 16 through 22 with:

"**SECTION 5. AMENDMENT.** Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

1. A business limited liability company regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company or an authorized livestock farm limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15 or section 18 of this Act.

2. A farming or ranching limited liability company or an authorized livestock farm limited liability company may convert to a business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 or section 21 of this Act, and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 6. AMENDMENT. Section 10-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease ~~lands used for farming or ranching~~farmland or ranchland, when the business of ~~such a~~the corporation or limited liability company is ~~the~~ conducting ~~of~~ surface coal mining operations or related energy conversion, and when the owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of ~~lands used for farming or ranching~~farmland or ranchland no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing ~~such~~the lands is subject to this chapter.

SECTION 7. AMENDMENT. Section 10-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-07. Industrial and business purpose ~~exception~~- Exception.

A corporation or limited liability company that is not engaged in the business of farming or ranching may own or lease ~~land used for farming or ranching~~farmland or ranchland when the land is necessary for residential or commercial development; the siting of buildings, plants, facilities, industrial parks, or similar business or industrial purposes of the corporation or limited liability company; or for uses supportive of or ancillary to adjacent ~~nonagricultural~~ land that is not farmland or ranchland for the benefit of both land parcels. The farmland or ranchland while not being immediately used for any purpose of the corporation or limited liability company must be available to be leased by persons who farm or ranch as sole proprietorships or partnerships, or by farming or ranching corporations or farming or ranching limited liability companies ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 8. AMENDMENT. Section 10-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-08. Cooperative corporations allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit cooperative corporations, seventy-five percent of whose members or shareholders are actual farmers or ranchers residing on farms or ranches or depending principally on farming or ranching for their livelihood, from acquiring ~~real estate~~farmland or ranchland and engaging in the business of cooperative farming or ranching.

SECTION 9. AMENDMENT. Subsection 1 of section 10-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. A nonprofit organization or a trust for the benefit of an individual or a class of individuals related within the degrees of kinship specified in subsection 2 of section 10-06.1-12 may own or lease farmland or ranchland if that land is leased to a person who farms or ranches the land as a sole proprietorship or partnership, or a farming or ranching corporation or a farming or ranching limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

SECTION 10. AMENDMENT. Section 10-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-10. Acquisition of certain farmland or ranchland by certain nonprofit organizations.

A nonprofit organization may acquire farmland or ranchland only in accordance with the following:

1. Unless it is permitted to own <u>or lease</u> farmland or ranchland under section 10-06.1-09, the nonprofit organization must have been either incorporated in this state or issued a certificate of authority to do business in this state before January 1, 1985, or, before January 1, 1987, have been incorporated in this state if the nonprofit organization was created or authorized under Public Law No. 99-294 [100 Stat. 418]. A nonprofit organization created or authorized under Public Law No. 99-294 [100 Stat. 418] may acquire no more than twelve thousand acres [4856.228 hectares] of land from interest derived from state, federal, and private sources held in its trust fund.

2. The ~~land~~<u>farmland or ranchland</u> may be acquired only for the purpose of conserving natural areas and habitats for biota, and, after acquisition:

   a. The land must be maintained and managed for the purpose of conserving natural area and habitat for biota.

   b. Any agricultural use of the land is in accordance with the management of the land for conservation and agricultural use, and is by a sole proprietorship or partnership, or a <u>farming or ranching</u> corporation or <u>a farming or ranching</u> limited liability company ~~allowed to engage in farming or ranching under section 10-06.1-12~~.

   c. If any parcel of the land is open to hunting, it must be open to hunting by the general public.

   d. The nonprofit organization must fully comply with all state laws relating to the control of noxious and other weeds and insects.

   e. The nonprofit organization must make payments in lieu of property taxes on the property, calculated in the same manner as if the property was subject to full assessment and levy of property taxes.

   f. All property subject to valuation must be assessed for the purpose of making the payments under subdivision e in the same manner as other real property in this state is assessed for tax purposes. Before June thirtieth of each year, the county auditor of any county in which property subject to valuation is located shall give written notice to the nonprofit organization and the tax commissioner of the value placed by the county board of equalization upon each parcel of property subject to valuation in the county.

3. <u>a.</u> Before farmland or ranchland may be purchased by a nonprofit organization for the purpose of conserving natural areas and habitats for biota, the governor must approve the proposed acquisition.

b. A nonprofit organization that desires to purchase farmland or ranchland for the purpose of conserving natural areas and habitats for biota shall first submit a proposed acquisition plan to the agriculture commissioner who shall convene an advisory committee consisting of the director of the parks and recreation department, the agriculture commissioner, the state forester, the director of the game and fish department, the president of the North Dakota farmers union, the president of the North Dakota farm bureau, the president of the North Dakota stockmen's association, and the chairman of the county commission of any county affected by the acquisition, or their designees.

c. The advisory committee shall hold a public hearing with the board of county commissioners concerning the proposed acquisition plan and shall make recommendations to the governor within forty-five days after receipt of the proposed acquisition plan.

d. The governor shall approve or disapprove any proposed acquisition plan, or any part thereof, within thirty days after receipt of the recommendations from the advisory committee.

4. Land acquired in accordance with this section may not be conveyed to the United States or any agency or instrumentality of the United States.

5. On failure to qualify to continue ownership under subsection 2, the land must be disposed of within five years of that failure to qualify.

SECTION 11. AMENDMENT. Section 10-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-11. Required nonprofit organization divestiture of ~~agricultural land~~farmland or ranchland.

In addition to the divestiture requirements of sections 10-06.1-10 and 10-06.1-24, a nonprofit ~~corporation~~organization that acquires ~~land~~farmland or ranchland by gift or devise after December 31, 1984, the ownership of which is not permitted under this chapter, shall divest itself of the land within ten years after the acquisition. For purposes of this section, "ownership" means holding either fee or equitable title, unless fee title is held solely as security for payment of the purchase price, or unless fee title does not carry with it the right to immediate possession of the property. If the ~~corporation~~organization fails to divest itself of the land within the required time, the attorney general shall take action under section 10-06.1-24.

SECTION 12. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. ~~Corporation~~Farming or ranching corporation or farming or ranching limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a farming or ranching corporation or a farming or ranching limited liability company from owning ~~real estate~~or leasing farmland or ranchland and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. a. If a farming or ranching corporation, the corporation must not have more than fifteen shareholders.

   b. If a farming or ranching limited liability company, the limited liability company must not have more than fifteen members.

2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse or surviving spouse of a person so related.

3. Each shareholder or member must be an individual or one of the following:

   a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

   b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. a. If a farming or ranching corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch ~~and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch~~.

   b. If a farming or ranching limited liability company, the governors ~~and~~, managers, and members authorized under a statement of authority of the limited liability company must be members who are actively engaged in operating the farm or ranch ~~and at least one of its members must be an individual residing on or operating the farm or ranch~~.

7. An annual average of at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from engaging in the business of farming or ranching ~~operations~~.

8. The income of the farming or ranching corporation or farming or ranching limited liability company from nonfarm rent, nonfarm royalties, dividends,

interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

9. The farming or ranching corporation or farming or ranching limited liability company must own or lease farmland or ranchland ~~in this state~~."

