

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2247

2007 SENATE AGRICULTURE

SB 2247

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2247

Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2007

Recorder Job Number: 3291

Committee Clerk Signature

Cassandra

Minutes:

Sen. Flakoll opened the hearing on SB 2247, a bill relating to roving grain buyers. All members (7) were present.

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

Sen. Wanzek- I bring this bill before you on behalf of some of the pulse growers and a few other people as well. What we are trying to do here is more narrowly define roving grain buyers, the intent is not to allow a roving grain buyer to exempt themselves from the license when they are making the first purchase from a farmer.

Eric Bartsch, executive director of the Northern Pulse Growers Association, testified in favor of the bill. See attached testimony.

Sen. Taylor- is this going to be even more important as we look at container shipment out of the state as we look at exports?

Eric Bartsch- if it is bagged and in a container this does not affect it but if it is bulk containers it does have an impact.

Sen. Klein- what will happen when lets say an \$800,000 train load gets to India and all of a sudden there is no money, is there a time when this might just happen? Do you have recourse?

Eric Bartsch- it happens right now in our industry where the payment may be late or they may not get payment. They usually go through the steps to make sure the payment is secure and usually protect themselves.

Sen. Klein- do you work as a group and then work through their group to make these deals?

Eric Bartsch- lets take India for example, we have a trade rep in India. So she knows every buyer in that country. It may be a case that someone will call around and ask if they have heard of the company or if they are legitimate and they will do a background check. If you have never heard of them you may use a letter of credit which is a guaranteed payment.

Deon Maasjo, representing North Central Bean Dealers Association, testified in favor of the bill.

Deon Maasjo- I am here in support of this bill. As of today we are dealing with an outdated law, the industries have changed over the years and so have shipments. Due to transportation and labor costs a lot of customers domestically and internationally have gone to bulk shipments. The ND producer does need to be protected, producers are the number one priority. We are not here to change any bonding requirements. I urge you to support this bill.

Sen. Flakoll- there is some talk about who can talk to who and such, some of that violates the commress clause of the US constitution, any thoughts on that?

Deon Maasjo- I don't know.

Sen. Flakoll- has there been a time when Fidel Castro did owe agriculture producers either in ND or other states money?

Deon Maasjo- yes, those individuals didn't do what they should have to protect themselves.

Dean Nelson, small business independent bean dealer, testified in favor of the bill.

Dean Nelson- In my business today if I have a deal go back it can put me out of business in one deal, I have to be very careful of everything that I do. The bond issue just isn't going to help me in paying the bills in the end if somebody defaults on a payment.

Kent Albers, chairman of the ND Ag Coalition, testified in favor of the bill. See attached testimony.

Steve Strege, representing the ND Grain Dealers Association, testified in opposition to the bill. See attached testimony.

Sen. Behm- I noticed that all these roving grain buyers are bonded, but the bonds vary in range. Is that because they buy didn't products or why is it like that?

Steve Strege- the requirement is based on the volume that they report.

Sen. Flakoll- if we were to adopt your amendments then would you support the bill?

Steve Strege- I believe that we would.

Sen. Wanzek- to some degree I think that the bond gives a false sense of security to some dealers thinking that they are covered and they don't go through the steps that they need to. What if we made a better attempt at describing value added?

Steve Strege- part of going out and going after foreign government I can see where that would be very difficult. As far as changing the definition of value added we had talked about changing it to the names of the products.

Sen. Behm- are we creating a law that is not needed?

Steve Strege- what we are saying is that this works it is not perfect.

Sen. Flakoll called **Susan Richter** to the podium to answer questions for the committee.

Sen. Wanzek- ok as an example lets say we sold our beans to Joe and he stiffed us and he is appropriately licensed and bonded, what is the public service commission going to do to help us collect?

Susan Richter- the bond is filed with our office so that document would be on file, when we become aware that he is unable to pay is that we need to file paperwork and take that to the district court and go through a small district process. After the whole process is gone through then we would get approval from the court to make payment with that bond.

Sen. Wanzek- what if he is from another country how do we go get him, what authority do we have there?

Susan Richter- the commission has never gone beyond our borders with the exception of using that bond that we have on file in our office. We have never gone to a foreign country or another state to do that. The bonding company only looks back to whoever the licensee is and should be made whole on anything that they pay out against the bond. All we would have available for them is the money on the bond.

Sen. Taylor- what is the cost for a license for a roving grain buyer and what would be the cost of an average bond?

Susan Richter- the licensing fee is \$200 there is also a fee for registering your name at the ND secretary of states office and those are minimal. Fee for bond is \$3,500 for a million and a half.

Sen. Flakoll closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2247

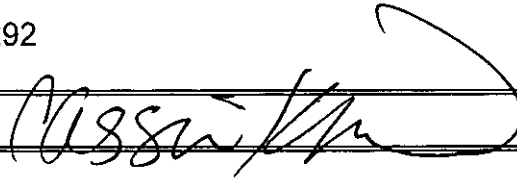
Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2007

Recorder Job Number: 3292

Committee Clerk Signature



Minutes:

Sen. Flakoll opened discussion on SB 2247.

Sen. Klein- with talking with the two groups we have some amendments and are looking at making it point directly to peas, lentils, dry beans.

Sen. Wanzek- in my mind there is a difference between the individuals verses a conventional elevator. In my mind I would like a better way to define value added, I think that we should put something like value added means value to a raw product by taking it to at least the next stage of production.

Sen. Flakoll- or you could say what it does not mean.

Sen. Wanzek- that is possible too.

Sen. Klein- I think that we have an issue here that needs to definitely move forward whether we have the appropriate language or not. The issue to me would be to massage it enough so that we don't get emails and just address what we can and get it smoothed out and get it in good enough shape so we can get it passed.

Sen. Wanzek- I don't know how we can have the public service commission really enforcing this law.

