

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2180

2007 SENATE AGRICULTURE

SB 2180

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1892

Committee Clerk Signature

Cassie Kraus

Minutes:

Sen. Flakoll opened the hearing on SB 2180, a bill relating to the biofuel partnership in assisting community expansion fund and to provide a continuing appropriation. All members (7) were present.

Sen. Klein, district 14, testified in favor of the bill.

Sen. Klein- I have been working on renewable projects and bills for many sessions. This proposal will now include ethanol as well as some livestock enterprises that utilize the interest by down, but it is all about trying to support the renewable energy industry in the state. This bill expands the assistance to \$500,000 interest by down for a renewable fuel plant and as much as \$250,000 for dairy and livestock. The bill does define who can participate these plants need to be owned by at least 10% agricultural producers or 50% ND resident. In addition these plants could also participate in up to \$900,000 in financial assistance. The best part is that it is in the governors budget and happens to be in the Bank of ND budget over in the house, in that budget there is \$4.2 million in new money and we have \$800,000 carry over from biodiesel pace, so we have up to \$5 million for up to 10 new projects and new plants.

That is an over view and there are others here that will be able to go over the bill section by section.

Sen. Wanzek, district 29, testified in favor of the bill.

Sen. Wanzek- This is a very good bill, on behalf of the corn growers I will be introducing some amendments. What the amendment essentially does is expand the potential use of the bio pace funds for corn storage facilities. This is an effort to try to provide some help for those who can not afford to put up storage units for their plants.

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

Rep. Brandenburg- I think this bill is a fantastic effort towards ND growing it's own industry. I also stand in support of the amendment.

Lance Gaebe, representing Governor Hoeven, testified in favor of the bill. Read and walked the committee through the bill to help them understand it more.

Sen. Flakoll- where do you get the livestock producers language?

Lance Gaebe- came from another bill that is being considered in the house.

Sen. Flakoll- on the 10% agriculture producers and 50% residents do you view that as dollars or persons?

Lance Gaebe- I'm not sure, I think it is based on ownership share and percentage of the share but it does not clearly state it that way, but that was the intent. I will have to find out.

Roger Johnson, Agriculture Commissioner, testified in favor of the bill. See attached testimony.

Gary Hoffman, ND dairy coalition, testified in favor of the bill.

Gary Hoffman- We are very pleased that dairy has been included in the bill and that there is interest by down in some of the new dairy facilities. We have been in existence for 2 years and have seen a lot of progress. This bill will really help and increase the growth of the industry. We would hope that maybe you could include funding for the dairy coalition efforts.

We ask that maybe you would add an amendment to add some funding for future dairy development projects in ND.

Sen. Klein- did you have a solid number for the funding that you would need to provide the service or the work that you are doing?

Gary Hoffman- we are looking at \$300,000 per biennium.

Sen. Taylor- just looking at a new dairy what is there optimal size and what is a cost estimate?

Gary Hoffman- \$5,000 per animal yield, if you were to build a brand new dairy today the minimum you would look at is 800 head.

Sen. Behm- what type of milking parlors do these big dairy plan on having?

Gary Hoffman- if you are looking at a 8,000 cow dairy you are probably looking at a 80 cow rotary.

Mike Seifert, chief operating officer of tall grass bio-industries, testified in favor of the bill.

Mike Seifert- This bill helps with local ownership and helping with financial aspects of these facilities. I am in support of this bill.

Sen. Klein- do you see the 10% and 50% question a hindrance to providing more opportunities or more investors to the projects that you are working on?

Mike Seifert- no I don't think so I look at it as a up side.

Bart Schott, chairman of the ND utilization council, testified in favor of the bill. See attached testimony.

Sen. Klein- SD has been moving the ethanol industry along, what have they done to address those issues or any other state?

Bart Schott- storage is a real issue in SD as well, they are trying to build the storage facilities to keep the corn in SD. They run into the same problems as we do.

Sen. Klein- if I wanted to go out and buy a building for this summer, do you think I would be able to even get one? I have heard they are in high demand.

Bart Schott- I don't know.

Sen. Taylor- 3.2 million cost on your sheet would take up a lot of the money on this program we would have to look at a cap, would you be agreeable to some sort of a cap to keep this from becoming just a corn storage bill?

Bart Schott- the Bank of ND would like to set a \$10,000 cap on interest buy down, they would chose the individuals that would qualify for this loan.

Randy Schneider, president of the ND Ethanol Producers lobbyist 512, testified in favor of the bill.

Randy Schneider- I am here in support of this bill with one exception. The one thing we would ask for consideration on and amending in reference to the 10% and 50% ownership previsions of the bill. We feel that as an industry that we are kind of being singled out. We think that we should all be on the same playing field, so we would respectfully request that the bill be amended to take that out of the bill.

Sen. Klein- so the way that this language is written you wouldn't be able to participate at all?

Randy Schneider- probably not with this particular provision.

Mike Williams, executive board of the ND renewable partnership, testified in favor of the bill

Mike Williams- We support this bill. It has been proven that if there is local ownership in these plants the return on investments is 10 times as far as the economic impact for that community.

Brian Kramer-lobbyist 40 from ND Farm Bureau, **Dennis Hill**-ND Assoc. RECS, **Dave Buail**- lobbyist 372, **Woody Barth**- lobbyist 286 ND Farmers Union, **Gary Jacobson**-Great River

Energy all were present and in favor of the bill.

No opposition to the bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

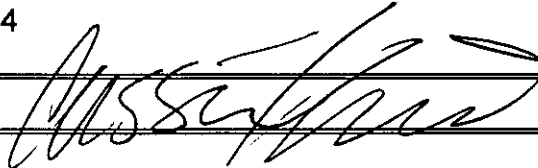
Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1894

Committee Clerk Signature



Minutes:

Sen. Flakoll opened discussion on SB 2180.

Sen. Flakoll- how many amendments are we looking at on that bill? I have a amendment that I had drafted up. I think that it is 10% by dollars and not just 10% of the people.

Sen. Behm- are you saying not 10% of the members they have to be producers?

Sen. Flakoll- they have to have 10% ownership. So it's the dollars not the head count.

Sen. Heckaman- I think it would have to be that it is already in there intent cause if you only have 5 people you cant take 10% of that, so the intent has to be dollars.

Sen. Klein- I am a little uncomfortable with the 10 and 50 only to the point cause none of the projects that are going on in the state now we even qualify. We are not enticing anyone right now to build a plant. I just think that we are going to have a little issue as we go through the system. Are we creating a level playing field? I would like to go and talk to some of these folks.

Sen. Wanzek- I would share some of those concerns, it would be nice to have local people owning it. But, if we couldn't build it and we couldn't invest in it and this would be the tipping point on weather a plant would be built or not but it is owned from someone out of state would you still want it or wouldn't you?

Sen. Taylor- I think there is some flexibility there and there is a greater economical impact and I don't think that 10% even on the producers side is even to much to ask.

Sen. Flakoll- Sen. Klein or Sen. Wanzek did you ever have any discussions about a bigger buy down if they qualify 10 or 50 percent verses out of state?

Sen. Klein- I don't think that we have had that. If legislator and citizens think it's a good way to proceed we are going to do it this way, if we find more resistance. I am not opposed to either way I am just thinking, if there is a million dollar plant anywhere in the state I don't want to be an obstruction.

Sen. Behm- the way I understand this 10% is that it is 105 agricultural producers or 50% north Dakotans, do you need the money part even in there? There are going to be Ag producers around that area. I am comfortable with the way the bill reads to.

Sen. Klein- if we could come back so I can look into some things.

Sen. Wanzek- do we break it down and look at individuals in the newman group? Do they all live in the state yet? How far do we go with that?

Sen. Klein- so e have a 2 million dollar plant that we need to provide 20 million dollars worth of equity to get it going, of that 20 million dollars, 10% of that 2 million needs to be ND farmers? I am just thinking the investment side. What level do we have to get and how many people do we need to get in to get to that level that we need to be to make this project go.

Sen. Flakoll- what happened if they would sell their ownership?

Sen. Taylor- if we are going to include the cap I don't want it to be an overwhelming detriment that would be dedicated to plants and livestock operations, it should be capped at what ever the minority part of the fiscal. For me to vote on it I would have to see something like that.

Sen. Wanzek- there are a number of farmers that this might be enough to tip them towards having more adequate storage facilities or investing. Maybe just putting a dollar cap on it.

Sen. Klein- in reference to Gary Hoffman's discussion I am just not sure how that id going to fit onto this, I know the issues their facing, but I am just thinking that there has got to be something else. I just don't know if this is the place for that one.

Sen. Flakoll closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1894

Committee Clerk Signature



Minutes:

Sen. Flakoll opened the discussion on SB 2180.

Sen. Klein- some of the discussion was on the 10% and what that meant. In visiting, you need 10% producers if we have to come up with \$10 million. Can it happen, they had one that project that got close. So basically it could work, we believe that that project wouldn't tap into this anyway cause it is already going. The newman group should be able to utilize that. It would be up to the bank of ND to look at the law that we created and try to determine weather or not there is 10% ownership in their cooperation. The language is fine and we are going to leave it.

Sen. Behm- this doesn't defeat the bills purpose then I am comfortable with it then, it might make it a little easier to understand.

Sen. Klein- are we looking for clarity on what makes up that 10%? In consulting with counsel it seems that there is some issue in the way we redo this cause of the way the statue defines individual. They want this to be extremely encompassing.

Sen. Flakoll- Stephaine (intern) explain what legislative counsel has explained to you.

Stephanie Weiss- They were saying that a facility can not be an individual.

Sen. Klein- a lot of the word smithing was done by Lance Gaebe and Jennifer Clark.

1-25-07
SB 2180

Sen. Flakoll calls **Lance Gaebe** to the podium.

Lance Gaebe, works for Governor Hoeven, talked for clarification on the bill.

Lance Gaebe- as it was written the word individual as I understand it in the century code the word individual is meant to be a broad definition. So what we are saying is an organization or cooperative that wants to deal with these is eligible for an interest buy out. This wording would work the best for that reason.

Sen. Taylor- I think that what Lance has told us is that there rally has been a lot of thought put into this already, or intent was to know it was an investment. I think leaving it as individual makes the most sense.

Lance Gaebe- what was explained to me is that individual and such are different arrays of broadness. The word person is to broad so that is why we chose the word individual.

Sen. Flakoll closed the discussion.

Roll call vote 1: **Sen. Behm** motioned for a do pass to adopt amendment **Sen. Klein** seconded the motion 7yeas, 0 nays, 0 absent.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

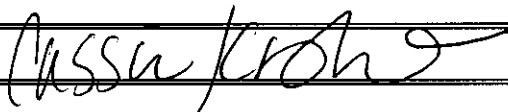
Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2067

Committee Clerk Signature



Minutes:

Sen. Flakoll opened discussion on SB 2180.

Sen. Wanzek- we talked about if we include or expand the pace dollars for the use of building grain handle facilities for storage mostly for corn storage, the question was if that could use up the entire fund which we didn't want to do. I visited with corn growers and we agreed on a cap of \$500,000 and that is in the total amount of money for the buy down which as I explained that leverages a lot of money. It is more for the industry then the farmers. It has potential that then the corn would leave the state.

Sen. Flakoll- right now the corn people could get all the money so this would limit this so they could only get 10% of the money.

Sen. Behm- we have to be able to keep the corn in good condition and not store it on the ground.

Sen. Wanzek- it might encourage corn growers to keep there corn in it.

Sen. Taylor- who would make the facility decision the grain that is used for the intention of biofuels?

Sen. Klein- I'm going to support this but I think that if it is going to cause a problem in passing we need to bail on this.

Sen. Wanzek- a small percentage would still give them a little bit of a break and would maybe encourage them to put up the bins and encourage them to store things in the bins during critical times.

Sen. Flakoll closed the discussion.

Roll call vote 2: **Sen. Wanzek** motioned for a do pass to adopt amendment **Sen. Klein** seconded the motion 6yeas, 0nays, 1 absent (Sen. Erbele)

Roll call vote 3: **Sen. Klein** motioned for a do pass as amended to be rerefered to appropriations **Sen. Behm** seconded the motion **Sen. Klein** was designated to carry the bill to the floor. 6yeas, 0nays, 1 absent (Sen. Erbele)

FISCAL NOTE
Requested by Legislative Council
04/20/2007

Amendment to: Engrossed
 SB 2180

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
Revenues				\$801,964		
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund with expanded definitions and eligible uses. The amendments adopted by the Conference Committee will not have a fiscal impact.

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.*

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium. Engrossed HB 1014 includes a provision that appropriates any unobligated Biodiesel PACE funds (\$801,964) to the Biofuels PACE fund.

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.*

Name:	Karlene K. Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	04/20/2007

FISCAL NOTE
Requested by Legislative Council
03/28/2007

Amendment to: Engrossed
 SB 2180

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
Revenues				\$801,964		
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund with expanded definitions and eligible uses. The amendments adopted by the House Appropriations Committee will not have a fiscal impact.

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.*

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium. Engrossed HB 1014 includes a provision that appropriates any unobligated Biodiesel PACE funds (\$801,964) to the Biofuels PACE fund.

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.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	03/28/2007

FISCAL NOTE
Requested by Legislative Council
03/13/2007

Amendment to: Engrossed
 SB 2180

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
Revenues				\$801,964		
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund with expanded definitions and eligible uses. The amendments adopted by the House Natural Resources Committee dated March 8, 2007 will not have a fiscal impact.

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.*

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium. HB 1014 - Section 17 appropriates any unobligated Biodiesel PACE funds (\$801,964) to the Biofuels PACE fund.

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.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	03/13/2007

FISCAL NOTE
Requested by Legislative Council
01/31/2007

Amendment to: SB 2180

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
Revenues				\$801,964		
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund with expanded definitions and eligible uses. The proposed amendments dated January 26, 2007 adopted by the Senate Agriculture Committee will not have a fiscal impact.

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.*

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium. HB 1014 - Section 17 appropriates any unobligated Biodiesel PACE funds (\$801,964) to the Biofuels PACE fund.

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.*

Name:	Robert A. Humann	Agency:	Bank of North Dakota
Phone Number:	328-5703	Date Prepared:	01/31/2007

FISCAL NOTE
Requested by Legislative Council
01/29/2007

REVISION

Bill/Resolution No.: SB 2180

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
Revenues				\$801,964		
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund and appropriates any remaining Biodiesel PACE funds to the Biofuels PACE Fund.

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.*

Section 2 requires that the \$801,964 of remaining Biodiesel PACE funds be transferred to the newly created Biofuels PACE fund. Section 3, subdivision 3 of HB 1014 appropriates an additional \$4,200,000 for Biofuel PACE.

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium.

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.*

Name:	Robert A. Humann	Agency:	Bank Of North Dakota
Phone Number:	328-5703	Date Prepared:	01/29/2007

FISCAL NOTE
Requested by Legislative Council
01/16/2007

Bill/Resolution No.: SB 2180

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
Revenues						
Expenditures	(\$801,964)					
Appropriations						

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

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).*

This legislation creates a Biofuels PACE Fund and appropriates any remaining Biodiesel PACE funds to the Biofuels PACE Fund.

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.*

Section 2 requires that the \$801,964 of remaining Biodiesel PACE funds be transferred to the newly created Biofuels PACE fund. Section 3, subdivision 3 of HB 1014 appropriates an additional \$4,200,000 for Biofuel PACE.

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.*

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.*

Existing N.D.C.C. 6-09.17-02 requires that any unobligated Biodiesel PACE funds(\$801,964) be returned to the General Fund at the end of the 2005-07 biennium.

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.*

Name:	Robert A. Humann	Agency:	Bank Of North Dakota
Phone Number:	328-5703	Date Prepared:	01/19/2007

Date: Jan 25, 2007
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass adopt amendment

Motion Made By Behm Seconded By Klein

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) 7 No 0

Absent 0

Floor Assignment _____

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

Date: Jan 26, 07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass adopt amendment

Motion Made By Wanzek Seconded By Klein

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			Ryan M. Taylor	X	
Jerry Klein	X				

Total (Yes) 6 No 0

Absent 1 - (Sen. Erbele)

Floor Assignment _____

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

Date: Jan 26, 2007
Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 10366-0203

Action Taken Do Pass as Amended rerefered to Apps.

Motion Made By Klein Seconded By Behm

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			Ryan M. Taylor	X	
Jerry Klein	X				

Total (Yes) 6 No 0

Absent 1 - (sen. Erbele)

Floor Assignment Sen. Klein

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

REPORT OF STANDING COMMITTEE

SB 2180: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

Page 1, line 12, after "and" insert ":

- a. At least ten percent of the facility must be owned by agriculture producers; or
- b. At least fifty percent of the facility must be owned by residents of this state."

Page 1, remove lines 13 and 14

Page 1, line 17, after "facilities" insert " , to grain handling facilities."

Page 2, line 5, replace "must be owned by at least ten percent agriculture" with ":

- a. At least ten percent of the facility must be owned by agriculture producers; or
 - b. At least fifty percent of the facility must be owned by residents of this state."
4. "Grain handling facility" means a structure designed for storage of grain that is principally intended for use in the production of biofuels."

Page 2, remove line 6

Page 2, line 7, replace "4." with "5."

Page 2, line 20, replace the first "funds" with "moneys"

Page 3, line 2, after "approved" insert "The total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed five hundred thousand dollars" and remove the overstrike over the overstruck period

Page 3, line 7, after "facility" insert " , to a grain handling facility."

Page 3, line 15, after "facility" insert " , the grain handling facility."

Page 4, line 7, after the underscored period insert "The maximum amount from the fund in the interest rate buydown for a grain handling facility may not exceed ten thousand dollars to any single producer."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2130

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

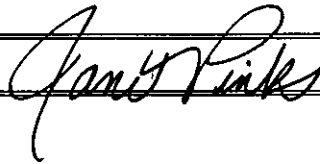
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/06/07

Recorder Job Number: 2945

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2180.

Senator Jerry Klein, District 14, Fessenden, introduced SB 2180 which is a continuation of a bill from last session which dealt with biodiesel fuels, this bill expands that and is now dealing with biofuel which will include ethinol. Because the dairy will be part of the ethinol industry this provides some interest buy down for new and expansion dairy. The bill requires that the new facilities ownership needs to be producers and 50 percent needs to be North Dakotans. It provides for interest buy down for corn storage with a maximum of \$10,000 provided in HB 1014.

Chairman Holmberg asked if the bill passes does it reduce the projected ending fund balance this time. The response was it is already in the ending fund balance.

Senator Tallackson asked in the case of biodiesel plants how do you enforce the ownership to be in North Dakota. The response was that under the new rules those companies would not be able to participate in the program.

Senator Lindaas asked if the facility loan would go to the facility of the biodiesel plant so to speak and does it at all involve farm producers. The response was they have to participate through the ag base program of another bill.

Senator Krauter asked if this meant the grain producer would not be eligible for the interest buy down for the grain handling and would that be partnered with FFSA. The response was the producer will be included and he didn't know about FFSA.

Terry M. Wanzek, District 29, Jamestown, testified on the funds set aside for grain handling and storage. He indicated that all of the plants will consume over 80 percent of our states corn, why not get the money in the hands of the producers. This is a small effort to supplement and make it easier for farmers to build bins. He distributed a spread sheet on bio pace for grain handling and storage.

Senator Krauter asked if this can be partnered with the FFSA program. The response was they were not sure but it takes more then just this to provide incentives for farmers to invest.

Senator Bowman asked if there was any minimum or maximum size of the facility. The response was

Senator Krebsbach asked about the amount of production, the size and quantity of the bins and she indicated she understood the reason for 50 percent in state ownership but wondered if we are closing the doors to outside investors. The response was they don't want to exclude capital investors.

Senator Krauter asked for a definition of bio fuel. The response was that any crop of corn, canola, corn, soybean are the primary crops produced for bio fuel.

Bob Humann, Senior Vice President of Lending, Bank of North Dakota, responded to lending vs. the program to provide loans to construct bins and about the Bank of North Dakota role.

Senator Christmann questioned the interest buydown for livestock operations. Is this for starting up a whole new operation, what is the amount of time of buying down the interest. The response was the intent is they are looking for ways for dairy and feedlots to be constructed.

He then gave examples of the buydowns and eligible uses and there is no buydown for the livestock in this bill. There is \$250,000 of interest buydown per dairy or feedlot, if it is for the biofuel facility or grain grower it is a different amount. The loan policy department will adopt rules not written into the law and those rules are approved by the bank advisory board and the industrial commission.

Gary Hoffman, ND Dairy Corporation, testified in support of SB 2180. A rule of thumb on a dairy facility is about \$5000 per cow and dairy farms use the biproducts of the biofuel plants.

Senator Christmann indicated it seems that we are trying to set of a program to encourage people to use this wet distillers grain and my understanding is the plant in Richardton is shipping all out of state and is not even for sale. The response was that is rumor he has spoken with a large dairy farm in the state that is pulling product from the plant.