Page 4, line 25, after "**or**" insert "**authorized livestock farm**"

Page 4, line 25, after "**company**" insert "**allowed to engage in the business of farming or ranching**"

Page 4, line 27, replace "real estate" with "farmland or ranchland"

Page 4, line 28, after the first "the" insert "authorized livestock farm"

Page 4, line 29, after the first "the" insert "authorized livestock farm"

Page 5, line 1, after "1." insert "a."

Page 5, line 1, replace the first "a" with "an authorized livestock farm"

Page 5, line 1, after the underscored period insert:

"b."

Page 5, line 1, replace the second "a" with "an authorized livestock farm"

Page 5, line 3, after "2." insert "a."

Page 5, line 3, replace "a" with "an authorized livestock farm"

Page 5, line 5, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 5, after the underscored comma insert "farming or ranching"

Page 5, line 5, remove "that meet the"

Page 5, line 6, remove "requirements of chapter 10-06.1-12"

Page 5, line 6, after "or" insert "farming or ranching"

Page 5, line 6, remove "that meet the"

Page 5, line 7, remove "requirements of chapter 10-06.1-12"

Page 5, line 7, after the underscored period insert:

"b."

Page 5, line 7, replace "a" with "an authorized livestock farm"

Page 5, line 10, replace "operating a farm or ranch" with "the business of farming or ranching"

Page 5, line 10, after the underscored comma insert "farming or ranching"

Page 5, line 10, remove "that meet the requirements of"

Page 5, line 11, remove "chapter 10-06.1-12"

Page 5, line 11, after "or" insert "farming or ranching"

Page 5, line 11, remove "that meet the requirements of"

Page 5, line 12, remove "chapter 10-06.1-12"

Page 5, line 13, after "3." insert "a."

Page 5, line 13, replace "a" with "an authorized livestock farm"

Page 5, line 13, replace ", all" with:

"(1) All"

Page 5, line 14, remove "or"

Page 5, line 14, replace "and all" with "or an authorized individual under section 47-10.1-02.
(2) All"

Page 5, line 15, replace "person" with "individual or entity"

Page 5, line 16, replace "corporation" with "person"

Page 5, line 17, replace "or" with an underscored comma

Page 5, line 17, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 17, after the underscored period insert:

"b."

Page 5, line 17, replace "a" with "an authorized livestock farm"

Page 5, line 18, replace ", all" with ":

(1) All"

Page 5, line 19, replace "or" with an underscored comma

Page 5, line 19, replace "and all" with "or an authorized individual under section 47-10.1-02; and

(2) All"

Page 5, line 20, remove "person limited"

Page 5, line 21, replace "liability company" with "individual or entity of the person"

Page 5, line 22, replace "or" with an underscored comma

Page 5, line 23, after "aliens" insert "of the United States, or an authorized individual under section 47-10.1-02"

Page 5, line 25, remove "at any time, directly or indirectly,"

Page 5, line 26, replace "land" with "farmland or ranchland"

Page 5, line 27, after "5." insert "a."

Page 5, line 27, replace "a" with "an authorized livestock farm"

Page 5, line 27, replace "are shareholders in" with "may hold direct or indirect interests in"

Page 5, line 28, remove the underscored comma

Page 5, line 28, remove "members"

Page 5, line 29, remove the first underscored comma

Page 5, line 29, remove "directly or indirectly"

Page 5, line 30, replace "land" with "farmland or ranchland"

Page 5, after line 30, insert:

"b."

Page 5, line 31, replace "a" with "an authorized livestock farm"

Page 5, line 31, replace "are members" with "may hold direct or indirect interests"

Page 6, line 1, remove "shareholders"

Page 6, line 1, after "in" insert "other"

Page 6, line 2, remove "directly or indirectly"

Page 6, line 4, replace "land" with "farmland or ranchland.

c. This section does not restrict the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 6, line 5, after "6." insert "a."

Page 6, line 5, replace "a" with "an authorized livestock farm"

Page 6, line 6, after "are" insert "individuals and who are"

Page 6, line 6, remove "authorized livestock farm"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 6, replace "a" with "an authorized livestock farm"

Page 6, line 7, replace "officers" with "members authorized under a statement of authority,"

Page 6, line 7, after "are" insert "individuals and who are"

Page 6, line 8, remove "authorized farm"

Page 6, line 9, after the second "the" insert "authorized livestock farm"

Page 6, line 10, after the first "or" insert "authorized livestock farm"

Page 6, line 11, after "from" insert "livestock backgrounding, livestock finishing, or"

Page 6, line 11, remove "cattle,"

Page 6, line 13, after "the" insert "authorized livestock farm"

Page 6, line 13, after "or" insert "authorized livestock farm"

Page 6, line 15, after "the" insert "authorized livestock farm"

Page 6, line 15, after "or" insert "authorized livestock farm"

Page 6, line 16, after "The" insert "authorized livestock farm"

Page 6, line 16, after the first "or" insert "authorized livestock farm"

Page 6, line 16, remove "directly or indirectly"

Page 6, line 17, remove "cultivation of land for the"

Page 6, line 17, after "livestock" insert "on farmland or ranchland"

Page 6, line 18, replace "The" with "If the authorized livestock farm"

Page 6, line 18, after "or" insert "authorized livestock farm"

Page 6, line 18, replace "must begin" with "is intended to primarily comprise an animal feeding operation or concentrated animal feeding operation on farmland or ranchland, the corporation or limited liability company must:

a. Begin"

Page 6, line 20, remove the underscored period

Page 6, line 21, replace "11. The corporation or limited liability company must have" with "; and

b. Have"

Page 6, line 22, replace "three" with "six"

Page 6, line 23, replace "agricultural landholding" with "farmland or ranchland"

Page 6, line 24, replace "12." with "11."

Page 6, line 25, replace "subsection 10 or 11" with "this section"

Page 7, line 10, overstrike ", except those sections which pertain to foreign limited liability companies,"

Page 7, after line 15, insert:

"**SECTION 16. AMENDMENT.** Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - ~~Shareholder~~Farming or ranching corporation shareholder and farming or ranching limited liability member requirements.

1. Every farming or ranching corporation or farming or ranching limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:

    a. The name of the farming or ranching corporation or farming or ranching limited liability company.

    b. With respect to each shareholder or member:

        (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) The number of shares or membership interests or percentage of shares or membership interests owned by each;

(3) The relationship of each;

(4) A statement of whether each is a citizen or permanent resident alien of the United States; and

(5) A statement of whether each will be actively engaged in operating the farm or ranch ~~and whether each will reside on the farm or ranch~~.

c. With respect to management:

(1) If a farming or ranching corporation, ~~then~~ the names and addresses of the officers and members of the board of directors; or

(2) If a farming or ranching limited liability company, ~~then~~ the names and addresses of the managers, members authorized under a statement of authority, and members of the board of governors.

d. If the purchase or lease of farmland or ranchland is final at the time of the initial report, a statement listing the acreage [hectarage] and location listed by section, township, range, and county of all ~~land in the state~~farmland or ranchland owned or leased by the farming or ranching corporation or farming or ranching limited liability company ~~and used for farming or ranching~~. If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease farmland or ranchland ~~in the state~~.

e. A statement that at least sixty-five percent of the gross income of the farming or ranching corporation or farming or ranching limited liability company will be derived from engaging in the business of farming or ranching ~~operations~~, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

2. A farming or ranching corporation or a farming or ranching limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation ~~or~~, articles of organization, or certificate of authority, and the initial report required ~~by~~under this section.

