

1999 HOUSE AGRICULTURE
HB 1322


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322

House Agriculture Committee

Conference Committee

Hearing Date 1-22-99

Tape Number	Side A	Side B	Meter #
TWO-HB 1322	a		0.0 to 50.0
		x	0.0 to 40.3
Committee Clerk Signature 			

Minutes:

Bill summary: Relates to the financial responsibility for the application of non-restricted use pesticides, also the financial responsibility for the application of restricted use pesticides.

Rep Belter: Sponsored HB 1322 at the request of some commodity groups. Want to place the financial responsibility where it belongs for the damage done to crops by drift of chemicals. To the Applicator doing the work. Main change in this bill (two sets of amendments) is the Commercial Applicator to be responsible for \$100,000. worth of protection for damages.

Three ways this can be done: 1st. Through a general liability ins policy which has comprehensive drift coverage. 2nd Surety bond that could cover this \$100,000. Liability. 3rd. The old language is the letter of credit. Some exemptions are "if the applicator applies pesticides only on pasture, on land under the control of the board of university and school lands, or on federal grasslands.

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Bill Hejl: Legislative Liaison for The Red River Valley Sugar Beet Growers Assoc. Need some relief from the process of having to go to court and waste time and money trying to collect damages done by someone else and then find out they don't have coverage for this type of damage. An applicator drift insurance committee spent most of 19998 trying to find a cheaper source of insurance for commercial applicators. I was a part of that effort. The committee's conclusion was that current insurance policies are the best we can do with the laws as it is now. This amendment to the law reflects that reality and provides protection for farmers. It also provides an option for applicators who want to self insure through the use of a surety bond or a letter of credit.

Rep Rennerfeldt: What would the cost be to an applicator per plane if this bill became law?

Bill Hejl: I've been told recently that if currently don't carry chemical liability insurance on your aircraft you can get the main ins from \$2000 to \$5000. per airplane. Two years ago when the bill came before the Leg I said lets wait two years and see if we can find a cheaper ins.

Rep Brusegaard: What would be the premium of the commercial liability would be on ground applicators.

Bill Hejl: I've heard they might have to pay \$5000 to \$10,000 per unit.

Rep Renner: How may applicators in the State?

Bill Hejl: Letter from Cindy Schreiber-Beck, Ex Dir of the ND Agri Aviation Assoc.

Information compiled by the ND Aeronautics Commission following the hearing revealed that in 1997, 59% of 177 registered aerial sprayers sprayed 20,000 acres or less and in 1998, 56% of 159 registered aerial applicators sprayed 20,000 acres or less. These numbers indicate that over 50%

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of the registered sprayers in ND would not remain in business if they had to meet any requirements proposed in HB 1322.

Ken Burch: ND FB in favor of the bill.

Richard Spochin: ND FU in favor of the bill. Heart of the bill is what costs are to the producer.

Jerry Wurtz: Plaza, Testimony attached) In favor of bill. Had a canola field damaged by aerial spray and never did settle it satisfactorily.

Opposition to HB 1322:

Todd Kranda: Kelch Law firm Testifying on behalf of the ND Agr Aviation Assoc Statewide Assoc and are here today to voice there opposition to HB 1322. (Testimony attached.) Have a group of people here who are interested in this bill today.

Gary Ness: Director of ND State Aeronautics Commission. I sat in on this committee last session and much the same. Be very careful solving this problem. How serious is drift application damage and maybe there is another solution to it. Have a concern on how many will go out of business and then how many will become outlaws in the business?

Warren Walkinshaw: Walkinshaw Aircraft out of GF and East GF. If this bill goes into effect might just jump to Minn and stay there. Really uncomfortable with an appointed adjuster going out to appraise the damage. Some times it looks like chemical damage and blame chemical applicator and really was caused from some thing else that happened 2 or 3 years hence.

J. B. Lindquist: Air Dakota Flight

Marc Lepagy- Northstar Aviation Insurance

Cindy Schreiber-Beck: Exec. Dir NDAAA

Randy Lahren: Air Kare

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Rich Host: Opposes bill from and applicator and farmer point of view. I have 2 sons and neither will be able to come back and go into business if this becomes law.

Bob Schwan: Divide County opposes this bill.If I have to Ins like this bill states will have to raise my rates by at least \$.90 to \$.100 per acre more. This will have to passed on to the customer.

1-28-99.. Committe action

Motion for a DO NOT PASS Rep Berg Second Rep Brusegaard

Total vote..... Yes 12 No 3 Absent 0

Carrier Rep Rennerfeldt

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: HB 1322 Amendment to: _____

Requested by Legislative Council _____ Date of Request: 1-13-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: This bill would likely require the Department of Agriculture to hire a seasonal employee during the months of June through September to handle the administrative responsibilities of receiving complaints, assigning complaints to adjusters, notifying financial institutions, and other administrative work associated with pesticide drift damage complaints. The department presently receives 50-60 pesticide complaints per year. We project this number will be approximately 150-175 under this bill. This will require an additional staff person during the summer months. Projected costs are:

Salaries and benefits - \$2,000 per month
 Operating - \$400 per month
 Equipment - \$100 per month

- State fiscal effect in dollar amounts:

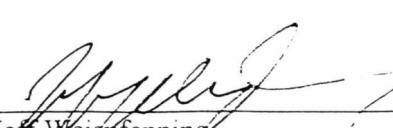
	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$20,000	\$0	\$20,000	\$0

What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: \$0
- For the 1999-2001 biennium: (\$20,000). None of this amount is included in the 1999-2001 executive budget.)
- For the 2001-03 biennium: (\$20,000).

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Signed: 
 Typed Name: Jeff Weisfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 1/15/99

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1322

Page 1, line 12, overstrike "one hundred" and insert immediately thereafter "fifty"

Page 1, line 15, overstrike "one hundred" and insert immediately thereafter "fifty" and after the second comma, insert "a surety bond."

Page 1, line 16, overstrike "performance"

Page 1, line 23, replace "one hundred" with "fifty"

Page 2, line 1, remove "both" and replace "and misapplication" with ", by a surety bond."

Page 2, line 3, after "policy" insert ", surety bond."

Page 2, line 6, after "policy" insert ", surety bond."

Page 2, line 22, after "An" insert "individual while working as an" and after "business" insert "or as an employee of a governmental entity"

Page 2, line 23, after "business" insert "or governmental entity"

Page 2, line 26, after the period insert "An applicator is exempt from this section if the applicator applies pesticides only on pasture, on land under the control of the board of university and school lands, or on federal grasslands."