Sen. Klein motioned to adopt amendments and was seconded by **Sen. Wanzek**, roll call vote

1: 7 yea, 0 nay, 0 absent.

Sen. Wanzek motioned for a do pass as amended and was seconded by **Sen. Klein**, roll call

vote 2: 7 yea, 0 nay, 0 absent. **Sen. Wanzek** was designated to carry the bill.

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

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2247

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Klein Seconded By Wanzek

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

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: Feb 9, 2007
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2247

Senate Agriculture

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass as Amended

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	X		Ryan M. Taylor	X	
Jerry Klein	X				

Total

(Yes)

7

No

0

Absent

0

Floor Assignment

Sen. Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2247: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2247 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 60-02.1-01 of the North Dakota Century Code, relating to the definition of value added; and"

Page 1, after line 10, insert:

"SECTION 2. A new subsection to section 60-02.1-01 of the North Dakota Century Code is created and enacted as follows:

"Value added" means taking grain to the next stage of production in preparation for consumption."

Renumber accordingly

2007 HOUSE AGRICULTURE

SB 2247

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2247

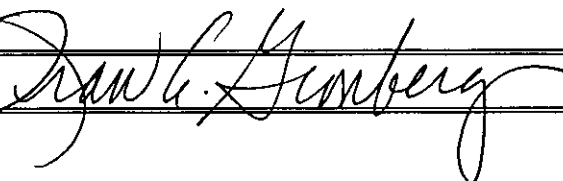
House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: 3-8-07

Recorder Job Number: 4700

Committee Clerk Signature



Minutes:

Chairman Johnson opened the hearing on SB 2247.

Sen Wanzek: I'm here to present SB 2247. No formal testimony. It was the pea and lentil and the pulse industries that came to me and presented the problem. A lot of these people are dealing with their customers around the world and you might hear from some that have sold in 56 countries. Their concern is the way the law is right now, a lot of those customers that they are directly dealing with are required to be bonded and licensed. The concern is that some surrounding states and Canada do not require that of their customers. So some of their customers have opportunities to go elsewhere. The PSC is supposed to be enforcing and monitoring this and there is no way in my mind that they can do this. There is a two year moratorium on the bill. (presented attached amendments-hog house amendment)

Chairman Johnson: Does the moratorium address the issue or tell who's going to address the issue?

Wanzek: I'm not asking for a study necessarily. It would be incumbent upon the parties involved to work with the PSC. They would like an emergency clause. This does not impact those facilities that are making a first time purchase from farmers.

Rep Mueller: With the adoption of the hoghouse bill, are we then going to set in place an exemption for those who process corn, wheat, sunflowers, soybeans, etc. By doing this it seems that we have exempted everybody from bonding requirements that are in the roving grain buyer business for the next two years. Would that be an accurate statement?

Wanzek: This only put a moratorium on the roving grain buyer requirements of those customer who purchase merchandise from an entity where the grain has been cleaned, processed and made ready for consumption. L

Eric Bartsch, Northern Pulse Growers Association: (testimony attached)

We support the bill and would also be supportive of Senator Wanzek's amendments.

Rep Brandenburg: Why do the buyers feel such a hindrance to being bonded?

Bartsch: They see it as an issue because they don't have to do it with their other customers.

Rep Mueller: How about requiring a letter of credit for a roving grain buyer?

Bartsch: They feel they have a consistent relationship with that buyer and they don't need it.

Rep Headland: We're talking about the second sale right? On the first sale there is bond coverage, so the farmer has protection. Is that correct?

Bartsch: Exactly

Rep Onstad: If other states don't require bonding of foreign countries, what do they require?

Bartsch: The PSC is looking into it. Minnesota, Nebraska and South Dakota somewhat do require some bonding. The enforcement in the language is a little fuzzy, the all the other states - Montana, Idaho, Washington - there are no laws or rules that require license or bonding. So the only requirement is that they buy from a producer.

Joe Bloms, US Dry Pea and Lentil Association and also the US Dry Pea and Lentil Council (also a processor in ND): I am definitely in support of the bill to change the

language. We process and bag product now and ship it and our buyers do not have to be licensed or bonded to buy from us. If we turn it into bulk, they have to be licensed and bonded. In today's business environment, with the internet and speed of doing business, we do due diligence as to their financial ability to pay. The existing law doesn't stop us from doing business with anyone we want, but it does prevent some people from doing business in the state of ND. The law today is a deterrent - the new language would be a help. We also support the amendments.

Rep Boe: How much enforcement authority does the PSC have in other countries? Is the letter of cease and desist taken seriously or thrown in the garbage?

Bloms: I think it's thrown in the garbage. There are ways that people have gone around this. We have told them to throw it in the garbage. Don't solicit us, we'll solicit you or call a broker that is licensed in the state of ND and pay him to do business in your country. There are so many ways to go around it. We'd just as soon go direct. Our ND Ag Dept does a great job on documentation.

Rep Mueller: Have you lost sales because of the law that is currently on the books?

Bloms: No, but it's come close.

Rep Mueller: You're very creative in the Ag business. Why do we really need to change if there are legal methods and ways to accomplish what this bill is trying to do?

Bloms: The world is coming to ND and asking for our product. We need to make it as easy as possible.

Rep Headland: In order for you to make a sale to India, you have to go to some kind of a broker? I thought I heard you say that companies from India contact you directly for a sale.

Bloms: We go direct. There are brokers that you can go through that are licensed. We decided not to do that.

Kent Albers, Chairman of the ND Ag Coalition: (testimony attached and they support the amendment)

OPPOSITION

Steve Strege, ND Grain Dealers Association: (testimony attached) Comment not in testimony: Right now if someone asks what the state of ND can do if someone is in violation of the law, they can issue a cease and desist law, and if they throw it in the garbage, the state can publicize that they aren't living up to their obligations.