3. The farming or ranching corporation or farming or ranching limited liability company shall furnish to the official county newspaper of each county or counties in which ~~any land~~farmland or ranchland is owned or leased by the corporation or limited liability company a legal notice reporting the following:

a. The name of the farming or ranching corporation or farming or ranching limited liability company and its shareholders or members as listed in the initial report.

b. A statement ~~to the effect~~ that the farming or ranching corporation or farming or ranching limited liability company has reported that it owns or leases ~~land used for farming or ranching~~farmland or ranchland in the county and that a description of that land is available for inspection at the ~~secretary of state's office~~office of the secretary of state."

Page 7, line 19, replace "supersede this chapter" with "take precedence"

Page 7, line 19, after "conflict" insert "with this chapter"

Page 7, line 22, replace "**corporations**" with "**corporation shareholder**"

Page 7, line 23, replace "**companies**" with "**company member requirements**"

Page 7, line 25, replace "or" with an underscored comma

Page 7, line 26, after "organization" insert ", or certificate of authority"

Page 7, line 26, after the underscored comma insert "or in the case of a certificate of authority, an authorized person,"

Page 7, line 28, after "the" insert "authorized livestock farm"

Page 7, line 28, after "or" insert "authorized livestock farm"

Page 7, line 30, remove ", including the names and addresses and"

Page 7, line 31, remove "relationships of trusts and estates that own shares or membership interests"

Page 8, line 1, replace "an organization" with "a person other than an individual"

Page 8, line 1, after "of" insert "incorporation, organization, or"

Page 8, line 2, after "interests" insert "or percentage of shares or membership interests of each"

Page 8, line 3, after "of" insert "total"

Page 8, line 5, after "of" insert "total"

Page 8, line 6, replace "A" with "As to individuals, a"

Page 8, line 7, remove "and"

Page 8, remove line 9

Page 8, line 10, replace "ranch" with "the business of farming or ranching; and

(8) As to a person other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 8, line 12, replace "a" with "an authorized livestock farm"

Page 8, line 13, replace the underscored period with ", and a statement whether each will be actively engaged in the operation of the corporation; or"

Page 8, line 14, replace "a" with "an authorized livestock farm"

Page 8, line 15, replace "officers" with "members authorized under a statement of authority, and a statement whether each will be actively engaged in the operation of the limited liability company"

Page 8, line 16, after "the" insert "authorized livestock farm"

Page 8, line 16, after "or" insert "authorized livestock farm"

Page 8, line 16, remove "and will not"

Page 8, line 17, remove "directly or indirectly"

Page 8, line 18, after the underscored closing bracket insert "of farmland and ranchland"

Page 8, line 19, replace "land" with "farmland or ranchland"

Page 8, line 20, replace "and the number of hectares" with "[hectarage]"

Page 8, line 21, replace "land in the state" with "farmland or ranchland"

Page 8, line 21, after the second "the" insert "authorized livestock farm"

Page 8, line 21, after "or" insert "authorized livestock farm"

Page 8, line 23, replace "land" with "farmland or ranchland"

Page 8, line 24, remove "land"

Page 8, line 25, replace "in the state" with "farmland or ranchland"

Page 8, line 26, remove "investors are"

Page 8, line 26, after "members" insert "hold a direct or indirect interest"

Page 8, line 26, remove "any"

Page 8, line 27, replace "corporation" with "corporations"

Page 8, line 28, replace "company" with "companies"

Page 8, line 28, replace "directly or indirectly" with "in combination"

Page 8, line 30, after the underscored closing bracket insert "of farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, line 1, after the second "the" insert "authorized livestock farm"

Page 9, line 2, after the first "or" insert "authorized livestock farm"

Page 9, line 2, replace "farming or ranching" with "authorized livestock farm"

Page 9, line 6, after the first "the" insert "authorized livestock farm"

Page 9, line 6, after "or" insert "authorized livestock farm"

Page 9, line 7, remove "cultivation of land for the"

Page 9, line 7, after "crops" insert "or the grazing of livestock on farmland or ranchland"

Page 9, line 8, after the first "the" insert "authorized livestock farm corporation facility or authorized livestock farm limited liability company"

Page 9, line 8, after "of" insert "the commencement of facility"

Page 9, remove lines 9 through 11

Page 9, line 12, replace "A" with "An authorized livestock farm"

Page 9, line 12, replace "a" with "authorized livestock farm"

Page 9, line 14, replace "or" with an underscored comma

Page 9, line 14, after "organization" insert ", or certificate of authority"

Page 9, line 14, after the underscored period insert:

"3."

Page 9, line 14, after "The" insert "authorized livestock farm"

Page 9, line 15, after "or" insert "authorized livestock farm"

Page 9, line 16, remove "or counties"

Page 9, line 16, replace the first "any" with "an"

Page 9, line 16, replace "any land" with "farmland and ranchland"

Page 9, line 18, after "the" insert "authorized livestock farm"

Page 9, line 18, after the first "or" insert "authorized livestock farm"

Page 9, line 20, remove "to the effect"

Page 9, line 20, after the second "the" insert "authorized livestock farm"

Page 9, line 20, after "or" insert "authorized livestock farm"

Page 9, line 21, replace the first "land" with "farmland or ranchland"

Page 9, line 22, remove "secretary of state's"

Page 9, line 23, after "office" insert "of the secretary of state"

Page 9, line 24, remove "to the effect"

Page 9, line 24, after the third "the" insert "authorized livestock farm"

Page 9, line 25, after "the" insert "authorized livestock farm"

Page 9, line 25, remove "directly or indirectly in"

Page 9, line 26, replace "combination with interests in any other person own" with "hold a direct or indirect interest in authorized livestock farm corporations or authorized livestock farm limited liability companies that in aggregate, own, lease, or otherwise hold an interest in"

Page 9, line 27, replace "agricultural land" with "farmland or ranchland. An interest disclosed under this subdivision does not include the number of acres of farmland or ranchland directly owned or leased by shareholders or members that are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 9, after line 27, insert:

"**SECTION 19. AMENDMENT.** Section 10-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-16. Share and membership interest transfer records.

1. a. Every corporation owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching ~~after June 30, 1981,~~ shall keep a record of transfers of shares or transfers of interests in the corporation.

   b. Every limited liability company owning or leasing ~~land used for farming or ranching~~farmland or ranchland or engaged in the business of farming or ranching shall keep a record of transfers of membership interests in the limited liability company.

2. a. If a corporation, the corporation's secretary shall cause to be recorded in the record all transfers of shares or transfers of interests among and between the corporation and its respective shareholders or holders of interest.

   b. If a limited liability company, the limited liability company's secretary shall cause to be recorded in the record all transfers of membership interests among and between the limited liability company and its respective members.

3. The record must contain at least the following: the names of the transferor and transferee, their relationship, the date of the transfer and, if a corporation, the number of shares or the percentage of interests transferred or, if a limited liability company, the number or percentage of membership interests transferred."

Page 10, line 1, after the first boldfaced dash insert "**Farming or ranching corporations and farming or ranching limited liability companies -**"

Page 10, after line 1 insert:

"1."

Page 10, line 2, after "a" insert "farming or ranching"

Page 10, line 2, overstrike "engaged in farming or"

Page 10, line 3, overstrike "ranching after June 30, 1981, and" and insert immediately thereafter "or"

Page 10, line 3, after "a" insert "farming or ranching"

Page 10, line 3, after "in" insert "the business of"

Page 10, after line 6, insert:

"2."