Page 2, line 28, overstrike "the"

Page 2, line 29, overstrike the first "federal" and after "of" insert "a lease of land under the control of the board of university and school lands or"

Renumber accordingly

Date: 1-28-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1322

House AGRICULTURE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do NOT pass

Motion Made By Berg Seconded By Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman	✓		Bob Stefanowicz	✓	
Dennis E. Johnson, Vice Chm	✓				
Thomas T. Brusegaard	✓				
Earl Rennerfeldt	✓				
Chet Pollert	✓				
Dennis J. Renner	✓				
Michael D. Brandenburg	✓				
Gil Herbel	✓				
Rick Berg	✓				
Myron Koppang		✓			
John M. Warner		✓			
Rod Froelich	✓				
Robert E. Nowatzki	✓				
Phillip Mueller		✓			

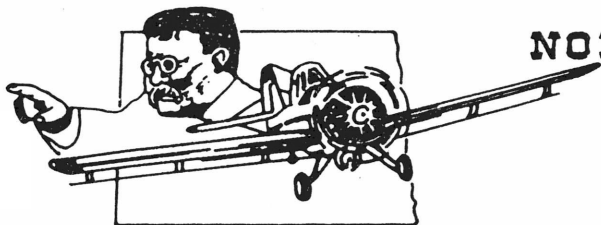
Total (Yes) 12 No 3

Absent 0

Floor Assignment Rennerfeldt

1999 TESTIMONY

HB 1322



NORTH DAKOTA

AGRICULTURAL

AVIATION ASSOCIATION

Testimony Before the House of Representatives Agriculture Committee

January 22, 1999

House Bill No. 1322

Mr. Chair, Members of the Committee, my name is Cindy Schreiber-Beck of Tri-State Aviation, Wahpeton, ND, and I am currently the Executive Director of the North Dakota Agricultural Aviation Association. I am representing the eighty-three members of the Association in testifying in opposition to House Bill #1322.

Previous testimony detailed the intricacies and cost of insurance for the aircraft utilized in the industry. A grasp of that concept, the impact of the cost to growers, and the two different worlds of aerial spraying in the state -- the valley in the East and the plains in the West -- sum up the reasons the Association opposes the proposed legislation. We do not think we are above demonstrating financial responsibility but feel that it should be left to each applicator to determine the best business practice for their particular operation.

Essentially, **if** insurance would be available to all aerial applicators, at a cost of \$9,300 to \$19,500 per aircraft, the costs passed to the growers would range from \$2.98 million to \$6.26 million. Perhaps some of the eastern growers would willingly absorb this added cost of production but growers in the remainder of the state would be resistant to increased costs. Although the option of an irrevocable letter of credit exists in this proposed legislation, it is difficult to determine the economic impact it would have to the growers (or **if** applicators could even secure it). Ironically, growers may not have to make the choice of hiring an aerial applicator since many reported they would no longer be in business if this legislation passed.

The responses to a recent survey, sent to all 192 registered applicators in the state by the ND Aeronautics Commission, revealed that only 9 out of the 62 respondents had all components of chemical liability insurance. But should we expect all the operators to carry the same coverage with the vast difference between crops grown in the Valley and crops grown in the West? To offer the service of aerial application and stay in business the applicator has to determine what is the best business practice for their operation. I had a call from an applicator in the northwestern part of the state who said that in his 40 years of spraying he had not had an unresolved claim nor did he have insurance or a letter of credit.

From my 18 years in the industry I would have to say that at least 90% of the applicators operate in the same manner as the gentleman with 40 years of experience. With or without insurance, they make sure that a problem is settled in a fair manner. For those

operators that are not like him, I believe no rules or regulations will prevent them from operating “on the fringe”, yet growers continue to hire them.

Also of concern with this proposed legislation is the perpetuation of the industry. If passed, the legislation would eliminate inexperienced (new) aerial operators starting a new business or buying an existing business. With a national average age of 49+ years for aerial pilots, we need to keep the window of opportunity open for young pilots.

As one looks at the proposed legislation, there are questions that arise.

1. Can you require a particular insurance if it is not available from the carriers?
2. Who qualifies as a certified insurance adjuster, and what is the adjuster certified in? (P. 2, line 10)
3. Will a financial institution issue an irrevocable letter of credit to fulfill this licensing obligation?
4. With the irrevocable letter of credit (if available), who would formulate or write the criteria for which the funds can be released from the financial institution?
5. If commercial aerial applicators do between 10% and 17% of the acres treated annually, and we can assume that commercial ground applicators do approximately the same amount, shouldn't there be similar liability requirements placed on all others who dispense the same products? (The chemical in an unopened container is not the problem, it is the applicator -- ground or air, private or commercial -- who makes the decision of when and where to apply it.)
6. If individual growers or grower groups feel they need protection, shouldn't they seek alternative methods to protect themselves instead of passing the costs on to all the growers in the state?
7. How would this be policed and what would be the cost of administration?

From an industry perspective, we are attempting to reduce drift and improve safety. The Professional Aerial Applicators Support System (PAASS), an educational program to address safety, drift and the over-all decision making process, is now available from the National Agricultural Aviation Association. The PAASS program will be presented at the annual recertification for aerial sprayers in March 1999. Our industry is attempting to reduce accidents and drift with training seminars of this type -- let us give it an opportunity to work.

After research and discussion the steering committee members of the “Applicator Drift Insurance Committee” did not include a requirement of mandatory chemical liability insurance. The findings of the committee should be kept in mind when examining House Bill #1322. (Testimony of Gary Ness, ND Aeronautics Commission)

In summary, the North Dakota Agricultural Aviation Association does believe that all certified applicators, *commercial and private, ground and air*, should demonstrate financial responsibility as a best business practice, not as proposed in House Bill #1322.

Respectfully submitted by Cynthia Schreiber-Beck

NORTHSTAR AVIATION INSURANCE



January 18, 1999

Testimony Before House Agriculture Committee
January 22, 1999
House Bill #1322

As an aircraft insurance broker, I have been asked to provide information relative to HB1322.

In my estimation, it will cost an aerial applicator approximately \$4,300 in premium for a liability policy to include comprehensive chemical, adjacent field and misapplication coverage in the amount of \$100,000. This premium would not include Tordon coverage which would increase the total premium \$500 to \$1,000. The \$4,300 premium assumes that the aerial applicator would have reasonable claim experience over a ten year period. The premium would be higher or non-available for aerial applicators outside reasonable claim experience.

