

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

1181

2007 HOUSE AGRICULTURE

HB 1181

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1181**

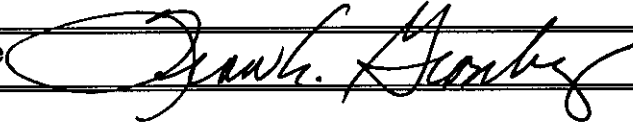
House Agriculture Committee

Check here for Conference Committee

Hearing Date: 1-19-07

Recorder Job Number: 1467

Committee Clerk Signature



Minutes:

**Chairman Johnson:** We will open the hearing on **HB 1181**. Relating to Credit-sale contract Indemnity Fund.

**Chairman Johnson:** Representative Headland.

**Representative Headland:** Thank you Mr. Chairman and Members of the committee. For the record District 29 and I am here for support of **HB1181**. **HB1181** is a fairly simple bill. It simply drops the level of the fund from ten million to four million dollars. And then the suspension of collection from \$5 to \$2 M. Why should we do this? \$10M is more than is needed. I feel that four million is adequate. There are several states that have an indemnity fund like this that is substantially lower. Examples are Illinois and Iowa. Big states! Secondly there have not been any insolvencies since the fund was started in 2003. It is my belief that the ten million dollars for the knee jerk reaction simply because many thought there may be more insolvency to follow. There have **not** been any. Thirdly, let me just say this. Farmers like the protection that the fund provides. They would gladly pay their assessment. However it has been brought to my attention that that many feel that to continue to collect the assessment when there hasn't been a need. It is nothing more than an unnecessary tax. Hopefully four million is adequate.

Many people think that to continue to grow this fund year after year invites the Legislators to come and loot the funds for other priorities and think that there should be funding for other projects.

If legislators want money, go find it. That is why four million is adequate. There other things that I could get into but I will leave that for **Rep. Brandenburg** who is in a better position than me to explain it. With that Mr. Chairman I have another bill that was put in simply because it was too late to get this bill as an amendment. The bill is **HB 1360** which would allow for investment by the State Treasurer. It would be good for the fund because the ND State Treasurer can get us a better interest rate on our dollars. It is a better return than what the Bank of North Dakota is offering. I believe Mr. Chairman we could draw up an amendment and we could withdraw **HB1360**.

**Chairman Johnson:** Are there any questions?

**Rep. Boe:** Who does this fund belong to?

**Rep. Onstad:** Why take the fund down to two million?

**Rep. Boe:** How much does the fund have in it?

**Rep. Onstad:** A large facility, credit sales. What does the typical average elevator generally carry over in credit-sales? Do you have a number?

**Rep. Headland:** Mr. Chairman and Rep. Onstad I do not have a number for the large, large elevators. I believe this bill was put into effect to kind of cover the Co-Ops in most cases and I believe my local Co-Op, I've been told, generally carries about a million. So four million would more than cover bad insolvencies, should there be one. I believe the fund could handle more than one at the same time. If we have to be concerned, if growers against an insolvency of a Con-Agra and Adm, or a Cargill. If that is what happens, this fund is needed to protect, if that is what this fund is designed to protect, I think we are letting those large super conglomerates

off the hook. They are bonded. They should have to have the proper balance sheet to cover those large type sales and I don't think that indemnity fund, in my opinion was meant to cover those facilities.

**Chairman Johnson:** Other questions.

**Rep Belter:** Mr. Chairman. I am reflecting on when we originally saw this bill, and Rep. Headland this only deals with credit sales for this fund. For example, purchase of fertilizer, chemicals, etc.

**Rep. Headland:** Mr. Chairman and Rep. Belter that is correct.

**Chairman Johnson:** Any additional questions? Thank you Rep. Headland.

**Mike Brandenburg:** HB1181 deals with the Indemnity Fund and I echo what Rep Headland mentioned, we were trying to find a million dollars to fund that and how hard it was to find the million dollars. We are dealing with higher education, nursing homes and really, you are going to have to find those dollars someplace from the Ag. sector. If you all remember we took that money from the beginning from the Farmers Fund, which a lot of people did not like. Really, if this fund would grow, this would probably end up being one of the funds that could get raided. I think four million dollars, you could have losses like that and the fund would cover it. I don't think that con-agar or Cargill are going to go up side down. They have the balance sheets to support themselves. Also the amendment that Rep. Headland was talking about, with the 4 million dollars drawing interest could be put back into the fund and the fund will still continue to grow. I think this is a good time and a good place to do it.

**Chairman Johnson:** Rep. Boe.

**Rep. Boe:** Mr. Chairman, Rep. Brandenburg in you testimony, which elevators are covered by this fund? Under your impression, who do you think this cover?

**Rep. Brandenburg:** Mr. Chairman and Rep Boe, who do you think this covers? It covers the producer in a lawsuit.

**Chairman Johnson:** Other questions? Rep. Onstad.

**Rep. Onstad:** What is the reason if you want a cap of 4 million dollars? Is there any reason why you don't want to keep it at 4 million and take it down to 2 million?.

**Commissioner Johnson:** Chairman Johnson and members of the committee, I am Ag Commissioner Roger Johnson. I am here today in opposition of HB1181, which reduces the level of the credit-sales contract Indemnity Fund.

Attached is Commissioner Johnson's testimony.

**Chairman Johnson:** committee Members, do you have questions for Commissioner Johnson? Rep Belter.

**Rep. Belter:** We should have had everyone pay the tax. Assess everyone!

**Chairman Johnson:** Rep Belter, I think you are correct. My concern is that the funds be protected.

**Rep. Hetland:** Are you aware of any insolvency in ND that would not have been taking care of with 4 million dollars?

**Commissioner Johnson:** No I am not.

**Rep. Hetland:** Commissioner Johnson, I know businesses fail, that is part of the deal. As companies get bigger and bigger that means that they will have to fund themselves and won't need money from the fund.

**Rep. Brandenburg:** People are looking for funds, I understand this. If there is ever a shortage in that fund it will be replenished.