Page 10, line 7 , after "a" insert "farming or ranching"

Page 10, line 8, after "a" insert "farming or ranching"

Page 10, line 10, overstrike "it" and insert immediately thereafter "the annual report"

Page 10, line 11, after the period insert:

"3."

Page 10, line 11, after "report" insert "of the farming or ranching corporation or the farming or ranching limited liability company"

Page 10, line 13, overstrike "1." and insert immediately thereafter "a."

Page 10, line 13, after "the" insert "farming or ranching"

Page 10, line 13, after "or" insert "farming or ranching"

Page 10, line 14, overstrike "2." and insert immediately thereafter "b."

Page 10, line 14, after the second "the" insert "farming or ranching"

Page 10, line 14, after "or" insert "farming or ranching"

Page 10, line 17, overstrike "3." and insert immediately thereafter "c."

Page 10, line 17, after "each" insert "farming or ranching"

Page 10, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 10, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 10, line 23, overstrike "4." and insert immediately thereafter "d."

Page 10, line 23, after "each" insert "farming or ranching"

Page 10, line 24, replace "a." with "(1)"

Page 10, line 24, replace "number of units" with "membership interests"

Page 10, line 26, replace "b." with "(2)"

Page 10, line 26, replace "number of issued units" with "membership interests"

Page 10, line 28, replace "5." with "e."

Page 10, line 29, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 1, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 3, overstrike "c." and insert immediately thereafter "(3)"

Page 11, line 3, after the semicolon insert "and"

Page 11, line 4, overstrike "d." and insert immediately thereafter "(4)"

Page 11, line 5, overstrike "; and"

Page 11, overstrike line 6

Page 11, line 7, overstrike "farm or ranch"

Page 11, line 8, replace "6." with "f."

Page 11, line 9, overstrike "a." and insert immediately thereafter "(1)"

Page 11, line 9, after "a" insert "farming or ranching"

Page 11, line 9, overstrike "then"

Page 11, line 12, overstrike "b." and insert immediately thereafter "(2)"

Page 11, line 12, after "a" insert "farming or ranching"

Page 11, line 12, overstrike "then"

Page 11, line 12, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 11, line 13, after the comma insert "and member authorized under a statement of authority,"

Page 11, line 15, replace "7." with "g."

Page 11, line 16, overstrike "land in the state" and insert immediately thereafter "farmland or ranchland"

Page 11, line 17, after "the" insert "farming or ranching"

Page 11, line 17, after the first "or" insert "farming or ranching"

Page 11, line 17, overstrike "and used for farming or ranching"

Page 11, line 21, replace "8." with "h."

Page 11, line 21, after the third "the" insert "farming or ranching"

Page 11, line 22, after the first "or" insert "farming or ranching"

Page 11, line 22, after "from" insert "engaging in the business of"

Page 11, line 23, overstrike "operations"

Page 11, line 25, replace "9." with "i."

Page 11, line 25, after the second "the" insert "farming or ranching"

Page 11, line 25, after "or" insert "farming or ranching"

Page 11, line 28, replace "10." with "4."

Page 11, line 28, after "A" insert "farming or ranching"

Page 11, line 28, after "in" insert "the business of"

Page 11, line 28, after "farming" insert "or ranching"

Page 11, line 30, overstrike "by" and insert immediately thereafter "under"

Page 12, line 1, replace "11." with "5."

Page 12, line 1, after "A" insert "farming or ranching"

Page 12, line 1, after "in" insert "the business of"

Page 12, line 1, after "farming" insert "or ranching"

Page 12, line 4, overstrike "by" and insert immediately thereafter "under"

Page 12, line 7, after the first underscored boldfaced dash insert "**Authorized livestock farm corporations and authorized livestock farm limited liability companies -**"

Page 12, line 12, replace "or" with an underscored comma

Page 12, line 12, after "organization" insert ", or certificate of authority"

Page 12, line 12, after the underscored period insert:

"2."

Page 12, line 13, after "in" insert "subsection 58 of"

Page 12, line 13, replace "a" with "an authorized livestock farm"

Page 12, line 13, replace "or" with "and subsection 49 of"

Page 12, line 14, replace the first "a" with "an authorized livestock farm"

Page 12, line 15, after the first "the" insert "authorized livestock farm"

Page 12, line 15, after "or" insert "authorized livestock farm"

Page 12, line 16, after the second "the" insert "authorized livestock farm"

Page 12, line 16, after the second "or" insert "authorized livestock farm"

Page 12, line 17, after the underscored period insert:

"3."

Page 12, line 17, after "report" insert "of the authorized livestock farm corporation or the authorized livestock farm limited liability company"

Page 12, line 19, replace "registered agent of the" with "authorized livestock farm"

Page 12, line 19, after "or" insert "authorized livestock farm"

Page 12, remove lines 20 and 21

Page 12, line 22, remove "this state"

Page 12, line 23, replace "corporation of limited liability company" with "registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state"

Page 12, line 24, after "each" insert "authorized livestock farm"

Page 12, line 25, after the second "the" insert "authorized livestock farm"

Page 12, line 31, after "each" insert "authorized livestock farm"

Page 13, line 1, replace "number of units" with "membership interests"

Page 13, line 1, after the second "the" insert "authorized livestock farm"

Page 13, line 3, replace "units" with "membership interests"

Page 13, line 6, remove ", including the names and addresses and"

Page 13, line 7, remove "relationships of trusts and estates that own shares or membership interests"

Page 13, line 8, replace "an organization" with "a person other than an individual"

Page 13, line 8, after "of" insert "incorporation, organization, or"

Page 13, line 9, after "interests" insert "or percentage of shares or membership interests of each"

Page 13, line 10, after "of" insert "total"

Page 13, line 12, after "of" insert "total"

Page 13, line 13, replace "A" with "As to individuals, a"

Page 13, line 14, remove "and"

Page 13, remove line 16

Page 13, line 17, replace "ranch" with "the business of farming or ranching; and

(8) As to persons other than an individual, a statement of whether the person, and any controlling person of the person, is incorporated or organized in the United States and one hundred percent of the stock or interests is owned by citizens of the United States, permanent resident aliens of the United States, or individuals or persons in compliance with section 47-10.1-02"

Page 13, line 19, replace "a" with "an authorized livestock farm"

Page 13, line 20, replace the underscored period with ", and a statement whether each actively is engaged in the operation of the corporation; or"

Page 13, line 21, replace "a" with "an authorized livestock farm"

Page 13, line 22, after "governors" insert ", and a statement whether each actively is engaged in the operation of the limited liability company"

Page 13, line 23, after "the" insert "authorized livestock farm"

Page 13, line 23, after the first "or" insert "authorized livestock farm"

Page 13, line 23, remove "directly or"

Page 13, line 24, remove "indirectly"

Page 13, line 25, after the underscored closing bracket insert "of farmland or ranchland"

Page 13, line 26, replace "land" with "farmland or ranchland"

Page 13, line 26, remove ", the total"

Page 13, line 27, replace "number of hectares" with "[hectarage]"

Page 13, line 28, replace "land in the state" with "farmland or ranchland"

Page 13, line 28, after the second "the" insert "authorized livestock farm"

Page 13, line 28, after "or" insert "authorized livestock farm"

Page 13, line 30, remove "investors are"

Page 13, line 30, after "members" insert "hold a direct or indirect interest"

Page 13, line 30, remove "any"

Page 13, line 31, replace "corporation" with "corporations"

Page 14, line 1, replace "company" with "companies"

Page 14, line 1, replace "directly or indirectly" with "in combination"

Page 14, line 3, after the underscored closing bracket insert "of farmland or ranchland. The interest disclosed under this subdivision does not include the number of acres [hectares] of farmland or ranchland directly owned or leased by shareholders or members who are individuals, farming or ranching corporations, farming or ranching limited liability companies, or partnerships that meet the requirements of subsection 2 of section 10-06.1-02"

Page 14, line 4, remove "A statement that at least sixty-five percent of the gross income of the corporation"

Page 14, remove lines 5 through 8

Page 14, line 9, remove "k."