There is currently only one aerial applicator market that is providing liability only coverage to include misapplication. Should this market change underwriting requirements and require physical damage to obtain the misapplication, an aerial applicator would no longer be in the \$4,300 to \$5,300 range on their insurance cost. Physical damage coverage is based on the value of the aircraft. Assuming we have an \$80,000 aircraft, the physical damage premium would be \$5,200. The aerial applicator would need to add the \$5,200 physical damage premium to their liability premium.

In my estimation, many aerial applicators will not have a company willing to provide misapplication coverage the first year they purchase a chemical liability policy. Also many aerial applicator operations will not be able to obtain any chemical liability coverage for lower hour pilots that they are training.

Misapplication coverage is not required in any of the forty eight contiguous states. Adjacent field coverage is only required in the state of Oregon.

In my opinion, a significant number of aerial applicators in the state will find the premium associated with comprehensive chemical, adjacent field and misapplication to be cost prohibitive. It is very conceivable to assume that they will cease doing business making it extremely difficult for farmers in some areas of the state to obtain aerial applicator service.

In other instances, aerial applicators will pass this high premium cost onto the farmer at a time when many in the agricultural sector in our state are already operating at an extremely marginal level.

Respectfully Submitted,

Marc Lepage

P.O. Box 5591
Fargo, ND 58105
Phone: (701) 235-2041
FAX: (701) 239-4235

1801 23rd Avenue North
East Side Terminal
Hector International Airport

TESTIMONY ON HOUSE BILL NO. 1322

By Todd D. Kranda for NDAAA

Chairman Nicholas, Members of the House Agriculture Committee, my name is Todd D. Kranda of the Kelsch Law Firm in Mandan, and I am testifying on behalf of the North Dakota Agricultural Aviation Association (NDAAA)

NDAAA is a state-wide association. NDAAA is here to voice its opposition to HB 1322. Several representatives of the association and other individuals are here to provide specific testimony regarding their opposition to HB 1322

1. J.B. Lindquist - Air Dakota Flight;
2. Marc Lepage - Northstar Aviation Insurance
(By: Cindy Schreiber-Beck);
3. Cindy Schreiber-Beck - Exec. Dir., NDAAA;
4. Randy Lahren - Air Kare;
5. Gary R. Ness - ND Aeronautics Commission; and
6. Warren Walkinshaw - Walkinshaw Aircraft.

I would be willing to try to answer any questions, otherwise, I will introduce the individuals who are here to provide the detailed testimony on HB 1322.

NORTH DAKOTA
HOUSE OF REPRESENTATIVES
AGRICULTURE COMMITTEE
REMARKS ON HB 1322
“PROOF OF FINANCIAL RESPONSIBILITY”

1/21/99

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS BILL HEJL. I AM A FARMER FROM AMENIA NORTH DAKOTA. I AM IN FAVOR OF THIS BILL BECAUSE IT IS A VITAL REQUIREMENT FOR THE FARMERS OF THIS STATE. FARMERS MUST HAVE SOME PROTECTION FROM DRIFT OR MISAPPLICATION OF PESTICIDES BY COMMERCIAL APPLICATORS. CURRENT LAW DOES NOT PROVIDE ADEQUATE PROTECTION. IN FACT IT DOES NOT COVER DRIFT OR MISAPPLICATION AT ALL IF AN APPLICATOR HAS NO ASSETS AND CHOOSES TO ACQUIRE ONLY GENERAL LIABILITY INSURANCE TO QUALIFY FOR A COMMERCIAL APPLICATOR CERTIFICATE.

AN APPLICATOR DRIFT INSURANCE COMMITTEE SPENT MOST OF 1998 TRYING TO FIND A CHEAPER SOURCE OF INSURANCE FOR COMMERCIAL APPLICATORS. I WAS PART OF THAT EFFORT. THE COMMITTEE'S CONCLUSION WAS THAT CURRENT INSURANCE POLICIES ARE THE BEST WE CAN DO. THIS AMENDMENT TO THE LAW REFLECTS THAT REALITY AND PROVIDES

WILLIAM A HEJL
LEGISLATIVE LIAISON
RED RIVER VALLEY SUGARBEET GROWERS ASSOCIATION

**NORTH DAKOTA
HOUSE OF REPRESENTATIVES
AGRICULTURE COMMITTEE
REMARKS ON HB 1322**

“PROOF OF FINANCIAL RESPONSIBILITY”

PROTECTION FOR FARMERS. IT ALSO PROVIDES AN OPTION FOR APPLICATORS WHO WANT TO SELF INSURE THROUGH THE USE OF A SURETY BOND OR A LETTER OF CREDIT. I SUBMIT THIS LETTER FROM THE NORTH DAKOTA AG COALITION, SIGNED BY MOST OF THE COMMODITY ORGANIZATIONS, THE FARM BUREAU AND FARMERS UNION AND EVEN BY THE GRAIN DEALERS WHO COMPRISE MANY OF THE COMMERCIAL GROUND APPLICATOR CERTIFICATES IN THIS STATE. I HOPE YOU CAN HELP PROVIDE THE PROTECTION THAT NORTH DAKOTA FARMERS DESERVE.

*WILLIAM A HEJL
LEGISLATIVE LIAISON
RED RIVER VALLEY SUGARBEET GROWERS ASSOCIATION*

c/o NDAC, P.O. Box 5020, Bismarck, ND 58502, T: (701) 328-9650, F: (701) 328-9656

FINAL REPORT AND RECOMMENDATIONS

This Committee was charged by the five member Aeronautics Commission to investigate a possible avenue towards this premise: *"To provide chemical application insurance at a reasonable cost to all commercial applicators across the state"*.

After several meetings, contact with insurance companies and other interested parties, the following conclusions and recommendations are put forth.

Conclusions:

1. Insurance coverage is available for all perils for both commercial ground and aerial applicators.
2. Insurance premiums for aerial applicators are expensive, however, this is relative to size of operation and geographic location, larger operations consider this just a cost of doing business while smaller operators consider the premiums to be exorbitant.
3. The commercial applicator industry should include in its marketing and promotions reference to proper insurance protections for their grower clients.
4. Grower groups should increase efforts to the education of their members of the potential risks involved when using an applicator who does not carry acceptable insurance for their geographic and crop mix area.
5. The ADIC subcommittee was unable to come up with a viable alternative insuring mechanisms to replace the existing market mechanisms.

Recommendations:

1. The administration of the *"Financial Responsibility Law"* should be transferred to the Department of Agriculture. NDSU has a mission for research and education. The regulatory administration is best fitted to the Department of Agriculture's pesticide program.