Chairman Johnson: On the sheet you handed out you have 18 states listed and 13 are already exempt. (Actually 15 of the 18 are exempt after Chair examined the list)

Strege: Yes, that's correct.

NEUTRAL TESTIMONY

Sue Richter, Director of Licensing Division, Public Service Commission: (testimony attached) We have reviewed the amendment and that makes part of the testimony irrelevant. If you do not pass this bill with the amendment or if the amendment is different from what we understand it to be, then please give consideration to the prepared testimony.

Concerns that Sue Richter addressed:

- 1) Potatoes do not fall under this as they are not a grain.
- 2) How the commission handles the enforcement of roving grain buyers is my second concern. When aware, we send a letter that asks them to cease and makes them aware of what the requirements of a roving grain buyer are it includes an application.

We ask that they respond to us in writing. We have not actually sent any letters to any foreign countries.

Rep Brandenburg: How difficult is it for them to get a license? First they have to get a bond?

Richter: Yes in order for them to get a license they have to obtain that surety bond and register the corporate name with the Secretary of State's office and then file an application with their bond and pay a \$200 license fee. The bond range goes from \$50M to \$1.5M.

Rep Onstad: Does the PSC have recommendations on dealing with foreign countries?
Do we have enforcement abilities?

Richter: We are asking the Legislature to decide what we should enforce. We will enforce what we are directed to enforce.

Chairman Johnson: Have you sent letters to people that are representing foreign countries?

Richter: Yes

Chairman Johnson closed the hearing on SB 2247

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2247

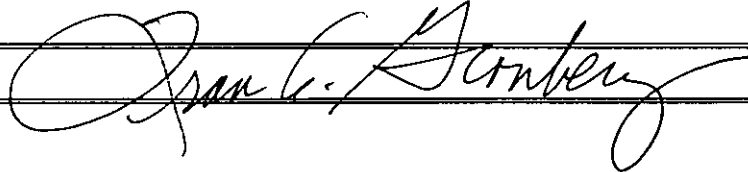
House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: 3-8-07

Recorder Job Number: 4721

Committee Clerk Signature



Minutes:

Chairman Johnson asked for discussion on SB 2247.

Rep Boe: We heard in the testimony that the problem was notification of foreign grain buyers and then we had testimony that they've never sent a notification to a foreign country yet. I fail to see the problem.

Chairman Johnson: I think they're concerned about the image we have in ND.

Rep Onstad: One of the comments that I have heard in some of the discussions here is that they sent the letter of notification to somebody and he responded back faxing to several other people. There is a problem and those entities are working on it.

Rep Onstad moved the amendments

Rep Uglem seconded the motion

The motion passed on a voice vote

Rep Headland moved a Do Pass on SB 2247

Rep Heller seconded the motion

(yes) 10 (no) 2 (absent) 1

**House Amendments to Engrossed SB 2247 (70718.0202) - Agriculture Committee
03/08/2007**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 60-02.1 and a new section to chapter 60-10 of the North Dakota Century Code, relating to licensure and bonding exemptions for roving grain buyers; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

Roving grain buyers - Exception - Applicability of provisions.

Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under this chapter. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.

SECTION 2. A new section to chapter 60-10 of the North Dakota Century Code is created and enacted as follows:

Roving grain buyers - Exception - Applicability of provisions.

Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

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

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

House _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number 2247

Action Taken Do Pass on Amendments

Motion Made By Onstad Seconded By Uglen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Tracy Boe		
Vice Chair Joyce Kingsbury			Rodney Froelich		
Wesley Belter			Phillip Mueller		
Mike Brandenburg			Kenton Onstad		
Craig Headland			Benjamin Vig		
Brenda Heller					
John D Wall					
Gerry Uglen					

Total (Yes) X No _____

Absent _____

Floor Assignment _____

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

Pass

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

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

House _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number

SP 2347

Action Taken

Do Pass As Amended

Motion Made By

Rep Headland

Seconded By

Heller

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

Total (Yes) 10 No 2

Absent 1

Floor Assignment

Rep Uglem

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

REPORT OF STANDING COMMITTEE

SB 2247, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2247 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 60-02.1 and a new section to chapter 60-10 of the North Dakota Century Code, relating to licensure and bonding exemptions for roving grain buyers; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

Roving grain buyers - Exception - Applicability of provisions.
Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under this chapter. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.

SECTION 2. A new section to chapter 60-10 of the North Dakota Century Code is created and enacted as follows:

Roving grain buyers - Exception - Applicability of provisions.
Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

2007 SENATE AGRICULTURE

CONFERENCE COMMITTEE

SB 2247

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2247

Senate Agriculture Committee

☒ Check here for Conference Committee

Hearing Date: April 3, 2007

Recorder Job Number: 5696

Committee Clerk Signature



Minutes:

Sen. Wanzek opened the conference committee on SB 2247. Members were present, **Sen. Wanzek, Sen. Klein, Sen. Behm and Rep. Uglem, Rep. Brandenburg, Rep. Onstad.**

Sen. Wanzek had **Rep. Uglem** explain what the house did to the bill 00:52-1:22.

Sen. Wanzek- the chairman felt that the amendments were essentially were hog house amendments and he felt that it would be appropriate to have one meeting considering that they are hog housed to make sure that everyone is comfortable with it. In drafting these amendments we thought that the grain dealers were comfortable with them but they still had a few issues with them and the public service commission had a few concerns and this is what they asked for us to do for them.

Rep. Brandenburg- I think that the amendments do the job for everybody.

Sen. Klein- so what you have done is that when they left here we were trying to add value and that meant that the folks in added value wouldn't be included and that is what your amendment kind of does which has been cleaned, processed and made ready for consumption but then you put the sunset on it to cap that to see in two years if adding value creates more problems?

Sen. Wanzek- that is correct. I think the purpose of this was to stall the issue for 2 years and allow PSC and the industry to get together and talk about it and then in 2 years if they need to do something more permanent that is when we can.