Chairman Holmberg asked about new dairy farms coming into the state. The response was that there has been activity and this was described.

Senator Robinson asked about new cows coming into the state and dairies that have gone out of business as well as the dairy count in the state. The response was the effort is being made to keep ND cows in the state and the count is flat and number of farms is going down.

Gary Hoffman indicated that a number of dairy farms in the state have been identified and vacant farms have been filled and this bill would allow for ground breaking on new facilities. He also indicated they have generated interest in people interested in breaking ground on new facilities and the incentives would help.

Chairman Holmberg closed the hearing on SB 2180.

Don Wolf, Legislative Council was asked to walk through how the fiscal note works on SB 2180.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

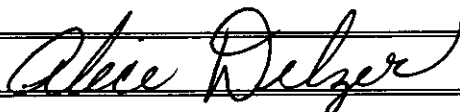
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 0214-07

Recorder Job Number: 3488

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2180 on February 14, 2007.

Senator Wardner moved a DO PASS, Senator Christmann seconded. A roll call vote was taken resulting in 11 yeas, 2 nays, 1 absent. The motion carried. Senator Klein from the Agriculture Commission will carry the bill.

The hearing on SB 2180 closed.

Date: 2/14/07
Roll Call Vote #: 7

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

Senate Appropriations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Wardner

Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter		
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	✓
Senator Tom Fischer	✓		Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 11

No 2

Absent 1 absent

Floor Assignment Klein Ag com

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

REPORT OF STANDING COMMITTEE

SB 2180, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2180 was placed on the Eleventh order on the calendar.

2007 HOUSE NATURAL RESOURCES

SB 2180

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2180

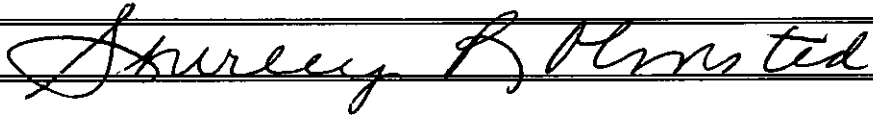
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4204

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on SB 2180 and asked the clerk to read the title.

Senator Jerry Klein from District 14 came forward as a sponsor of SB 2180. This bill is the result of work that was done in the previous session when we created the biodiesel PACE program. We are going to call it the biofuels PACE and what we have done here is allow that same participation to go to not only biodiesel but also to ethanol plants. We have also included in this bill some PACE dollars for the livestock industry and we certainly believe that this entire loop has to be closed with the feeding of some sort of animals. If there is any new or expanding dairy or livestock, they would also be in line to participate. Up to \$250,000 per project so there is a limit on this. On the biofuels side we have allowed for one half million dollars in interest by down. One of the other things you will see in the bill is two points that on these biofuels plants that 10% of that ownership needs to be agriculture producers or 50% needs to be from North Dakota. On the Senate side, we added another part for grain storage facilities. You will note we are going to set aside five hundred thousand dollars for grain storage facilities and we are going to limit it to ten thousand dollars per project. The idea here is that we need good quality corn going to the ethanol facilities. The corn doesn't do very well stacked on a pile so this will provide some sort of storage facilities because there is going to

help those producers in keeping that quality where we need it. This money is in the Governor's budget. Four point two million is in the HB 1014 and eight hundred thousand dollars is the carryover that we had in the bio PACE fund so together it would result in about five million dollars. If we use this money in the way it is intended it would leverage about twenty five million dollars. It is a good bill and we have seen a lot of action in ND and hopefully this will continue that progress.

Chairman Porter asked about page 3, section 4, when you amended that section and added the grain handling facilities for livestock operation and then the eligible uses include the purchase of real property. Could a person then go out and buy land and say that they were going to put up a grain bin on that land and get part of that money?

Senator Klein said at no point did that discussion ever come up. He said he did not have any of the grain storage people with him today. It was certainly only to be for the actual storage facility or handling. With the corn you need the legs and a lot of other things.

Representative Drovdal asked if a corn storage facility was different from a wheat storage facility.

Senator Klein said but he was going to ask the next presenter who is a producer answer that question. There are some folks who feel very strongly about this being in the bill.

Representative Drovdal said a number of people on their own have considered putting up a corn storage facility or have put one up. Is there a date or guideline as to who qualifies for this?

Senator Klein said he thought it would be July 1st. There was some discussion that possibly they should look at setting it back to the first of this year because if you are building corn storage for this season you probably have been out there and I hear there is a tremendous

amount of pressure currently on finding a building and crew to put it up. In your deliberation you may consider amending it back to January 1, 2007.

Representative Drovdal said someone has to establish the guidelines. Who is going to set the guidelines as to who qualifies for these bins?

Senator Klein said the authors of this bill thought you would work this through the Bank of North Dakota who would ultimately be working with that financial institution. We have not established or set the rules as to exactly how this will work. We have seen some spreadsheets as to what five hundred thousand dollars would do at ten thousand dollars per project.

Representative Michael Brandenburg from District 28 came forward in support of SB 2180. He said this is a very good bill and there are a lot of exciting things happening in biofuels. This is the new kid on the block but it will happen. There is a lot of concern out there that corn storage and soy beans are going to be a big issue. With the ethanol plants that we have coming up, there needs to be an abundance of corn to feed these ethanol plants. This bill would allow for five hundred thousand to be used for an interest buy down with a limit of ten thousand dollars per person. You would go to your local bank who would work with the Bank of North Dakota and then you would be able to go out and get going on that corn storage facility.

Chairman Porter asked for a definition of the storage facility. Would that facility include such things as the dryer, legs, the wet bins, the dry bins, and are you looking at this for the entire operation?

Representative Brandenburg said in reality you are going to need the entire ten thousand dollars just for the bin. The Bank of ND is here and it is going to be about fifty thousand dollars to put up a bin. I don't think there was ever any intention of using this money to buy land for the

storage facility. The land could tie in with the bio PACE of a processing plant. You are going to have to buy some land to put up the plant. If the language is that way, it is wrong.

Chairman Porter said the way he reads it in Section 4 is by adding those facility uses and then having the purchase or construction of real property under that as an eligible use for a grain handling facility or a livestock operation it certainly can mean the buying of land.

Representative Brandenburg said that may be a mistake.

Chairman Porter asked what as a government are we supposed to tell the producer that put up a grain handling facility three years ago and now has been a producer in the \$1.95 bushel years and now it is \$4.00 per bushel and everyone wants it. Now we have record prices and suddenly we think that we have a government enhancement program and now we are setting up an unfair competitive situation between the next door neighbor who had the foresight to do this and someone else now gets a break on their interest.

Representative Brandenburg said he agrees with his comments but put programs out there for people to use and some people become benefits of programs and I have put up corn storage myself. I have a facility and I wish I would have had this program to do that. I think there are some questions out there that make this very controversial.

Chairman Porter said we specifically say these funds cannot be used for redoing an existing facility or an existing credit situation or mortgage. Was there any thought given as this was being worked out to consider the person who still may have a large loan left on his storage facility. Maybe he should be eligible to come in and get the same buy down on his loan and compete for the same dollars in a refinancing situation.

Representative Brandenburg he said that is why it makes it so difficult to make something like this work. There are a lot of questions out there.

Representative Drovdal asked if this was storage driven or market driven. Do these facilities contract corn at a higher amount at a later time in order to have that corn held at the farms and then bring it into the facilities? If that is the case, why doesn't that cover the cost to encourage the corn storage facilities?

Representative Brandenburg said this is just a tool. In discussions about the storage, we should be looking at condominium storage at the elevators. If someone would come in and buy storage at the elevator it would not just be the individual farmer that would benefit from this storage. It actually would be the patrons of that elevator that would be benefited too.

Representative Meyer said for years we have had in place a buy down in place for purchasing the bins from FSA so that has been available for a long time to the producers that have had the foresight to build them. Would this interest buy down be a little easier mechanism to go through rather than what we can do now through FSA?

Representative Brandenburg this would be like a godsend compared to what you go through to get FSA as that is quite a process to do it. It can be done but it a big process. This will be much easier to go to your banker and then work with the Bank of North Dakota.

Chairman Porter said that for the record, Senator Wanzek is out of town and the Corn Growers are at a nationwide convention so we are going to hold the record open for them next Thursday, March 8th, so that they can offer their testimony on SB 2180.

Mr. Eric Aasmundstad, representing the North Dakota Farm Bureau came forward in support of SB 2180. The parts of the bill that they really like are the parts that deal with animal feed. Animal feeding is critical to the biofuels industry as use of the by products. Anything that we can do to enhance or start to rebuild our livestock infrastructure in the state, I certainly think we have to make an effort to do that. We are supporting the bill but we are absolutely opposed to the grain handling portion of this bill. When you are looking at \$4.00 corn, this is irresponsible

to even ask for such a thing. There are other programs out there such as FSA and Farm Credit Services that can be accessed rather than the state supplying an interest buy down for grain storage facilities.

Representative Meyer said wouldn't you agree for years when we have had the \$1.50 corn and have gone backwards it is extremely difficult for an individual producer to come up with fifty thousand dollars to put into a grain storage facility.

Mr. Aasmundstad said in a lot of cases that is a difficult task but as you pointed out in your previous comments FSA is out there and as I said there are other avenues to do this other than the state of ND subsidizing these facilities.

Representative Damschen said that he was sure someone would make the argument that we have subsidized just about every other aspect but the question is going to come up as to why we won't subsidize the agriculture.

Mr. Aasmundstad said he thinks they have. The things that have been done today and the things that are proposed for the future for the biofuels industry are truly a benefit to agriculture. Agriculture is probably going to benefit more from those efforts than anything else. The point I am trying to make is that it is a matter of responsibility. If corn was \$1.50 we could probably say this is not such a bad thing. There comes a time when you have to draw the line and say enough is enough. The FSA program is a subsidy.

Representative Hofstad asked if storage was an issue when a plan for a new facility is developed in an area. If that area is indeed short of product whose responsibility is it to provide that product for the facility? In our area we put the corn on the ground because there is no facility available. Would they want to come to an area where there is not a storage facility?

Mr. Aasmundstad said it should be part of the business plan and probably would be a better question to ask someone who is in the business of building ethanol plants. I would think they would want to know how long they could operate with what they have on site. If they need the storage, I would hope they would put that into their business plan that they are going to need storage to meet their needs and have a way to access the product that they need if the storage isn't local. I don't think we should have to build storage facilities to get the ethanol plants to build in our area.

Representative Nottestad wanted to go back to whether there should be subsidies for storage. Wouldn't the price of the corn delivered to these plants will include the transportation to get the corn to these facilities. Wouldn't it be feasible for farmers or elevator corporations to have the storage and get that higher price rather than have that corn shipped in from Iowa?

Mr. Aasmundstad said absolutely. If you can do anything to lower your basis you are making more money. I am not saying there is not an argument to have more storage in ND.

Representative Nottestad said as we look to the future of this there is going to be a time when these ethanol plants are going to say that 60% of the corn comes from ND and 40% comes from out of state. Until we know that I am not sure that the storage question is even feasible.

Mr. Aasmundstad said he would tend to agree.

Mr. Lance Gaebe came forward representing the Governor's office. He said he was asked by the prime sponsor to go through this bill but it appears that you have gone through the bill pretty well on your own but as Senator Klein had referenced the bill is a redraft of the existing biodiesel PACE bill which was in the last assembly. You appropriated 1.2 million to that biodiesel PACE fund and this just expands this in section 1 to biofuels. I should clarify a couple of questions that were asked about the grain handling facilities. This is defined on line

10, page 2 of the bill. It is not specifically for corn. Of course, corn is the high volume crop that creates the need for bigger bins but this can be for canola for a biodiesel plant or soybeans as well. Also on page 2, section, the Bank of North Dakota is provided the ability to transfer funds between the existing PACE partnership and the biofuels PACE. The Bank of ND or the Industrial Commission can transfer between these funds. He talked about the ten thousand dollars available per individual on the grain storage facilities and the total would not exceed five hundred thousand dollars. He indicated that when they added the livestock operations that intend to use the byproducts this necessitated some of the changes like inventory for the potential of people with feeder cattle moving in and out. This was not intended for buying those cattle as they become inventory but more of the construction for expansion of the feed lot or dairy facility. The funds are not intended for refinancing of existing storage facilities in the state but for the construction or expansion of the facilities. The struck language starting on line 24 in Section 4 was put in the bill in the previous session in the event the PACE fund was empty this would provide for a community match. The Governor supports this bill. One suggestion that the Governor had and would like you to consider would be the concept of adding the prospect for gas stations to have blender pumps. There seems to be a lot of interest in the industry of having the pumps that allows the consumers to choose the blend of biodiesel fuel that they like for their vehicle or tractor of the like. There are several of these pumps in South Dakota that allow them to choose the blend they like.

Chairman Porter said he would encourage him to bring the written proposal on this.

Representative Drovdal asked about page 4, line 18. He asked what the interest rate as with this.

Mr. Gaebe said it was 5%. He said if the national interest rate as 8% you could have this bought down to 3%.

Representative Meyer asked how much money is in the carryover in the biofuels PACE.

Mr. Gaebe said that in 1014 they have already passed 4.2 million of new monies for biofuels PACE. The existing biodiesel PACE has an anticipated eight hundred thousand of carryover. They intended that carryover to be included in the biofuels fund. This would make it an even five million.

Representative Meyer asked if the eight hundred thousand was in the biodiesel PACE.

Mr. Gaebe said that was correct.

Mr. Bob Humann, Senior Vice President of Lending for the Bank of North Dakota came to the podium. He said there was a question about FSA grain storage and what their program is all about. He had researched that before we started working on this bill and there is a 15% down payment and the farmer can get a loan for fifty thousand dollars on an unsecured basis through FSA for a seven year period. The interest rate in January 2007 was 4.5%. They can also get loans up to one hundred thousand dollars but this requires a pledge of real estate to get that. In discussions with the Corn Growers I found out that a lot of farmers do not want to go through the FSA paperwork and have their committee looking at their financial positions which is one of the drawbacks of the program. He said one concern that the Bank of ND has with this is at ten thousand dollars per farmer with five hundred thousand dollars of this earmarked for grain storage, we would probably commit that five hundred thousand dollars within the first week of unveiling the program. We will have a first come first serve basis and these dollars will go out very fast so that will create some anxiety for the bank.

Chairman Porter asked if he could see someone purchasing land for a grain handling facility or livestock under this language.

Mr. Humann said he did not. Currently we finance irrigation projects for farmers and they do not allow them to buy the land. We only finance the equipment.

Chairman Porter asked if it specifically stated that like it does in subsection 1.

Mr. Humann said with Ag PACE they have defined the guidelines through our loan policy and I would expect that we would do the same here. We are trying to define some eligible uses for the biofuels facilities, for dairies and for feedlots and grain storage facilities. There are a lot of things going on there. When we get down to where the dollars will be used, that will be done through the Bank of ND Loan Policy. Our loan policy parameters will be set with input from the ND Credit Review Board and input from lenders and farm groups like Farm Bureau and Farmers Union.

Chairman Porter asked if we are saying it is an eligible use then how can you say it is not through your loan policy.

Mr. Humann said he thought the intent was for the construction of a biofuels facility or a dairy facility or a feedlot facility.

Chairman Porter added or a grain handling facility as it says on line 14. We have expanded it to include those. He thinks there is a problem there that they will have to deal with. He also asked how much money or what limiting factors are out there for any individual producer or biofuels situation inside of all of the existing PACE programs. If I am a producer and I am coming to you and I want to build a grain bin, how many of those different funds can I go into now with this addition and get interest buy down on top of interest buy down in accumulation.

Mr. Humann said it was his understanding that there were no other programs out there for grain storage other than FSA's program.

Chairman Porter said so inside of the Ag PACE program I couldn't come in and get Ag PACE dollars for expanding my farm operation and come and get bio PACE dollars for inside of my farm operations.

Mr. Humann said you are correct. You can get an Ag PACE loan for an irrigation system to grow corn and then you come to the biofuels interest by down to put up the grain storage.

Representative Drovdal asked if he was going to do this would he have to come to the Bank of North Dakota to get that by down on the interest.

Mr. Humann said that is correct. How it works with the biofuels PACE program is the actual borrower has to go to their local lender and they will do the paperwork with them. The Bank of ND will participate in that loan at a level of at least 50% but the borrower will receive an interest by down on the entire loan. Half of the loan would be left at the Bank of ND and half the loan would be left at the local lender, but the interest by down would be on the entire loan.

Mr. Randy Schneider who is President of the ND Ethanol Producers came forwarding support of SB 2180. This is very important to growing their industry. He had a handout from the Corn Grower's Association which is marked as Item #1.

Chairman Porter said they would leave the hearing open next week so they could come forward with their comments.

Mr. Humann came back to the podium to clarify something about the eligible uses. On page 2, line 10 it does say that grain handling facilities means a structure design so in his opinion that would eliminate the purchase of real estate.

Mr. Kent Albers from the ND Ag Coalition came forward in support of SB 2180. Please see written testimony marked as Item #2. He said the question was asked earlier about the difference in facilities from corn and wheat. He said there are some differences. For the most part a crop like wheat is harvested at a relatively low moisture content and probably about 10% to 12%. It will store well at 13%. Corn normally is harvested at a higher moisture content like 15% to 18%. You have to artificially get that moisture content down to keep it in an outside pile. He said if the corn is not picked out of that pile within 60 days you will see deterioration.

When that corn starts to heat in that pile, you have lost some of the quality whether if it is for livestock or an ethanol facility. As it heats, you lose some of the energy value of that corn. I believe that this bill goes hand in hand with expanding the ethanol business in this state as it allows the corn that is produced to be put into a facility that can dry it and keep it in condition for use at an ethanol plant or for the livestock feeder.

Representative Drovdal said he had a grain storage facility on it with a dryer for wheat. Can corn go in that same grain storage facility?

Mr. Albers said they are the same if you have the facility to dry that grain.

Chairman Porter asked for any further testimony in support of SB 2180. Hearing none, he asked for opposition to SB 2180. Hearing none, the hearing was suspended until Thursday, March 8th beginning at 9:00 am.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2180

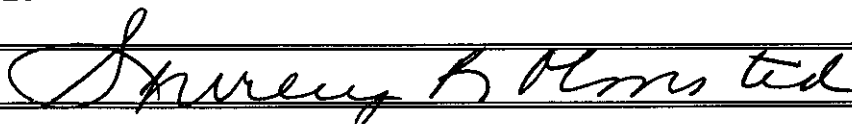
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4629

Committee Clerk Signature



Minutes:

Vice Chairman Damschen reopened the hearing on SB 2180.

Senator Larry Wanzek, District #29 came forward to answer questions. He wanted to thank the committee for holding the hearing open. He said he hoped he could answer some of the questions relating to the corn storage facilities. He handed out a spreadsheet regarding the Bio-Pace for Grain Handling and Storage. See handout marked as Item #1 attached. This is not an additional expenditure and this will just expand the authority of the Bank of North Dakota to use this for the purpose of buying interest down on the investment of grain storage facilities. I know the question is why farmers need more help when corn is \$4.00 per bushel. This is not for the farmers but for the ethanol industry development in our state. I don't think we have seen the explosion yet in North Dakota that they have seen in some of the other states. It will be overwhelming as we realize the kind of volume we will have to handle. As we develop these ethanol industries the most critical thing is going to be securing feed stocks for the plants. The most critical time is going to be June through September before the new crop comes in. That is one of the most difficult times to store corn. You can store it through the winter but you need something better than just a rough bin. You need something more modern with drying capacities to be able to maintain the quality of the corn through those

periods. As a farmer, I have the option of hauling this to the elevator at harvest and taking the money and not worry about how the plants are going to get their corn. In most cases, it will be loaded on a train and shipped to the west coast. Having said that, when all the projected plants are on line as it stands right now we do not produce enough corn. We are going to have to bring corn in to supply these plants. It is predicted in the near future that Iowa is going to be an importer of corn. It is competition to the railroads to keep our corn here in North Dakota. Sometimes the elevators will help pay for storage, however to initiate the purchase of a bin, when you store you have the risk of spoilage, you have the risk of shrinkage, you have the risk of market loss if you don't hedge, and you weigh that against making the expenditure of buying these bins, it is quite an investment for our farmers to get into this position to help with the ethanol industry. This is a small tool to help assist in the development of corn to the farmer and to these industries. This bill could impact the decision of whether people are going to go ahead with this investment.

Representative Keiser asked what other capital needs can be utilized currently for the Ag Pace finance.

Senator Wanzek said he knew for sure that they used it for irrigation, bison, and other added value type ventures. He and his brother have a cleaning facility that they built in 1998. They process and package dry means and they used the Pace Program to do that.

Representative Hofstad asked if it would be more palatable if this were condominium storage. Have you considered that?