Page 14, line 9, after "the" insert "authorized livestock farm"

Page 14, line 9, after "or" insert "authorized livestock farm"

Page 14, line 10, remove "cultivation of land for the"

Page 14, line 10, after "livestock" insert "on farmland or ranchland"

Page 14, line 11, replace "l." with "k."

Page 14, line 11, after "of" insert "livestock"

Page 14, remove lines 12 through 18

Page 14, line 19, replace "o." with "l."

Page 14, line 19, after the third "the" insert "authorized livestock farm"

Page 14, line 20, after the first "or" insert "authorized livestock farm"

Page 14, line 20, remove "farming or"

Page 14, line 21, replace "ranching" with "authorized livestock farm"

Page 14, line 23, replace "p." with "m."

Page 14, line 23, after the second "the" insert "authorized livestock farm"

Page 14, line 23, after "or" insert "authorized livestock farm"

Page 14, line 26, replace "2. A" with:

"4. An authorized livestock farm"

Page 14, line 26, replace "farming which" with "authorized livestock farm operations that"

Page 14, line 28, replace "by" with "under"

Page 14, line 29, replace "3. A" with:

"5. An authorized livestock farm"

Page 14, line 29, replace "farming which" with "authorized livestock farm operations that"

Page 15, line 2, replace "by" with "under"

Page 15, after line 2, insert:

"**SECTION 22. AMENDMENT.** Section 10-06.1-18 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-18. Reports of corporations and limited liability companies not engaged in farming or ranching.

Any business ~~or nonprofit~~ corporation ~~and any~~, limited liability company, or nonprofit organization not engaged in the business of farming or ranching which owns or leases a tract of ~~land used for farming or ranching~~farmland or ranchland which is larger than twenty acres [8.09 hectares] in size shall file with the attorney general, within twelve months of any transaction involving the purchase, sale, or surface leasing of ~~such~~the farmland or ranchland by that corporation or limited liability company, a report containing all of the following information:

1. The name of the corporation or limited liability company and its place of incorporation or organization and, if a nonprofit ~~corporation~~organization, a copy of its section 501(c)(3) exemption letter from the internal revenue service.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of the noncommercial registered agent in this state.

3. The acreage [hectarage] and location listed by section, township, range, and county of all ~~such land in the state~~the farmland or ranchland owned or leased by the corporation or limited liability company ~~and used for farming or ranching~~.

4. The date and method of acquisition or disposal of ~~such~~the farmland or ranchland.

SECTION 23. AMENDMENT. Section 10-06.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-19. Exemption from certain disclosure and other requirements for certain organizations.

Sections 10-06.1-12, 10-06.1-15, 18 of this Act, 10-06.1-17, 21 of this Act, and 10-06.1-18 do not apply to nonprofit organizations or to corporations or limited liability companies such as banks, trust companies, or foundations serving in a fiduciary capacity as the personal representative or trustee of an estate or trust for an individual described in subsection 2 of section 10-06.1-12.

SECTION 24. AMENDMENT. Section 10-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-20. Failure to file report - Penalty.

Every corporation or limited liability company ~~which~~that willfully fails to file any report required under this chapter or willfully files false information on any report required under this chapter is guilty of a class A misdemeanor."

Page 15, line 7, replace "5" with "13"

Page 15, line 8, overstrike "such" and insert immediately thereafter "the"

Page 15, line 14, after "from" insert "engaging in the business of"

Page 15, line 15, overstrike "operations"

Page 15, line 15, overstrike "such" and insert immediately thereafter "the"

Page 15, line 16, replace "11" with "21"

Page 15, after line 17, insert:

"**SECTION 27. AMENDMENT.** Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized ~~by~~under this chapter for requests for information to determine compliance with this chapter. For ~~such~~this purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and ~~such~~ other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 28. AMENDMENT. Section 10-06.1-24 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-24. Enforcement - Penalty.

1. a. The recorder shall mail or deliver a copy of every instrument filed or recorded, within thirty days after the instrument is recorded, to the attorney general if the instrument documents evidence of a lease agreement or purchase agreement pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or ranchland to a corporation or limited liability company.

   b. The attorney general shall commence an action in the district court of the county in which the substantial portion of farmland or ranchland used in violation of this chapter is situated if the attorney general has reason to believe that any person is violating this chapter. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action.

c. If the court finds that the ~~land in question~~farmland or ranchland is being held in violation of this chapter, or that a corporation or limited liability company is ~~conducting~~engaging in the business of farming or ranching in violation of this chapter, the court shall enter an order ~~so declaring~~pursuant to the court's findings of fact and conclusions of law. The attorney general shall file ~~any such~~the order for record with the recorder of each county in which any portion of the land is located. Thereafter, the corporation or limited liability company shall, within the time set by the court not to exceed one year from the date of the court's final order, divest itself of ~~any farming or ranching land~~the farmland or ranchland owned or leased by it in violation of this chapter, and cease ~~all~~engaging in the business of farming or ranching ~~operations~~.

d. Except as otherwise provided in subsection 10, any corporation or limited liability company that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the secretary of state.

2. The divestment period is deemed to be a covenant running with the title to the ~~land~~farmland or ranchland against any corporate or limited liability company grantee, corporate or limited liability company successor, or corporation or limited liability company assignee of the corporation or limited liability company not authorized to ~~do~~engage in the business of farming or ranching under this chapter.

3. Any ~~land~~farmland or ranchland not divested within the divestment period prescribed must be sold at public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including enjoining the corporation or limited liability company from completing performance on the remainder of any leasehold which is in violation of this chapter.

4. Subject to the divestiture requirements of subsections 5, 6, and 7, a ~~domestic or foreign~~ corporation or limited liability company may acquire farmland or ranchland as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7, all farmland or ranchland acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

6. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company leases to the prior mortgagor from whom it was acquired, with an option to purchase, and if documents evidencing the lease agreement have been filed with the recorder of each county in which the land is

located. A copy of a notice of lease is sufficient evidence. The exemption in this subsection applies for only five years and then only if the property has been appraised in accordance with subsection 8. The annual lease payments required of the tenant may not exceed seven percent of the appraised value.

7. The disposition requirement does not apply to a corporation or limited liability company that has acquired title to the ~~land~~farmland or ranchland through the process of foreclosure of a mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration of one month after what is or what would have been the redemption period of the mortgage if the mortgage had been foreclosed, that corporation or limited liability company contracts for the sale of the land to the prior mortgagor from whom it was acquired, and if documents evidencing the purchase agreement have been filed with the recorder of each county in which the land is located. A copy of a notice of the contract for deed is sufficient evidence. An exemption under this subsection is valid only if an appraisal has been made in accordance with subsection 8, and if it is valid, the exemption is unlimited in duration. The sale price may not exceed the price determined by the appraisers.