Final Report and Recommendations
Page 2

2. Strengthen the educational process of the certification program concerning drift and potential damage of all chemicals in today's diversified agriculture. This is to be accomplished with NDSU's Extension Service at the state and local level.

Cooperative efforts from the Grain Dealer's Association, North Dakota Agricultural Aviation Association and the North Dakota Agricultural Coalition will be instrumental in this endeavor for a more comprehensive educational effort.

3. Investigate and clarify the definition regarding a requirement for a business entity vs. individual certification.
4. Chemical certification requirements be expanded to include "*all agricultural chemical products*" with an exemption for "*household pesticides*".

This concludes the business of this committee. This paper will be shared with legislators, businesses and regulators that have an interest in the chemical application industry.

APPLICATOR DRIFT INSURANCE COMMITTEE**(ADIC)****SUB COMMITTEE REPORT:**

The committee was created on February 12, 1998, by the Aeronautics Commission.

The first meeting was held March 4, 1998 in Bismarck.

It has been the charge of the steering committee to explore avenues *"to provide affordable chemical application insurance to all commercial applicators across the state"*. The effort was guided by the "Grower Applicator Road Map Paper", dated 02/06/97.

A consensus was reached that the direction outlined within the "Road Map" was acceptable. The suggestion to include the Insurance Department and Grain Dealers Association to the steering committee was accepted. Other groups and individuals were discussed and identified for invite and the appropriate time within the process.

It was discussed that all commercial applicators, ground and air, should be dealt within the same context. The cost differential of aerial vs ground was discussed and noted by the "Road Map" as the primary focus of the steering committee. Assignments were given for information gathering and a Jamestown meeting was suggested.

Bill Hejl and Gary Ness had the opportunity to discuss the process and advance information to Farmers Union Insurance and Nodak Insurance Companies.

On April 10, 1998, members of the committee consisting of Dina Butcher, Chair, Cindy Schreiber-Beck, Bill Hejl, Larry Maslowski, Bob Graveline, Barry Coleman - Ag Department and Gary Ness, met with Odean Olson of Farmers Union and John Czerwonke of Nodak Insurance in Jamestown. This meeting proved to be unsuccessful relative to the outcomes outlined within the "Road Map". Both companies felt that they could not participate any differently than they do today. Several sections of the "Road Map" were discussed and removed.

Bob Graveline, Larry Maslowski and Gary Ness, were appointed as a sub-committee to investigate; Risk Retention Pools, Purchasing Groups, Self Insurance Companies., etc.

The outcome is; the applicators (ground and air) do not create a large enough pool of financial resources to be viable. Several existing national pools, groups and companies of like nature were contacted with no positive response of interest.

It is the opinion of this sub-committee that the insurance industry has priced their product in a way that they feel appropriate. Risk assessment studies, increased deductibles and business vs aircraft premium out-lined in the "Road Map" do not interest them.

Conclusions:

- ◆ Insurance coverage is available for all perils for both commercial ground and aerial applicators.
- ◆ The insurance premiums of aerial applicators are expensive, however, this is relative to the size of the operation (larger operations consider this just a cost of doing business while smaller operators consider the premium to be exorbitant).
- ◆ The commercial applicator industry should include in its marketing and promotions reference to proper insurance protection for their grower clients.
- ◆ Grower groups should increase efforts to education of their members of the potential risks involved when using an applicator who does not carry acceptable insurance for their geographic and crop mix area.
- ◆ The ADIC subcommittee was unable to come up with a viable alternative insuring mechanism to replace the existing market mechanisms.

GROWER - APPLICATOR ROAD MAP PAPER

ORIGINAL

BY Gary R. Ness

February 6, 1997

PROBLEM

Sugar Beet Growers, Potato Growers, Sunflower Council, and other ag groups want insurance for chemical and extended drift coverage for applicators especially aerials.

BARRIERS

(1) Aerial applicators, in general, are opposed due to cost of such insurance.

\$3,000 - \$4,200 each aircraft being used by aerial operator.

(2) Aircraft insurance industry has tunnel vision on this issue, becoming harder to find. Three companies, now, will write the coverage. Fact: it does not matter east or west, north or south, the premium is the same for each aircraft.

OUTCOMES WANTED

To provide a chemical application insurance at a reasonable cost to aerial applicators or all commercial applicators across the state.

That the ag groups agree that they will share in the additional cost of the "mandatory chemical/drift extended insurance" in some manner whether directly or indirectly.

COLLECTION OF INFORMATIONAL DATA:

1. By County, what is the planted acreages by crop type? (NDSU has this data).
2. By County, what has been the insurance claims paid in North Dakota over the last 7 years, 1990 - 1996?
 - A. # acres involved
 - B. Crop type
 - C. \$'s paid by crop type per acre
 - D. Ground #'s - air #'s (Insurance adjusters & companies have this data)
3. By County, what has been the claim of loss total numbers filed with the Agricultural Department in the same time period '90 - '96.
 - A. Acres involved
 - B. Crop type
 - C. What has been the outcome of the claims.
 1. Found for claimant
 2. Found for applicator
 3. Other outcomes
 4. Ground numbers & dollars - Air numbers & dollars
4. By County, determine the actual aerial risk assessment for application by county using data delivered by NDSU - insurance industry and state records.

Hail insurance premiums are developed similar to this and underwritten by township. So we are not reinventing the wheel. It is not rocket science.

PREMIUMS

There is a significant difference in exposures by county by crop type and the premium to the operator should reflect that difference. If the top premium valley coverage of \$4,200 for chemical/extended coverage is the highest risk premium, then the Adams County, Golden Valley or Foster - Wells County operator should have a significantly lower premium related to risk of crop growers in the counties of operation. Also, the insurance coverage should be written to the operating company or entity not to the aircraft flown. It is the operator that makes errors not the aircraft. Suggested: \$100,000 or \$250,000 coverage deductibles available at \$5,000 or \$10,000 for each policy and rated to county of operation.

SOLUTION:

After the collection of facts are done and a risk assessment, by county, has been accomplished, the two major insurance companies in the state with the greatest agricultural interest and base, Farmers Union and Nodak, will be contacted as the prime movers to provide a product for the applicators with the support of the grower groups. If the Union and Nodak ask the existing

aircraft insurance industry, they will get the same answers today as we have in the past.

If they want to play, may I be so bold as to suggest an applicator/grower self insurance pool. Managed by the North Dakota Insurance Reserve Fund, the North Dakota insurance companies can write policies on the pool underwritten by NDIRF.

FUNDING? I'm being bold again.