**Rep. Onstad:** This is really an insurance policy.

**Commissioner Johnson:** Yes that is true. That is what was intended. You can draw the line where ever you want.

**Rep. Mueller:** I am opposed to reducing the fund. This bill is not about elevators. We have seen corn and other crops go up in value. We talk about consolidation; I think there are significant changes over the past number of years. The grain business is not in business to store your grain. The elevators that I work with will store your grain for 15 days. After, which time you cash that grain out or you put it on a price later. This is a contract. Well you know we don't necessarily want to do it: the price might go up. Most cases that does not work out! We don't have that choice. You ride the market by putting it to a credit-sale. Mr. Chairman, I think as we see larger yields and receive better prices, we will see bigger prices in that category.

**Rep. Mueller** passed out a sheet that the N.D. Public Service Commission, "**Grain Warehouse Insolvencies.**" See attached. I do think there will be more insolvencies. We still want to be protected.

**Chairman Johnson:** Rep. Mueller. We are going to work on this bill next Thursday and we will work on it at a later date.

**Rep. Mueller:** I think that Rep Headland has the concept of being better stewards of those funds that get into the Indemnity Fund. I certainly hope I can support that.

**Chairman Johnson:** Others to offer opposition to **HB 1181.** Woodie Barth.

**Woodie Barth:** My name is Woodie Barth; I am here representing the members of ND Farmers Union. I am here to testify in opposition to **HB1181.** (**See attachments**).

**Chairman Johnson:** Any questions? Rep Belter

**Rep. Belter:** My question is, is it fair for me to pay the tax every year? If something happens I am going to get covered. Is it fair for someone who does not pay it every year and then the

year that they happen to have a deferred contract, they take insurance and if there is a default I paid in 5 years and he paid in one year and gets all the money that I contributed. Is that fair?

**Woodie Barth:** Probably not, but there are a lot of items in life that are not fair. It would be no different if you and I both have insurance policies on our garages and I happened to drop mine and my garage burned down I would not be covered at that point. It is a choice we all make. It is a voluntary fund.

**Rep Belter:** It is not voluntary; I have to pay in every year.

**Chairman Johnson:** Any other opposition to **HB1181**.

**Mike Clens from Wimbledon, ND:** We took big losses when the Wimbledon Elevator became insolvent.

**Chairman Johnson:** Any other opposition to **HB 1181**?

**Rep. Belter:** I have never quite understood why these credit contracts can't be covered under the bonding.

**Sue Richter:** PSC, I have no testimony, I am here to answer questions.

**Chairman Johnson:** Would you be available next Thursday to come back to the committee.

**Sue Richter:** Yes, I would.

There were a couple of questions. May I answer them?

**Chairman Johnson:** Yes

**Sue Richter:** Who is covered by the indemnity fund? Every entity or producer that sells grain by the credit-sales contract is covered. The indemnity fund does cover only Credit-Sales transactions. All cash transactions would be covered by the bond only.

**Rep. Mueller:** Sue, my question to you, in case of the deferred from Jan. 1, there is a window of opportunity. You can do a deferred contract and you are not obligated for the two-tenths of one percent. Is that a 30 day or a 45 day? Maybe you could explain this to the committee.



**Sue Richter:** Sue gave a brief explanation.

**Chairman Johnson:** Rep. Belter.

**Rep. Belter:** In the event you have grain in the elevator, you sell it for April delivery, is that covered by bond?

**Sue Richter:** If you are selling grain for future delivery it would not be covered by the bond.

**Chairman Johnson:** Please step up to the podium where you can be heard.

**Sue Richter:** Mr. Chairman and Rep. Belter the reason the bonding company would not cover or would not write a bond. It is to "iffy".

**Chairman Johnson:** We will close on HB 1181.]

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/05/2007

Amendment to: HB 1181

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	(\$2,000,000)
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill caps the fund at 6 million. Revenues average about one million a year, with about \$800,000 received in the first two quarters (based on collections for the last quarter of one year and the first quarter of the next). Revenues in the last two quarters average only about \$100,000 per quarter.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

It is expected that the fund will reach \$4,000,000 by the end of the current biennium and \$6,000,000 by the end of the 2007-2009 biennium. Consequently--there would be no fiscal impact in the current biennium or the 2007-2009 biennium, but a reduction of approximately \$2,000,000 in the 2009-2011 biennium. These numbers are based on average revenues to the fund to date and do not include interest.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

see note to 2B

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

n/a

<b>Name:</b>	Illona Jeffcoat-Sacco	<b>Agency:</b>	PSC
<b>Phone Number:</b>	328-2407	<b>Date Prepared:</b>	02/06/2007

# FISCAL NOTE

Requested by Legislative Council

01/08/2007

Bill/Resolution No.: HB 1181

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	(\$2,000,000)	\$0	(\$2,000,000)
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill caps the fund at 4 million. Revenues average about one million a year, with about \$800,000 received in the first two quarters (based on collections for the last quarter of one year and the first quarter of the next). Revenues in the last two quarters average only about \$100,000 per quarter.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

It is expected that the fund will reach the \$4,000,000 cap by the end of the current biennium. Consequently--there would be no fiscal impact in the current biennium, but a reduction of approximately \$2,000,000 in the 2007-09 biennium and another reduction of an additional \$2,000,000 in the 2009-11 biennium. These numbers are based on average revenues to the fund to date and do not include interest.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

see note to 2B

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

n/a

<b>Name:</b>	Illona Jeffcoat-Sacco	<b>Agency:</b>	PSC
<b>Phone Number:</b>	328-2407	<b>Date Prepared:</b>	01/16/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1181

Page 1, line 1, replace "section" with "sections 60-10-02 and"

Page 1, line 2, after "fund" insert "; and to provide a continuing appropriation"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is amended and reenacted as follows:

**60-10-02. Credit-sale contract indemnity fund - Creation - Continuing appropriation.** There is created in the state treasury the credit-sale contract indemnity fund. The state treasurer shall invest available moneys in the fund in accordance with section 21-10-07 and in cooperation with the public service commission and shall deposit any income earned through the investments in the fund. The fund and ~~interest earned on earnings of~~ the fund are appropriated to the public service commission on a continuing basis to be used exclusively to carry out the intent and purpose of this chapter."