Senator Wanzek said they had given that some thought. He thought the corn growers came to him and asked him to help sponsor this. We researched a lot of ideas and we do believe that not only for them as corn growers but also for the ethanol industry and the development of biofuels in this state, storage is going to be an issue. The problem I see with condominium

storage is all that would be constructed on sight at receiving facilities. There are times now when we sit in lines. Can you imagine what it would be like if everyone delivered at harvest? There is a need here to manage this supply and this is an effort to involve the farmers in it. By having the storage on the farm, the farmer can help manage and control the inventory.

Representative Drovdal asked if there was an incentive for on farm storage built into the system right now. You are going to pay more for that corn down the road so that farmers is going to be getting a better return on his investment if he does farm storage.

Senator Wanzek said typically the market does allow you to lock in a price that would help pay for the storage. Many times that covers the cost of interest, spoilage, shrinkage, and those kinds of things. Many times it is not enough to make the decision to make a major investment in a storage facility. This will help a smaller operator who may not have the means to do this. It may help those who have not made the decision to grow corn yet. In his view this is one way of helping the private sector of the industry and who is going to reinvest his money back in the North Dakota economy.

Representative Meyer said in the last hearing they heard a lot of talk about the \$4.00 corn and that they should be able to purchase a bin. They really didn't ever mention along with that \$4.00 corn is our increased fertilizer costs, fuel costs, and all the input costs to grow corn or any other commodity. I guess my questions is do you see farmers having a bigger advantage with the \$4.00 corn so that they can on their own just built a bin or would this program help it.

Senator Wanzek said he did not entirely disagree with that. The \$4.00 corn has made the cash flow projections look pretty good. It will help us make those kinds of investments. I am excited about this but am cautiously optimistic. I want to say that I have options as a farmer.

I see that this might be an incentive to some of the younger farmers to make this kind of investment. I wouldn't be opposed if this was somehow amended to help those individuals.

Representative Keiser said as he reads this is the maximum amount is not to exceed \$10,000.00. You are arguing that we need this for the big projects. The way this is worded, couldn't you access this for the smallest little bin on a farm and get an interest buy down and I really don't think that was the intent here? Should we redefine this?

Senator Wanzek said in visiting with the Bank of ND we are going to have to depend on their flexibility to make some of those determinations. The intent is that these facilities, if developed, are a certain size and we had that discussion in the senate. The \$10,000 is per producer. Every little bit is going to help. This is a big issue that is going to impact all of us. We are going to have to deliver and some of these plants are going to have to have one hundred thousand bushels of corn every single day. That is one hundred semi loads every day. We are all going to have to play a role in this. There is going to have to be some coordination on this with all of us. We capped it at five hundred thousand so that it wouldn't get abused or over used.

Representative Hofstad asked if he saw the infrastructure that we have with our farmers as a limiting factor with the ethanol industry coming into our state.

Senator Wanzek said it appears that it hasn't been a hindrance as the plants are getting built. I can see a potential problem coming once all these plants are built.

Representative Hunsakor said if this bill passes is the playing field level for the big corn grower and the small corn operator. I think we have to be concerned that the small operator can function along with the big operator. How does this all play out?

Senator Wanzek said this might happen but he doesn't think the corn storage will have any impact on that at all. Fortunately it is going to help the smaller guy more than the one building the half million dollar facility.

Representative Clark asked if in the total scheme of things is this a pretty small effort.

Senator Wanzek said he didn't disagree with that but he didn't think they would support a bigger effort. This is a start. We are all trying to help the renewable energy interests and I see this as a way to do that.

Representative Nottestad asked if the facilities in Iowa had been subsidized like this by the state of Iowa.

Senator Wanzek said he really couldn't answer that. He could get in contact with some of the people in Iowa and get the answer. I would guess that Iowa has done a lot for their corn growers but I am not sure what kinds of things they have done. They certainly have been growing corn a lot longer than we have.

Representative Nottestad said that this is supposed to help the ethanol industry but yet we have heard nothing from the industries saying that this is needed.

Mr. Barton Schott from the North Dakota Corn Council came forward in support of SB 2180. He thought that Senator Wanzek did a good job of expressing the needs of the amendment. He said two new ethanol plants will be grinding corn by the end of 2007. Together they will use forty one million bushels of corn annually. The typical ethanol plant only has storage for about six weeks. There will be a large economic loss if all the North Dakota corn is shipped out of state in the fall and then later shipped back to meet the ethanol plant demands. The cost to the state will be larger than the cost of building adequate storage to accommodate the crop. This is a perishable crop and it cannot be left on the ground. For this reason a study was done entitled "ND future corn production and storage requirements". There are some findings that we should share with you on this report. See attached report marked as Item #2. He wanted to make one comment on the elevators. They are all set up to load the trains and these trains are shipped to the west coast. The corn is put on ships and is sent to Japan and China and it is very hard to recover these supplies. The North Dakota Corn Council is

committed to developing markets for this corn. The recent explosion in the ethanol industry is the most significant market development. It is important for us to act now to realize the greatest advantage for this opportunity. When they polled the 4,000 corn growers in North Dakota last year, the greatest concern was corn storage. Storage was at the top of the list of issues that we wanted to bring to the Legislature.

Representative Nottestad asked when this poll was done.

Mr. Schott said it was done last summer. Corn was less than \$2.00 per bushel then.

Representative Nottestad said he would wonder if they would get the same answer now with the \$4.00 per bushel price for corn.

Mr. Schott said until we become a corn deficit state we are going to see wide movement in corn prices.

Representative Hanson asked how long can you keep corn stored on the ground.

Mr. Schott said NDSU did a study for them on this as well several years ago and you can store corn on the ground without any protection for 60 days. After 60 days it starts rapidly deteriorating. The advice from them was that after 90 days you should always have that pile cleaned up.

Representative Meyer asked for a copy of the written testimony. This testimony was passed out during the original hearing.

Representative Charging asked what is the projection for producers two years from now.

Mr. Schott asked if she was talking about actual farm producers.

Representative Charging said yes.

Mr. Schott said they will pick up additional farm producers as they lobbied hard last year in Washington to increase farm production in ND. We got 10 new counties as corn production

counties so they can have crop insurance. It is hard to put a number on that but people are excited about growing corn in North Dakota. I would like to see it double.

Vice Chairman Damschen asked for any further testimony in favor of SB 2180. Hearing none, he asked for opposition to SB 2180. Hearing none, the hearing was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2180

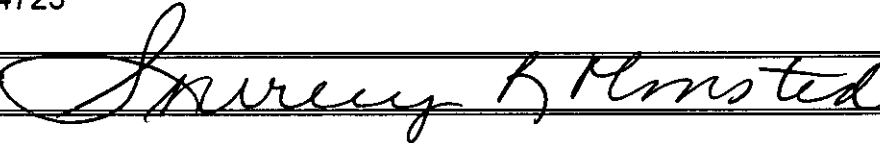
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4723

Committee Clerk Signature



Minutes:

Chairman Porter asked the committee to consider SB 2180. He said there was another set of amendments coming on this bill. The first set of amendments takes the bill back to the way it was introduced by Senator Klein, prior to the grain handling facilities and prior to the cattle amendment. The intern is also bringing in another proposed amendment. We will start the discussion on this remembering that the original bill is the BIO PACE program and it is funded in the governor's budget.

Representative Nottestad asked if the other amendment coming in had all of the first amendment in it as well.

Chairman Porter said the other amendment is directly related to the biofuels industry in regards to allowing interest buy down on biodiesel pumps so that if they want to expand their existing retail facilities they can use this program to do that also.

Representative Meyer asked if this totally removed any availability for grain bins or livestock operations or anything like that.

Chairman Porter said this amendment returns it to the original form as it was introduced by Senator Klein in the senate.

Representative Meyer said in discussion on the first amendment, it sure seems like a small thing that we could do to allow a small individual producer \$10,000.00 so that he could build a grain handling facility. We heard a lot of talk this morning about \$4.00 corn and that this should be in your budget so you could build this on your own. Four dollar corn is your futures price. By the time you factor in your basics and you take \$1.50, you are now looking at \$2.50 corn when it comes in at harvest. That is not a lot of money. This is just an interest buy down so that you have a procedure set up. It doesn't amount to a great deal of money for an individual producer but it does give a vehicle so that you can get the paperwork started. If you can go to your bank and can show that this will cash flow the project you have a lot better chance of doing it. There is an extreme shortage of corn storage let alone everything else.

The lowest price is always at harvest. I do not think we should approve these amendments.

Chairman Porter said one of the things that have come up is the number of other programs available to producers for low interest loans to enhance their operations. The other part of this that really is a situation by circumstances is that someone who has already ordered their bins for this year would not be able to take part in this program. Neither would the people who put up the entire system with the \$1.50 corn. This is not a fair way of doing business out there.

Representative Clark said when this money is all used up there is going to be a whole lot more storage required, isn't there? Somebody will have to build that without subsidies.

Representative Meyer said in response to that, the big producers that have been in business for awhile have the money to do this. This would give the opportunity for our kids to do this. Those younger farmers have a lot of other financial obligations with their families. This just covers the interest buy down. It will just be an incentive to them to use this program.

Representative Hofstad said one of the problems that he has is this is a program for bio diesel and that industry. I wonder if this is a bit of smoking of the mirrors. We do have a

program and we can go to the FSA office to get help. I do not think we are solving the problem with this.

Representative Nottestad said he made a motion to accept the amendment.

Representative Drovdal seconded the motion.

Representative Meyer said that she didn't think this was ever intended to solve the entire problem buy it is just a start. Although this is available through FSA, it is a total paperwork nightmare. If you started right now, you are talking two and one half years. This is very prohibitive for a young operator. I think we should try it to see if it works.

Chairman Porter asked the clerk to call the roll to move the amendment #1. Let the record show 8 yes, 6 no with no one absent. The motion carried. The second set of amendments was handed out. It deals with the biodiesel pump that is designed to dispense and distribute biodiesel fuels. It describes the E-85 pump.

Representative DeKrey made a motion to accept amendment #2.

Representative Drovdal seconded the motion.

Chairman Porter asked for discussion. A voice vote was taken and the motion carried.

Representative DeKrey made a motion for a do pass as amended on SB 2180.

Representative Keiser seconded the motion.

Chairman Porter asked for discussion,

Representative Keiser asked if this would have any fiscal note implications.

Chairman Porter said that it would not because it was in the governor's budget. The fiscal note would be back to zero.

Chairman Porter asked the clerk to call the roll on a do pass as amended on SB 2180. Let the record show 14 yes, 0 no with all present.

Representative Clark will carry this bill to the floor.

Proposed Amendments to Engrossed Senate Bill 2180

Page 1, remove line 13, replace the underscored colon with "must be owned by at least ten percent agriculture producers or by at least fifty percent residents of this state"

Page 1, remove line 14

Page 1, line 15, remove "b. At least fifty percent of the facility must be owned by residents of this state"

Page 1, line 18, remove ", to grain handling facilities,"

Page 2, line 7, replaced the underscored colon with "must be owned by at least ten percent agriculture producers or by at least fifty percent residents of this state"

Page 2, remove line 8

Page 2, line 9, remove "b. At least fifty percent of the facility must be owned by residents of this state"

Page 2, remove lines 10 through 11

Page 2, line 12, replace "5." with "4."

Page 3, line 7, remove "The total amount from the"

Page 3, remove line 8

Page 3, line 9, remove "thousand dollars", and overstrike the period.

Page 3, line 14, remove ", to a grain handling facility,"

Page 3, line 22, remove ", the grain handling facility,"

Page 4, line 15, remove "The maximum amount"

Page 4, remove lines 16 through 17.

Renumber Accordingly

Date: 3-8-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2180

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment #1

Motion Made By Hollestad Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen		✓	Rep. Hunskor		✓
Rep. Charging	✓		Rep. Kelsh		✓
Rep. Clark	✓		Rep. Meyer		✓
Rep. DeKrey		✓	Rep. Solberg		✓
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser	✓				
Rep. Nottestad	✓				

Total Yes 8 No 6

Absent 0

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

Page 1, line 16, after "2." insert "Biodiesel pump" means retail or wholesale infrastructure designed to dispense, distribute biodiesel fuel.

3."

Page 2, line 3, after the overstruck period insert "E-85 pump" means retail or wholesale infrastructure designed to dispense gasoline blends with greater than 60 percent ethanol."

Renumber definitions accordingly

Page 3, line 15, replace "or" with an underscored comma and after "operation" insert ", or for the installation of E-85 or biodiesel pumps"

Renumber accordingly

Date: 3-8-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2180

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amert # 2

Motion Made By DeKrey Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunsakor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

None

Date: 3-8-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2180

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken To Pass As Amended

Motion Made By DeKrey Seconded By Keiser Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunsakor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg	✓	
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Kelser	✓				
Rep. Nottestad	✓				

Total Yes 14 No 0

Absent _____

Floor Assignment Clark

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

REPORT OF STANDING COMMITTEE

SB 2180, as engrossed: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2180 was placed on the Sixth order on the calendar.

Page 1, line 13, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or at least fifty percent of the ownership interest of the facility must be owned by residents of this state."

Page 1, remove lines 14 and 15

Page 1, line 16, after the underscored period insert ""Biodiesel pump" means retail or wholesale infrastructure designed to dispense and distribute biodiesel fuel.
3."

Page 1, line 18, remove ", to grain handling facilities."

Page 2, line 1, overstrike "3." and insert immediately thereafter "4."

Page 2, line 3, after the overstruck period insert ""E-85 pump" means retail or wholesale infrastructure designed to dispense gasoline blends with greater than sixty percent ethanol.
5."

Page 2, line 7, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or at least fifty percent of the ownership interest of the facility must be owned by residents of this state."

Page 2, remove lines 8 through 11

Page 2, line 12, replace "5." with "6."

Page 3, line 7, remove "The total amount from the"

Page 3, remove line 8

Page 3, line 9, remove "thousand dollars" and overstrike the period

Page 3, line 14, remove "to a grain handling facility."

Page 3, line 15, remove "or" and after "operation" insert ", or for the installation of E-85 or biodiesel pumps"

Page 3, line 22, remove ", the grain handling facility."

Page 4, line 15, remove "The maximum amount"

Page 4, remove lines 16 and 17

Renumber accordingly

2007 HOUSE APPROPRIATIONS

SB 2130

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

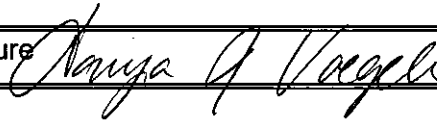
House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/19/07

Recorder Job Number: 5302

Committee Clerk Signature



Minutes:

2180

Chairman Carlson opened the hearing on Senate Bill 2180.

Representative Porter explained the bill.

Chairman Carlson: On page three of the bill why is ethanol in this biodiesel bill?

Representative Porter: This is not a biodiesel bill this is a biofuels bill.

Chairman Carlson: Section four of the bill. How does that differ from the BO-PACE money we had in the bank bill?

Representative Porter: It is the same guidelines.

Chairman Carlson: What changes did you make?

Representative Porter: We removed the Senate amendments which removed the grain storage facilities and we added the installation of E-85 and biodiesel pumps.

Vice Chairman Carlisle: Do they have to install those pumps?

Representative Porter: It is just an interest buy down for adding one of those types of pumps to their existing location.

Representative Porter handed out a proposed amendment for the bill.

Senator Wanzek spoke in support of the bill.

Chairman Carlson: Becky what is this biodiesel partnership in assisting community expansion fund becomes the biofuels partnership in assisting community expansion fund.

Representative Thoreson: Mr. Chairman that is BIOPACE.

Chairman Carlson: Mr. Gaebe, what was the Governor's position on this bill when the extra \$800,000 was not included in his proposal?

Lance Gaebe: It was in the budget at \$5million.

Senator Wanzek: I think it is important to make reference to the livestock interest part of the biofuel buy down.

Chairman Carlson: We are going to focus on the money.

Representative Brandenburg spoke in support of the bill.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2180

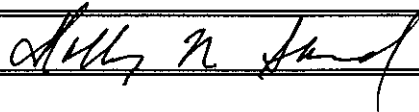
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 22, 2007

Recorder Job Number: 5487

Committee Clerk Signature



Minutes:

Chm. Svedjan opened the hearing on SB 2180.

Rep. Skarphol distributed amendment .0304 (Attachment A).

Rep. Skarphol motioned to adopt amendment .0304. Rep. Carlson seconded the motion.

Rep. Skarphol: The amendment that we have is for the most part the same as the finance and tax committee put on this. The Bank of ND did ask for some changes. They have been in consultation for the Finance and Tax committee and they are in agreement with them, I mean the Natural Resources committee. The most significant of these changes is that the bank has asked for, on the amendment page 2 line 3, at a preference for a different definition than what is currently there. Right now it is the E-85 pump. They ask that it be biofuels retailer which means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than 60% ethanol. That is the one definition they requested. I think that is basically the change that they ask for. The pump money may be used to participate in an instant rate on loans. The biofuel retailer for the purchase or installation of pumps and related equipment was added as an eligible entity to be allowed to have buy downs. Green handling is out, it was out of the original amendment.

Rep. Gulleason: Was there any discussion about expanding that section of the one you just referenced there under section 4 to also includes blender pumps?

Rep. Skarphol: I believe that this is not restrictive. I believe that it could be used. I don't think it requires it. I don't think this would disallow it based on how I rate it.

Rep. Gulleason: That would be fine if we were sure about that because the re-defining of the E-85 pump.

Chm. Svedjan: If this is permissible would they not have to have a 60% or more blend?

Rep. Skarphol: Yes. Ethanol has to have a 60% blend. E-85 ethanol does.

Rep. Gulleason: The reason I was talking about the blender pumps is because that is the ones you see in South Dakota and they have this type.

Rep. Skarphol: We never got into that. It's maybe something that you want to bring forward to the conference committee if they are amendable to it.

Rep. Nelson: If it is permissive, if we are talking permissive language allow e would have to do is change that 60 to 10. That would do the trick in my opinion.

Chm. Svedjan: To 10%?

Rep. Skarphol: I guess I would ask that this committee not do that. Rather let the conference committee do that who has been involved in the policy discussions. I think that would be a more appropriate place and Rep. Nelson and Rep. Gulleason could certainly do what they can to influence that decision. I guess we took our charges to address the money only.

Chm. Svedjan: But 10% would change the definition of the biofuels retailer.

Rep. Nelson: What it would do is that would be the permissive language that would be needed for a different blend. That would make any blend over 10% a product that could be sold. It would be the customer's choice whether or not they would want to buy it of course. That is

what the blender pump does is allow customer choice to determine which blend they would like to use. 10% is a recognized blend.

Rep. Gulleason: It could even be 20%. What the blender pump does is you can select a blend of 20% ethanol, 30% ethanol, and E-85. They are becoming really popular in the industry because a lot of people don't want to go all the way to E-85 but they are willing to do the 20 or 30 blend. In South Dakota they have become very popular.

Chm. Svedjan: The former definition and the one in front of us now both had 60 in it. It was indicated that the Bank of ND wanted that definition. Maybe it is just the change in the E-85 to a bio fuels retailer that they wanted, and not the percentage.

Rep. Carlson: Just to get us back to where we were on the money because that is where we spent most of our time. The key part of this bill is that there is \$801,964 that is un-obligated, bio diesel pace funds. What the language does in this bill is allows that money to be rolled in. Normally it would have to go back to the general fund by old language. This money allows that \$800,000 to be put in the biofuels pace fund which we have established in the Bank of ND. It brings that total up instead of \$4.2 million to \$5 million that is available in the bio paced. That is what we emphasize and we would like to see this bill passed with that change because we think it adds money to that pool.

Rep. Wald: Would you address the language on page 2 line 7 where it talks about ownerships. My question is are you precluding someone from selling an asset or property?

Rep. Skarphol: There are many versions of each of these bills in our books. Could you tell me which version you are looking at?

Rep. Wald: The first engrossment .0400. If you read on the middle of the page where it says underlined agriculture producers must hold at least 10% ownership and 50% ownership. Residents of the state must own at least 50%. My question is are you precluding someone

from selling their property and their assets?

Rep. Skarphol: That is not an issue that had come up in our committee. I don't think we are precluding it from selling it. You may be eliminating who you sell it too. If you were an instate person and 50% of the entity was owned by out of state individuals you would have to sell your portion if you were an instate person, to an instate person.

Rep. Kempenich: That was language that was already in the bill as we got it.

Rep. Skarphol: We did not change that.

Rep. Kempenich: It was just re-doing where it is located at in page 2. That language is already in there

Rep. Aarsvold; I will be anxious to find out why the amendment to exclude grain handling facilities because it seems to me a huge portion of all of these facilities is tied up in handling and storage. It would represent a big portion of the investment.

Rep. Skarphol: That was not an issue that we discussed. We left that as a policy that a policy committee had made. We did not in effect discuss that at all.

The motion to adopt amendment .0304 carried by voice vote and the amendment was adopted.

Rep. Skarphol motioned for a Do Pass as Amended. Rep. Carlisle seconded the motion.

The motion carried by a roll call vote of 24 ayes, 0 nays and 0 absent and not voting.