Rep. Onstad- your right, in the hearing and so on everybody had questions not to halt it in anyway so it was pretty clear with the grain dealers and the PSC and the pea and lentil association in working on something ongoing. This way we can back away from it for two years and see what problems will occur and are occurring.

Sen. Behm- I agree let the industry themselves see if they can come together and figure out something, they are the ones that are dealing with it.

Sen. Wanzek- I think that everyone on both sides understands the issue and I think the grain dealers are very willing to try to help with the issue, everyone is trying to kind of find that right definition that clearly defines who would and wouldn't be required to be bonded and I think the fear of the grain dealers is that they are opening it up to much. Everyone needs to clearly understand that this does not exempt anybody whose buying first time from the farm. Anybody who is buying first time from the farm or farm producer has to be bonded and licensed, this is only the case when a roving grain buyer buys from another bonded and licensed entity that has cleaned, processed and made ready for consumption of the product. It gives them 2 years to work on the definition amongst them it, it gives them two years to try to come up with a better way to address it without forcing the PSC to have to go out an enforce this.

Sen. Behm motioned that the Senate Accede to House amendments on pages 851 and place on the seventh order and was seconded by **Sen. Klein**, roll call vote 1: 6 yea, 0 nay, 0 absent.

REPORT OF CONFERENCE COMMITTEE

SB 2247, as engrossed: Your conference committee (Sens. Wanzek, Klein, Behm and Reps. Uglem, Brandenburg, Onstad) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 851 and place SB 2247 on the Seventh order.

Engrossed SB 2247 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2247



Northern Pulse Growers Association

Testimony of Eric Bartsch
Northern Pulse Growers Association
Senate Bill 2247
Senate Agriculture Committee
Roosevelt Park Room
February 9, 2007

*same
given to
Flakoll*

Chairman Flakoll, members of the Senate Agriculture Committee, for the record my name is Eric Bartsch and I am the Executive Director of the Northern Pulse Growers Association. The Northern Pulse Growers Association represents the pea, lentil and chickpea industry throughout North Dakota and Montana. I am here in support of SB 2247 which would create an environment that would encourage economic development and trade for North Dakota exporters.

The pulse crop industry in North Dakota is a unique and diverse industry that encompasses value added processing companies in towns such as Williston, Crosby, Bowman, Ross, Ray, Garrison, Minot, Jamestown, Crary, Falkirk and Richardton that are processing and exporting pulse crops directly to buyers domestically and world wide. The processors over the years have built international trade relations and have traded directly with companies in countries such as India, China, Philippines and Spain. As our industry continues to grow and expand the relationships that our exporters have built over the past several years are vital to the success of our industry to continue expanding our existing markets and creating new opportunities for North Dakota producers and industry.

One issue that has been a hindrance and has the potential to have a major impact on our industry's ability to expand and attract business to North Dakota is the current roving grain buyer's law. The current grain buyer's law requires a company who solicits and purchases product from another licensed entity in the state of North Dakota to be licensed and bonded as a roving grain buyer. The current licensing requirements would require buyers of peas, lentils, chickpeas or any commodity from around the world who solicits product from North Dakota licensed entities to be licensed and bonded in the State. The NPGA does not feel this is feasible and could become a hindrance to our ability to be competitive in the market place.

There are some exceptions to the roving grain buyer's requirement. The first exception is if the product has been substantially altered and mixed with a non grain product or if it has been cleaned, bagged and made ready for consumption. For many years the dry pea, lentil and chickpea industry has fallen under the cleaned and bagged exemption as 95% of the product exported out of North Dakota was bagged. Over the past several years, production in this region

has expanded which has allowed our processors and exporters to begin supplying volume markets such as China and India. Due to price competitiveness these countries purchase bulk product versus bagged product. The movement of pulse crops into bulk shipments has eliminated the exemption protection for crops such as peas, lentils and chickpeas.

Currently the processors and exporters in North Dakota have several ways that they are currently protecting themselves that take the place of a license and bond. A license and bond are not adequate enough to protect a company on a shipment of product domestically or overseas. For example a 20 car shipment of lentils to India would cost over \$800,000. If that buyer in India would go insolvent the current bonding structure would not be sufficient to cover the costs that are associated with that shipment. Below are a few examples of protection that processors and exporters are currently using:

- a. Know Your Buyer – It is common practice for several of the pulse exporters to do background checks on the companies prior to conducting a business deal. Exporting companies commonly utilize Dun and Bradstreet to conduct background checks in addition to USDA, which offers services to determine if a company is legitimate to conduct business.
- b. Letter of Credit – A company can utilize a letter of credit through a bank to guarantee payment for the sale. This is an option for exporters in the pulse crop business especially first time business transactions. A letter of credit can typically cost 1% to 2% of the transaction.
- c. Documentary Collections - Cash Against Documents through buyers bank – Several companies will utilize Cash Against Documents (CAD) to protect payment on shipments made. A buyer needs transaction documents in order to receive a shipment of grain. A seller has the option of utilizing a bank to hold documents until a buyer pays for the product. A CAD will cost anywhere from \$50-\$100.
- d. Insurance – There are several options for companies to purchase insurance to protect their sales or a portion of their sales. An insurance program will typically cover 95% of your receivables on a specific transaction or a whole year of transactions.

Exporters in North Dakota have to compete daily with competitive exporters in other states such as Montana and Washington in addition to other countries such as Canada and Australia. Currently Canada, Montana or Washington do not require a roving grain buyers bond and license if you are purchasing from another licensed entity. The requirement in North Dakota does put our industry at a disadvantage to other states and countries in world trade. In addition, the exporters have reduced risk by using means of protecting themselves to ensure they are adequately covered due to non payment. In addition the exporters in North Dakota have built trade relations and are continuing to expand these relations with customers around the world and feel they do not need a licensing and bonding requirement to protect their transactions.