Page 1, line 6, overstrike "When" and insert immediately thereafter "At the end of the calendar quarter in which"

Renumber accordingly

2-1-07

Date:  
Roll Call Vote #:

HB 1181

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House AGRICULTURE 0101 Committee

Check here for Conference Committee 70397 Amendments

Legislative Council Amendment Number MOVE ON ~~AMENDMENT~~

Action Taken \_\_\_\_\_

Motion Made By BRANDENBURG Seconded By HETLAND

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman	✓	✓	Tracy Boe		✓
Joyce Kingsbury Vice Chairman		✓	Rodney J Froelich		
Wesley Belter	✓	✓	Phillip Mueller		✓
Mike Brandenburg	✓	✓	Kenton Onstad		✓
Mike Brandenburg	✓		Ben Vig		✓
Craig Headland	✓				
Brenda Heller					
John D Wall	✓				
Gerry Uglem		✓			

Total (Yes) 4 No 7

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**House Amendments to HB 1181 (70397.0102) - Agriculture Committee 02/01/2007**

Page 1, line 6, overstrike "When" and insert immediately thereafter "At the end of the calendar quarter in which"

Page 1, line 7, replace "four" with "six"

Page 1, line 9, replace "two" with "three"

Renumber accordingly

HB 1181

Date:  
Roll Call Vote #:

1 FEB. 07

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House AGRICULTURE Committee

Check here for Conference Committee

703 97

Legislative Council Amendment Number

Action Taken

DO PASS AS Amended

Motion Made By

BRANDENBURG

Seconded By

WALC

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman	✓		Tracy Boe		✓
Joyce Kingsbury Vice Chairman		✓	Rodney J Froelich		
Wesley Belter	✓		Phillip Mueller		✓
Mike Brandenburg	✓		Kenton Onstad		✓
<del>Mike Brandenburg</del>	✓		Ben Vig		✓
Craig Headland					
Brenda Heller					
John D Wall	✓				
Gerry Uglem	✓				

Total (Yes) 6 No 5

Absent 2

Floor Assignment BRANDENBURG

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

**REPORT OF STANDING COMMITTEE**

HB 1181: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1181 was placed on the Sixth order on the calendar.

Page 1, line 6, overstrike "When" and insert immediately thereafter "At the end of the calendar quarter in which"

Page 1, line 7, replace "four" with "six"

Page 1, line 9, replace "two" with "three"

Renumber accordingly



2007 SENATE AGRICULTURE

HB 1181

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1181

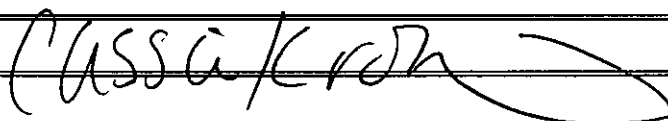
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4154

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened the hearing on HB 1181, a bill relating to the credit-sale contract indemnity fund. Members (6) present, absent (1)-Sen. Wanzek.

**Rep. Headland**, district 29, testified in favor of the bill.

**Rep. Headland**- This bill is fairly simple it reduces the fund cap from 10 million dollars to 6 million dollars. You might ask why we want to do this and the answer is because 6 million is more than enough. Farmers do appreciate the protection that the funds provide.

**Sen. Flakoll**- if the balance is less than 3 million dollars and they file a collection does that start on a quarterly basis or does it start as soon as they act on it, what is the legislative intent there?

**Rep. Headland**- the way the bill is written I believe that they would start collection as soon as that fund drops below 3 million.

**Sen. Taylor**- remind me again on the collection is it so much of a cent or what is the percentage how is it funded?

**Rep. Headland**- it is 2/10<sup>th</sup> of 1%.

**Sen. Taylor**- if it is a matter of fairness, did you think of a way for all that would pay into it would get a lower rate?

**Rep. Headland-** we did consider that, I believe that there are only 2 other states that have funds as large as 10 million and they are not very large producing states. The larger producing states are the ones that have the funds in the 4-6 million dollar range so that is why we chose those type of numbers. We thought that since there hasn't been any problems why continue to collect.

**Sen. Behm-** is this only on forward contracting and pricing where you collect this money from?

**Rep. Headland-** this fee is put on every bushel of grain that is put on a delayed pricing contract.

**Sen. Klein-** we have a engrossed bill here, so have you already done a little changing on that figure?

**Rep. Headland-** yes the original bill was to stop collections at 4 million.

**Sen. Klein-** so it was raised to 6 but leaving the backstop.

**Rep. Headland-** the backstop was changed too.

**Sen. Flakoll-** where does the interest go?

**Rep. Headland-** currently the fund is held at the Bank of ND and there is a small interest that is collected and it to date it is at around \$90,000.

**Sen. Heckaman-** it seems to me that with the price of crops going up that we should higher this amount instead of going down on it, am I thinking wrong?

**Rep. Headland-** I look at is that commodity prices today are as high as they've been and if you look at the local basis, the basis is as wide as it has ever been so I would disagree with that.

**Sen. Klein-** concerns that we are having with this are having a grain warehouse having major trouble but we still have some type of procedure that make the public service commission feel comfortable on the cash side, don't we?

**Rep. Headland-** that is correct.

**Rep. Brandenburg**, district 28, testified in favor of the bill.

**Rep. Brandenburg**- I stand in support of this bill.

**Sen. Klein**- we have a fiscal note but there is no effect in the state budget?

**Rep. Brandenburg**- no there is no effect.

**Brian Kramer**, NDFB, testified in favor of the bill.

**Brian Kramer**- We support this bill.

**Sen. Klein**- do you know how much money is in that fund right now?

**Brian Kramer**- I think the last number that I saw was \$3.7 million.

**Jeff Knudson**, representing agriculture commissioner, testified in opposition to the bill. See attached testimony.

**Woody Barth**, NDFU, testified in opposition to the bill.

**Woody Barth**- We are opposed to this bill, our policy reads that we would like the indemnity fund to stay in its present form. The value of grain has gone up a lot and we hope it stays there so that is on reason to keep the fund at 10 million dollars, it was also mentioned the value added processor's plants buying commodities. Some of those will be on delayed pricing contracts and deferred processing contracts and hopefully that industry will grow in the state and that will be another reason to keep it at that. We urge a do not pass.