Rep. Clark was designated to carry the bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/23/07

Recorder Job Number: 5496

Committee Clerk Signature

Antony J. Vogele

Minutes:

Chairman Carlson opened discussion on Senate Bill 2180.

Representative Porter explained the amendment that was given to the committee.

Representative Skarphol: I believe this amendment defines biofuels retailers.

Representative Porter: This .0303 seems to be the amendment we adopted to the bill in our committee. What the Bank of ND wanted was in order to was on page two line three.

Chairman Carlson: Did this other set of amendments that are not in form or style come from the Bank?

Representative Porter: I brought them from the Bank. What they asked is that they redefined the biofuels part where we put the word e-85 pump in; they are redefining them with biofuels retailer and biofuels part. What they asked is that you remove the amendments that House Natural Resources put on this bill which is .0303 and adopt these amendments that do everything that we did plus the better definitions.

Chairman Carlson: Is your committee OK with that?

Representative Porter: Yes.

Representative Skarphol: Becky, I am a little concerned about the language that was put in on page two line three of this amendment. The reason I am saying that is that I could assume that it is saying biodiesel fuel with greater than 60% ethanol. It should read biodiesel fuel or gasoline blends with greater than 60% ethanol.

Representative Porter: This is the Bank of ND's language. I think they mean that the interest buy down is only if you are adding both not just one or the other.

Representative Skarphol: We need to clarify it.

A motion was made by Vice Chairman Carlisle, seconded by Representative Glassheim to further amend using the proposed amendments from the Bank of ND. Motion carried on a voice vote.

Chairman Carlson: What are your wishes on the bill?

A motion was made by Representative Skarphol, seconded by Representative Glassheim for a DO PASS AS AMENDED recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried by Representative Skarphol.

Date: 3/22/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

House _____ Appropriations- Government Operations _____ Committee

☐ Check here for Conference CommitteeLegislative Council Amendment Number 70366.0304Action Taken Do PASS As AmendedMotion Made By Skarphol Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich	✓		Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim	✓	
Rep Joe Kroeber	✓		Rep Clark Williams	✓	

Total Yes 8 No 0Absent 0Floor Assignment Skarphol

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

Date: 3/22/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70366. 0304

Action Taken Adopt Amendment 0304

Motion Made By Skarphol Seconded By Carlson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Representative Wald			Representative Aarsvold		
Representative Monson			Representative Gulleon		
Representative Hawken					
Representative Klein					
Representative Martinson					
Representative Carlson			Representative Glassheim		
Representative Carlisle			Representative Kroeber		
Representative Skarphol			Representative Williams		
Representative Thoreson					
Representative Pollert			Representative Ekstrom		
Representative Bellew			Representative Kerzman		
Representative Kreidt			Representative Metcalf		
Representative Nelson					
Representative Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Vote - Carries

Date: 3/22/07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70366, 0304

Action Taken No Pass as Amended by 0304

Motion Made By Skarphol Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleon	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 24 No 0

Absent 0

Floor Assignment Rep. Clark

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

REPORT OF STANDING COMMITTEE

SB 2180, as engrossed and amended: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (24 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2180, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 951 and 952 of the House Journal, Engrossed Senate Bill No. 2180 is amended as follows:

Page 1, line 13, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 1, remove lines 14 and 15

Page 1, line 18, remove ", to grain handling facilities."

Page 2, line 3, after the overstruck period insert ""Biofuels retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol."

4."

Page 2, line 7, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 2, remove lines 8 through 11

Page 3, line 7, remove "The total amount from the"

Page 3, remove line 8

Page 3, line 9, remove "thousand dollars" and overstrike the period

Page 3, line 14, remove ", to a grain handling facility."

Page 3, line 20, after "b." insert "The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment."

c."

Page 3, line 22, remove ", the grain handling facility."

Page 4, line 16, replace "grain handling facility" with "biofuels retailer"

Page 4, line 17, replace "ten" with "twenty" and replace "producer" with "location of a biofuels retailer under this chapter"

Renumber accordingly

2007 SENATE AGRICULTURE

CONFERENCE COMMITTEE

SB 2180

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

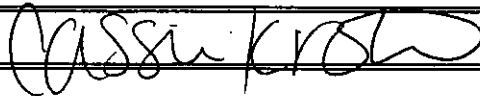
Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 3, 2007

Recorder Job Number: 5697

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee on SB 2180.

Rep. Clark explained what the house did to the bill 00:42-1:20.

Sen. Klein- I was kind of with the addition of the \$20,000 per bio retailer is the maximum, did you guys talk about a limit to the total is there a cap?

Rep. Clark- I don't recall that there is a limit on that.

Rep. Hofstad- I don't think there is.

Sen. Klein- I think one of the things that we were careful to do was kind of cap some of the programs so that we wouldn't have anything running rapid, that is why I believe grain storage is capped at \$500,000 and with the bio fuels they can only use up to \$500,000 per plant on the production facility and I believe it was \$250,000 for the livestock feeding operation. The issue do the 10% producer ownership is still in there correct/

Rep. Hofstad- yes it is still in there. As I recall the ethanol facilities were capped at \$500,000 the bio was capped at \$500,000 and the livestock facilities were \$250,000 and the grain handling facilities were \$10,000, that is the discussion that I recall in our committee. I think the discussion centered around how broadly this program spoke to the agriculture community. I think that we felt that it was somewhat limiting and I think that we had a problem with that, from

a government perspective if we are going to create a program for building grain bins we are doing it on such a limited basis. And I personally had a problem with that, we do have a program in place right now with the FSA office that basically does the same thing and I am somewhat concerned that as we go down this road that we limit it to a very small number of people and that is a real concern that I have. There is no question that we have a problem as we go down this road with renewable fuels road that we need to provide storage, I am just not convinced that this is the avenue that we have to be doing it in. I wish this was a stand alone bill, I wish there was just something that would paint a much broader brush so that we would get more people involved in this thing. Storage certainly provides some opportunities, as we know we need to have storage it helps us as far as labor and the amount of equipment that we have to have there are several advantages. I think the real advantage that we have is basis, that provides a real bump and basis for us, if you have that storage you are not tied to hauling it to the elevator during harvest time. The problem that I see with this program is that it limits that advantage to a very small number of people and my thinking is that if we take that money and we put it toward to the plant that is manufacturing that product now we all share in that basis because now instead of putting it in a truck and shipping it to the west coast we can ship it within the state.

Sen. Klein- we think on the senate side that the storage is a valid reason to move this forward.

Sen. Wanzek- I appreciate those comments and in visiting with the house members there are certainly some valid issues and in think that it is difficult to probably try to address everybody. I think looking at the big picture in the development of bio fuels industry, I think storage is a significant issue whether we are talking about the concern of the farmer or those plants that need those feed stocks stored in good condition somewhere in the state vs. leaving the state.

I am trying to figure out why an E85 pump is more important then the storage issue. I think

that the PACE program has worked in many instances. I am just not willing to give up on the storage issue because it is an issue in the development of the industry especially when you consider the volume of corn. Maybe this isn't the answer but maybe through the conference committee we can research a few other ideas.

Rep. Solberg- I supported the interest buy down for the storage in committee, I think that it is a good move towards encouraging added corn production in the state. I think that this will really help our producers, it is not a huge reduction in their cost but it is sure going to encourage them and help them. I am supporting the grain handling.

Sen. Klein- Sen. Wanzek I believe that the planting intentions came out last week do you just want to go over what kind of acres?

Sen. Wanzek- I believe that nationally that corn acres are up 12-13% and ND acreage is projected to be up 54%, so we are planning 50% again as much corn as we did last year according to the initial statistical projections. That could change over a period of time but I would say that is very accurate, I don't know where that is going but I do know that there will be a lot of corn to store. This is not so much just for the farmer but it is to try to encourage the development of storage facilities. This program is more to provide a farmer to go out and invest and assist him in that investment and when he does that he starts generating economic activity, I feel in many ways that the money is going to come back to the state and we might help address a problem with the storage issue as these plants continue to be built.

Sen. Klein- are there bins available for the 2007 crop yet?

Sen. Wanzek- I would say that there is not enough adequate storage and that we shouldn't have to ship it out of state and buy it back in. I understand that this might not solve the problem but it is a step in the right direction to try to help and continue into the future to try to encourage more.

Sen. Klein- how would this work, where would we go and how would the Bank of ND be involved?

Sen. Wanzek- first of all you go to your local lender, these are generated through a local lender. You would have to be in that local lenders eyes a worthy customer and they would then make their decisions on loaning you the money and then they participate with the Bank of ND and then the bank provides the funding to buy down the interest on it alone up to 5 percentage points. The way it is right now it is limited to \$10,000 per applicant and is limited to \$500,000 and there was a concern that it might work so well that it might exhaust the 5 million and I guess the intention was to put a limit on it to try to see in the next 2 years if it will work and I am convinced that the money will be used up and the biggest question to is once it is up how we help any beyond that.

Rep. Hofstad- I don't disagree with any of that, we have a storage problem when the product comes in and when it goes out. My question as we look at this bill and as we deal with this issue is this the right approach, are we being fair and equitable to everybody? I see that as the problem when we look at this thing.

Sen. Klein- I think that we should discuss this and that there are other people we can visit with over these ideas and see if we can come up with something else, we need to really work together on this to come to a final agreement.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

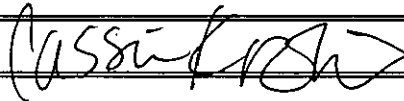
Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 5, 2007

Recorder Job Number: 5760

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee on SB 2180, Members present **Sen. Klein, Sen. Wanzek, Sen. Heckaman, Rep. Clark, Rep. Hofstad, Rep. Solberg.**

Sen. Klein- when we met last I asked Bob from the bank to hang out in case we had some questions and I requested that Rep. Hofstad and Sen. Wanzek get together and try to see if we could come to some type of resolution or some sort of compromise and Sen. Wanzek we will start with you.

Sen. Wanzek passed out a graph and went over it with the committee on Bio-fuels PACE for grain storage, see attached. 1:00- 7:35.

Sen. Klein- I know that we have been looking at this and that is why it has initially attached in the senate side because this is a energy bill to both expand bio-fuels and ethanol and expand hopefully the dairy side. I would like to call Bob Humann to the podium.

Bob Humann, Senior Lender for BND was called to the podium.

Bob Humann- I have been watching this bill for the past few months and met early on with the corn growers and some other groups, the numbers that Sen. Wanzek has come up with are accurate. I would tell you that the \$500,000 and if we are going to limit it to \$10,000 per borrower we are looking at 50 loans if we max them all out. The 50 loans will probably go

through that money within at least the first 30 days that we unveil this program and it will be on a first come first serve basis. As far as the banks position on this we are just trying to stay neutral on this, we are interested in the loans. The BND will have about 50% of the loans with the bio PACE, we envision that these will be good loans for the bank and the bank will make some interest income on these loans so for us it is a good situation. As far as the retail end of things with the retailer pumps, that makes some sense also, and we are looking at \$20,000 per location to put in whatever related equipment might go with that.

Rep. Clark- if there is no storage provision in this bill will you continue to finance grain storage loans?

Bob Humann- we will primarily finance the grain elevators we do very little with the farmers and most of the lenders that the farmers are coming into for grains storage if there is some kind of incentive there from the state we wont be involved in those loans those will be financed by local banks where a lot of the farmers have their credit at. We wont be in the loan if it doesn't include by down.

Rep. Hofstad- could you tell me the commercial loan for a grain storage facility, the interest?

Bob Humann- right now it is 8.25%, if they were to fix that interest rate for 5 year it would be 7.50% to 8.50%. We have seen quite a bit of interest in the past few months with grain elevators interested in putting up corn bunkers to store corn that can be used in the ethanol facilitys.

Rep. Hofstad- my question is the individual farmer when he goes to his lending institution to borrow money on a grain storage facility, his interest rate is what?

Bob Humann- same rates that I quoted whether it is the elevator or the farmer it is about the same rates.

Sen. Klein- we talked about how the money would be gone in the first 30 days under the buy down, if we changed this to even 2% would people respond, would it be worth the hassle?

Bob Humann- the way I look at it is that whether it is 2 or 5 the farmer is going to look at it from the stand point that it is a incentive for them to grow grain storage, that will be paid out over 5 to 7 years depending on what they set up for the term of the grain storage loan but they are going to really go for the dollar incentives.

Sen. Klein- and you think to it would certainly allow us to spread that money over a lot more producers?

Bob Humann- that's correct.

Sen. Klein- not everyone is going to use the 5 or the 10 totally would they?

Bob Humann- you are correct but some may be larger loans and may cap them out.

Sen. Wanzek- I called some people and asked them that very question and wondered if they would still be interested and they said yes.

Rep. Hofstad- the problem is if you are going to look at a 2% buy down, why would a farmer take advantage of this program when he can go to his FSA office and borrow that money on 4.5%? That is an option that he has that is there it is not easy to do but it is there and is available.

Bob Humann- I did some research on that and that is correct and that is what the interest would be. What I found out with looking at that program through FSA is that you can get up to \$50,000 to put up grain storage and they would just use the bins as collateral they can increase that dollar amount up to \$100,000 but anything over \$50,000 would require a first mortgage on real estate. They would look at these loans anywhere from 7 years and look at a 15% down payment. I do know that in my discussion with the corn growers one thing that they thought that would be a barrier to that is that if you have a farmer that is not a normal FSA

borrower and they are going in just to try to take an advantage of this program, it seems like a lot of the farmers are not crazy about sharing all their financial information that has to be looked at by a county committee. You are going to have your producers that are already with FSA and then you are going to have your producers that have nothing with FSA and that is a whole new set of paperwork that they are going to have to produce and show to a whole different audience.

Rep. Clark- Sen. Wanzek is your spread sheet based on the assumption that with out this provision in this bill there won't be any corn storage built? And once the first 50 loans are used up what do the rest of the people do?

Sen. Wanzek- that is a good question, I think that it would be a false statement to say that every bin that would be built as a result of this is being built because of this program but I think that it would provide some incentive to a degree. And it is a tool in addition to the FSA program. One thing I was going to point out to is that the last crop projections is that ND is projected to grow 50% more acres next year which will only make the problem worse. We do have some storage but not enough to move forward into this new environment that we are going into.

Sen. Heckaman- I have a few young farmers in my district and whether this goes through or not they are looking forward to having some opportunities.

Rep. Hofstad- all the arguments are good, we understand that we have an issue with storage that as we continue down this road with bio-fuels that storage will continue to be a problem both as we deliver the product to that facility and as we take the product away from the facility we have storage issues. The problem that I see with this thing is that this is a bill that was developed to expand an industry and to create a market and we are carving out a small portion of this thing for capital improvements to farmers. If we could make a broad sweep across the

agricultural industry and help all of those people that are participating in this market it would make more sense to me. But we are not we are looking at such a very small group of people there is just not enough to go around.

Sen. Klein- I do hear your concern on that and as the last week has gone on and every time that we have had a bill on the floor that deals with giving a particular industry micro or macro management in small communities are going to get a buy down, we are directing dollars to help a group and whether some bodies group get helped and the other people don't who have other issues it is just what we do here and we cant always touch everyone.

Sen. Heckaman- my thoughts on the whole idea of it is that there is not enough money in here to help everybody in the whole industry anyhow, we are carving out parts of this anyhow for specifics in industry and if we would look at the bio-fuel partnership we would need more money if we were going to cover everyone I think, I think that every bill that we do does this in some sort of a way.

Rep. Clark- this whole bill is crafted to help the ethanol industry, if ethanol wasn't subsidized both on the state and national scale there wouldn't be any ethanol because it couldn't compete with the prices.

Rep. Hofstad- just as a general observation, I understand Sen. Klein where you are coming from and that sometimes we pick out small groups, this is for in the industry and by helping the industry in this particular case then we spread that benefit over all of agriculture and that is what we do we are looking at developing a industry so that we can create a market to help all of agriculture. If we carve out dollars for this program to go to a specific number of farmers we take away from developing that industry and there by hurt everybody else. Sen. Wanzek and I talked about where this storage could be more effective and if we wipe the state clean and look at where we put the storage, would it be better if we carved some money out and put it at a

facility, would that work better? Where does the storage need to be? Obviously it does not need to be on the northern part of ND when we have a facility in the southern part of ND, there is no correlation there, so is there a better way to do it I don't know.

Sen. Wanzek- you are making the assumption that this again is to benefit the farmer, I am approaching this from that we are developing this industry. And sometimes when we develop an industry there are certain segments of it or certain issues that are going to arise and we have been told that the storage issue is going to be a big issue. I know the bill is intended to encourage the development of more plants, there are going to be enough plants already to consume the corn that is basically grown in ND. I think that the sites are going to develop storage and that they are going to have to, I am trying to make the point is that this will streamline and create a smoother flow of corn. I hope that the bank has some discretion as they look at each individual loan is this going to be in an area that it is going to benefit the development of the plant.

Sen. Klein closed the conference committee.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

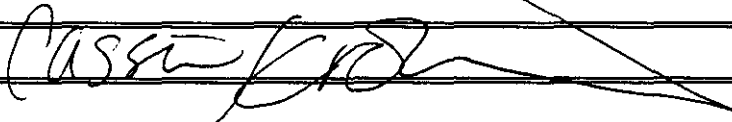
Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 10, 2007

Recorder Job Number: 5866

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee. Members present **Sen. Klein, Sen. Wanzek, Sen. Heckaman, Rep. Clark, Rep. Hofstad**. Member absent **Rep. Solberg**.

Sen. Wanzek passed out amendments 70366.0307 and went over them with the committee, 1:03- 3:18.

Sen. Klein- so by reducing those from 5 points to 2 points how many more facilities do you think we can get with that?

Sen. Wanzek- well as I said under the scenario that came out of the senate if you do the math and by down 5 points and allow \$10,000 per producer it would buy the percentage points out on roughly \$3.3 million in loans over a 5 year time period. By reducing to 2 points it is essentially roughly \$8 million has to be borrowed out before that whole program can be used. Visiting with some farmers and some lenders they still felt that this would be significant enough that there would still be some interest in the program. To be quite honest I am not saying that \$5,000 is not much money but for a larger operation it wouldn't really help that much. So it is more or less targeting some of those who are struggling, beginning or smaller operators.

Rep. Hofstad- I am still have difficulty carving that \$500,000 out and spreading it over a small group when we can take that same amount of money and give everybody across the state an

advantage and basis point. The second problem that I have in taking the interest down to 2% is that we have a federal program.

Sen. Heckaman- it is the amount of people that is involved and the amount of information that needs to be given out to a variety of people is what I heard the other day is the difference in this.

Sen. Klein- and that some of the producers that haven't done a lot of business with FSA would be reluctant providing all that information that is requested.

Rep. Hofstad- in the first place the farmers that deal with FSA, we are all a part of that program and if you are not a part of that program you probably don't need a buy down anyway because those people are in a completely different league. Second of all when we go to the FSA office we fill out a form that says that we are actually involved in agriculture and part of that process. And part of that form reveals to the committee and to the FSA office and to the federal government that we are involved in agriculture, it is much like a balance sheet. That information is available to the committee, anytime that we have an issue that comes before the committee they have an opportunity to look at all of that information. That information is there, is it more restrictive? Absolutely, it is a pain to go into that FSA office and do all that work but that is the world that we live in. Every time that we are involved in one of these programs it is always a lot of paper work. I don't think that is a valid point because that is always available to the committee whether we are participating in the grain bin program or any other program.

Sen. Wanzek- I understand what you are saying, I see it as another opportunity and another tool. That program might not work out for everybody and this would be an additional tool from the states perspective in providing some help in that area. I think one of the issues that I recall was the need for a first mortgage, and that is very difficult for many aspiring farmers or

beginning farmers or most any farmer. I see it as another option for a producer to make a decision on what works best for them.

Rep. Clark- Sen. Wanzek aren't people using that program right now?

Sen. Wanzek- I cant answer that. I have heard some farmers that have pursued it and as I recall it was a lot of grumbling, you have to jump through so many hoops that I haven't really heard of anyone really using it.

Sen. Klein- is this amendment less hoop restricting?

Sen. Wanzek- the one thing that I think this does is that it allows the producer to work with a local owner and they help work with the paper work and coordination with the BND.

Rep. Hofstad- there is no question that this program dealing with the BND and your own lenders is considerably easier. I have talked to about 5 FSA offices about the program and yes it is being used, it involves a lot of paperwork from \$0-50,000 you do not have to mortgage your land but over \$50,000 you do. It does take about 60 days and if you go over that limit and they do have to mortgage your land it does take about 90 days.

Rep. Clark- does this amendment now expand the number of eligible people to 100 with a \$5,000 cap?

Sen. Wanzek- it would expand the number of people with the \$5,000 cap but in order to receive the whole \$5,000 you would have to borrow a higher amount. I don't know if many would use it to a full degree, not everyone is going to borrow the full amount.