Surplus funds from the Ag Department Project Safe Seed. \$300,000. \$300,000 from the Aeronautics Commission Special Fund, seed money of \$600,000 from the two agencies that receive their funding from constituents, taxpayers - users.

Now for the tread on sacred ground approach.

1. From the growers groups x mills, to be determined per acre, bushel, ton or pound from the existing check off programs to be deposited yearly in the NDIRF Applicator/Grower Self Insurance Pool. (AGSIP) This is the indirect method of sharing the additional costs of this program.
2. A special dedicated tax, to be determined, assessed per acre and collected at the time of application. The tax will be prorated as to the crop risk assessment. Wheat x ,⁽¹⁾ barley x ,⁽²⁾ sugar beets x ,⁽³⁾ potato x ,⁽⁴⁾ etc. This money to be delivered to the Tax Department and deposited in the NDIRF

AGSIP. This is the direct method of sharing the additional costs.

- A. Will cover all the acres and growers treated and will assess only those that use commercial applicators. (But does it have to be just an aerial pool?).
- B. Will cover those that use the service and the actual acres will be assessed. This may be a equalization method of assessing the cost. It is more of a user fee.

Final part of the equation is the applicator premium. Prorated to the state wide risk assessment, charged to business not to the aircraft. These dollars have not been determined nor do I know what is the amount needed to start the pool or what other funding is available for start up.

The insurance companies can review the Ag Dept. Regulation and the Aeronautics Commission Rules & Regulations pertaining to the ground applicators and aerals. The Aeronautics Commission's rule regarding a two year apprenticeship before becoming a chief pilot or operator is more restrictive than any federal regulation regarding the aerial applicator. The program can be put together with the least of pain if applicators/growers can work together state wide to get this important protection for all accomplished.

A TRANSIENT THOUGHT:

In the investigation of claims, the insurance companies should be required to retain an independent crop consulting firm to inspect all claims first, to provide the best protection to the fund and the applicator. There should be a method of an administrative hearing and civil penalties assessed for frivolous or false claims filed. Those funds to be deposited in the NDIRF pool.

We all know in the aerial application business that once an applicator has taken the good business move to carry chemical and/or extended drift insurance, his incidents of claims increase immediately. That has got to stop. That is the number one reason that the applicators fight so hard to keep mandatory insurance off the table. We cannot create an economic barrier that might destroy a number of today's operators. We must create an atmosphere of partnership and trust to this industry - AGRICULTURE.

What we can do today in agreement with the structure of SB 2315 as it is today and enter into the Hearing Room on the _____ we then embark on making this idea work.

I suggest a committee of all the groups and representative from the insurance world and government. This can be a program that we solve the problems for a great need. I don't know if my collection of several conversations I have had in the last few weeks and it may not see the light of day, but it can start the debate we as an agricultural industry has need for years.

3-6-98
REVISION #2
4-15-98

BY Gary R. Ness

February 6, 1997

PROBLEM

Sugar Beet Growers, Potato Growers, Sunflower Council, and other ag groups want insurance for chemical and extended drift coverage for applicators especially aerials.

BARRIERS

- (1) Aerial applicators, in general, are opposed due to cost of such insurance.

\$3,000 - \$4,200 each aircraft being used by aerial operator.
- (2) Aircraft insurance industry has tunnel vision on this issue, becoming harder to find. Three companies, now, will write the coverage. Fact: it does not matter east or west, north or south, the premium is the same for each aircraft.

OUTCOMES WANTED

To provide a chemical application insurance at a reasonable cost to aerial applicators or all commercial applicators across the state.

That the ag groups agree that they will share in the additional cost of the "mandatory chemical/drift extended insurance" in some manner whether directly or indirectly.

COLLECTION OF INFORMATIONAL DATA:

1. By County, what is the planted acreages by crop type? (NDSU has this data).
2. By County, what has been the insurance claims paid in North Dakota over the last 7 years, 1990 - 1996?

A. # acres involved

~~B. Crop type~~

C. \$'s paid by crop type per acre

D. Ground #'s - air #'s (Insurance adjusters & companies have this data)

3. By County, what has been the claim of loss total numbers filed with the Agricultural Department in the same time period '90 - '96.

A. Acres involved

B. Crop type

C. What has been the outcome of the claims.

1. Found for claimant

2. Found for applicator

3. Other outcomes

4. Ground numbers & dollars - Air numbers & dollars

4. By County, determine the actual aerial risk assessment for application by county using data delivered by NDSU - insurance industry and state records.

INSURANCE COMPANIES
TOLD US THAT THIS
INFORMATION WOULD
NOT INTEREST THEM
ENOUGH TO CHANGE THE
PRICING OF PRODUCT.
REMOVED 4-10-98

Hail insurance premiums are developed similar to this and underwritten by township. So we are not reinventing the wheel. It is not rocket science.

PREMIUMS

There is a significant difference in exposures by county by crop type and the premium to the operator should reflect that difference. If the top premium valley coverage of \$4,200 for

chemical/ex
the Adams
operator sh
risk of crop
insurance c
or entity no

INSURANCE COMPANIES
TOLD US THAT
PREMIUM ARE SET FOR
INDUSTRY AND THE
DEDUCTIBLES THAT
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REMOVED - 4-10-98

errors not th
coverage deductibles available at \$5,000 or \$10,000 for each
policy and rated to county of operation.

SOLUTION:

After the collection of facts are done and a risk assessment, by
county, has b
companies in
base, Farmers
movers to pro
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FARMERS
UNION
NODAK
DECIDED
NOT TO
PLAY 4-10-98

o major insurance
t agricultural interest and
be contacted as the prime
plicators with the support
ask the existing

aircraft insurance industry, they will get the same answers today as we have in the past.

If they want to play, may I be so bold as to suggest an applicator/grower self insurance pool. Managed by the North Dakota Insurance Reserve Fund, the North Dakota insurance companies can write policies on the pool underwritten by NDIRF.

FUNDING? ~~I'm being bold again.~~

Surplus funds from the Ag I

~~from the Aeronautics Comm~~

two agencies that receive the

Now for the tread on sacred

80% - 85% OF
SAFE SEND Funds
COME FROM NON-Ag
SOURCES -
REMOVED 4-10-98

~~end. \$300,000. \$300,000~~
~~money of \$600,000 from the~~
~~nts. taxpayers - users.~~

1. From the growers groups x mills, to be determined per acre, bushel, ton or

pound from the existin ~~REMOVED by STEEZING Committee 3-4-98~~ deposited yearly in the

NDIRF Applicator/Gr ~~REMOVED by STEEZING Committee 3-4-98~~ (AGSIP) This is the indirect

~~method of sharing the additional costs of this program.~~

2. A special dedicated tax, to be determined, assessed per acre and collected at the time of application. The tax will be prorated as to the crop risk assessment. Wheat x, (1) barley x, (2) sugar beets x, (3) potato x, (4) etc. This money to be delivered to the Tax Department and deposited in the NDIRF

A/O

AGSIP. This is the direct method of sharing the additional costs.