**Sen. Taylor**- on the cost have you had complaints from members that this is an unreasonable price to pay for credit insurance?

**Woody Barth**- we have had no complaints.

**Sen. Flakoll** called **Sue Richter** from the public service commission to the podium.

**Sen. Klein**- how does it relate to the value added ethanol facilities, do you have any knowledge of how that would be held or treated?

**Sue Richter-** I think that the processing plants could come into question here, we don't dictate who is going to execute credit sale contracts. I think that we don't really have a handle on how.

**Sen. Taylor-** how often is a facility licensed and when they receive that initial bond as the facility grows in size does that bond have to increase?

**Sue Richter-** they apply for a license based on what their capacity is, if that elevator grows they are allowed to increase their bond accordingly. If they use licensed and unbonded space they face the risk of a complaint and no elevator likes to go through that. All licenses expire on July 31 of every year except for licenses that are issued on or after the first of June.

**Sen. Taylor-** what size was Wimbledon's bond?

**Sue Richter-** I am not quite sure, I think it was around \$400,000.

**Sen. Flakoll** closed the hearing.

# 2007 SENATE STANDING COMMITTEE MINUTES


Bill/Resolution No. 1181

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: 4162

Committee Clerk Signature 

Minutes:

**Sen. Flakoll** opened the discussion on HB 1181.

**Sen. Klein-** I would like to take time to look back to see how we got to the numbers, I am comfortable with the way it is.

**Sen. Behm-** I am with Sen. Klein, I have no problem with leaving it the way it is.

**Sen. Flakoll-** you mean in current law or the way the bill states?

**Sen. Behm-** current law.

**Sen. Erbele-** I serve on a elevator law and when someone says that farmers haven't complained that isn't true they do in my area they just haven't complained to anyone.

**Sen. Taylor-** I wonder how long they would continue to collect for those prior obligations to make them whole. A few things that struck me at one point someone said that this was designed to cover a insolvency and then looked at 6 million dollars and was then said to cover many insolvencies. I am confused as to what they really intended for that.

**Sen. Heckaman-** Sen. Erbele you said that your elevator manager doesn't like this could you explain?

**Sen. Erbele-** it is just another bookkeeping part of it and it doesn't make him feel really anymore secure.

**Sen. Klein-** I think as I recall our concern was that this is tool for producers that they don't have to use, this is something that we have created for their benefit.

**Sen. Flakoll-** what do you think that we should be shooting for, based upon hits or the value?

**Sen. Klein-** I think that it should be based on the world of deferred pricing and not on the potential of losing an elevator.

**Sen. Erbele-** the language of marketing has changed from the time that this bill came into place and to what is current practice.

**Sen. Taylor-** my one thought was also on the commodity prices, it seems that will create a little more pressure also because there are fewer elevators doing a greater amount of business and I think there is a increased amount of risk out there. I think that also when you see the higher commodity prices at least every producer is going to try to manage his income tax liability and when you start taking in more income because of the increase in commodity prices you are going to be more apt to exercise for sale contract which would put more pressure on too.

**Sen. Klein-** I think that we heard that with the higher prices that the elevator is going to make more money and that will be more on the bottom line with elevators having issues would be less.

**Sen. Taylor-** we talked about the paperwork for the elevators and some hesitance there about this program in general but I saw that the grain dealers were absent from taking a position on the bill and that it was not a concern to them.

**Sen. Klein-** they decided that they were going to stay out of this because they will have to do it anyways.

**Sen. Heckaman-** then why not leave it the way that it is and we can check on it in 2 years because we are not going to hit that 6 anyhow.

Page 3

Senate Agriculture Committee

Bill/Resolution No. 1181

Hearing Date: March 2, 2007

**Sen. Klein-** I am looking at it not so much for the elevators but more for the producers. The elevators make enough money.

**Sen. Flakoll** closed the discussion.



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1181

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4680

Committee Clerk Signature

*Cassie Krow*

Minutes:

**Sen. Flakoll** opened discussion on HB 1181.

**Sen. Flakoll**- one of the things that I was thinking about is that this in conjunction with another bill that we heard that looks to redo how we invest in our investment portfolio, so my consideration as a point of some discussion would be if we should reduce the amount the grower pays from 2 cents to 1 cent. That way we would have almost a equal blend of dollars from interest and from the growers it would cut back. If we do get in a situation where the fund is required in great quantities it doesn't give us as much ability to react and build those funds up.

**Sen. Heckaman**- the one thing that I talked to Rep. Brandenburg and Headland about was that even if we would do the reduction to 6 million dollars it is not going to do anything for 2 years anyhow even at that rate. So right now moving it down wouldn't serve any purpose and moving it back up makes it harder.

**Sen. Taylor**- your mention of changing the collection rate, your position would be to lower the collection rate and lower the caps as they are in the bill.

**Sen. Flakoll**- I would for point of discussion lower the collection rate and cut it in half and you could put triggers in there to that if there was a hit on the fund it would go back to 2 cents or

something. But I would be more inclined to leave the level of the fund as the bill came to us at 6 million dollars.

**Sen. Taylor-** I guess I am kind of along with Sen. Heckaman that no matter weather we do or don't do this is not going to necessarily change the balance of the fund over the next 2 years and I think that it would do no harm at leaving it what it was for that extra protection.

**Sen. Wanzek-** I think that in studying the fiscal note I am assuming that they made the assumptions based on previous history as to where the fund is going. I would question whether or not we will hit that a lot sooner then what is being projected. It does concern me if the fund does take a big hit that moving it from 2 cents to 1 cent is going to reduce it's ability to replenish itself. Is it capped?

**Sen. Flakoll-** I believe it is capped at \$280,000.

**Sen. Erbele-** even once e hit 6 million the fund will just continue to grow and it could grow to 10 million within the next 4 years and we have been 4 years plus now without an insolvency and I don't think that the credit sale contracts have been used as greatly as they were in the past either I think that we have moved to different marketing's.

**Sen. Flakoll-** is it that based on the cap with the 6 million would we have to have 22 insolvencies?

**Sen. Behm-** it depends on how big the insolvency is I would think that 6 million would almost cover whatever comes up.