Sen. Wanzek- there is no issues with any other things are there is it mostly with the grain storage? I am just trying to throw out ideas and see where they go. I would move the amendments.

Sen. Heckaman- I think that this storage is a very necessary thing.

Sen. Wanzek motioned a do pass to amendments 70366.0307 and was seconded by **Sen. Heckaman**. Roll call vote 1: Senators- 3 yea, Representatives- 2 nay, 1 absent motioned failed.

Sen. Wanzek- I know there was talk that if some of this money would be targeted to condominium storage, is there resistance to that to?

Rep. Hofstad- from a personal perspective the issue is storage at these facilities, I think that the condominium storage works for me. If storage is really the issue then carving out the money and telling that facility that they need to dedicate that to storage then maybe you can enter into an arrangement with area farmers for condominium storage. I think I can go down that road.

Sen. Klein- if we would expand this would you be looking at a 5 buy down?

Rep. Hofstad- I think we would be doing it the same way as we are doing it with their facility construction, the same principal.

Sen. Wanzek- I am looking at it more along the lines of publicly bonded warehouses. I am looking for our ethanol in our state to be competitive.

Sen. Klein- does it cost you money when they pile it on the ground in the fall?

Sen. Wanzek- not exactly you could store it for a period of time on the ground, but eventually you need to get it off the ground and get it in a facility to store it longer to make sure it is available for ethanol. This will be more of an effort of targeting the local co op elevators.

Sen. Klein- and this would be available to any licensed public warehouse?

Sen. Wanzek- yes I am trying to figure out how we can single them out.

Sen. Klein- is there any issues with the bank?

Bob Humann- we could make the loans to the elevators as easily as we could to the farmers.

The question that I have is with the interest buy down. I would like to have some direction on that so that we don't have to come up with all the rules.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 11, 2007

Recorder Job Number: 5883

Committee Clerk Signature

Minutes:

Sen. Klein opened the conference committee on SB 2180, all members present.

Sen. Wanzek- I spent some time on the phone yesterday and talked to an attorney in Minnesota who sets up a lot of condominium storage in the Midwest and I visited with local elevator managers. The condominium storage is that instead of owning your own you would own a share at a elevator site or location and you work on an agreement with that elevator to maintain your storage space and you pay a maintenance fee, it is like legal ownership at that site vs. at the farm. One of the big benefits of going this route is you can put up a lot more storage for less dollars per bushel. From the big picture this is a storage issue. The storage condo idea is becoming more popular in other states. Once the farmer delivers it the elevator is responsible for it.

Sen. Klein- but we are still capping the program at \$500,000 but \$100,000 per applicant?

Sen. Wanzek- that is how I am imagining it, by getting that break it might allow another elevator to get it in place and maybe invest in some bins.

Rep. Clark- did I hear you say initially there was a interest buy down in the project that you were speaking about?

Sen. Wanzek- I don't think there was any interest buy down in this case.

Sen. Klein- wasn't there a grant program through the federal government can you tell us about that?

Sen. Wanzek- I don't know all the details, I do know that they will grant up to 25% of a project if you qualify and I think that you have to get other assistance beyond that. The federal program is a grant.

Rep. Clark- did this project qualify for the grant or was this done without that?

Sen. Wanzek- in this case it was done without it.

Rep. Hofstad- I think that this is an ideal that really has some merit, obviously we have a storage problem. I think that it helps to address that problem on a much wider basis then does the individual grain bins. Condominium storage has come to many other states but has not yet got here and this would be helpful to put that charge in place. With this you could sell your product from anywhere in the country and you don't have to deliver it, you have an advantage with the wear and tear on the roads because this would not be hauled out at a bad time. So I think there is a lot of advantages that we could take to try to sell this idea to. We need to put the numbers together so that we know how many bushels that we can go or maybe backing the program in.

Sen. Heckaman- yesterday in visiting with some people on this they asked if this had to be on sight of the elevator or if the elevator could take that money and go closer to a plant and build 30 miles from the elevator and build a off sight place that would be condominium storage.

Sen. Wanzek- I would imagine that if the elevator owns that sight and is going to put the investment into it I don't know why it wouldn't qualify. This is something that even the ethanol industry is recognizing as well.

Rep. Hofstad- I think that the storage needs to be tied to the renewable fuels.

Sen. Heckaman- I talked with a young farmer who was excited about this and he said that the condominium storage would be useful but with an on site one that he could use it for more then one product.

Sen. Klein- do we have a consensus on this to move this forward and what would those details be?

Rep. Clark- I think we are talking about something that could maybe be sold now.

Sen. Wanzek- I talked to 3 people at home already and they are already calling farmers, they have already made some investment but if they could do this some would add another bin.

Sen. Klein- I understand that but we need to get something done. I am just asking that we move this forward and do everything that we can to get these numbers and I am sure that Bob Humann will do everything that he can to provide that information. I think that we need to have the concept and get it down on some sort of paper and move it forward as quickly as we can here because we need to have the buy in from both sides because we need to take this home and sell it.

Rep. Clark- that would be our intent.

Sen. Wanzek- I know I have heard in other discussions if this is fair to the farmer that has made the investment, not many farmers have done that and there is a lot of room for that concept to grow and it is a popular concept in the other states and is growing, we are getting in more on the ground floor here in trying to encourage this type of development so I think that the door is wide open for everyone to participate.

Rep. Solberg- have you heard any negative comments from producers regarding the concept of condominium storage?

Sen. Wanzek- I have only heard one and that was from my brother, he said that if you hold it on the farm then you can control the market once it is at the elevator you cant. Like I told him

we never haul all our grain to the elevator and we don't store it all at home, we have to deliver a certain amount to the elevator and that broke down his argument right away.

Rep. Solberg- one good advantage to this condominium idea is that you will be assured that you have this number a bushel capacity at that elevator so that way when you load that corn in they wont say that they are full, I like that idea.

Sen. Heckaman- the thing that I heard about the storage that was positive is that your grain is there and if you wan to sell it you can sell it at a drops notice, you don't have to worry about trucking it in and you don't have to worry about roads or whatever.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

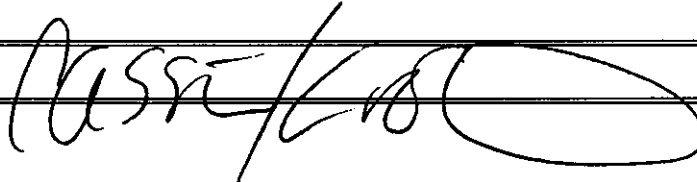
Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 12, 2007

Recorder Job Number: 5965

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee on SB 2180, all members were present.

Sen. Wanzek passed out amendments 70366.0308 for the committee and went over them

00:16- 5:38.

Rep. Clark- there is one thing that I would like to verify, are these projects eligible for a federal grant at 25% of the cost of the project, is this a fact?

Sen. Wanzek- it could be but I have since learned that the federal program is more for drying systems, these projects could be tied in with that. Very little of the corn in ND comes in dry and there might be a need for that and they could compliment each other, but it can not be used for grain storage.

Sen. Klein- my understanding to is to upgrade those drying units to make them more energy efficient because the systems that are out there now are currently not as efficient the USDA is attempting to create efficiencies in those drying situations is the way that I heard them say that.

Rep. Clark- under this amendment the buy down rate would still be at 5%?

Sen. Wanzek- that is correct, and I want to make it clear that it is only the public warehouse that would qualify. If a private or co op elevator doesn't want to make the investment the program will never get off the ground or they will not be able to utilize it they have to organize

the condominium storage arrangement with their local producers and investors and initiate it and this would be used in a sense to help that public warehouse to work with farmers to do that and provide some assistance in their role in putting it in place to tie that condominium storage into their facility so they can manage it and handle the grain much more easily.

Rep. Hofstad- I really have nothing to add I really support this concept. I think this is the direction that we really need to push our producers in. we will need to talk to our leadership and hopefully get this through the house.

Sen. Klein- if you can't accept the conference committee report we wind up back here and sometimes we need to just run them up the pole and see what the membership wants sometimes they don't think exactly like the leadership.

Rep. Hofstad- I am thinking that before we run this up the pole that we take it to our leadership and discuss it with them and see where we go.

Rep. Solberg- say a producer buys 10,000 bushels of storage for example does that stand for the life of the facility?

Sen. Wanzek- in my view you would own that space just like you would own a condominium in an apartment multi complex building. I think that the whole project has some merit and I think that there is a lot of public good out of this.

Rep. Solberg- I think that this is a great idea.

Rep. Clark- even though we talked about these amendments yesterday I don't think that the house is prepared to accede to them today. I would like if Sen. Wanzek could talk to the house leadership.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 16, 2007

Recorder Job Number: 6024

Committee Clerk Signature

Cassie Kron

Minutes:

Sen. Klein opened the conference committee on SB 2180, all members were present.

Sen. Klein- on Thursday house members you were going to meet with your leadership and come back for discussion where would we be?

Rep. Clark- did the house leadership ever visit with you about this bill Sen. Wanzek?

Sen. Wanzek- no I tried. I have some amendments for the committee to look over (explains to committee 1:02- 3:40)

Rep. Clark- I don't know the proper procedure but would there be an objection to a sunset clause on this for June 30, 2009?

Sen. Wanzek- it is basically sunsets by the dollars in my opinion once we are out of money we are out of the program.

Rep. Clark- well that is an assumption at this point is it not?

Sen. Klein- I think that Sen. Wanzek is pretty close on that. Can anyone in the room answer that? I guess not.

Sen. Wanzek- I don't think that it would object to this in my opinion I feel that we would have to go through the whole process to continue either way.

Sen. Klein called **Karlene Klein** with the industrial commission to the podium.

Karlene Klein- the fund is set up as a continuing appropriation that if all the funds are depleted it will not go forward but this is not a fund that has to revert back to the general fund it does have a continuing appropriation on it so it would not have to be referred back. But once the money is gone it would not continue on.

Sen. Klein- so after the 2 year period would be up and if there would still be some money left in any of these funds it will just continue until whatever point the legislator would change it or if the funds were gone?

Karlene Klein-correct, that is the same that we have for the PACE and for the Ag PACE program.

Sen. Klein- Rep. Clark does that answer your question/

Rep. Clark- I guess my question was if there would be any objection to putting a sunset clause on it so that next session the legislator has to revisit the issue?

Sen. Wanzek- at this point I wouldn't disagree with that. I am convinced that the money will end up used up before it gets to that point.

Rep. Clark- well you might be right, I think the house would probably support this bill if it is for condominium storage only and by limiting the cap to \$250,000 for both the storage and bio fuel pumps with a 2% buy down clause.

Rep. Solberg- so that is reducing the funding by half is that correct?

Rep. Clark- that is right, it is also reducing the interest rate down from 5 to 3

Rep. Solberg- as far as I am concerned that wrecks the whole idea and I couldn't support that.

Sen. Heckaman- what is the theory behind that why would you want to cut that down?

Rep. Clark- I think that we want this bill to pass on the house floor.

Sen. Heckaman- and they would rather have the money into the industry facility?

Rep. Clark- right now the bill doesn't spell out exactly where the money will go. The amendment does spell that out and where it is going to go and how much for each program.

Sen. Heckaman- I think that I agree with Rep. Solberg. I am not as high on the pumps but I think that the storage is really important. I just think that unless we have a place to store this we aren't going to keep the cycle going very long.

Sen. Wanzek- I appreciate the effort but I am not ready to agree to it yet, I just don't think that it will be as effective then. I think that with this it is not a incentive and it is not great enough for them to take that risk. I think that \$250,000 would be gone fairly quick.

Rep. Clark- am I wrong in assuming that along with this storage being built that there would be drying facilities built with it also and that there is a powerful incentive there from the federal government to cover %25 of that cost?

Sen. Wanzek- it is possible but not all of them will want to. The drying would more or less be a separate thing.

Rep. Hofstad- I keep going back to the original intent of the bill and that is to enhance this industry to build facilities so that we create that market for farmers in the state and pass that benefit out to everyone, I would admit that we do have a storage problem and that we need to address that. I think this begins that journey down that road to look at that problem. I am convinced that within our industry that condominium storage is the direction that we need to take, we see that when we go to South Dakota and other neighboring states and I think that they are light years ahead of us. I think that this begins that path and I think as we look at this in the next biennium to see if people have bought into this idea that we can come back next time and readdress it but I think this gives us a start.

Sen. Klein- Rep. Clark would that with your amendments also have the sunset clause.

Rep. Clark- I think so.

Sen. Klein- I think that Sen. Wanzek will also have some amendments put on from our side and we will continue this discussion.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 17, 2007

Recorder Job Number: 6083

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee on SB 2180, all members were present.

Sen. Klein- Rep. Clark I think that yesterday we talked about some ideas.

Rep. Clark- in accordance with our conversation I did have a amendment (explains to the committee 00:35-3:30)

Sen. Klein- once again going to the 2 points is that a attempt to stretch the dollars?

Rep. Clark- yes it would do that but it also is a limiting factor for the proposed facility to.

Sen. Wanzek- it would make the dollars stretch further but then you reduce the dollars available by 50% as well.

Rep. Clark- that's right.

Sen. Wanzek- I do appreciate the effort but again I do think that we need to understand that we are just going to single out the public warehouses as the recipient, it is their share of the financing or cost that could be financed and provided with a buy down. My reasoning to go back to 5% is because they are not motivated by the same market forces price that we as individual producers are, they don't necessarily benefit when corn market goes up. I am thinking that it is going to take a higher incentive to encourage a elevator to make the investment to participate in one of these programs.

Rep. Clark- your point is well taken.

Rep. Hofstad motioned to move the amendments and was seconded by **Rep. Clark**, roll call vote: Senators- 3 nay, Representatives 2 yea, 1 nay, 0 absent. Motion fails.

Sen. Klein- I think yesterday as we were leaving there was some additional discussion and Sen. Wanzek has had some additional amendments drafted.

Sen. Wanzek- I would like to explain the amendments to you (7:53-12:40)

Sen. Klein- I think that there is plenty for the committee to look at here and we will meet again.

Sen. Klein closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2180

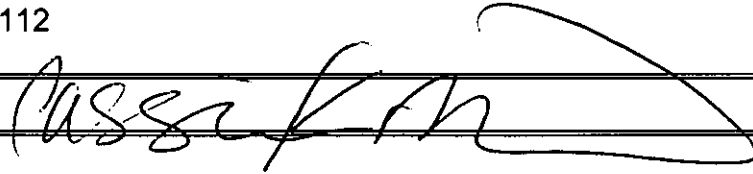
Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 18, 2007

Recorder Job Number: 6112

Committee Clerk Signature



Minutes:

Sen. Klein opened the conference committee on SB 2180, all members were present.

Sen. Klein- I just handed out the most recent amendments (explains them to the committee
0:20-3:30)

Sen. Wanzek- I will support this I think that I have pushed this as far as I can I want the record to show that production and storage and handling of the corn is part of the ethanol production or industry there is nothing saying that more couldn't be used for grain storage, it is just that all the money could be used on site ethanol plant for grain storage. This is the best that I feel that we are going to get so I am prepared to support it and see how it works.

Sen. Heckaman motioned to move the amendments and was seconded **Rep. Clark**, roll call vote: Senators 3 yea, Representatives 3 nay. Motion passes.

Sen. Klein closed the discussion.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

That the House recede from its amendments as printed on page 1193 of the House Journal and pages 1076 and 1077 of the Senate Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 13, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 1, remove lines 14 and 15

Page 2, line 3, after the overstruck period insert "Biofuels retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.

4."

Page 2, line 7, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 2, remove lines 8 and 9

Page 2, line 10, replace "4." with "5."

Page 2, line 12, replace "5." with "6."

Page 3, line 7, after "approved" insert "The total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed five hundred thousand dollars."

Page 3, line 20, after "b." insert "The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment.

c."

Page 4, line 17, after the underscored period insert "The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed twenty thousand dollars to any single location of a biofuels retailer under this chapter. The maximum amount from the fund in the interest rate buydown for a grain handling facility may not exceed five thousand dollars to any single grain handling facility under this chapter."

Page 4, line 18, overstrike "The" and insert immediately thereafter "Except for grain handling facilities, the"

Page 4, line 19, after the period insert "For grain handling facilities, the fund participation is limited to the amount required to buy down the interest to two hundred basis points below the national prime interest rate."

Renumber accordingly

B

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

That the House recede from its amendments as printed on pages 1076 and 1077 of the Senate Journal and page 1193 of the House Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 13, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 1, remove lines 14 and 15

Page 2, line 3, after the overstruck period insert "\"Biofuels retailer\" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.

4."

Page 2, line 7, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 2, replace lines 8 through 11 with:

"5. \"Grain handling facility\" means a grain storage facility that:

- a. Operates under chapter 60-02 or 60-02.1;
- b. Provides grain storage through a condominium arrangement under which a person leases grain storage in a long-term arrangement or owns grain storage at the facility and under which the warehouseman or facility-based grain buyer manages and maintains the facility and the grain; and
- c. Stores grain that is principally intended for use in the production of biofuels."

Page 2, line 12, replace "5." with "6."

Page 3, line 7, after "approved" insert "During the first year of a biennium, the total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed five hundred thousand dollars and the total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed five hundred thousand dollars."

Page 3, line 8, after "facilities" insert "and biofuels retailers" and replace "five hundred" with "one million"

Page 3, line 9, remove "thousand" and after "dollars" insert "per biennium"

Page 3, line 20, after "b." insert "The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment."

c."

Page 4, line 17, replace "ten" with "fifty" and replace "producer" with "facility". The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed ten thousand dollars to any single location of a biofuels retailer under this chapter"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

That the House recede from its amendments as printed on pages 1076 and 1077 of the Senate Journal and page 1193 of the House Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 13, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 1, remove lines 14 and 15

Page 2, line 3, after the overstruck period insert "\"Biofuels retailer\" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.

4."

Page 2, line 7, replace the underscored colon with "agriculture producers must hold at least ten percent of the ownership interest in the facility or residents of this state must own at least fifty percent of the ownership interest of the facility."

Page 2, replace lines 8 through 11 with:

"5. \"Grain handling facility\" means a grain storage facility licensed under chapter 60-02 or 60-02.1 which provides condominium storage of grain that is principally intended for the production of biofuels."

Page 2, line 12, replace "5." with "6."

Page 3, line 7, after "~~approved~~" insert "During the first year of a biennium, the total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed five hundred thousand dollars and the total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed five hundred thousand dollars."

Page 3, line 8, after "facilities" insert "and biofuels retailers" and replace "five hundred" with "one million"

Page 3, line 9, remove "thousand" and after "dollars" insert "per biennium"

Page 3, line 20, after "b." insert "The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment."

c."

Page 4, line 17, replace "ten" with "fifty" and replace "producer" with "facility. The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed ten thousand dollars to any single location of a biofuels retailer under this chapter"

Renumber accordingly

April 17, 2007

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

That the House recede from its amendments as printed on pages 1076 and 1077 of the Senate Journal and page 1193 of the House Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 6-09.17-01, 6-09.17-02, 6-09.17-03, and 6-09.17-04 of the North Dakota Century Code, relating to the biofuel partnership in assisting community expansion fund; to provide for a legislative council study; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
2. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities, to grain handling facilities, and to livestock operations as provided under this chapter.
2. ~~"Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.~~
3. "Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Biofuels retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.
4. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:

- a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
5. "Grain handling facility" means a grain storage facility licensed under chapter 60-02 or 60-02.1 which provides condominium storage of grain that is principally intended for the production of biofuels.
6. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 2. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
2. "~~Biodiesel~~ Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities and to livestock operations as provided under this chapter.
2. "~~Biodiesel production facility~~" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
4. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 3. AMENDMENT. Section 6-09.17-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-02. Biodiesel Biofuel partnership in assisting community expansion fund - Continuing appropriation - Administration. A Effective July 1, 2007, the biodiesel partnership in assisting community expansion fund is hereby established becomes the biofuel partnership in assisting community expansion fund. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11 and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund. The Bank of North Dakota shall administer the fund. Notwithstanding any other provision of law, the Bank may transfer any unobligated moneys between funds that have been appropriated by the legislative assembly for interest buydown in the biofuel partnership in assisting community expansion fund and the partnership in assisting community expansion fund.

SECTION 4. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the ~~biodiesel partnership in assisting community expansion~~ fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. ~~If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.~~ During the first year of a biennium, the total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed two hundred fifty thousand dollars and the total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed five hundred thousand dollars. The total amount from the fund used for interest rate buydowns for grain handling facilities and biofuels retailers may not exceed one million dollars per biennium.

SECTION 5. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the ~~biodiesel partnership in assisting community expansion~~ fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. ~~If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.~~

SECTION 6. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility, to a grain handling facility, or to a livestock operation for the following eligible uses:
 - (1) Purchase or construction of real property and equipment.
 - (2) Expansion of facilities.
 - (3) ~~Working capital~~ Purchase or installation of equipment.