Will cover all the acres and growers treated and will assess only those that use commercial applicators. (But does it have to be just an aerial pool?).

B. Will cover those that use the service and the actual acres will be assessed.

This may be a equalization method of assessing the cost. It is more of a user fee.

Final part of the equation is the assessment, charged to business determined nor do I know what funding is available for start up.

Existing Ins. Co. PRACTICE OF CHARGING BY AIRCRAFT NOT BY BUSINESS WILL NOT CHANGE

Projected to the state wide risk these dollars have not been to start the pool or what other

The insurance companies can review the Ag Dept. Regulation and the Aeronautics Commission Rules & Regulations pertaining to the ground applicators and aerials.

The Aeronautics Commission becoming a chief pilot or op regarding the aerial applicat

AERONAUTICS COMMISSION Rules CHANGED - Strengthened ON CHIEF PILOT Responsibility 6-1-98

year apprenticeship before than any federal regulation

gain if applicators/growers can work together state wide to get this important protection for all accomplished.

A TRANSIENT THOUGHT:

In the investigation of claims, the insurance companies should be required to retain an independent crop consulting firm to inspect all claims first, to provide the best protection to the fund and the applicator. There should be a method of an administrative hearing and civil penalties assessed for frivolous or false claims filed. Those funds to be deposited in the NDIRF pool.

We all know in the aerial application business that once an applicator has taken the good business move to carry chemical and/or extended drift insurance, his incidents of claims increase immediately. That has got to stop. That is the number one reason that the applicators fight so hard to keep mandatory insurance off the table. We cannot create an economic barrier that might destroy a number of today's operators. We must create an atmosphere of partnership and trust to this industry - AGRICULTURE.

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NORTH DAKOTA AERONAUTICS COMMISSION

Governor Edward T. Schafer
State of North Dakota

Gary R. Ness, Director
Roger L. Pfeiffer, Assistant Director
Mark J. Holzer, Aviation Planner

TEL: (701) 328-9650 • FAX: (701) 328-9656

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Grand Forks

Cynthia Schreiber-Beck
Wahpeton

TO: Aerial Applicators
FROM: Gary R. Ness, Director *GN*
SUBJ: Insurance Requirements
DATE: December 18, 1998

The North Dakota Agricultural Aviation Association (NDAAA) and a state legislator have asked the Commission to survey the aerial applicators on the affect of a proposed change in state law regarding insurance requirements. This will pertain to **all** commercial applicators (ground & air) in the state. A **grower group** has proposed a change in statute language to section 1 of Chapter 4-35 of the N.D Century Code as shown below:

Chemical Applicator Financial Responsibility

Proof of financial responsibility. A commercial pesticide applicator certificate may not be issued or renewed unless the applicant furnishes proof of financial responsibility as provided in this section. Minimum financial responsibility must be demonstrated annually in the amount of one hundred thousand dollars, and may be demonstrated by a **general liability insurance policy that has a chemical liability insurance provision that covers all chemical perils. This same responsibility may be demonstrated by an irrevocable letter of credit, from a state recognized financial institution, for general or chemical liability claims.** The letter of credit or insurance policy must contain a provision requiring the issuing company to notify the commissioner of agriculture at least ten days before the effective date of cancellation, termination, or other modification of the letter of credit or insurance policy. The commissioner of agriculture must

Please respond to the following questions by **January 1, 1999** (return envelope enclosed):
(Cut and return)

How will this proposal financially affect your operations and customers?

- _____ I do carry general liability, but would need to increase coverage.
- _____ I do carry chemical liability, but would need to extend coverage.
- _____ I do carry extended chemical liability and would not be affected.
- _____ I already have all components of chemical liability insurance and would not be affected.
- I would expect a _____% customer gain because of extended coverage required.
- It will cost an esimtated \$ _____ for proper insurance to cover each aircraft.
- It will drive price increase of \$ _____ per acre (esimtate).
- I would expect that _____% of customers will find other methods to treat crops.
- I would expect that _____% of customers will not spray because of cost increase.

Other Comments: _____

(Please continue on back, if necessary)

Company (optional) _____



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62 RETURNED SURVEYS

How will this proposal financially affect your operations and customers?

___ I do carry general liability, but would need to increase coverage.

AFFIRMATIVE 25

___ I do carry chemical liability, but would need to extend coverage.

AFFIRMATIVE 12

___ I do carry extended chemical liability and would not be affected.

NO REPLY 13

AFFIRMATIVE 4

___ I already have all components of chemical liability insurance and would not be affected.

AFFIRMATIVE 9

I would expect a ___% customer gain because of extended coverage required.

21 NO REPLY --- AVERAGE 16% -- 41 ANSWERS
RANGE 0% - 65%

It will cost an estimated \$ _____ for proper insurance to cover each aircraft.

19 NO REPLY --- AVERAGE \$3,500 -- 43 ANSWERS
RANGE \$1,200 to \$8,000

It will drive price increase of \$ _____ per acre (estimate).

16 NO REPLY --- AVERAGE 48¢ @ 46 ANSWERS
RANGE 10¢ to \$1.50

I would expect that ___% of customers will find other methods to treat crops.

19 NO REPLY --- AVERAGE 30% 43 ANSWERS
RANGE 0 - 100%

___ would expect that ___% of customers will not spray because of cost increase.

NO REPLY --- AVERAGE 12% 36 ANSWERS
RANGE 1% to 100%

In the years before the enactment of Section 4-35-09.1 supplement to the North Dakota Century Code, the North Dakota Aeronautics Commission was having problems with a small number of sprayers. Their ability to do any thing that they wanted to, was all most untouchable. With a joint effort between the Ag Dept, Aero Commission, different sprayer groups, as well as many ag related organizations, the proof of financial responsibility was put into place. This was done at the last session of the State Legislative Assembly. It has now been the "law" for two years, and for all purposes it appears to be working. It is also evident that the spraying industry, will all of its ever changing chemical requirements, is happy with the law the way it is.

1. General Insurance

Covers the applicator when problems arise out of physical damage done to someone or something not belonging to applicator.

2. Hull Insurance

Covers physical damage done to the equipment the applicator is using.