**Sen. Flakoll-** I think that we have a pay out cap of \$280,000 per insolvency.

**Sen. Wanzek-** I was supportive of this when it was indicated however on the other hand I hear complaints from those who are funding and questioning how many dollars we need to pile up and I don't think that is the intent.

**Sen. Taylor-** I think as I go through the Ag commissioners testimony that \$280,000 cap is per patron not per facility so we are looking at that it could be one facility but a number of large patrons so we would be covering 22 patrons not 22 insolvency's at 6 million and I think with the increasing size of facilities and farms seems like going down is backwards in terms of risk due to crop prices and size facilities and farms.

**Sen. Klein-** I think that sometimes we get confused, I think that we are talking deferred and delayed pricing and they have been common over the last few years and the issue we found in 2003 was die to a reaction of something bad that happened and I think that we addressed that in hopes of seeing how this was going to go down the road. It is the producers money and we then spread the risk and I think that 6 million would be enough and the fund is there and I think it will be there for a long time. I think I like the way we are written and I am going to stick with that.

**Sen. Flakoll** closed the discussion.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1181

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 9, 2007

Recorder Job Number: 4781

Committee Clerk Signature *Cassia Krohn*

Minutes:

**Sen. Flakoll** opened discussion on HB 1181. All members (7) present.

**Sen. Heckaman**- I still think that this needs to be back at 10 million.

**Sen. Behm**- what is it going to hurt if we leave it at 10 million?

**Sen. Klein**- I would motion for a do pass. I was part of the initial passage of this in 2003 and I guess we were looking for a number and we came to this. The way the market was changing I think that the money belongs back in the producers pockets and I don't think that we need 10 million. I think the intent is to get the money back to the producers.

**Sen. Taylor**- I think that we are not going to put any more money back in the producers pockets in the next 2 years cause the fund will still be growing to the 6 million mark and I am willing to revisit it in 2 years and then we can see how the new interest program works out and what that does to the fund.

**Sen. Wanzek**- it is my hope that we never have to use this thing. I understand both sides.

**Sen. Flakoll** closed the discussion.

**Sen. Klein** motioned for a do pass and was seconded by **Sen. Wanzek**, roll call vote 1: 4 yeas, 3 nays, 0 absent. **Sen. Wanzek** was designated to carry the bill to the floor.

Date: March 9, 2007  
Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1181**

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Klein Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur H. Behm		X
Terry M. Wanzek-Vice Chairman	X		Joan Heckaman		X
Robert S. Erbele	X		Ryan M. Taylor		X
Jerry Klein	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. Wanzek

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

**REPORT OF STANDING COMMITTEE (410)**  
March 9, 2007 1:06 p.m.

**Module No: SR-45-4876**  
**Carrier: Wanzek**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1181, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1181 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

HB 1181

Roger Johnson  
Agriculture Commissioner  
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Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner  
House Bill 1181  
House Agriculture Committee  
Peace Garden Room  
January 19, 2007**

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Chairman Johnson and members of the Committee, I am Agriculture Commissioner Roger Johnson. I am here today in opposition of HB 1181, which reduces the level of the credit-sale contract indemnity fund.

Among other reasons, variable production yields and commodity prices and grain storage issues make credit-sale contracts an important income and tax management tool. However, they pose a financial risk for producers in the event of a grain elevator or grain buyer insolvency.

The credit-sale contract indemnity fund was created by the 2003 Legislature as a result of the 2002 insolvency of the Wimbledon Grain Company. In the end, Wimbledon Grain patrons with credit-sale contracts collectively lost over one million dollars. Such losses ripple throughout a community due to the lost multiplier effect of local financial transactions and purchases.



The credit-sale contract indemnity fund was an innovative self-insurance solution to provide partial protection against future credit-sale contract insolvency losses. Producers are charged a two-tenths of one percent assessment on all credit-sale contract grain sales as the revenue source for the fund. Up to 80 percent of credit-sale contract losses are eligible for indemnification with a maximum indemnity of \$280,000 per patron.

Currently, the assessment is imposed any time the fund balance falls to \$5,000,000 or below and is suspended if the fund reaches \$10,000,000. The fund balance was \$3,153,889 as of December 31, 2006. To date, my office has not received any complaints regarding the assessment or the operation of the fund.

This bill would make the assessment active at \$2,000,000 or below and suspend the assessment at \$4,000,000. I think this reduction in fund level requirements is a major step in the wrong direction. Commodity prices have strengthened considerably and are forecasted to remain strong, at least for the near future. The consolidation in farming and the grain buying industries has been constant with no evidence that the trend will reverse. These factors increase the exposure to credit-sale contract patrons should a major grain elevator or grain buyer become insolvent.

Attached to my testimony is the Public Service Commission's (PSC) history on the number of licensed grain elevators and the total and average capacities by year. In the last thirty years, the number of elevators has dropped from 605 to 401. During the same period, however, the total capacity of licensed elevators has increased from 133.3 million bushels to 279.1 million bushels.

An informal PSC survey of 242 licensed elevators revealed nine licensees with year-end credit-sale obligations of between \$2,500,000 and \$5,000,000. More significant is the survey's report of two licensees with year-end credit-sale obligations of between \$5,000,000 and \$10,000,000. With two licensees already reporting credit-sale obligations in excess of \$5,000,000, it makes little sense to reduce the indemnity fund to \$4,000,000. As consolidation in the industry continues, credit-sale contract obligations will continue to increase and there will likely be contract obligations exceeding \$10,000,000 before long. It seems that producers would be better-served by a plan for future increases in the fund balance to match increasing obligations.

I understand that HB 1360 has been introduced and would direct the state treasurer to invest the credit-sale contract indemnity funds and deposit any investment earnings back into the fund.

This makes sense and will hopefully lead to a perpetual, self-sustaining fund. However, it seems that we should continue to build the fund to the \$10,000,000 level as quickly as possible to assure adequate coverage of current and increasing future credit-sale obligations.

Chairman Johnson and committee members, I urge a do not pass on HB 1181. I would be happy to answer any questions you may have.