(4) ~~Inventory.~~

b. The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment.

c. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the business within North Dakota biodiesel or ethanol production facility, the grain handling facility, or the livestock operation.

2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~

3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~

4. ~~The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter. The maximum amount from the fund in the interest rate buydown for a grain handling facility may not exceed fifty thousand dollars to any single facility. The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed ten thousand dollars to any single location of a biofuels retailer under this chapter.~~

3. ~~The fund participation must be~~ is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.

6. 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 7. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility or to a livestock operation for the following eligible uses:

(1) Purchase or construction of real property and equipment.

- (2) Expansion of facilities.
- (3) ~~Working capital~~ Purchase or installation of equipment.
- (4) ~~Inventory.~~

b. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the business within North Dakota biodiesel or ethanol production facility or the livestock operation.

- 2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~
- 3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~
- 4. ~~The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter.~~
- 3. ~~The fund participation must be~~ is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
- 5. 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 8. LEGISLATIVE COUNCIL STUDY - BIOFUELS. The legislative council shall consider studying, during the 2007-08 interim, the agronomic, economic, and environmental issues related to biofuels production in North Dakota, including the availability of feedstocks and other production resources, existing and future production capacity, farmer and processor contracting models, public and private financial incentives, and the transportation infrastructure necessary to meet optimum production and marketability levels for biofuels in this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 9. EFFECTIVE DATE. Sections 2, 5, and 7 of this Act become effective on August 1, 2009.

SECTION 10. EXPIRATION DATE. Sections 1, 4, and 6 of this Act are effective through July 31, 2009, and after that date are ineffective."

Renumber accordingly

April 18, 2007

JB
4-18-07
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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2180

That the House recede from its amendments as printed on pages 1076 and 1077 of the Senate Journal and page 1193 of the House Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 6-09.17-01, 6-09.17-02, 6-09.17-03, and 6-09.17-04 of the North Dakota Century Code, relating to the biofuel partnership in assisting community expansion fund; to provide for a legislative council study; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
2. "~~Biodiesel~~ Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities, to grain handling facilities, and to livestock operations as provided under this chapter.
2. "~~Biodiesel production facility~~" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. "~~Community~~" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Biofuels retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.
4. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:

- a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
5. "Grain handling facility" means a grain storage facility licensed under chapter 60-02 or 60-02.1 which provides condominium storage of grain that is principally intended for the production of biofuels.
6. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 2. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
- a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
2. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities and to livestock operations as provided under this chapter.
2. ~~"Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.~~
3. ~~Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:~~
- a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
4. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

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SECTION 3. AMENDMENT. Section 6-09.17-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-02. Biodiesel Biofuel partnership in assisting community expansion fund - Continuing appropriation - Administration. A Effective July 1, 2007, the biodiesel partnership in assisting community expansion fund is hereby established becomes the biofuel partnership in assisting community expansion fund. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11 and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund. The Bank of North Dakota shall administer the fund. Notwithstanding any other provision of law, the Bank may transfer any unobligated moneys between funds that have been appropriated by the legislative assembly for interest buydown in the biofuel partnership in assisting community expansion fund and the partnership in assisting community expansion fund.

SECTION 4. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. ~~Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.~~ During the first year of a biennium, the total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed two hundred fifty thousand dollars and the total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed two hundred fifty thousand dollars. The total amount from the fund used for interest rate buydowns for grain handling facilities and biofuels retailers may not exceed five hundred thousand dollars per biennium.

SECTION 5. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. ~~Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.~~

SECTION 6. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility, to a grain handling facility, or to a livestock operation for the following eligible uses:
 - (1) Purchase or construction of real property ~~and equipment~~.
 - (2) Expansion of facilities.

- (3) ~~Working capital~~ Purchase or installation of equipment.
- (4) ~~Inventory.~~
- b. The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment.
- c. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the business within North Dakota biodiesel or ethanol production facility, the grain handling facility, or the livestock operation.
- 2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~
- 3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~
- 4. The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter. The maximum amount from the fund in the interest rate buydown for a grain handling facility may not exceed fifty thousand dollars to any single facility. The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed ten thousand dollars to any single location of a biofuels retailer under this chapter.
- 3. ~~The fund participation must be~~ is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
- 5. 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 7. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

- 1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility or to a livestock operation for the following eligible uses:

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- (1) Purchase or construction of real property ~~and equipment~~.
- (2) Expansion of facilities.
- (3) ~~Working capital~~ Purchase or installation of equipment.
- (4) ~~Inventory~~.

b. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the ~~business within North Dakota~~ biodiesel or ethanol production facility or the livestock operation.

2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~
3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~
4. ~~The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter.~~
3. The fund participation ~~must be~~ is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
- 5- 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 8. LEGISLATIVE COUNCIL STUDY - BIOFUELS. The legislative council shall consider studying, during the 2007-08 interim, the agronomic, economic, and environmental issues related to biofuels production in North Dakota, including the availability of feedstocks and other production resources, existing and future production capacity, farmer and processor contracting models, public and private financial incentives, and the transportation infrastructure necessary to meet optimum production and marketability levels for biofuels in this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 9. EFFECTIVE DATE. Sections 2, 5, and 7 of this Act become effective on August 1, 2009.

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SECTION 10. EXPIRATION DATE. Sections 1, 4, and 6 of this Act are effective through July 31, 2009, and after that date are ineffective."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 2180 (, as (re)engrossed):

Date: April 17, 07
April 18, 07

Your Conference Committee Senate Agriculture

For the Senate:

For the House:

For the Senate:										For the House:									
Sen.	A	Clark	A	Klein						Rep.	A	Clark	A	Klein					
Klein	X	N	X	Y						Clark	X	Y	X	Y					
Wanzek	X	N	X	Y						Hofstad	X	Y	X	Y					
Heckaman	X	N	X	Y						Solberg	X	N	X	Y					
		4-17		4-18								4-17		4-18					

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1076-- 1077

_____ and place _____ on the Seventh order.

X, adopt (further) amendments as follows, and place 2180 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Hofstad
 SECONDED BY: Clark
 VOTE COUNT: 2 YES 4 NO 0 ABSENT

motion: Heckaman
 second: Clark
2 yes 0 no 0 absent

REPORT OF CONFERENCE COMMITTEE

SB 2180, as engrossed: Your conference committee (Sens. Klein, Wanzek, Heckaman and Reps. Clark, Hofstad, Solberg) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1076-1077, adopt amendments as follows, and place SB 2180 on the Seventh order:

That the House recede from its amendments as printed on pages 1076 and 1077 of the Senate Journal and page 1193 of the House Journal and that Engrossed Senate Bill No. 2180 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 6-09.17-01, 6-09.17-02, 6-09.17-03, and 6-09.17-04 of the North Dakota Century Code, relating to the biofuel partnership in assisting community expansion fund; to provide for a legislative council study; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
2. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities, to grain handling facilities, and to livestock operations as provided under this chapter.
2. "Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. "Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Biofuels retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline blends with greater than sixty percent ethanol.
4. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:

- a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
- b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
- 5. "Grain handling facility" means a grain storage facility licensed under chapter 60-02 or 60-02.1 which provides condominium storage of grain that is principally intended for the production of biofuels.
- 6. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 2. AMENDMENT. Section 6-09.17-01 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

- 1. "Biodiesel production facility" means a producer of a biodegradable, combustible liquid fuel that is derived from vegetable oil or animal fat and which is suitable for blending with diesel fuel for use in internal combustion diesel engines. The facility must be located in this state and:
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.
- 2. ~~"Biodiesel Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel and ethanol production facilities and to livestock operations as provided under this chapter.~~
- 2. ~~"Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.~~
- 3. ~~Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and:~~
 - a. Agricultural producers must hold at least ten percent of the ownership interest in the facility; or
 - b. Residents of this state must own at least fifty percent of the ownership interest of the facility.

4. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 3. AMENDMENT. Section 6-09.17-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-02. Biodiesel Biofuel partnership in assisting community expansion fund - Continuing appropriation - Administration. A Effective July 1, 2007, the biodiesel partnership in assisting community expansion fund is hereby established becomes the biofuel partnership in assisting community expansion fund. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11 and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund. The Bank of North Dakota shall administer the fund. Notwithstanding any other provision of law, the Bank may transfer any unobligated moneys between funds that have been appropriated by the legislative assembly for interest buydown in the biofuel partnership in assisting community expansion fund and the partnership in assisting community expansion fund.

SECTION 4. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved. During the first year of a biennium, the total amount from the fund used for interest rate buydowns for biofuels retailers may not exceed two hundred fifty thousand dollars and the total amount from the fund used for interest rate buydowns for grain handling facilities may not exceed two hundred fifty thousand dollars. The total amount from the fund used for interest rate buydowns for grain handling facilities and biofuels retailers may not exceed five hundred thousand dollars per biennium.

SECTION 5. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.

SECTION 6. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility, to

a grain handling facility, or to a livestock operation for the following eligible uses:

- (1) Purchase or construction of real property and equipment.
 - (2) Expansion of facilities.
 - (3) ~~Working capital~~ Purchase or installation of equipment.
 - (4) ~~Inventory.~~
- b. The fund moneys may be used to participate in an interest rate buydown on a loan to a biofuels retailer for the purchase or installation of pumps and related equipment.
- c. The loan funds cannot may not be used to refinance any existing debt or for the relocation within this state of the business within North Dakota biodiesel or ethanol production facility, the grain handling facility, or the livestock operation.
2. The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09-14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.
3. The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.
4. The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter. The maximum amount from the fund in the interest rate buydown for a grain handling facility may not exceed fifty thousand dollars to any single facility. The maximum amount from the fund in the interest rate buydown for a biofuels retailer may not exceed ten thousand dollars to any single location of a biofuels retailer under this chapter.
3. The fund participation must be is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.

- 5- 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 7. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility or to a livestock operation for the following eligible uses:
 - (1) Purchase or construction of real property and equipment.
 - (2) Expansion of facilities.
 - (3) ~~Working capital~~ Purchase or installation of equipment.
 - (4) ~~Inventory.~~
- b. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the ~~business within North Dakota~~ biodiesel or ethanol production facility or the livestock operation.
2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~
3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~
4. The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed four five hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel or ethanol production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The maximum amount from the fund in the interest rate buydown for a livestock operation may not exceed two hundred fifty thousand dollars to any single livestock operation under this chapter.
3. The fund participation ~~must be~~ is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.

~~5.~~ 4. The Bank of North Dakota shall adopt rules to implement this chapter.

SECTION 8. LEGISLATIVE COUNCIL STUDY - BIOFUELS. The legislative council shall consider studying, during the 2007-08 interim, the agronomic, economic, and environmental issues related to biofuels production in North Dakota, including the availability of feedstocks and other production resources, existing and future production capacity, farmer and processor contracting models, public and private financial incentives, and the transportation infrastructure necessary to meet optimum production and marketability levels for biofuels in this state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 9. EFFECTIVE DATE. Sections 2, 5, and 7 of this Act become effective on August 1, 2009.

SECTION 10. EXPIRATION DATE. Sections 1, 4, and 6 of this Act are effective through July 31, 2009, and after that date are ineffective."

Renumber accordingly

Engrossed SB 2180 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2180

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**Testimony of Roger Johnson
Agriculture Commissioner
SB 2180**

**Senate Agriculture Committee
Roosevelt Park Room
8:30 am
January 25, 2007**

Chairman Flakoll and members of the Senate Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I'm here this morning to offer testimony in support of SB 2180, which expands the current biodiesel PACE program.

SB 2180 would expand the program to include other biofuels and would direct the incentive toward projects whose ownership structure includes 10 percent agricultural producers or 50 percent North Dakotans. The bill also makes livestock facilities associated with ethanol and biodiesel projects eligible for an interest buydown of \$250,000 and increases the interest buydown for biofuels facilities to \$500,000.

None of the ethanol and biodiesel projects that are in operation or are being currently constructed in the state are farmer-owned. Nationally, 29% of ethanol production facilities will be farmer-owned in 2007. (Source: Renewable Fuels Association)

I strongly support the local ownership component of this bill and would suggest that the 10 percent threshold for farmer ownership in a facility should be increased to a higher level. We need to work to ensure that our farmers and ranchers who are producing the energy feedstock have a chance to participate in these projects not only in the delivery of the feedstock, but in the production and sale of the final products as well.

SB 2288 also includes language to expand the biodiesel PACE program. In addition, the Industrial Commission Budget (HB 1014) also expands the current program to include ethanol, grants carryover authority, increases the interest buydown to \$500,000 per facility and appropriates \$4.2 million from the general fund for the program. (\$800,000 of carryover is expected from this biennium.)

Chairman Flakoll and committee members, I urge you to recommend a "do pass" on SB 2180. The expansion of the biodiesel PACE program as provided for in this legislation will provide meaningful incentives to biofuels projects and to agricultural producers. Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.

Bart Schott

**North Dakota Future Corn Production and
Storage Requirements**
~~Richard B. Byle~~, Research Associate
Center for Agriculture Policy and Trade Studies, NDSU
Prepared for the North Dakota Corn Council

Introduction

During the past ten years, corn production in North Dakota has increased from 59.5 million bushels in 1997 to 163.2 million bushels in 2006, an increase of 172%. Much of the increase in corn production is outside of the traditional production area of southeastern North Dakota. Soybean production has also increased 193% during the same time period. The total production for the major crops in the state (wheat, corn, soybeans, barley, sunflowers and canola) has increase from 687 million bushels in 1997 to 730 million bushels in 2006 (National Agricultural Statistics Service).

The in-state corn demand in 1997 was 37.7 million bushels (Upper Great Plains Transportation Institute). That has grown to 81.6 million bushels for 2006, an increase of 116%. Much of the increase is due to in-state processing of both ethanol and HFCS. However, during that time period, grain storage in the state has increased only 4%, from 959 million bushels in 1997 to 996 million bushels in 2005 (NASS).

The North Dakota Corn Council is seeking support during this legislative session from the state for incentives to assist producers and coop elevators to build additional corn handling (drying and storage) infrastructure across the state.

Assumptions

The action of the North Dakota Corn Council is based on these assumptions:

1. Corn acreage in North Dakota will continue to grow. The 2007 North Dakota corn acreage is projected to be 20% larger than that for 2006. Assuming an average production season and the fact that North Dakota's corn crop for 2006 was 163.9 million bushels, it is projected that North Dakota could see an additional 33 million bushels of corn in 2007.
2. It is projected that the two ethanol plants in Richardton (Red Trail, 50 million gallons per year) and Underwood (Blue Flint, 65 million gallons per year) will be operational by the fall of 2007. Together the two plants will use 41 million bushels of corn per year, or 3.4 million bushels per month. The typical ethanol plant has enough storage for 6 weeks of grind.
3. The current storage facilities in North Dakota are inadequate to handle the growing corn crop. Pressure to haul large amounts of corn out of the state will widen the basis.
4. Corn producers, local elevators, and corn processors in North Dakota stand to incur large economic losses to the railroads if North Dakota corn is shipped out of state in the fall and

early winter and then shipped back into the state during the year in response to ethanol plant demand.

Questions

To assess the North Dakota Corn Council's proposal, a number of questions should first be asked to test the validity of their assumptions.

North Dakota corn production has increased from 104 million bushels in 2000 to 163 million bushels in 2006 (Figure 1). Projected production for 2007 to 2012 was estimated using a simple trend line method based on past production during 1992 to 2006. Most of the production increases will occur in non traditional corn producing areas. The largest growth areas for the state have been in Barnes, Stutsman, Steele, Griggs, Foster, Nelson, Wells, Ward, Pierce, Stark, McLean, and Dunn countries. New varieties have opened new areas for corn production and future genetic developments will widen the potential growing areas. With favorable prices and average weather conditions, future corn production should continue to grow. It is forecasted that North Dakota corn production

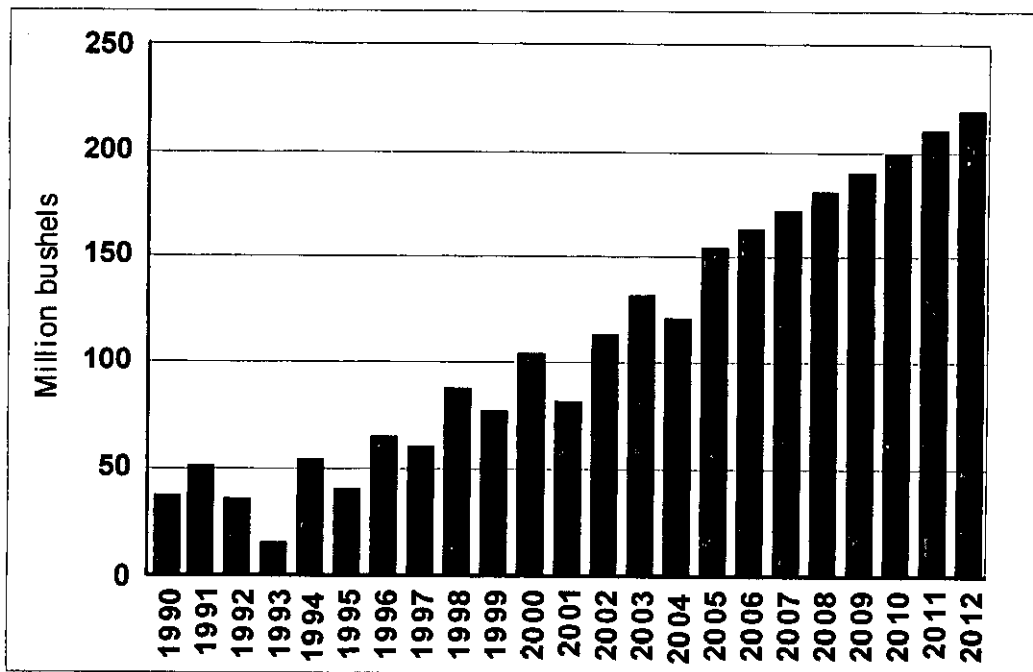


Figure 1. Historical and Projected North Dakota Corn Production

will reach 200 million bushels by 2010 and 220 million bushels in 2012, an increase of 35% over 2006 levels.

In January 2006, the U.S. Department of Energy projected that U.S. ethanol production will grow to 12 billion gallons by 2012. That will require about 92 million acres of corn

(Proexporter). Current U.S. corn plantings are about 78 million acres. The increased demand will provide favorable corn price levels into the future. With favorable prices, producers will respond with increased corn plantings.

It has been announced that the Red Trail ethanol plant in Richardton has begun grinding corn (Fargo Forum). The yearly capacity of the plant is 50 million gallons per year. Corn requirements will be 17.95 million bushels of corn per year.

Table 1. Future Ethanol Production and Corn Demand In North Dakota

Location	Capacity	Corn Requirements
	Million Gallons	Million Bushels
Williston	50	17.95
Underwood	65	23.34
Richardton	50	17.95
Spiritwood	100	35.91
Hankinson	100	35.91
Total Additional Capacity	365	131.1

Source: NDSU Extension Service

Table 1 shows the future ethanol production in North Dakota. The plant at Underwood should be online during the fall of 2007. The other plants will follow during the next few years. The total increased ethanol production will be 365 million gallons with a corn demand of 131 million bushels. Current industrial corn demand in North Dakota is about 43 million bushels for ethanol plants at Walhalla and Grafton and the HFCS plant at Wapeton. Future processing demand could be 174 million bushels per year by 2012. Comparing that to projected production indicates that almost 80% of North Dakota's corn production could be used in the state for processing. This does not consider current and future livestock feeding use.

What is the storage capacity relative to projected demand in both corn and soybeans?

Table 2 shows the total state storage capacity, corn and soybean production, and the percent of storage to yearly production ratio. Total storage capacity in North Dakota has fallen almost 9% in the past 15 years, from 1 billion bushels in 1990 to 995.8 million in 2005. At the same time, potential corn and soybean requirement has grown from about 5% of total storage capacity in 1990 to about 26% in 2005. Total crop use, including wheat, barley, sunflowers, and canola, increases the potential harvest storage requirement from 56% in 1990 to about 71% in 2005. North Dakota grain storage capacity is expected to continue to decrease even with the new storage associated with the new ethanol plants. Older producer storage will continue to be abandoned and small local elevators will be closed. By 2012, North Dakota grain storage could decrease another 3% while corn and soybean requirements increase 11% and total crop storage requirements increase almost 6% (figure 2).