8. If an appraisal is required, the appraisal must be made by three independent appraisers, one selected by the corporation or limited liability company, one selected by the prior mortgagor, and the third selected by the first two appraisers.

9. If a corporation or limited liability company holds ~~land~~farmland or ranchland pending divestiture, and the holding is not otherwise ~~governed by~~regulated under this section, the land must be leased to persons actually engaged in the business of farming or ranching and a disposal may not be to a corporation or limited liability company unless ownership by that corporation or limited liability company is authorized under this chapter.

10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred thousand dollars.

11. Except as provided in subsection 10, any corporation or limited liability company continuing to violate this chapter is subject to a civil penalty not to exceed twenty-five thousand dollars and may be dissolved or terminated by the attorney general in accordance with the laws of this state.

SECTION 29. AMENDMENT. Section 10-06.1-25 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-25. Private enforcement.

This chapter may be enforced in the same manner as provided in section 10-06.1-24 by any corporation or limited liability company authorized to engage in the business of farming or ranching ~~by~~under this chapter or any resident of legal age of a county in which the ~~land~~farmland or ranchland owned or leased by a corporation or limited liability company in violation of this chapter is located. ~~If such action is successful, all costs of the action must be assessed against the defendant and a reasonable attorney's fee must be allowed the plaintiff. If judgment is rendered for the defendant, such costs and a reasonable attorney's fee for the defendant must be paid~~

~~by the plaintiff~~If an action is brought under this section, the district court must award to the prevailing party the actual costs and disbursements and reasonable attorney's fees."

Page 15, after line 20, insert:

"1."

Page 15, line 22, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 15, line 22, after "business" insert "of farming and ranching"

Page 15, line 27, after the period insert:

"2."

Page 15, line 28, after the first "the" insert "farming and ranching"

Page 15, line 28, after "corporation" insert "or authorized livestock farm corporation"

Page 16, line 5, after the period insert:

"3."

Page 16, line 6, after the third "the" insert "farming or ranching"

Page 16, line 7, after "corporation" insert "or authorized livestock farm corporation"

Page 16, after line 18 insert:

"1."

Page 16, line 20, overstrike "doing" and insert immediately thereafter "engaged in the"

Page 16, line 20, after "business" insert "of farming and ranching"

Page 16, line 25, overstrike "by" and insert immediately thereafter "under"

Page 16, line 26, after the period insert:

"2."

Page 16, line 26, after the third "the" insert "farming or ranching"

Page 16, line 27, after "company" insert "or authorized livestock farm limited liability company"

Page 17, line 5, after the period insert:

"3."

Page 17, line 7, after "company" insert "or authorized livestock farm limited liability company itself"

Page, 17, after line 17, insert

"**SECTION 32. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

23.0721.02002
Title.

Prepared by the Legislative Council staff for
Representative Thomas
February 15, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1371

Page 1, line 1, after "to" insert "create and enact four new sections to chapter 10-06.1 of the North Dakota Century Code, relating to authorized livestock farm corporation requirements, initial and annual reporting requirements for authorized livestock farm corporations, and authorized livestock farm limited liability companies; to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, replace the second "and" with ", 10-06.1-02, and 10-06.1-04,"

Page 1, line 2, after "10-06.1-12" insert ", and sections 10-06.1-13, 10-06.1-14, 10-06.1-17, 10-06.1-21, 10-06.1-22, 10-06.1-26, and 10-06.1-27"

Page 1, line 4, remove the second "and"

Page 1, line 4, after "landholdings" insert ", and required reporting for corporate farming; and to provide a penalty"

Page 1, line 6, remove ""Beekeeping" means the breeding or rearing of bee colonies or the owning,"

Page 1, line 17, replace "maintenance, or management of bee apiaries" with ""Authorized livestock farm corporation" means a corporation formed for livestock backgrounding, livestock finishing, or the production of poultry or poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter"

Page 1, after line 17, insert:

"4. "Authorized livestock farm limited liability company" means a limited liability company formed for livestock backgrounding, livestock finishing, or the production of poultry products, milk or dairy products, or swine or swine products which, at all times, complies with the requirements of this chapter."

Page 1, replace lines 20 through 23 with:

"6. "Livestock finishing" means the feeding or growing of livestock for the purpose of expeditiously preparing the livestock for harvest."

Page 2, line 1, replace "6." with "7."

Page 2, line 3, replace "7. a." with "8."

Page 2, line 3, remove the overstrike over "~~cultivating~~"

Page 2, line 3, remove the underscored colon

Page 2, line 4, remove "(1) Cultivating"

Page 2, line 4, remove the overstrike over the overstruck comma

Page 2, line 4, remove the underscored semicolon

Page 2, line 4, remove the overstrike over "~~the~~"

Page 2, line 5, remove "(2) The"

Page 2, line 6, remove the overstrike over "~~It~~"

Page 2, line 7, remove "b. Notwithstanding subdivision a, "farming or ranching""

Page 2, remove line 8

Page 2, line 9, replace "(2)" with "a."

Page 2, line 10, replace "(3)" with "b."

Page 2, line 11, replace "(4)" with "c."

Page 2, line 12, replace "(5)" with "d."

Page 2, line 12, remove "Cattle backgrounding or cattle finishing feedlot operations, or the raising or"

Page 2, remove lines 13 and 14

Page 2, line 15, replace "hundred sixty acres [64.75 hectares]" with "Custom harvesting"

Page 2, line 16, replace "(6)" with "e."

Page 2, line 19, replace "(7)" with "f."

Page 2, line 21, replace "8." with "9."

Page 2, line 24, replace "9." with "10."

Page 2, line 26, replace "10." with "11."

Page 2, remove lines 29 and 30

Page 3, line 1, strike ", hydroponic agriculture,"

Page 3, after line 14, insert:

"**SECTION 2. AMENDMENT.** Section 10-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-02. Farming or ranching by corporations and limited liability companies prohibited.

All corporations and limited liability companies, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. A corporation or a limited liability company may be a partner in a partnership that is in the business of farming or ranching only if that corporation or limited liability company complies with this chapter.

SECTION 3. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

A business corporation regulated under chapter 10-19.1 may convert to a farming or ranching corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and section 11 of this Act, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching."

Page 3, after line 21, insert:

"**SECTION 5.** A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Authorized livestock farm corporation or limited liability company - Requirements.

This chapter does not prohibit an authorized livestock farm corporation or an authorized livestock farm limited liability company from owning or leasing real estate and engaging in the business of farming or ranching if the authorized livestock farm corporation meets all the requirements of chapter 10-19.1 or the authorized livestock farm limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If an authorized livestock farm corporation, the corporation may not have more than fifteenshareholders. If an authorized livestock farm limited liability company, the limited liability company may not have more than fifteen members.

2. If an authorized livestock farm corporation, shareholders holding seventy-five percent or more of the shares entitled to vote and the shares entitled to distributions must be individuals who are operating the corporation, corporations that meet the requirements of section 10-06.1-12, or limited liability companies that meet the requirements of section 10-06.1-12. If an authorized livestock farm limited liability company, members holding fifty-one percent or more of interests entitled to vote and interests entitled to distributions in the limited liability company must be individuals who are operating the limited liability company, corporations that meet the requirements of section 10-06.1-12, or limited liability companies that meet the requirements of section 10-06.1-12.