## ND LICENSED GRAIN ELEVATORS

(Page 1)

License Year (August – July)	Elevators (as of 8/1)	Total Capacity (millions of bushels)	Average Capacity (thousands of bushels)
2006-07	401	279.1	696.1
2005-06	401	266.7	665.0
2004-05	405	257.2	635.2
2003-04	408	247.9	607.7
2002-03	426	248.1	582.4
2001-02	434	251.1	578.5
2000-01	443	252.3	569.5
1999-00	443	243.9	550.6
1998-99	456	246.0	539.5
1997-98	462	246.7	534.0
1996-97	482	250.4	519.5
1995-96	486	250.2	514.8
1994-95	484	246.0	508.3
1993-94	484	241.3	498.6
1992-93	504	234.7	465.7
1991-92	521	230.5	442.4
1990-91	534	235.0	440.1
1989-90	550	248.4	451.6

## ND LICENSED GRAIN ELEVATORS

(Page 2)

License Year (August - July)	Elevators (as of 8/1)	Total Capacity (millions of bushels)	Average Capacity (thousands of bushels)
1988-89	583	254.0	435.7
1987-88	580	258.4	445.5
1986-87	573	235.5	411.0
1985-86	577	199.1	345.1
1984-85	563	178.0	316.2
1983-84	582	177.5	305.0
1982-83	578	166.2	287.5
1981-82	589	156.5	265.7
1980-81	592	155.9	263.3
1979-80	589	146.0	247.9
1978-79	587	143.2	244.0
1977-78	600	137.8	229.7
1976-77	605	133.3	220.3
1975-76	617	126.0	204.2
1974-75	630	130.0	206.3
1973-74	636	131.4	206.6
1972-73	637	129.7	203.6
1971-72	650	127.8	196.6

## ND LICENSED GRAIN ELEVATORS

(Page 3)

License Year (August - July)	Elevators (as of 8/1)	Total Capacity (millions of bushels)	Average Capacity (thousands of bushels)
1970-71	658	129.3	196.5
1969-70	663	124.7	188.1
1968-69	696	124.2	178.5
1967-68	741	129.1	174.2
1966-67	760	129.1	169.8
1965-66	779	128.1	164.4
1964-65	808	123.0	152.3
1963-64	800	122.8	153.4
1962-63	814	122.7	150.7
1961-62	823	123.6	150.2
1960-61	832	120.4	144.7
1959-60	841	117.4	139.6
1958-59	855	93.3	109.1
1957-58	877	90.3	103.0
1956-57	900	87.1	96.9
1955-56	911	74.7	82.0
1954-55	944	71.6	75.8
1953-54	965	64.6	66.9

## ND LICENSED GRAIN ELEVATORS

(Page 4)

License Year (August - July)	Elevators (as of 8/1)	Total Capacity (millions of bushels)	Average Capacity (thousands of bushels)
1952-53	974	63.9	65.6
1951-52	987	62.0	62.8
1950-51	1025	60.8	59.3
1949-50	1015	58.6	57.7
1948-49	1025	57.8	56.4
1947-48	1043	56.4	54.1
1946-47	1022	56.4	55.2
1945-46	1279	56.7	44.4
1944-45	1058	57.8	54.6
1943-44	1133	58.4	51.6
1942-43	1255		
1941-42	1232		
1940-41	1155	45.0	39.0
1922	1720	53.6	31.2
1920	1999		
1915	2031	60.5	29.8

## Par. 115

**115 Wetlands****A C/S Not Eligible**

Cost sharing shall not be approved for practices that would drain or negatively impact the quality of any wetlands as defined in the NRCS Field Office Technical Guide.

**116 Land Under Other C/S Programs****A Determining Eligibility**

Determine eligibility of land under other C/S programs according to the following.

IF...	AND...	THEN C/S may...
measures will accomplish the purpose of the practice	the practice will not be C/S under another Federal program	be authorized.
a component of a practice is C/S under another program	another component of the same or comparable practice is C/S under another program to treat the same problem on the same land	not be authorized.
practices are split on the same land	C/S would be split between different Federal programs	
participants have or will receive funding on the same acreage under: <ul style="list-style-type: none"> <li>• CRP</li> <li>• WRP</li> <li>• EWRP</li> <li>• EWP</li> </ul>		

117-129 (Reserved)

# North Dakota Farmers Union

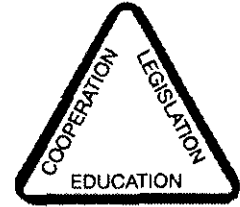
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## **HB 1181**

### **House Agriculture Committee**

Chairman Johnson and Members of the House Agriculture Committee,

My name is Woody Barth; I am here representing the members of North Dakota Farmers Union. I am here to testify in opposition of House Bill 1181.

North Dakota Farmers Union supports the continuation of a credit-sale contract indemnity fund for grain credit sales in order to provide protection to credit sale patrons in insolvency cases. Funding should be generated by an assessment to the producers who take the credit-sale contracts.

NDFU believes there should be no changes to the indemnity fund levels and should be allowed continued growth as is. Near-record prices for commodities, grain elevator consolidation, and value-added processing plants create the need to maintain the fund at a higher level than proposed in this HB 1181. Therefore, we believe the indemnity fund should be allowed to reach \$10 million. This amount would sufficiently cover farmer's losses if the need should arise.

We strongly urge a do not pass on HB 1181.

Thank you Chairman Johnson and members of the committee. I will answer any questions at this time.