Table 2. North Dakota Storage Capacity, Corn and Soybean Production, and Storage Ratio

	Total Storage Capacity	Corn Production	Soybean Production	Total Production	Corn- Soybean Use	Total Crop Use
	-----Million bushels-----				-----Percent-----	
1990	1090.2	36.8	12.9	49.7	4.6	56.2
1995	991.1	40.3	18.6	58.9	5.9	52.4
2000	954.4	104.2	59.2	163.4	17.1	69.1
2005	995.8	154.8	107.3	262.1	26.3	70.5
2010	976.2	201.1	126.6	327.7	33.6	74.2
2012	964.4	220.0	139.5	359.5	37.3	76.3

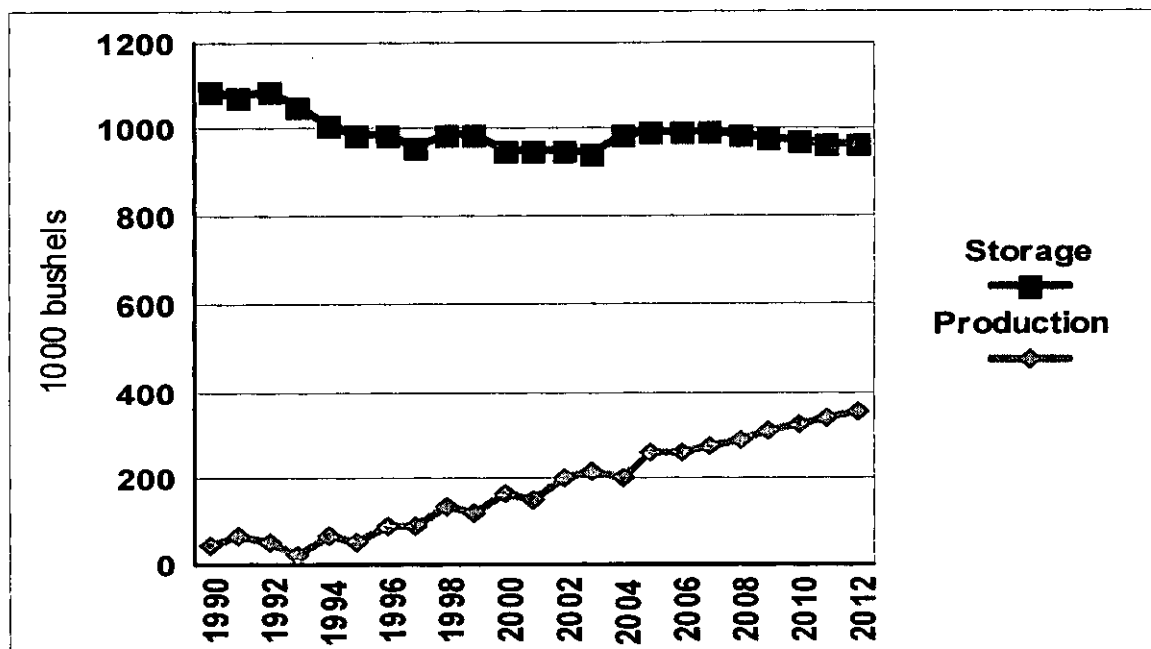


Figure 2. Total North Dakota Storage Capacity and Corn and Soybean Production, 1990-2005, Projected 2006-2012.

Corn is a perishable commodity. What is the economic cost to producers and the state if corn is stored on the ground?

North Dakota's elevators have used temporary storage during harvest for years to handle excess grain. Grain that is stored outside, on the ground, is subjected to a large number of hazards. Rain and snow will deteriorate grain quality and birds and rodents could contaminate the commodity. University research indicates that losses for temporary storage will be between 1 and 4% for a well-managed, covered pile (Hellevang). Losses could be as high as 50% if the crop is exposed to weather for the full storage season.

The North Dakota Public Service Commission (PSC) grants licenses to elevators for temporary ground storage. In 2004, the PCS licensed 21.4 million bushels of ground storage at 53 state licensed facilities, and in 2005, the amount licensed was 16.7 million bushels. The amount stored on the ground by federally licensed buyers and producers is unknown.

Table 3 shows the current licensed ground storage, and projected future ground storage assuming no increase in permanent storage except for that at new ethanol plants, and projected increases in production. It was assumed that two-thirds of the ground storage was corn, and the remainder consisted of soybeans and wheat. It is estimated that ground storage increases to about 32 million bushels by 2012, of which 21.6 million bushels were corn. Assuming 2.5% weather losses and \$0.03 per bushel handling costs, total losses/costs of ground storage was \$1.4 million in 2004 and \$0.84 million in 2005. That is expected to grow to almost \$2 million by 2012. In addition to storage losses, there are marketing losses due to early harvest sales. Figure 3 shows the ten-year monthly corn prices received by producers. The average price increase from harvest to early-mid summer is \$0.15 per bushel.

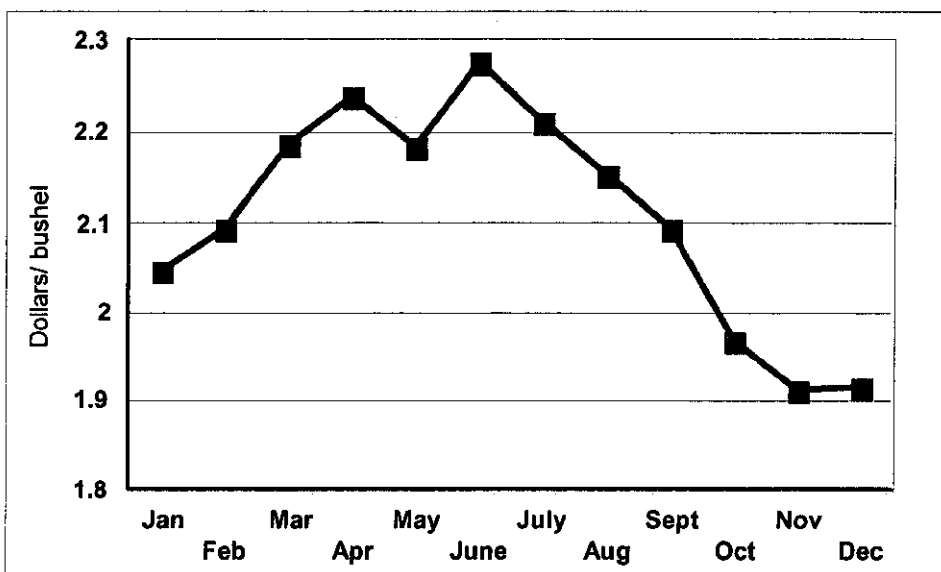


Figure 3. Monthly Corn Prices Received By Producers, Ten-Year Average

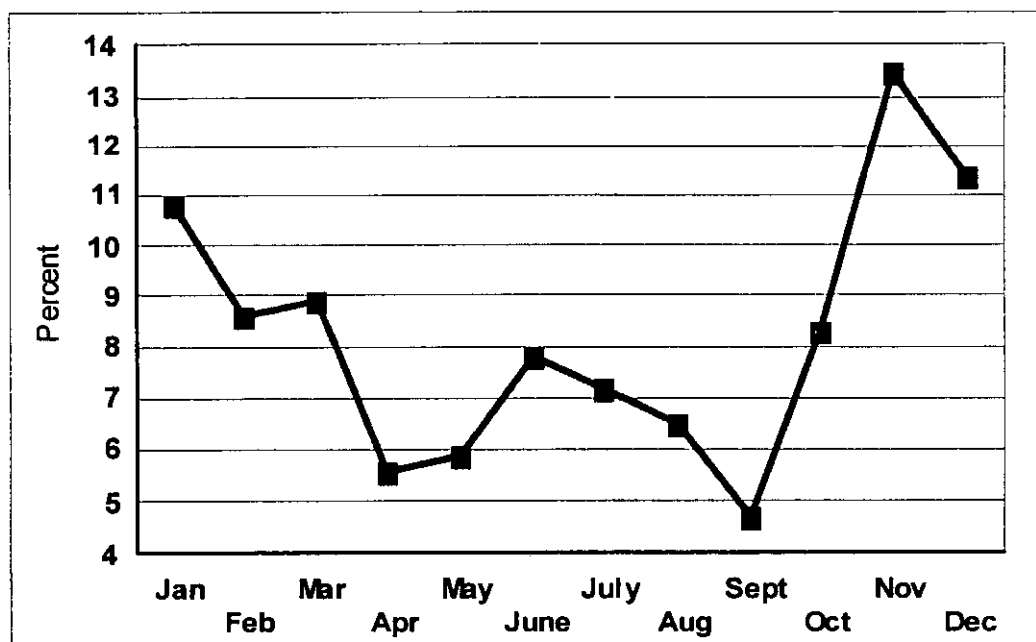


Figure 4. The Percent of Corn Marketed By Month, Ten-Year Average

Harvest sales have averaged 33.2% of the corn crop during October, November, and December (figure 4). If storage was available, producers could capture some of the price increases during the marketing year. To calculate the dollar loss, a per month interest change of .075% was subtracted from the potential gain due to the delay of financial obligation payments. Table 4 shows the potential market gains due to withholding corn

Table 3. Storage and Handling Losses for Temporary Ground Storage

	Ground Storage	Corn	Storage Losses	Handling	Total	
	-----1000 bushels-----		-----Dollars-----			
2004	21,400	14,338	871,034	430,140	1,301,174	from the market during harvest and spreadin g sales later in the marketin g years. In 2005, harvest sales amounte
2005	16,749	11,222	504,982	336,655	841,637	
2006	23,721	15,893	1,191,955	476,782	1,668,737	
2007	25,309	16,957	1,229,372	508,706	1,738,077	
2008	26,695	17,886	1,252,007	536,575	1,788,582	
2009	28,082	18,815	1,269,998	564,444	1,834,442	
2010	29,468	19,744	1,283,344	592,313	1,875,657	
2011	30,855	20,673	1,292,045	620,182	1,912,227	
2012	32,241	21,602	1,296,102	648,051	1,944,152	

d to 51.4 million bushels. If those sales were spread out evenly over the marketing year,

producers could have received an additional \$7.7 million. By 2008, that increase could be \$9.1 million assuming similar price movements, and by 2012, the increase could be \$11.3 million.

Table 4. Estimated Harvest Sales and Marketing Losses For North Dakota Corn Producers

	Harvest Sales	Market Loss
	Million bushels	Million \$
2005	51.4	7.7
2006	53.9	8.1
2007	57.4	8.6
2008	61.0	9.1
2009	64.5	9.7
2010	68.1	10.2
2011	71.7	10.8
2012	75.4	11.3

What is the cost to the state in lost revenue if corn is shipped out of the state and then back, versus the cost of building adequate storage to accommodate the crop?

It is projected that in-state demand for corn will reach 213 million bushels by 2012. That is based on current use plus the additional announced ethanol plant construction. In 2005, 155 million bushels of corn were produced in the state and about 79 million bushels were used in North Dakota. That allowed about 76 million bushels to be shipped out of state. Producers sold about 41 million bushels during or shortly after harvest which left more than enough corn in the state for processing demand. Without additional in-state storage, harvest shipments could increase to over 75 million bushels by 2012, which would leave a corn shortage of over 60 million bushels. That indicates that 60 million bushels would have to be shipped back into the state later during the marketing year (table 5). Table 6 shows selected BNSF tariff rates for corn shipments. Rates for corn from southeastern North Dakota to the twin cities are between \$0.56 per bushel and \$0.61 per bushel. Rates from other areas range from \$0.66 per bushel to \$0.70 per bushel. The only return shipping tariff reported is from the twin cities to Walhalla, \$0.60 per bushel.

Table 5. North Dakota Corn Production, State Demand, Harvest Shipments and Potential Corn Shortages

	Corn Production	In State Demand	Available Exports	Harvest Shipments	Shortage
-----Million bushels-----					
2005	154.8	78.9	75.9	41.1	34.8
2006	163.2	84.9	78.4	54.0	24.4
2007	172.7	99.9	72.8	57.4	15.4
2008	182.2	122.5	59.7	61.0	-1.3
2009	191.6	145.1	46.5	64.5	-18.0
2010	201.1	167.7	33.3	68.1	-34.8
2011	210.5	190.4	20.2	71.7	-51.6
2012	220.0	213.0	7.0	75.4	-68.4

Source: NASS, UGPTI

Table 6. Selected BNSF Tariffs Rates for Corn Shipments

To The Twin Cites			
City	County	Dollar/car	Dollar/bushel
Wyndmere	Richland	2,005	0.56
Dickey	La Moure	2,179	0.61
Maddock	Benson	2,352	0.66
Walhalla	Pembina	2,352	0.66
Page	Cass	2,093	0.59
Thompson	Grand Forks	2,136	0.60
Minot	Ward	2,503	0.70

From The Twin Cites

City	County	Dollar/car	Dollar/bushel
Walhalla	Pembina	2,152	0.60

Source: BNSF website

If corn is shipped out of the state during harvest because of limitations in storage capacity, the in-state processors of corn will be required to obtain corn from other markets. West bound shipping tariffs are similar to east bound tariffs (table 6). If corn is shipped back into the state, it is assumed that the tariff is about \$0.60 per bushel. In-state tariff rates are not listed by BNSF, therefore they are assumed to \$0.40 per bushel, because much of the cost is due to loading and unloading time.

Table 7 shows the estimated additional shipping cost if North Dakota producers ship corn out of state during harvest and ethanol plants and other users ship corn back into the state later during the marketing year. Some of the transportation costs will remain in the state in the form of wages and supplies purchased in the state. It is projected that there will not be shortage of corn until 2008. That shortage could grow to over 68 million bushels by 2012. Shipping costs of about \$41 million would be paid to the railroads. Later during the year the ethanol plants would pay about \$41 million to return that corn to the state. If storage was available in-state, the shipping cost to the ethanol plants would be about \$27 million, for a savings of \$54.7 million by 2012. Part of the savings would benefit producers and part would go to processors. Producers would benefit because they would not pay shipping to major markets, but would pay shipping to local ethanol plants. The ethanol plant would not pay shipping from out-state sources. They would obtain corn from in-state sources.

Table 7. Estimated Corn Shortage, Tariffs To and From Minnesota, In-state Tariffs and Total Additional Costs

	Estimated Corn Shortage	Tariffs to Minnesota	Tariffs From Minnesota	Estimated Tariffs, In-state	Additional Cost
	million bu	-----million \$-----			
2005					
2006					
2007					
2008	1.3	0.8	0.8	0.5	1.0
2009	18.0	10.8	10.8	7.2	14.4
2010	34.8	20.9	20.9	13.9	27.8
2011	51.6	30.9	30.9	20.6	41.2
2012	68.4	41.0	41.0	27.4	54.7

Table 8 summarizes the total losses/costs due to limited grain storage in North Dakota. Storage losses increase to \$1.9 million by 2012 and marketing losses increase to \$11.3 million. These losses are mainly directed towards producers. Shipping losses are shared between corn producers

and processors within the state. Total state losses increase to almost \$68 million by 2012. Losses of that magnitude will occur each year without increased grain storage.

Table 8. Summary Of Additional Losses and Costs Due to Storage Shortages

	Storage	Marketing	Shipping	Total
	-----Million Dollars-----			
2006	1.7	8.1		9.8
2007	1.7	8.6		10.3
2008	1.8	9.1	1.0	11.9
2009	1.8	9.7	14.4	25.9
2010	1.9	10.2	27.8	39.9
2011	1.9	10.8	41.2	53.9
2012	1.9	11.3	54.7	67.9

Total Costs and Benefits of Additional Storage

Cost estimates for new storage were obtained for several different sizes of grain storage bins. Cost estimates were between \$1.67 per bushel and \$2.46 per bushel (Gateway Builders). If an interest rate of 8% is changed against the cost of the new storage, the per bushel interest cost is between \$0.14 and \$0.20. Commercial per bushel storage cost may be less because the storage could be used more than once during the marketing year.

Four different scenarios were evaluated to estimate the impact of additional grain storage. Increases of 10, 20, 30, and 40 million bushels of storage capacity were estimated. With the additional storage, less grain would be stored on the ground, reducing losses associated with weather deterioration and rodent contamination. The additional storage would reduce the pressure of harvest sales, which would allow producers to market grain during the year to capture higher prices. Also with additional storage, corn could remain in the state for processing by the ethanol plants later in the year, thereby reducing transportation costs.

Under current storage capacity, total losses could increase to almost \$68 million per year by 2012 (table 9). With an additional 10 million bushels of storage, losses would decrease to \$57.3 million. An additional 40 million bushels of storage would reduce losses to about \$27.4 million per year. Yearly benefits in 2012 would increase from \$10.6 million for the 10 million bushel scenario to \$40.5 million for the 40 million bushel scenario. The total accumulated benefits would increase from \$41.1 million for the 10 million bushel scenario to \$130.8 million for the 40 million bushel scenario by 2012.

Table 9. Projected Losses, Yearly Benefits and Total Benefits Above Interest Costs With Additional Grain Storage.

	Current	10 million	20 million	30 million	40 million
Total Losses	-----Million Dollars-----				
2007	10.3	8.0	5.8	3.9	2.4
2008	11.9	8.6	6.4	4.4	2.9
2009	25.9	15.5	6.9	4.8	3.3
2010	39.9	29.4	19.2	9.1	3.8
2011	53.9	43.3	33.2	23.1	13.5
2012	67.9	57.3	47.2	37.1	27.4
Yearly Benefit					
2007		2.3	4.5	6.4	7.9
2008		3.3	5.5	7.5	9.0
2009		10.4	19.0	21.1	22.6
2010		10.5	20.7	30.8	36.1
2011		10.6	20.7	30.8	40.4
2012		10.6	20.7	30.8	40.5
Total Benefit					
2007		0.6	1.2	1.4	1.2
2008		2.5	3.9	4.6	4.6
2009		11.8	20.5	22.1	22.4
2010		21.4	39.3	50.1	54.7
2011		31.2	58.6	78.8	92.2
2012		41.4	78.3	108.2	130.8

Table

10

summarizes the yearly interest cost, accumulative interest cost and the accumulative benefit of the various storage scenarios. The interest cost is calculated using an 8% interest rate on 100% of new storage facility cost for a seven-year note. It was assumed that the note was paid using equal principle payments for the life of the note. The purchase price for the 10 million bushel scenario would be between \$16.7 million and \$24.6 million while the purchase price would be between \$33.4 million and \$49.2 million for the 20 million bushel scenario and between \$66.8 million and \$98.4 million for the 40 million bushel scenario. The yearly interest cost falls each year as

the principle is paid while the accumulated benefit increases as corn production increases. The total benefit above interest cost for the 10 million bushel scenario after 2012 is \$41.4 million. The total benefit of the 20 million bushel scenario is \$78.3 million. The total benefits for the 30 and 40 million bushel scenarios are \$108.2 million and \$130.8 million, respectively.

The benefits would be divided between producers, grain handlers, and processors. The distribution of benefits is difficult to determine because of many diverse factors. The producers would benefit from reduced spoilage of temporary storage and orderly marketing. The grain handlers and processors would benefit most from reduced transportation costs. The basis may, however, narrow, benefiting producers.

Table 10. Yearly Interest Cost, Accumulative Interest and Benefits Under Various Scenarios

	10 million bushel	20 million bushel	30 million bushel	40 million bushel
<u>Yearly Interest Cost</u>				
	-----Million Dollars-----			
2007	1.7	3.3	5.0	6.6
2008	1.4	2.8	4.3	5.7
2009	1.2	2.4	3.6	4.7
2010	0.9	1.9	2.8	3.8
2011	0.7	1.4	2.1	2.8
2012	0.5	0.9	1.4	1.9
<u>Accumulative Interest</u>				
2007	1.7	3.3	5.0	6.6
2008	3.1	6.2	9.2	12.3
2009	4.3	8.5	12.8	17.1
2010	5.2	10.4	15.7	20.9
2011	5.9	11.9	17.8	23.7
2012	6.4	12.8	19.2	25.6
<u>Accumulative Benefit</u>				
2007	0.6	1.2	1.4	1.2
2008	2.5	3.9	4.6	4.6
2009	11.8	20.5	22.1	22.4
2010	21.4	39.3	50.1	54.7
2011	31.2	58.6	78.8	92.2
2012	41.4	78.3	108.2	130.8

State Sponsored Interest Subsidy

Additional storage, whether located on the farm, at the local elevator or at the processor could increase total revenue to the state by almost \$48 million after 2012 for an additional 10 million bushels of storage. With 40 million bushel storage increase, the state could expect \$157 million in increased revenue. Based on the results of this study, the North Dakota Corn Council is seeking a 4% interest subsidy to assist producers, coop elevators and coop ethanol plants to build additional grain storage. The projected costs and benefits are summarized in table 11.