3. Drift Liability Off Target, Off Customer's Land.

This type of insurance will cover the applicator if the spray lands on the neighbor's field.

4. Drift Liability Off Target, On Customer's Land.

This type of insurance will cover the applicator if the spray lands on a field not intended to be sprayed by customer.

5. Improper Chemical Liability.

This type of insurance will cover the applicator if the wrong chemical is used on the crop that is sprayed.

6. Special Chemical Liability.

This type of insurance will cover the applicator when they are using a certain type of chemical (ie. Tordon, Roundup)

	Aircraft Value 80,000.00	Aircraft Value 250,000.00
1. General Insurance	600.00	600.00
2. Hull Insurance @ 6%	4,800.00	15,000.00
3. Drift Liability, Off Target, Off Customer	V V V	V V V
4. Drift Liability, Off Target, On Customer	V 2,400.00	V 2,400.00
5. Chemical Liability	1,000.00	1,000.00
6. Special Chemical Liability	500.00	500.00
	<hr/>	<hr/>
Total Cost Per Year Per Aircraft	\$ 9,300.00	\$ 19,500.00

Note 1. Some companies will write drift only if they can include hull.

Note 2. Some companies are not interested in writing special chemical liability at all.

Note 3. There are about 4 companies in the world that are interested in Ag. Aviation policies.

Page 1 Line 24 and Page 2 Line 1 HB No. 1322

... MAY BE DEMONSTRATED BY A GENERAL LIABILITY INSURANCE POLICY THAT INCLUDES COMPREHENSIVE CHEMICAL LIABILITY COVERAGE FOR BOTH DRIFT AND MISAPPLICATION...

As pointed out on page 2 of this handout, there is no one type of coverage that is inclusive of the "comprehensive chemical liability coverage".

Page 2 Line 9 and 10 HB No. 1322

...THE COMMISSIONER SHALL OBTAIN THE SERVICES OF A CERTIFIED INSURANCE ADJUSTER TO EVALUATE THE CLAIM...

What happens if the applicator, the claimant and the commissioner all get different adjusters and all three have a different view of the problem?

Page 2 line 10, 11, 12 and 13 HB No. 1322

IF THE ADJUSTER DETERMINES THAT THE CLAIM IS VALID, THE COMMISSIONERS SHALL DIRECT THE FINANCIAL INSTITUTION THAT ISSUED THE LETTER OF CREDIT TO FORWARD TO THE COMMISSIONER AN AMOUNT EQUAL TO THE AMOUNT OF CLAIM...

With regards to a letter of credit between a financial institution and an applicator, that is exactly what it is, between a bank and a customer of that bank.

I really think something more than a letter from the commissioner would be needed in order to transfer funds.

Page 2 Line 15, 16 and 17 HB No. 1322

IF THE ADJUSTER DETERMINES THAT THE CLAIM IS INVALID, THE CLAIMANT SHALL REIMBURSE THE COMMISSIONER FOR ANY HANDLING AND ADJUSTER FEES.

What is the time frame for proving the claim valid or invalid?

Page 3 Line 9 HB No. 1322

IF THE ADJUSTER DETERMINES THAT THE CLAIM IS VALID...

What is the time frame for proving the claim and what happens if a second adjuster does not agree with the first one?

SUMMARY: The legal profession will have a "hay day".

1. In the last few years, the aerial spraying industry has sprayed about 15% of the total acres grown in North Dakota, on any given year.
2. In the last few years the commercial ground sprayer has sprayed about 18% of the total acres grown in North Dakota, on any given year.
3. Using the average percents of both air and ground, that leaves 67% of the acres left to be sprayed by the grower (private applicator), on any given year.
4. House Bill 1322 puts a huge cost of compliance on the commercial applicator and addresses a small percent of the total acres that could be sprayed.
5. As now written, these proposed rules would have to be administrated by the Ag Commissioner. Do they have the network to do it and what will it cost?
6. All past experience says that the minute insurance is required, the price goes up.
7. In this handout, nothing has been mentioned as to the cost to the commercial ground sprayer. It can be said, that the Ag Companies will survive, but what about the independent commercial sprayer that supplements his ag income?
8. If this bill becomes law, how much of a cost per acre increase will be past on to the producer?
9. If this bill becomes law, how will the commissioner address commercial sprayers that come into the state to help in an economic infestation problem?
10. How will this bill be policed? As of the end of 1998, about 1,000 commercial applicators were not in compliance with the 1997 bill.

TESTIMONY ON HOUSE BILL # 1322

Good Morning. My name is Merlin Leithold, lobbyist #382.

I am here today representing the ND Weed Control Assoc. I am apposed to this bill.

In the last session of the legislature, this financial responsibility law was passed. It created huge hardships for county weed boards. Many weed boards rely on private contractors to spray noxious weeds. These part time sprayers cannot afford \$1500/annual insurance payments when they only gross \$3000.00/annually.

In my county, Grant County, the county insures the sprayers we hire. But with this new law, the insurance certificates required to be legal to spray, take until the end of June to come. This creates a nightmare.

This law has hurt spraying of noxious weeds throughout the state. It has affected school land, Game and Fish land, and road right of ways.

There is another bill referring to financial responsibility, HB 1439, which you will here in the near future. That bill carries amendments not included in this bill. I ask that you delay action on this bill until you here HB 1439.

Thank-you

Chairman Nicholas and Members of the Agriculture Committee

My Name is Jerry Wurtz and I am from Plaza. I am here to testify in favor of HB1322. My Brother Richard and I had canola fields damaged by an Aerial sprayer who was spraying for the neighbor. The map I presented you shows the three different fields in the color of pink that were damaged. The green fields are the neighbors fields that were sprayed. I personally observed the sprayer flying over our field in section 23. He was flying North and South and lifted up over this field. He evidently changed his flying pattern as I was sitting on the road wondering why he would be flying over my field because he made a sharp raise in flight at the end of the field and also at the point that is not shaded and therefor there wasn't nearly as much damage as the east side of the field. The neighbors field was sprayed on July 5th. We were gone for a few days and another neighbor asked me when I got back what happened to my field and that is looked like it had been sprayed. Upon observing the field, we could tell that the flowering of the canola had completely shut down on the east 2/3 of this field to equal about 28.4 acres out of about 38.4.

We called the State Agriculture Commissioners Office and they sent their representative out to investigate the damage and document it. The pods were just starting to fill on this crusher variety. Canola puts on pods from the bottom going up as it flowers. If you stop or abort the flowering, it quits adding pods which results in a reduced yield. The balance of this field flowered until June 24th.