SB 2247 would add an amendment to the definition of roving grain buyer that would exempt a person or company from having to be licensed and bonded if they are purchasing from another licensed entity. The proposed amendment exempts our international and domestic buyers from

being licensed and bonded if they are purchasing product from a licensed entity and the grain has been cleaned, processed and has had value added to it. This amendment would not effect the requirement that a company needs to be licensed and bonded if they purchase directly from a producer.

In closing, the pulse crop industry feels that it should be left up to the individual companies if they want to conduct business with a company that is licensed and bonded or not. No matter if it is the law or not, a company can still require their customer to be licensed and bonded in order for that company to conduct business.

Chairman Flakoll and committee members, I urge you to support SB 2247. I would be happy to answer any questions you may have.



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

Testimony of Kent Albers

North Dakota Ag Coalition

Senate Bill 2247

February 9, 2007

*Same
letter to
Honor*

Mr. Chairman, members of the Senate Agriculture Committee:

I am Kent Albers. I farm and ranch near Center and am here today as the chairman of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I encourage your support of SB 2247.

For more than 20 years, the North Dakota Ag Coalition has provided a unified voice for North Dakota agricultural interests. Today, the Coalition is made up of 30 statewide organizations or 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 a limited number of issues that have a significant impact on North Dakota's ag industry. SB 2247 is one of these issues as it has an impact on North Dakota's ability to trade crops domestically and worldwide.

The Ag Coalition is in support of this bill as it seeks to amend the definition of a roving grain buyer. Currently, anyone who solicits or purchases grain from any North Dakota entity must be licensed and bonded within the state as a roving grain buyer, including international buyers. The only exemption would be if the crops are cleaned and bagged and made ready for consumption or if they have been substantially altered and mixed with a non-grain product. Many of the exports, however, are made in bulk to countries around the world; therefore, requiring the buyer to be licensed and bonded in the state. This hinders international trade.

This bill will give licensed entities the freedom needed to sell direct and get the highest return back to the producer. Non-licensed entities could still have the protection and assurance needed in their own agreements and payment terms with buyers. These changes would aid in creating a favorable international market for North Dakota's commodities, especially pulse crops and dry beans.

Therefore, we encourage your support of SB 2247.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

STEVEN D. STREGE, Executive Vice President
CHERYAL WELLE, Executive Assistant
SUE BENSON, Office Assistant
Ph: 701-235-4184, Fax: 701-235-1026
118 Broadway N Ste 606, Fargo, ND 58102
Website: www.ndgda.org

STU LETCHER, Safety & Health Director
Ph: 701-543-3110, Fax: 701-543-4183
P.O. Box 314, Hatton, ND 58240

HAL GRIEVE, Safety Specialist
Ph: 701-633-5256, Fax: 701-633-5258
204 4th Avenue S., Buffalo, ND 58011

TESTIMONY OF NORTH DAKOTA GRAIN DEALERS ASSOCIATION SB 2247 – ROVING GRAIN BUYER LICENSING SENATE AG COMMITTEE – FEBRUARY 9, 2007

Good morning Mr. Chairman and members of the committee. My name is Steve Strege and I represent the North Dakota Grain Dealers Association. We are opposed to SB 2247.

Several questions come to mind regarding this issue:

1. Should the buyers in question be licensed?
2. Is it possible for them to get licensed?
3. If the law is to be relaxed is SB 2247 the way to do it?

Here is the list of roving grain buyers, off the Public Service Commission website. There are almost 60. About a third are from ND. Others are from as far away as New Jersey to the east, California to the west, and Mississippi to the south. Six are from Manitoba and two from Saskatchewan. They are complying with the law and the protections it offers to North Dakota business and individuals. Some of these are long-time licensees; others came onboard more recently. My point is that licensing CAN be done and IS BEING done.

It is said we need to change our law for economic development. These 60 companies and the 400 or so licensed and bonded grain elevators in ND are and have been involved in economic development for a long time. They have found markets, bought the raw product locally, booked the rail cars or trucks, took the risks, met the buyers' specs, made the deliveries, and in so doing brought billions of dollars back into this state. They have followed the law and served so well for so long. We disagree with relaxing our standards for others in the name of economic development? That might cause economic hardship for some of our own instead.

To get a license the buyer must post a bond with the PSC. Perhaps the greatest value of that bond comes before any transactions have taken place. A bonding company requires the

submission of financial statements. Some of the most important items are net worth, working capital, debt to equity, and profitability. If the applicant has serious deficiencies that bonding company will not write a bond. Consequently the applicant doesn't get a license from state government. It is a financial screening tool. Financial situations can be fixed, usually through injection of capital. If the finances cannot be put in order to qualify for a bond, then maybe that company isn't strong enough to be doing business in North Dakota with anybody. I should add here that while the ND Grain Dealers Association is an agent for writing grain warehouse bonds, we don't write roving grain buyer bonds. What you do with this bill doesn't affect us that way.

The record of financial failures of actual grain elevators in this state is very good. Of course Wimbledon Grain back in 2002 comes to mind. But in this decade there were four others, specialty crop handlers or processors. There's a similar picture in the 1990s. New and smaller industries seem to have the most problems. Isn't that what we're dealing with here?

At the present time the line between who needs a license and who doesn't is pretty clear — either a company is soliciting business here or it isn't. Saying a license is not needed if the grain bought is "cleaned and processed and has value added to it" creates a gray area. Does simple removal of dockage constitute cleaning, processing and adding value? How about blending wheat to hit a certain protein level? I don't mean to nitpick at words, but these questions point out the problem of trying to bend that line between licensed and non-licensed around what has been done with the grain. The exception might swallow the rule.

Another concern is if you crack the door for buying from elevators, how long will it be before these unbonded, unlicensed companies are buying from farmers? Some of that illegal activity goes on already and this would create an environment for more.