Table 11. Yearly Cost, Accumulative Cost and Cost Benefit Ratio of a 4% Interest Subsidy Under Various Scenarios

	10 million bushel	20 million bushel	30 million bushel	40 million bushel
<u>Yearly Cost</u>	-----Million Dollars-----			
2007	0.8	1.7	2.5	3.3
2008	0.7	1.4	2.1	2.9
2009	0.6	1.2	1.8	2.4
2010	0.5	1.0	1.4	1.9
2011	0.4	0.7	1.1	1.4
2012	0.2	0.5	0.7	1.0
<u>Total Cost</u>				
2007	0.8	1.7	2.5	3.3
2008	1.5	3.1	4.6	6.2
2009	2.1	4.3	6.4	8.5
2010	2.6	5.2	7.8	10.4
2011	3.0	5.9	8.9	11.9
2012	3.2	6.4	9.6	12.8
<u>Cost Benefit Ratio</u>				
2007	2.7	2.7	2.6	2.4
2008	3.6	3.3	3.0	2.7
2009	7.5	6.8	5.5	4.6
2010	10.2	9.5	8.4	7.2
2011	12.5	11.9	10.9	9.8
2012	14.9	14.2	13.3	12.2

Total cost to the state, in 2012, would be \$3.2 million for the 10 million bushel scenario. The total increase in revenue would be \$47.8 million for a cost benefit ratio of 14.9. The cost of an interest subsidy for 40 million bushel storage would be \$12.8 million while the total revenue increase would be \$156.4 million, resulting in a cost benefit ratio of 12.2. The increased revenue to producers, grain handlers, and processors would generate increased economic activity across North Dakota. The secondary impacts of the increased activity would positively impact all sectors of the state. Using the estimated economic multiplier of 3, total increases in economic activity for the state could be as high as \$470 million after the first 6 years for the 40 million bushel scenario.

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Upper Great Plains Transportation Institute. Personal communication. December, 2006.

SPECIAL FUND STATEMENT

EARP
FUND

Balance June 30, 2005	\$	915,396
<i>Revenues, 05-07</i>		
Registrations	\$	2,500,000
Rinseate	\$	5,000
Remove sunset	\$	500,000
Income		
TOTAL REVENUES	\$	3,005,000

Expenditures, 05-07

Health Department	\$	202,808
ND Stockmens Association	\$	50,000
Pesticide Programs	\$	425,875
Safesend	\$	580,371
Noxious Weeds	\$	1,723,833
Crop Harmonization Board	\$	25,000
Ag in the Classroom	\$	100,000
Minor Use Fund	\$	200,000
Transfer to NDSU	\$	150,000

TOTAL EXPENDITURES	\$	3,457,887
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Balance, June 30, 2007	\$	462,509
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<i>Revenues, 07-09</i>	\$	2,525,000
Repeal of Sunset	\$	505,000.00
Total Available	\$	3,492,509

Appropriations, 07-09

Health Department	\$	202,808
Pesticide Programs	\$	506,792
Safesend	\$	622,462
Noxious Weeds	\$	1,683,355
Crop Harmonization Board	\$	50,000
Ag in the Classroom	\$	100,000
Minor Use Fund	\$	200,000

TOTAL APPROPRIATIONS	\$	3,365,417
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Balance, June 30, 2009	\$	127,092
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P.O. Box 2599
Bismarck, ND 58502
(701) 355-4458
FAX (701) 223-4645

MEMBERS

AmeriFlax
Milk Producers Association of North Dakota, Inc.
Minn-Dak Farmers Co-op
North Dakota Ag Aviation Association
North Dakota Ag Consultants
North Dakota Agricultural Association
North Dakota Agri-Women
North Dakota Association of Soil Conservation Districts
North Dakota Association of Agricultural Educators
North Dakota Barley Council
North Dakota Beef Association
North Dakota Corn Growers Association
North Dakota Corn Utilization Council
North Dakota Crop Improvement and Seed Association
North Dakota Department of Agriculture
North Dakota Dry Bean Council
North Dakota Elk Growers
North Dakota Farm Bureau
North Dakota Farm Credit Council
North Dakota Grain Dealers Association
North Dakota Grain Growers Association
North Dakota Lamb and Wool Producers
North Dakota Oilseed Council
North Dakota Pork Producers
North Dakota Soybean Growers Association
North Dakota State Seed Commission
North Dakota Wheat Commission
Northern Canola Growers Association
Northern Plains Potato Growers Association
Northern Pulse Growers Association
Red River Valley Sugarbeet Growers

Item # 2

Testimony of Kent Albers

North Dakota Ag Coalition

Senate Bill 2180

March 1, 2007

Mr. Chairman and members of the House Natural Resources Committee:

I am Kent Albers. I farm and ranch near Center and serve as the chairman of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I encourage your support of SB 2180.

The Ag Coalition has been a unified voice for North Dakota agricultural interests for 20 years. Today, we represent 30 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. Through the Ag Coalition, these members seek to enhance the business climate for North Dakota's agricultural producers.

The Ag Coalition takes a position on only a limited number of issues brought to us by our members. These are issues that have significant impact on North Dakota's agriculture industry. Expanded and enhanced interest rate buydowns for North Dakota ag ventures is undoubtedly one of these issues.

The proposed changes to Biodiesel PACE in SB 2180 provide numerous opportunities for expanded use and eligibility. The Ag Coalition supports the initial bill, which extended the availability of the fund to ethanol facilities and livestock operations. We also strongly support the amendment that was approved in the House, which would expand the eligibility for interest rate buydowns to grain handling facilities. These changes are important to meeting the current demands of North Dakota's emerging energy industry, which has a direct impact on the state's agriculture industry.

For these reasons, we encourage your support of SB 2180.

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

Testimony of Roger Johnson
Agriculture Commissioner
SB 2180

House Natural Resources Committee
Pioneer Room
9:00 am
March 1, 2007

*Left Testimony
but did not
testify at
the hearing
on 3-1-07
SKO*

Chairman Porter and members of the House Natural Resources Committee, I am Agriculture Commissioner Roger Johnson. I'm here this morning to offer testimony in support of SB 2180 as amended, which expands the current biodiesel PACE program to become a biofuels PACE program.

SB 2180 expands the biodiesel PACE program to include ethanol facilities and livestock and grain handling facilities associated with biodiesel and ethanol projects. Projects must have an ownership structure including 10 percent farmers or 50 percent North Dakotans to qualify. The bill specifies that no more than \$500,000 can be used for grain handling interest buydowns.

The maximum interest buydown amounts follow:

Ethanol Facility	\$500,000
------------------	-----------

Biodiesel Facility	\$500,000
Livestock Facility	\$250,000
Grain Handling Facility	\$10,000/producer

None of the ethanol and biodiesel projects that are in operation or are being currently constructed in the state are farmer-owned. Nationally, 29% of ethanol production facilities will be farmer-owned in 2007. (Source: Renewable Fuels Association)

I strongly support the local ownership component of this bill and would suggest that the 10 percent threshold for farmer ownership in a facility should be increased to a higher level. We need to work to ensure that our farmers and ranchers who are producing the energy feedstock have a chance to participate in these projects not only in the delivery of the feedstock, but in the production and sale of the final products as well.

The Industrial Commission Budget (HB 1014) also expands the current program to include ethanol, grants carryover authority, increases the interest buydown to \$500,000 per facility and appropriates \$4.2 million from the general fund for the program. (\$800,000 of carryover is expected from this biennium.)

Chairman Porter and committee members, I urge you to recommend a "do pass" on SB 2180. The expansion of the biodiesel PACE program will provide meaningful incentives to biofuels projects and to agricultural producers. Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.

SB 2180
Kanger

Bio-Pace for Grain handling and storage

Amount of Pace funding for Grain Storage <u>interest buydown</u>	Amount Financed <u>by local banks</u>	twenty five percent <u>paydown by farmers</u>	<u>Total \$</u>	<u>Sales Tax</u>	Net profit 25% <u>Income tax @ 3%</u>	<u>Total</u>
\$500,000	\$ 5,000,000.00	\$ 1,666,666.67	\$ 6,666,666.67	\$ 333,333.33	\$ 40,000.00	
Amount of Grain Storage <u>in bushels</u>	Gain per bushel <u>in corn storage</u>	Amount of gain in <u>storage with corn</u>				
2,222,222	\$0.35	\$ 777,777.78			\$ 23,333.33	
Totals				\$ 333,333.33	\$ 63,333.33	\$ 396,666.67

Item # 1

Bio-fuels PACE for grain storage - SB 2180**Current scenario**

interest buydown limited to 5% points
 capped at \$10000/applicant
 capped @ \$500,000/PROGRAM
 amortized over 5 years

Total subsidy	Terms	points buydown	ND Gross Amount invested in bins	Total amount of interest buydown		
\$500,000	5 yr.	5%	\$3,200,000	\$495,597		
	<u>1st yr</u>	<u>2nd yr</u>	<u>3rd yr</u>	<u>4th yr</u>	<u>5th yr</u>	<u>Total \$</u>
Interest Cost to State	\$160,000.00	\$131,044.00	\$100,640.00	\$68,717.00	\$35,196.00	\$495,597.00
Present Value of dollars using 5% cost of money	\$160,000.00	\$124,804.00	\$91,283.00	\$59,360.00	\$28,956.00	\$464,403.00
Revenues to State						
Sales Tax	\$160,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160,000.00
Income Tax-storage	\$17,920.00	\$17,920.00	\$17,920.00	\$17,920.00	\$17,920.00	\$89,600.00
other tax revenue	?	?	?	?	?	?
	\$177,920.00	\$17,920.00	\$17,920.00	\$17,920.00	\$17,920.00	\$249,600.00
Present Value of dollars using 5% cost of money	\$177,920.00	\$17,067.00	\$16,254.00	\$15,480.00	\$14,743.00	\$241,464.00

Bio-fuels PACE for grain storage - SB 2180

Scenario # 1

interest buydown limited to 2% points
 capped at \$5000/applicant
 capped @ \$500,000/PROGRAM
 amortized over 5 years

Total subsidy	Terms	points buydown	ND Gross Amount invested in bins	Total amount of interest buydown		
\$500,000	5 yr.	2%	\$8,000,000	\$486,336		
	<u>1st yr</u>	<u>2nd yr</u>	<u>3rd yr</u>	<u>4th yr</u>	<u>5th yr</u>	<u>Total \$</u>
Interest Cost to State	\$160,000.00	\$129,255.00	\$97,894.00	\$65,907.00	\$33,280.00	\$486,336.00
Present Value of dollars using 5% cost of money	\$160,000.00	\$123,100.00	\$88,793.00	\$56,933.00	\$27,380.00	\$456,206.00
Revenues to State						
Sales Tax	\$400,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$400,000.00
Income Tax-storage	\$44,800.00	\$44,800.00	\$44,800.00	\$44,800.00	\$44,800.00	\$224,000.00
other tax revenue	?	?	?	?	?	?
	\$444,800.00	\$44,800.00	\$44,800.00	\$44,800.00	\$44,800.00	\$624,000.00
Present Value of dollars using 5% cost of money	\$444,800.00	\$42,667.00	\$40,635.00	\$38,700.00	\$36,857.00	\$603,659.00

Bio-fuels PACE for grain storage - SB 2180

Scenario # 2

interest buydown limited to 2.5% points
 capped at \$5000/applicant
 capped @ \$500,000/PROGRAM
 amortized over 5 years

Total subsidy	Terms	points buydown	ND Gross Amount invested in bins	Total amount of interest buydown		
\$500,000	5 yr.	3%	\$6,500,000	\$495,523		
	<u>1st yr</u>	<u>2nd yr</u>	<u>3rd yr</u>	<u>4th yr</u>	<u>5th yr</u>	<u>Total \$</u>
Interest Cost to State	\$160,000.00	\$131,044.00	\$100,640.00	\$68,717.00	\$35,196.00	\$495,597.00
Present Value of dollars using 5% cost of money	\$160,000.00	\$124,804.00	\$91,283.00	\$59,360.00	\$28,956.00	\$464,403.00
Revenues to State						
Sales Tax	\$325,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$325,000.00
Income Tax-storage	\$36,400.00	\$36,400.00	\$36,400.00	\$36,400.00	\$36,400.00	\$182,000.00
other tax revenue	?	?	?	?	?	?
	\$361,400.00	\$36,400.00	\$36,400.00	\$36,400.00	\$36,400.00	\$507,000.00
Present Value of dollars using 5% cost of money	\$361,400.00	\$34,667.00	\$33,016.00	\$31,444.00	\$29,946.00	\$490,473.00

Item #2

North Dakota Future Corn Production and Storage Requirements
Richard D. Taylor, Research Associate
Center for Agriculture Policy and Trade Studies, NDSU
Prepared for the North Dakota Corn Council
January 2007

Introduction

During the past ten years, corn production in North Dakota has increased from 59.5 million bushels in 1997 to 163.2 million bushels in 2006, an increase of 172%. Much of the increase in corn production is outside of the traditional production area of southeastern North Dakota. Soybean production has also increased 193% during the same time period. The total production for the major crops in the state (wheat, corn, soybeans, barley, sunflowers and canola) has increase from 687 million bushels in 1997 to 730 million bushels in 2006 (National Agricultural Statistics Service).

The in-state corn demand in 1997 was 37.7 million bushels (Upper Great Plains Transportation Institute). That has grown to 81.6 million bushels for 2006, an increase of 116%. Much of the increase is due to in-state processing of both ethanol and HFCS. However, during that time period, grain storage in the state has increased only 4%, from 959 million bushels in 1997 to 996 million bushels in 2005 (NASS).

The North Dakota Corn Council is seeking support during this legislative session from the state for incentives to assist producers and coop elevators to build additional corn handling (drying and storage) infrastructure across the state.

Assumptions

The action of the North Dakota Corn Council is based on these assumptions:

1. Corn acreage in North Dakota will continue to grow. The 2007 North Dakota corn acreage is projected to be 20% larger than that for 2006. Assuming an average production season and the fact that North Dakota's corn crop for 2006 was 163.9 million bushels, it is projected that North Dakota could see an additional 33 million bushels of corn in 2007.

2. It is projected that the two ethanol plants in Richardton (Red Trail, 50 million gallons per year) and Underwood (Blue Flint, 65 million gallons per year) will be operational by the fall of 2007. Together the two plants will use 41 million bushels of corn per year, or 3.4 million bushels per month. The typical ethanol plant has enough storage for 6 weeks of grind.

3. The current storage facilities in North Dakota are inadequate to handle the growing corn crop. Pressure to haul large amounts of corn out of the state will widen the basis.

4. Corn producers, local elevators, and corn processors in North Dakota stand to incur large economic losses to the railroads if North Dakota corn is shipped out of state in the fall and

*with the exception of
page 15
same
testimony
given
by
Bart
Schott*

- Corn and soybean production in North Dakota will continue to increase. Corn production will grow from 104 million bushels in 2000 to an estimated 220 million bushels by 2012. This will increase pressure existing grain storage capacity.
- North Dakota's storage capacity has decreased from 1 billion bushels in 1990 to 996 million in 2005. It will continue to decrease to 964 million bushels by 2012.
- In-state demand for corn will increase from 85 million bushels in 2006 to 213 million bushels in 2012 with the additional ethanol processing plants.
- The additional production combined with limited storage facilities will force producers to ship corn out of state during harvest, which will force the ethanol plants to ship corn back into the state later in the year.
- The additional costs to North Dakota's corn producers, local elevators, and corn processing plants for storage and market losses and additional shipping costs are \$9.8 million per year in 2006 and could reach \$68 million per year by 2012.
- A state subsidy on new grain facilities (4% of new purchase price) would cost between \$3.2 million and \$12.8 million depending on the amount of additional storage built.
- The cost benefit ratio would be 15 to 1 if an additional 10 million bushels of storage were built and 12 to 1 if an additional 40 million bushels of storage were built in the state.

Viewpoint

Give renewable energy plan a shot

By John Hoeven

BISMARCK— Working with legislative leaders, we're pushing hard for a comprehensive renewable energy plan for North Dakota that includes a broad range of forward-looking initiatives and goals.

Recently, House Majority Leader Rick Berg, Senate Majority Leader Bob Stenehjem and other leading legislators joined me to detail a \$43 million plan, which is designed to drive our current momentum in the field of renewable energy. This effort not only will create more high-paying jobs for North Dakotans, but also will help us reduce our nation's dependence on foreign sources of energy.

Our plan includes 16 pieces of legislation advancing production, marketing, tax, finance and research incentives that span the fields of renewable and alternative energy, including wind, biofuels, biomass, geothermal, solar, hydrogen and other new technologies. They are the product of good ideas gathered from a broad range of parties with a deep interest in developing North Dakota's vast renewable energy resources. They include our renewable energy interests,

farm groups, extension service, the private sector, and of course, our university system.

Our comprehensive package includes:

- **A \$13.3 million renewable energy investment program**, including a \$5 million Biofuels PACE interest buy-down program for ethanol and biodiesel facilities, livestock operations, and grain storage that potentially can generate \$750 million of new investment in biofuels. It also includes a \$7.3 million ethanol production incentive fund with countercyclical support for ethanol plants.

- **A \$14.25 million renewable and alternative energy development and research package**, including \$3 million general fund and authority to leverage an additional \$17 million for a renewable energy grant fund within the Industrial Commission; a \$7 million agriculture research greenhouse at North Dakota State University to help develop new sources of raw materials for biofuels, including cellulose and switchgrass; and more than \$3 million for biomass, hydrogen and waste heat projects and incentives.

- **An expanded \$15 million in-**

- vestment tax credit program** with the potential to generate investments in 10 renewable energy projects per year. Just five projects a year with \$10 million in investments could yield \$100 million in projects during the biennium.

- **A \$1 million interest buy-down loan program** for cattle and dairy producers building new or expanding operations that use byproducts of biofuels as a part of Biofuels PACE.

- **A wind power facility property tax reduction** from 3 percent to 1.5 percent of assessed value for generation units.

Our plan also includes solid targets and goals, including the 25x25 Initiative, a commitment to generating 25 percent of our energy from renewable sources by the year 2025, and doubling our energy production from all sources by the same year.

Our new initiatives build on and expand tried-and-true programs we've initiated over the past few years that already have generated more than \$1 billion of new renewable energy investment in North Dakota.

They work, and we're seeing the

results: With new projects announced in the past two years, we are boosting our ethanol production from 35 million gallons a year to more than 315 million gallons nearly a tenfold increase. We are bringing our biodiesel production from zero to 85 million gallons annually, and we are developing new wind farms around the state.

North Dakota is blessed with many sources of energy, both renewable and traditional, and we must continue to build them both in a partnership that best serves our state. Our new transmission authority is making partners of traditional electrical generation companies and wind energy producers and our proposed pipeline authority will do the same for biofuels and petroleum producers.

Our plan builds on our state's strengths — especially agriculture and energy — and it promotes the kind of collaborations and investments that will lift our state up, partnering and leveraging our energy resources; we are creating a bright energy future for North Dakota.

Hoeven is governor of North Dakota.

TO: House Govt. Operations Appropriations Committee
FROM: Bob Humann - SVP of Lending, BND
DATE: March 20, 2007
SUBJECT: SB 2180 Info

Appropriation amounts for SB 2180:

2005-2007 Biennium: Biodiesel PACE
\$1,200,000

Proposed for 2007-2009 Biennium:

HB 1014:	<u>Biofuels PACE</u>	
(IC Appropriation Bill)	\$4,200,000	
	<u>\$ 801,964</u>	Plus Biodiesel PACE Balance
	\$5,001,964	In Executive Budget

SB 2180 creates Biofuels PACE, but the appropriation is found in subdivision 3 of section 3 of HB 1014. Existing N.D.C.C. 6-09.17-02 requires that any unused Biodiesel PACE funds be returned to the General Fund at the end of the 2005-2007 biennium, but section 19 of HB 1014 allows the funds to be transferred to Biofuels PACE. Section 16 of HB 1014 allows BND the ability to transfer any unobligated funds between the Biofuels PACE and PACE. Section 20 of HB 1014 prohibits a recipient of Biofuels PACE from also accessing PACE.

Additional Information on SB 2180 Eligible Uses:

SB 2180 (78014.0100 & .0200):	\$500,000 for each biodiesel or ethanol facility \$250,000 for each feedlot or dairy feeding distillers grains
First Engrossment (78014.0300):	\$500,000 for each biodiesel or ethanol facility \$250,000 for each feedlot or dairy feeding distillers grains \$10,000 for grain handling facilities (\$500,000 total allocation)
Second Engrossment (78014.0400):	\$500,000 for each biodiesel or ethanol facility \$250,000 for each feedlot or dairy feeding distillers grains \$No maximum for installation of Biodiesel or E-85 Pumps
Third Engrossment (78014.0500)	\$500,000 for each biodiesel or ethanol facility \$250,000 for each feedlot or dairy feeding distillers grains \$20,000 for each biofuels retailer installing biofuels pumps

Bio-Pace for Grain handling and storage

Amount of Pace funding for Grain Storage <u>interest buydown</u>	Amount Financed <u>by local banks</u>	twenty five percent <u>paydown by farmers</u>	<u>Total \$</u>	<u>Sales Tax</u>	Net profit 25% <u>Income tax @ 3%</u>	<u>Total</u>
\$500,000	\$ 5,000,000.00	\$ 1,666,666.67	\$ 6,666,666.67	\$ 333,333.33	\$ 40,000.00	
Amount of Grain Storage <u>in bushels</u>	Gain per bushel <u>in corn storage</u>	Amount of gain in <u>storage with corn</u>				
2,222,222	\$0.30	\$ 666,666.67			\$ 20,000.00	
Totals				\$333,333.33	\$ 60,000.00	\$ 393,333.33

SB 2180