3. If an authorized livestock farm corporation, all shareholders who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all shareholders that are persons otherwise eligible under this chapter, and any controlling person of the

corporation, must be organized in the United States and one hundred percent of the stock must be owned by citizens of the United States or permanent resident aliens. If an authorized livestock farm limited liability company, all members who are individuals must be citizens of the United States or permanent resident aliens of the United States, and all members that are persons otherwise eligible under this chapter, and any controlling person of the limited liability company, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States or permanent resident aliens.

4. The authorized livestock farm corporation or authorized livestock farm limited liability company may not own, lease, or otherwise have an interest in more than one hundred sixty acres [64.75 hectares] of agricultural land holdings in this state.

5. If an authorized livestock farm corporation, the corporation is not a shareholder in other authorized livestock farm corporations, or in other authorized livestock farm limited liability companies in this state that in combination with the corporation own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state. If an authorized livestock farm limited liability company, the limited liability company is not a member in other authorized livestock farm limited liability companies or a shareholder in other authorized livestock farm corporations in this state that in combination with the limited liability company own, lease, or otherwise have an interest more than six hundred forty acres [259 hectares] of agricultural land holdings in this state.

6. If an authorized livestock farm corporation, the officers and directors of the corporation must be shareholders who are operating the corporation. If an authorized livestock farm limited liability company, the governors, managers, and officers must be members who are operating the limited liability company.

7. An annual average of at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from the production of livestock, poultry or poultry products, milk or dairy products, or swine or swine products.

8. The income of the authorized livestock farm corporation or authorized livestock farm limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities may not exceed twenty percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company.

9. The authorized livestock farm corporation or authorized livestock farm limited liability company may not engage in the cultivation of land for the production of crops or the grazing of livestock in this state.

10. If the authorized livestock farm corporation or authorized livestock farm limited liability company is intended to comprise an animal feeding operation or concentrated animal feeding operation in this state:

a. the corporation or limited liability company must begin construction of the facilities used in the animal feeding operation or concentrated animal feeding operation within one year of obtaining the agricultural landholding.

b. The corporation or limited liability company must have a fully operational animal feeding operation or concentrated animal feeding operation within three years of obtaining the agricultural landholding.

c. An authorized livestock farm corporation or authorized livestock farm limited liability company violating this subsection, or which is inactive for three consecutive years as determined by the agriculture commissioner, is subject to the divestment provisions of section 10-06.1-24.

SECTION 6. AMENDMENT. Section 10-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-13. Applicability of North Dakota Business Corporation Act.

Chapter 10-19.1 is applicable to farming or ranching corporations <u>and authorized livestock farm corporations</u>, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business corporations except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-19.1.

SECTION 7. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1, except those sections which pertain to foreign limited liability companies, is applicable to farming or ranching limited liability companies <u>and authorized livestock farm limited liability companies</u>, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 8. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

<u>**Applicability of restriction on alien ownership of land.**</u>

<u>The provisions of chapter 47-10.1 supersede this chapter in the event of any conflict.</u>

SECTION 9. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

<u>**Initial report - Authorized livestock farm corporations and authorized livestock farm limited liability companies.**</u>

<u>1. Every authorized livestock farm corporation or authorized livestock farm limited liability company shall file an initial report with its articles of incorporation or articles of organization. The report must be signed by the incorporators or organizers, and must contain the following:</u>

<u>a. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.</u>

<u>b. With respect to each shareholder or member:</u>

<u>(1) The name and address of each, including the names and</u>

addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote or membership interests entitled to vote; and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States, and as to persons otherwise eligible under this chapter, that it and any controlling person of it is organized in the United States and one hundred percent of the interests are owned by citizens of the United States or permanent resident aliens; and

(7) As to individuals, a statement of whether each will be operating the authorized livestock farm corporation or authorized livestock farm limited liability company farm or ranch.

c. With respect to management:

(1) If an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors.

(2) If an authorized livestock farm limited liability company, the names and addresses of the managers, members of the board of governors, and officers.

d. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of agricultural land in this state.

e. If the purchase or lease of agricultural land is final at the time of the initial report, a statement listing the acreage and the number of hectares and location listed by section, township, range, and county of all agricultural land in this state in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest. If the purchase or lease of agricultural land is not final at the time of the initial report, a statement that there is a bona fide and imminent intent and a plan to purchase or lease agricultural land in this state.

f. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from authorized livestock farm operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company will not engage in the cultivation of land for the production of crops in this state.

h. If the authorized livestock farm facility is not operational, a statement as to the planned date of authorized livestock farm operations.

i. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company in this state that in combination with the authorized livestock farm corporation or authorized livestock farm limited liability company own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state..

2. An authorized livestock farm corporation or an authorized livestock farm limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the initial report required by this section and the articles of incorporation or articles of organization. The authorized livestock farm corporation or authorized livestock farm limited liability company shall furnish to the official county newspaper of each county or counties in which it has any interest in any land a legal notice reporting the following:

   a. The name of the authorized livestock farm corporation or limited liability company and its shareholders or members as authorized livestock farm listed in the initial report.

   b. A statement to the effect that the authorized livestock farm corporation or authorized livestock farm limited liability company has reported that it holds an interest in agricultural land in the county, the use of the land, and that a description of that land is available for inspection at the secretary of state's office.

   c. A statement to the effect that each of the shareholders of the corporation or members of the limited liability company do not directly or indirectly, in combination with interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company, own more than six hundred forty acres of agricultural land.

SECTION 10. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

Except for the first annual report, the annual report of a corporation engaged in farming or ranching after June 30, 1981, and a limited liability company engaged in farming or ranching must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a corporation and subsection 49 of section 10-32.1-02 if a limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.

2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

3. With respect to each corporation:

   a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

4. <u>With respect to each limited liability company:</u>

a. A statement of the aggregate number of units the limited liability company has authority to issue, itemized by classes and series, if any, within a class.

b. A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

5. With respect to each shareholder or member:

a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;

b. The number of shares or membership interests or percentage of shares or membership interests owned by each;

c. The relationship of each;

d. A statement of whether each is a citizen or permanent resident alien of the United States; and

e. A statement of whether at least one is an individual residing on or operating the farm or ranch.

~~5.~~6. With respect to management:

a. If a corporation, then the name and address of each officer and member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

b. If a limited liability company, then the name and address of each manager and member of the board of governors, and a statement of whether each is a member actively engaged in operating the farm or ranch.

~~6.~~7. A statement providing the land description and listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].

~~7.~~8. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.

~~8.~~9. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

~~9.~~10. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.

~~10.~~11. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

SECTION 11. A new section to chapter 10-06.1 of the North Dakota Century Code is created and enacted as follows:

Annual report - Contents - Filing requirements.

1. Except for the first annual report, the annual report of an authorized livestock farm corporation or authorized livestock farm limited liability company must be delivered to the secretary of state before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation or articles of organization. The annual report must be signed as defined in section 10-19.1-01 if an authorized livestock farm corporation or section 10-32.1-02 if an authorized livestock farm limited liability company and submitted on a form prescribed by the secretary of state. If the authorized livestock farm corporation or authorized livestock farm limited liability company is in the hands of a receiver or trustee, the annual report must be signed on behalf of the authorized livestock farm corporation or authorized livestock farm limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

   a. The name of the registered agent of the authorized livestock farm corporation or authorized livestock farm limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the authorized livestock farm corporation or authorized livestock farm limited liability company in this state.

   b. The name of the authorized livestock farm corporation or authorized livestock farm limited liability company.

   c. With respect to each authorized livestock farm corporation:

      (1) A statement of the aggregate number of shares the authorized livestock farm corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

      (2) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

   d. With respect to each authorized livestock farm limited liability company:

      (1) A statement of the aggregate number of units the authorized livestock farm limited liability company has authority to issue, itemized by classes and series, if any, within a class.