All three fields in pink were observed on July 10th for damage. The other 2 fields had a hyola variety on them. The field in sec 14 had about 7.8 acres on the south side with extensive damage and the field in sec 36 had the whole field of 19.4 acres damaged. When the pods are damaged while filling, they stop filling the seed and most of the seed dries up to nothing. We told the airplane sprayer that he had damaged our field and he said didn't have insurance and that he would pay us for the damage. He offered up \$100.00 per acre for the damage in sec 23 and no offers on sec. 14 or 36. At the time I figured section 23 east 2/3 was completely destroyed and I figured that we had a potential yield of 1400 or 1500 lbs per acre which I told him. That would equate to $1400 \times \$.10 = \140 per acre gross. I couldn't accept a potential \$40.00 per acre loss and didn't accept the offer and we agreed to settle up after harvest.

The field in sec 23 that was damaged started to regrow and bloom over which I guess is a characteristic of canola when damaged that severely. I couldn't swath that at the same time I swathed the other fields. It ended up that we had to wait a month longer to harvest this end of the field than the rest. The only advantage is that there was a little yield there as opposed to nothing.

We had around 55.6 acres damaged in total. I felt we would have had a 1400 lbs per acre yield as we got 1435 lbs on a similar field that was away from there a few miles. We ended up with a three field average figuring damaged acres only of 675.7 lbs per acre. That is 724.3 lbs per acre short $\times \$.10$ per lb = \$72.43 per acre short $\times 55.6$ acres = \$4027.11 loss.

We negotiated with the sprayer and he only wanted to give us around \$2400 at first. He finally agreed to \$2782.00. We accepted because we didn't think he would pay us the amount we felt

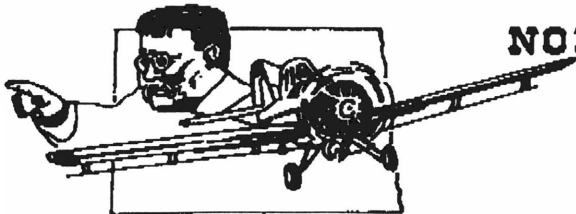
we lost. We basically lost \$1245 or more. One could say why didn't you hold out for the total amount. The thing is he could say no and take me to court if you don't like it. Then we could end up burning up all the money on legal fees.

Negotiating with the individual who did the damage is a hard thing to do. A certified insurance adjuster as is in HB1322 is the most fair and equitable for both parties involved.

With the possibility of canola acres doubling as predicted, I hope you could amend this to add on an emergency clause to it to make it effective at the start of the growing season. August 1st is too late for this season.

I urge you to recommend a do pass on HB 1322.

Jerry Wurtz _____
503 Berthold St
Plaza ND 58771 _____



NORTH DAKOTA

AGRICULTURAL

AVIATION ASSOCIATION

January 27, 1999
 Fax -- 2 pages

Post-It® Fax Note	7671	Date	1/28/99	# of pages	2
To	Kornel Montano, N. Dakota		From	C. Schreiber-Beck	
Co./Dept	Chair Ag Committee		Co.	NDAAA	
Phone #		Phone #	701.642.5777		
Fax #	701.328.1997		Fax #	4204	

To: Mr. Bill Hjel

From: Cindy Schreiber-Beck, Executive Director

Re: House Bill #1322
 Response to conversation of January 25, 1999

As per our conversation, I contacted board members of the NDAAA to determine if they would be in favor of an amendment to House Bill #1322. As you proposed the amendment would:

1. Reduce the amount to \$50,000
2. Eliminate misapplication insurance
3. Include all applicators (ground & air, private & commercial)

As I recall, you were going to attempt to contact John Fluth, Great Plains Adjusters, Jamestown, to get his take on House Bill #1322 since information I was given indicated he was not at all interested in adjusting claims under the irrevocable letter of credit section. Essentially, there is not any one individual with enough knowledge or expertise to make the decision on alleged chemical damage claims. And if you found someone, I would imagine their errors and omissions coverage costs would be astronomical, if available.

With the boards input, the gathering of more information and some brainstorming the response to your request of an amendment to House Bill #1322 is, *the NDAAA will not accept mandatory insurance requirements or an irrevocable letter or credit at any level.*

Information compiled by the ND Aeronautics Commission following the hearing revealed that in 1997, 59% of 177 registered aerial sprayers sprayed 20,000 acres or less and in 1998, 56% of 159 registered aerial applicators sprayed 20,000 acres or less. These numbers indicate that over 50% of the registered sprayers in North Dakota would not remain in business if they had to meet any requirements proposed in House Bill #1322.

On the aspect of the growers taking charge of their own risk management, an endorsement has been available for growers to insure aerial applicators who spray for them. (termed "aerial overspray coverage") Insurance agent, Norm Lichtsinn provided

NDAAA, House Bill #1322 1

information about such an endorsement. Because the original insurance company providing that coverage was recently purchased by Commercial Union, the endorsement is being researched at this time. Mr. Lichtsinn felt the issue of continued availability would be resolved within a short time.

Along the same thoughts of the growers taking charge of their own risk management, have grower groups researched purchasing chemical liability insurance for the commercial applicators in their area? Also, a grower has the right to hire only commercial applicators that carry chemical liability insurance. The concern as to who his neighbor is hiring to do commercial application is valid but the probability is high that the neighbor may be applying the chemical with his own equipment. Yet, if the neighbor does hire a commercial applicator, there are already laws in place that state a person (grower) shares in the responsibility for damages done by a person he employed.

Through the Professional Aerial Applicators Support System (PAASS), developed by the National Agricultural Aviation Association, the aerial sector of commercial application is making an effort to better themselves. This educational program, about agricultural aviation decision-making, will be presented for the first time during the March 1999 recertification for aerial applicators. The topics include; the managing of the off-target movement of pesticides and fertilizers, reducing drift by proper selection/position of spray equipment, reducing drift by measuring and adjusting spray equipment performance, reducing drift by utilizing site specific meteorological criteria and reducing drift by applying flying techniques. At a cost, the NDAAA is demonstrating a willingness to improve the services of aerial applicators across North Dakota through education.

The NDAAA supports the concept of all commercial operators demonstrating financial responsibility by determining what is the best business practice for their own operation while continuing to improve their services through education and technology. And, if any chemical liability requirements are imposed through legislation, *all applicators, commercial and private, ground and air, should have the same regulations.*

cc: *Representative Wesley R. Belter*
Representative Gene Nicholas, Chairman Agriculture Committee
Representative Dennis Johnson, Vice Chairman Agriculture Committee