This situation takes me back to that old saying "If it ain't broke, don't fix it." We question is our state grain buyer licensing law is really broken. Or is it a case of some new dealers wanting to avoid the usual processes and so they want the law changed. We have worked in this state for many years to strengthen protections. Let's not go backwards. We urge a Do Not Pass on SB 2247. Before closing I'd like to read parts of a letter I received yesterday from Grain Millers Inc, a Minnesota company that buys grain from ND.

I'll try to answer any questions.

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3079 2712270 Manitoba Ltd O/A Pizzey's Milling and Baking
Box 132
Angusville MB R0J 0A0

Phone 204-773-2575
Fax 204-773-2317

Bond Agent General Insurance Company of America
Bond \$70,000

Lic # 3118 Appert Acres Inc.
755 Hwy 34
Hazelton ND 58544

Phone 701-782-6269
Fax 701-782-6280

Bond Agent Western Surety Company
Bond \$50,000

Lic # 3109 Archer Daniels Midland Co.
PO Box 1470
Decatur IL 62525

Phone 217-451-7207
Fax 217-424-5936

Bond Agent Travelers Casualty & Surety Company of America
Bond \$1,500,000

Lic # 3032 Braaten Trucking & Grain Company Inc
410 Oak Rd
Portland ND 58274

Phone 701-786-2309
Fax

Bond Agent United Fire & Casualty Company
Bond \$50,000

Lic # 3018 Cargill, Incorporated
c/o Ms. K.A. Suedmeyer PO Box 5606
Minneapolis MN 55440

Phone 952 742-6183
Fax 952-404-6240

Bond Agent Liberty Mutual Insurance Company
Bond \$70,000

Lic # 3070 Central Distributing Co. Inc.
301 South Gallaher View Road Suite 110
Knoxville TN 37919

Phone 865-566-0226
Fax 865-566-0231

Bond Agent Washington International Insurance Company
Bond \$70,000

Lic # 3113 CHS Inc.
5500 Cenex Dr MS 244
Inver Grove Heights MN 55077

Phone 651-355-6471
Fax 651-355-6436

Bond Agent Travelers Casualty & Surety Company of America
Bond \$1,500,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3107 Columbia Grain International
1300 SW Fifth Avenue Suite 2929
Portland OR 97201-5602

Phone 503-224-8624
Fax 503-241-0296

Bond Agent Great American Insurance Company
Bond \$735,000

Lic # 3001 Commodity Marketing Company
2325 Lakeview Parkway Suite 150
Alpharetta GA 30004

Phone 678-566-7820
Fax 678-566-7821

Bond Agent Western Surety Company
Bond \$90,000

Lic # 3102 Commodity Specialists Company
400 S 4th St - Attn Lisa
Minneapolis MN 55415

Phone 612-330-9163
Fax 612-330-9894

Bond Agent Fidelity & Deposit Company of Maryland
Bond \$250,000

Lic # 3124 Co-Op Atlantic
540-167 Lombard Ave
Winnipeg MB R3B 0V3

Phone 204-958-5970
Fax 204-942-2603

Bond Agent Fidelity & Deposit Company of Maryland
Bond \$50,000

Lic # 3117 C-Shore International Inc.
1010 N Central Ave Ste 500
Glendale CA 91202

Phone 818-909-4684
Fax 818-909-4703

Bond Agent American Contractors Indemnity Company
Bond \$70,000

Lic # 3068 Dakota Farms International, Ltd. dba DFI, Ltd.
41178 193rd St
Carpenter SD 57322

Phone 605-352-0303
Fax 605-352-0558

Bond Agent St. Paul Mercury Insurance Company
Bond \$50,000

Lic # 3108 Dakota Pride Cooperative
PO Box 2136
Jamestown ND 58402-2136

Phone 701-252-2341
Fax 701-252-6584

Bond Agent Old Republic Surety Company
Bond \$50,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3044 Demeter (1993) Inc dba Agricore United
Attn: P.M. Earl - PO Box 6600
Winnipeg MB R3C 3A7

Phone 204-944-5534
Fax 204-944-5745

Bond Agent Fidelity & Deposit Company of Maryland
Bond \$230,000

Lic # 3121 Falkirk Merchandising, LLC
3501 E Rosser Ave
Bismarck ND 58501

Phone 701-223-9282
Fax 701-223-4147

Bond Agent United Fire & Casualty Company
Bond \$430,000

Lic # 3062 FGD L.L.C.
2829 Westown Parkway Ste 240
West Des Moines IA 50266

Phone 515-223-7400
Fax 515-223-7410

Bond Agent Employers Mutual Casualty Company
Bond \$1,135,000

Lic # 3039 Frances & Steven Eidsness dba Eidsness Trucking
9844 55th St NE
Brockton ND 58321-9474

Phone 701-655-3650
Fax 701-655-3874

Bond Agent Western Surety Company
Bond \$50,000

Lic # 3031 Golden Growers Cooperative
112 Roberts Street, Suite 111
Fargo ND 58102-4984

Phone 701-281-0468
Fax 701-281-1568

Bond Agent Western Surety Company
Bond \$980,000

Lic # 3088 Grain Millers Inc
9531 W 78th St Ste 400
Eden Prairie MN 55344

Phone 952-983-1317
Fax 952-829-0337

Bond Agent Old Republic Surety Company
Bond \$265,000

Lic # 3097 Great Western Malting
PO Box 1529
Vancouver WA 98668

Phone 360-693-6762
Fax 360-905-3375

Bond Agent Western Surety Company
Bond \$50,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3120 Hawkeye Commodities Company
11905 NW 54th Ave
Grimes IA 50111

Phone 515-986-4441
Fax 515-986-4448

Bond Agent Nationwide Mutual Insurance Company
Bond \$50,000

Lic # 3067 Hensall District Co-Operative, Incorporated
PO Box 219
Hensall ON N0M 1X0