      (2) A statement of the aggregate number of issued units, itemized by classes and series, if any, within a class.

e. With respect to each shareholder or member:

(1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

(2) If an organization, the state of domicile;

(3) The number of shares or membership interests;

(4) Each person's percentage of shares entitled to vote, or membership interests entitled to vote, and whether any voting agreement exists;

(5) Each person's percentage of capital and financial interests;

(6) As to individuals, a statement of whether each is a citizen or permanent resident alien of the United States; and as to persons otherwise eligible under this chapter, that it and any controlling person of it, must be organized in the United States and one hundred percent of the interests must be owned by citizens of the United States or permanent resident aliens. and

(7) As to individuals, a statement of whether each will be operating the authorized livestock farm corporation or authorized livestock farm limited liability company.

f. With respect to management:

(1) If an authorized livestock farm corporation, the names and addresses of the officers and members of the board of directors.

(2) If an authorized livestock farm limited liability company, the names and addresses of the managers and members of the board of governors.

g. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not own, lease, or hold any interest in more than one hundred sixty acres [64.75 hectares] of agricultural land in this state.

h. A statement providing the agricultural land description and listing the acreage, the total number of hectares and location listed by section, township, range, and county of all agricultural land in this state in which the authorized livestock farm corporation or authorized livestock farm limited liability company has an ownership, leasehold, or other interest.

i. A statement that at least sixty-five percent of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company will be derived from authorized livestock farm operations, and that twenty percent or less of the gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company is from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.

j. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not engage in the cultivation of land for the production of crops or the grazing of livestock in this state.

k. The first date of operations.

d. A statement that the authorized livestock farm corporation or authorized livestock farm limited liability company does not hold an interest in any other authorized livestock farm corporation or authorized livestock farm limited liability company in this state that in combination with the authorized livestock farm corporation or authorized livestock farm limited liability company own, lease, or otherwise have an interest in more than six hundred forty acres [259 hectares] of agricultural land holdings in this state..

l. A statement of the percentage of the annual average gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company which has been derived from authorized livestock farm operations over the previous five years or for each year of existence if less than five years.

m. A statement of the percentage of gross income of the authorized livestock farm corporation or authorized livestock farm limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.

2. An authorized livestock farm corporation engaged in authorized livestock farm operations which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except the penalties must be calculated from the date of the report required by this section.

3. An authorized livestock farm limited liability company engaged in authorized livestock farm operations which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except the penalties must be calculated from the date of the report required by this section.

SECTION 12. AMENDMENT. Section 10-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-21. Secretary of state to transmit information of noncompliance.

If the secretary of state finds from the annual report that the corporation or limited liability company is not in compliance with the requirements of section 10-06.1-12 or section 5 of this Act, the secretary of state shall transmit such information to the attorney general and the governor.

SECTION 13. AMENDMENT. Section 10-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-22. Tax commissioner to compare returns and reports.

Each year the tax commissioner shall select at random at least five percent of the income tax returns filed by corporations or limited liability companies which report on income from farming or ranching operations and shall compare such returns with the annual report required to be filed with the secretary of state by section 10-06.1-17 and section 11 of this Act and shall forward any apparent violations to the attorney general and the governor.

SECTION 14. AMENDMENT. Section 10-06.1-26 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-26. Protection of minority shareholders.

If a shareholder owns less than fifty percent of the shares of a farming or ranching corporation <u>or authorized livestock farm corporation</u> doing business under this chapter, and if the terms and conditions for the repurchase of those shares by the corporation or by the other shareholders are not set forth in the bylaws or the instrument which transferred the shares to the shareholder, or are not the subject of a shareholders' agreement or an agreement between that shareholder and the corporation, then the disposition of such shares must be determined by this section upon the withdrawal of the shareholder. Any shareholder who desires to withdraw from the corporation shall first offer the shares for sale to the remaining shareholders in proportion to the shares owned by them. If not all of the shareholders wish to purchase the shares, any one shareholder may purchase all of the shares of the withdrawing shareholder. If no shareholder desires to purchase the shares of a withdrawing shareholder, then the corporation may purchase the shares. If the corporation chooses not to purchase the shares of the withdrawing shareholder, then the withdrawing shareholder may sell the shares to any other person eligible to be a shareholder. If the withdrawing shareholder is unable to sell the shares to any other person eligible to become a shareholder, then the withdrawing shareholder may bring an action in district court to dissolve the corporation. Upon a finding that the withdrawing shareholder cannot sell the shares at a fair price, the court shall enter an order directing that the corporation itself or any or all of the remaining shareholders pro rata or otherwise shall have twelve months from the date of the court's order to purchase the shares of the withdrawing shareholder at a fair price as determined by the court and that if the shares of the withdrawing shareholder are not completely purchased at said price, the corporation shall be dissolved and the assets of the corporation shall be first used to pay all the liabilities of the corporation with the remaining net assets to be distributed pro rata to the shareholders in proportion to their ownership of shares. For the purpose of this section, a fair price for the shares of the withdrawing shareholder must be determined as though the shares were being valued for federal gift tax purposes under the Internal Revenue Code.

SECTION 15. AMENDMENT. Section 10-06.1-27 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-27. Protection of minority members.

If a member owns less than fifty percent of the membership interest of a farming or ranching limited liability company <u>or authorized livestock farm limited liability company</u> doing business under this chapter and if the terms and conditions for the repurchase of that membership interest by the limited liability company or by the other members are not set forth in the bylaws, the instrument that transferred the membership interest to the member, or are not the subject of a member-control agreement or other agreement between that member and the limited liability company, the disposition of the membership interest must be determined by this section upon the withdrawal of the member. Any member who desires to withdraw from the limited liability company shall first offer the membership interest for sale to the remaining members in proportion to the membership interests owned by the remaining members. If not all of the members wish to purchase the membership interest, any one member can purchase all of the membership interest of the withdrawing member. If no member desires to purchase the membership interest of the withdrawing member, the limited liability company may purchase the membership interest. If the limited liability company chooses not to purchase the membership interest of the withdrawing member, the withdrawing member may sell the membership interest to any other person eligible to be a member. If the withdrawing member is unable to sell the membership interest to any other person eligible to become a member, the withdrawing member may bring an action in district court to terminate the limited liability company. Upon a finding that the withdrawing member cannot sell the membership interest at a fair price, the court shall enter an order directing that the limited liability company or any of the remaining members pro rata or otherwise, have twelve months from the date of the court's order to purchase the membership interest of the withdrawing member at a fair price as determined by the court and that if the membership interest of the withdrawing member is not completely purchased at the fair price, the limited liability company must be dissolved and the assets of the limited liability company must be first used to pay all liabilities of the limited liability company with the remaining net assets to be distributed pro rata to the members in proportion to the member's membership interest ownership. For the purpose of this section, a fair price for the membership interest of the withdrawing member must be determined as though the membership interest was being valued for federal gift tax purposes under the Internal Revenue Code."

Renumber accordingly