*Mike Testimony*

## NORTH DAKOTA PUBLIC SERVICE COMMISSION

### Grain Warehouse Insolvencies

Last updated May 2004	Warehouse Name and Location(s)	Insolvency Date	Grain Claims	Grain Proceeds	Bond	Unpaid Claims	Payment
	Farmers Grain Company, Bowdon	04-18-75	\$151,954.72	\$29,264.42	\$87,500.00	\$35,886.72	77%
	Courtenay Farmers Coop., Courtenay	07-30-80	\$325,558.90	\$191,624.25	\$0.00	\$0.00	100%
	Amenia Seed & Grain, Amenia	03-04-82	\$379,473.36	\$364,489.69	\$21,664.96	\$0.00	100%
	Coast Trading Company, Underwood, Ray, Stampede, Belfield, Petersburg	04-17-82	\$141,189.51	\$0.00	\$141,189.51	\$0.00	100%
	Valley Farmers Bean Assn., Portland, Gilby, Buxton	10-29-82	\$406,117.69	\$271,406.10	\$171,777.86	\$0.00	100%
	Jamestown Frms Elev, Inc., Jmstwn	01-21-83	\$192,583.23	\$0.00	\$425,000.00	\$0.00	100%
	Central States Grain, Anslem	07-27-83	\$195,637.40	\$0.00	\$222,524.92	\$0.00	100%
	Colfax Grain Company, Colfax	04-09-84	\$2,572.00	\$2,572.00	\$0.00	\$0.00	100%
	National Sun Industries, Enderlin	08-27-84	\$1,078,299.58	\$56,312.74	\$800,000.00	\$221,986.84	79%
	Dakota Bean Company, Casselton, St. Thomas, Northwood	12-10-84	\$1,471,143.59	\$1,471,143.59	\$180,000.00	\$0.00	100%
	Hatton Commodities, Inc., Hatton	09-09-86	\$132,849.00	\$8,232.50	\$125,000.00	\$0.00	98%
	Regan Farmers Union Coop., Regan	05-14-86	\$1,228,776.13	\$842,522.46	\$512,158.57	\$0.00	100%
	Zeeland Frms Union Coop, Zeeland	08-11-86	\$8,028.73	\$0.00	\$8,028.73	\$0.00	100%
	Leith Grain Company, Leith	09-17-86	\$14,657.11	\$0.00	\$0.00	\$0.00	100%

Warehouse Name and Location(s)	Insolvency Date	Grain Claims	Grain Proceeds	Bond	Unpaid Claims	Payment
Binford Grain Company, Binford	11-26-86	\$5,980.73	\$0.00	\$0.00	\$0.00	100%
Dawn Enterprises (a ND Limited Partnership), Walhalla	10-05-87	\$498,874.20	\$20,746.03	\$175,000.00	\$303,979.34	39%
Binford Grain Company, Binford	05-16-88	\$1,324.10	\$0.00	\$1,324.10	\$0.00	100%
Woods Elevator Coop., Woods	04-12-89	\$293,718.34	\$0.00	\$780,000.00	\$0.00	100%
Farm Marketing Board, Ltd., Easby	07-14-89	\$305,770.06	\$140,641.72	\$100,000.00	\$5,705.79	98%
Chappell Grain, Inc., Grand Rapids	10-19-89	\$37,818.64	\$5,701.10	\$200,000.00	\$0.00	100%
Des Lacs Grain Company, Des Lacs	01-24-90	\$134,643.33	\$0.00	\$150,000.00	\$0.00	100%
Stirco, A Limited Partnership, Stirum	02-16-93	\$103,023.80	\$9,001.38	\$50,000.00	\$0.00	100%
Spent Grain Co., Munich, (Rov Gr)	08-09-93	\$167,422.50	0	\$50,000	\$117,771.94	29.66%
*Goose River Feed Co., Blanchard	03-31-98	\$144,953.36	\$11,517.67	\$0.00	\$133,435.69	8%
Viking Seeds, Inc., Grandin, Argusville	09-11-00	\$577,572.13	\$0	\$50,000.00	\$527,572.13	8.66%
Custom Processors, Inc., Anslem	09-22-00	\$339,886.16	\$590.89	\$150,000.00	\$176,446.28	94%
Wimbledon Grain Co., Wimbledon	01-11-02	\$4,279,796.47	\$3,674,751.00	\$400,000-st \$543,000-fd	\$635,478.11- credit-sale	100% cash 42.9%-cs**
North Central Elevator, Inc.	07-01-03	\$393,637.79	\$19,824.88	\$87,500.00	\$286,312.91	72%
Northern Organic, Inc.	09-17-03	\$36,613.90	0	\$50,000.00	\$19,413.60	100%

\*Goose River Feed Company was operating without a grain warehouse license.

\*\* % payment before attorney fees – 32.2% after attorney fees.

## **Credit - Sale Contract Indemnity Fund**

- Projected annual collection - \$1.5 million/year - 2/10ths of 1% rate.
- Projected 7 years collections - \$10 million cap fund – no claims.
- Actual annual collection - \$1 million (approximately).
- 2/10ths of 1% rate - 10 years of collections - \$10 million cap fund – no claims.
- 2/10ths of 1% rate – 4 years of collection - \$4 million cap fund – no claims
- Insufficient fund level – creates a continuous “catch up” collection process and results in multiple payments to reimburse claimants.
- Provided informal survey to 242 licensees (e-mail contacts only) asked to identify credit-sale contract obligations as of year end – received 77 responses.
  - Obligations greater than \$10 million – 1
  - Obligations greater than \$5 million / less than \$10 million – 3
  - Obligations greater than \$2.5 million / less than \$5 million – 10
  - Obligations greater than \$1 million / less than \$2.5 million – 10
  - Obligations greater than \$500,000 / less than \$ 1 million – 10
  - Obligations greater than \$100,000 / less than \$500,000 – 14
  - Obligations equal to or less than \$100,000 - 7
  - Obligation is 0 – 21
  - Comment submitted but no obligation was identified – 1
- Assessments received as of 12/31/2006 - \$3,153,889.31
- Fund balance as of 12/31/2006 – \$3,352,247.17