Phone 519-262-3002
Fax 519-262-2317

Bond Agent Liberty Mutual Insurance Company
Bond \$50,000

Lic # 3043 Hi-Pro Sunflower LLC
705 E Brewster
Harvey ND 58341

Phone 701-324-4177
Fax 701-324-4101

Bond Agent AMCO Insurance Company
Bond \$150,000

Lic # 3116 Horizon Milling, LLC
PO Box 5606
Minneapolis MN 55440-5606

Phone 952-742-6183
Fax 952-404-6240

Bond Agent Liberty Mutual Insurance Company
Bond \$50,000

Lic # 3022 James Richardson International Inc
3655 Quance Street
Regina Sk S4V 3A4

Phone 306-751-7700
Fax 306-751-7705

Bond Agent Hartford Fire Insurance Company
Bond \$245,000

Lic # 3026 John Rott dba John Rott Trucking
1419 5th Ave NW
Jamestown ND 58401

Phone 701-952-7690
Fax

Bond Agent Nationwide Mutual Insurance Company
Bond \$50,000

Lic # 3091 Kevin Symanowski
1206 18th St NW
Reeder ND 58649

Phone 701-853-2486
Fax

Bond Agent Old Republic Surety Company
Bond \$50,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3123 Keystone Grain Ltd
Box 1236
Winkler MB R6W 4B3
Phone 204-325-9555
Fax 204-325-2240

Bond Agent General Insurance Company of America
Bond \$50,000

Lic # 3060 Koppinger Trucking LLC
4774 Highway 22 South
Dickinson ND 58601
Phone 701-483-2258
Fax 701-483-2259

Bond Agent Union Insurance Company
Bond \$50,000

Lic # 3082 Lansing Trade Group, LLC
PO Box 800
Okemos MI 48805-0800
Phone 517-349-7630
Fax 517-349-0633

Bond Agent Western Surety Company
Bond \$615,000

Lic # 3125 Larry's Seed & Ag Supply Inc
PO Box 35
Keene ND 58847
Phone 701-675-2550
Fax 701-675-2575

Bond Agent Employers Mutual Casualty Company
Bond \$50,000

Lic # 3054 Lehmann Grain, Inc.
411 12th St NE
McClusky ND 58463
Phone 701-363-2360
Fax 701-363-2360

Bond Agent Western Surety Company
Bond \$70,000

Lic # 3040 Louis Dreyfus Corporation
400 S 4th St Ste 715
Minneapolis MN 55415-1413
Phone 612-752-1732
Fax 612-333-8248

Bond Agent Insurance Company of the State of Pennsylvania
Bond \$1,500,000

Lic # 3053 Marlow & Sandy Werth
4905 Hwy 13 SE
Lehr ND 58460
Phone 701-378-2388
Fax 701-378-2388

Bond Agent Continental Western Insurance Company
Bond \$50,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3081 Montana Specialty Mills LLC
525 3rd Street NW
Great Falls MT 59404

Phone 406-761-2338
Fax 406-761-7926

Bond Agent Travelers Casualty & Surety Company of America
Bond \$50,000

Lic # 3115 North Central Commodities Inc.
PO Box 5
Gilby ND 58235-4500

Phone 701-869-2899
Fax

Bond Agent Farmland Mutual Insurance Company
Bond \$210,000

Lic # 3064 Oilseeds International Ltd.
8 Jackson Street
San Francisco CA 94111-2022

Phone 415-956-7251
Fax 415-394-9023

Bond Agent Platte River Insurance Company
Bond \$130,000

Lic # 3033 Parent Seed Farms Ltd
Box 36
St Joseph MB R0G 2C0

Phone 204-737-2625
Fax 204-737-2248

Bond Agent Safeco Insurance Company of America
Bond \$50,000

Lic # 3122 PKT Associates, Inc.
43 Balley Ave
Bloomingdale NJ 07403

Phone 973-692-7878
Fax 973-692-7667

Bond Agent Hartford Fire Insurance Company
Bond \$230,000

Lic # 3119 Pro Co-op
Box 167
Opheim MT 59250

Phone 406-762-3231
Fax 406-762-3241

Bond Agent Western Surety Company
Bond \$50,000

Lic # 3027 Renee E Miller
PO Box 575
Brandon SD 57005

Phone 605-582-6704
Fax 605-582-6354

Bond Agent Nationwide Mutual Insurance Company
Bond \$50,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3127 Robert Schear dba R S Grain
22861 County Hwy 252 SW
Crookston MN 56716

Phone 218-281-7615
Fax 218-281-7615

Bond Agent Old Republic Surety Company
Bond \$50,000

Lic # 3024 Roehl Transfer Inc. dba Heil Grain & Feed
Box 20
New Leipzig ND 58562

Phone 701-584-2348
Fax 701-584-2300

Bond Agent State Farm Fire and Casualty Company
Bond \$50,000

Lic # 3092 Roger and Stacey Gussiaas Farm Inc.
6945 5th St NE
Carrington ND 58421

Phone 701-652-3078
Fax 701-652-3079

Bond Agent Old Republic Surety Company
Bond \$50,000

Lic # 3098 Safflower Technologies International LLC
12560 Highway 200
Sidney MT 59270

Phone 406-433-1847
Fax 406-433-8026

Bond Agent Employers Mutual Casualty Company
Bond \$50,000

Lic # 3048 Schulz Grain & Trading Co Inc
PO Box 2961
Great Falls MT 59403

Phone 406-727-3855
Fax 406-727-4862

Bond Agent Travelers Casualty & Surety Company of America
Bond \$90,000

Lic # 3101 Seed-Ex Inc.
PO Box 238
Letellier MB R0G 1C0

Phone 204-737-2000
Fax 204-737-2102

Bond Agent General Insurance Company of America
Bond \$130,000

Lic # 3011 SK Food International Inc
4749 Amber Valley Parkway Suite #1
Fargo ND 58104