## Credit-Sale Contract Indemnity Fund Survey

Outstanding Obligations as of 12/31/06	80% Indemnity Fund Payment	Unsolicited Comments Provided by Industry
\$11,262,000.00	\$9,009,600.00	
\$8,308,790.00	\$6,647,032.00	
\$7,485,548.00	\$5,988,438.40	
\$7,315,427.77	\$5,852,342.22	
\$4,600,000.00	\$3,680,000.00	
\$4,306,770.56	\$3,445,416.45	
\$4,045,600.00	\$3,236,480.00	
\$4,000,000.00	\$3,200,000.00	
\$3,744,790.00	\$2,995,832.00	
\$3,401,725.94	\$2,721,380.75	
\$3,207,639.04	\$2,566,111.23	We believe the limit should stay at the existing level of \$10,000,000 as with all of the mergers a level of \$4,000,000 would not be sufficient.
\$2,924,168.75	\$2,339,335.00	
\$2,900,000.00	\$2,320,000.00	
\$2,869,742.00	\$2,295,793.60	
\$2,310,556.00	\$1,848,444.80	
\$2,300,000.00	\$1,840,000.00	
\$2,000,000.00	\$1,600,000.00	
\$1,886,618.57	\$1,509,294.86	
\$1,809,603.27	\$1,447,682.62	
\$1,808,059.08	\$1,446,447.26	
\$1,760,000.00	\$1,408,000.00	
\$1,524,108.77	\$1,219,287.02	
\$1,502,464.00	\$1,201,971.20	
\$1,159,798.03	\$927,838.42	
\$987,209.50	\$789,767.60	
\$960,000.00	\$768,000.00	
\$956,850.86	\$765,480.69	

Outstanding Obligations as of 12/31/06	80% Indemnity Fund Payment	Unsolicited Comments Provided by Industry
\$930,000.00	\$744,000.00	
\$880,000.00	\$704,000.00	
\$739,215.85	\$591,372.68	
\$735,039.27	\$588,031.42	
\$663,102.40	\$530,481.92	
\$556,695.00	\$445,356.00	
\$551,810.64	\$441,448.51	
\$388,940.60	\$311,152.48	
\$361,448.92	\$289,159.14	
\$360,000.00	\$288,000.00	
\$356,768.00	\$285,414.40	
\$346,000.00	\$276,800.00	
\$316,560.00	\$253,248.00	
\$283,649.84	\$226,919.87	
\$227,597.19	\$182,077.75	
\$165,000.00	\$132,000.00	
\$164,968.00	\$131,974.40	
\$154,445.74	\$123,556.69	
\$133,179.00	\$106,543.20	
\$129,222.04	\$103,377.63	
\$128,820.00	\$103,056.00	
\$54,772.20	\$43,818.02	
\$40,878.04	\$32,702.43	
\$33,328.81	\$26,663.05	
\$23,999.39	\$19,199.51	
\$13,548.57	\$10,838.86	
\$7,420.00	\$5,936.00	
\$2,292.16	\$1,833.73	
No value given		We fully support the reduction of the cap or better yet STOP IT IMMEDIATELY!!!!!!!!!!

Roger Johnson  
Agriculture Commissioner  
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**Testimony of Roger Johnson  
Agriculture Commissioner  
Engrossed House Bill 1181  
Senate Agriculture Committee  
Roosevelt Park Room  
9:00 a.m.  
March 1, 2007**

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Chairman Flakoll and members of the Committee, I am Agriculture Commissioner Roger Johnson. I am here today in opposition of Engrossed HB 1181, which reduces the level of the credit-sale contract indemnity fund.

Among other reasons, variable production yields and commodity prices, and grain storage issues make credit-sale contracts an important income and tax management tool. However, they pose a financial risk for producers in the event of a grain elevator or grain buyer insolvency.

The credit-sale contract indemnity fund was created by the 2003 Legislature as a result of the 2002 insolvency of the Wimbledon Grain Company. In the end, Wimbledon Grain patrons with credit-sale contracts collectively lost over one million dollars. Such losses ripple throughout a community due to the lost multiplier effect of local financial transactions and purchases.

The credit-sale contract indemnity fund is an innovative self-insurance solution to provide partial protection against future credit-sale contract insolvency losses. Producers are charged two-tenths of one percent assessment on all credit-sale contract grain sales as the revenue source for the fund. Up to 80 percent of credit-sale contract losses are eligible for indemnification with a maximum indemnity of \$280,000 per patron. To date, my office has not received any complaints regarding the assessment or the operation of the fund.

The fund balance was \$3,352,247 as of December 31, 2006. Currently, the assessment is imposed any time the fund balance falls below \$5,000,000 and is suspended once the fund reaches \$10,000,000. This bill, as filed, proposed to make the assessment active below \$2,000,000 and suspend the assessment at \$4,000,000. The House amended the bill to make the assessment active below \$3,000,000 and suspend the assessment at a level of \$6,000,000. However, I think any reduction in fund level requirements is a major step in the wrong direction.

Commodity prices have strengthened considerably and are forecasted to remain strong, at least for the near future. The consolidation in farming and the grain buying industries has been constant with no evidence that the trend will reverse. These factors will likely increase the exposure to credit-sale contract patrons should a major grain elevator or grain buyer become insolvent.

Attached to my testimony is the Public Service Commission's (PSC) history on the number of licensed grain elevators and the total and average capacities by year. In the last thirty years, the number of elevators has dropped from 605 to 401. During the same period, however, the total capacity of licensed elevators has increased from 133.3 million bushels to 279.1 million bushels.

An informal PSC survey of 242 licensed elevators revealed ten licensees with year-end credit-sale obligations of between \$2,500,000 and \$5,000,000. Three licensees reported year-end credit-sale obligations of between \$5,000,000 and \$10,000,000 and one licensee reported obligations in excess of \$10,000,000. With three licensees reporting credit-sale obligations in excess of \$5,000,000 and one already in excess of \$10,000,000, it makes little sense to reduce this indemnity fund.

Continuing industry consolidation and significantly stronger commodity prices will likely precipitate increasing credit-sale contract obligations. Hopefully, we will not see a large demand on this fund because of a major licensee failure or failures. However, as time goes on it appears that any insolvency event or events is likely to become larger in scope. It seems that producers would be better-served by a plan for maintenance and future increases of the fund balance to match increasing obligations.

HB 1360, if passed, directs the state treasurer to invest the credit-sale contract indemnity funds and deposit any investment earnings back into the fund. This makes sense and will hopefully lead to a perpetual, self-sustaining fund. However, it seems that we should continue to build the fund to the \$10,000,000 level as quickly as possible to assure adequate coverage of current and increasing future credit-sale obligations.

Chairman Flakoll and committee members, I urge a do not pass on Engrossed HB 1181. I would be happy to answer any questions you may have.