Phone 701-356-4106
Fax 701-356-4102

Bond Agent Western Surety Company
Bond \$90,000

North Dakota Public Service Commission
Licensing Division
Roving Grain Buyers Report

12/29/2006

Lic # 3025 SKE Midwestern Inc
1111 Westrac Dr Ste 206
Fargo ND 58103

Phone 701-232-3775
Fax 701-232-8885

Bond Agent Hartford Fire Insurance Company
Bond \$50,000

Lic # 3112 Slauson Trading Company, LLC
14800 Raspberry Dr
Rogers MN 55374

Phone 763-428-7614
Fax 763-428-6407

Bond Agent State Farm Fire and Casualty Company
Bond \$50,000

Lic # 3006 Specialty Commodities Inc
PO Box 2667
Fargo ND 58108-2667

Phone 701-282-8222
Fax 701-282-7574

Bond Agent Travelers Casualty & Surety Company of America
Bond \$50,000

Lic # 3126 Spokane Seed Company
PO Box 11007
Spokane WA 99211

Phone 509-535-3671
Fax 509-535-0874

Bond Agent Safeco Insurance Company of America
Bond \$70,000

Lic # 3105 Sunrich, LLC dba Sunrich LLC, Sigco Sun Products, & Earthwise Processors
PO Box 128
Hope MN 56046

Phone 507-451-3316
Fax 507-451-8201

Bond Agent Western Surety Company
Bond \$110,000

Lic # 3094 Technology Crops Inc.
PO Box 11925
Winston-Salem NC 27116

Phone 336-759-7335
Fax 336-759-9406

Bond Agent Liberty Mutual Insurance Company
Bond \$260,000

Lic # 3104 The Scoular Company
10801 Mastin Street - Suite 800
Overland Park KS 66210

Phone 913-338-1474
Fax 913-338-2999

Bond Agent Fidelity & Deposit Company of Maryland
Bond \$1,030,000

North Dakota Public Service Commission

12/29/2006

Licensing Division

Roving Grain Buyers Report

Lic # 3093 Trinidad Benham Corp.
PO Box 378007
Denver CO 80237

Phone 303-220-1400
Fax 303-220-1490

Bond Agent Travelers Casualty & Surety Company of America
Bond \$280,000

Lic # 3095 Walker Seeds Ltd
Box 2890
Tisdale Sask CN S0E 1T0

Phone 306-873-3777
Fax 306-873-5997

Bond Agent General Insurance Company of America
Bond \$50,000

NORTH DAKOTA PUBLIC SERVICE COMMISSION

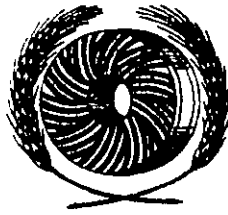
Grain Warehouse Insolvencies

Last updated May 2004						
Warehouse Name and Location(s)	Insolvency Date	Grain Claims	Grain Proceeds	Bond	Unpaid Claims	Payment
Farmers Grain Company, Bowdon	04-18-75	\$151,954.72	\$29,264.42	\$87,500.00	\$35,886.72	77%
Courtenay Farmers Coop., Courtenay	07-30-80	\$325,558.90	\$191,624.25	\$0.00	\$0.00	100%
Amenia Seed & Grain, Amenia	03-04-82	\$379,473.36	\$364,489.69	\$21,664.96	\$0.00	100%
Coast Trading Company, Underwood, Ray, Stampede, Belfield, Petersburg	04-17-82	\$141,189.51	\$0.00	\$141,189.51	\$0.00	100%
Valley Farmers Bean Assn., Portland, Gilby, Buxton	10-29-82	\$406,117.69	\$271,406.10	\$171,777.86	\$0.00	100%
Jamestown Frms Elev, Inc., Jmstwn	01-21-83	\$192,583.23	\$0.00	\$425,000.00	\$0.00	100%
Central States Grain, Anslem	07-27-83	\$195,637.40	\$0.00	\$222,524.92	\$0.00	100%
Colfax Grain Company, Colfax	04-09-84	\$2,572.00	\$2,572.00	\$0.00	\$0.00	100%
National Sun Industries, Enderlin	08-27-84	\$1,078,299.58	\$56,312.74	\$800,000.00	\$221,986.84	79%
Dakota Bean Company, Casselton, St. Thomas, Northwood	12-10-84	\$1,471,143.59	\$1,471,143.59	\$180,000.00	\$0.00	100%
Hatton Commodities, Inc., Hatton	09-09-86	\$132,849.00	\$8,232.50	\$125,000.00	\$0.00	98%
Regan Farmers Union Coop., Regan	05-14-86	\$1,228,776.13	\$842,522.46	\$512,158.57	\$0.00	100%
Zeeland Frms Union Coop, Zeeland	08-11-86	\$8,028.73	\$0.00	\$8,028.73	\$0.00	100%
Leith Grain Company, Leith	09-17-86	\$14,657.11	\$0.00	\$0.00	\$0.00	0%

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

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

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



GRAIN MILLERS INC.

Cabriole Center
9531 West 78th Street, Suite 400
Eden Prairie, MN. 55344-3894

Steve Strege
Executive Vice President
North Dakota Grain Dealers Association

Dear Mr. Strege:

Please accept this letter as Grain Millers Inc.'s support of the North Dakota Grain Dealers Associations efforts in opposition to SB 2247, a bill to change or relax the licensing and bonding requirements for companies doing grain related business in the State of North Dakota.

North Dakota in reality has one of the simplest licensing and bonding programs in the nation, and it would give me great concern doing business with companies that find this system difficult. The costs and procedures to comply with these requirements pose in reality no hardship or real cost to companies wishing to do business in North Dakota. What it does do, however is give both the companies and the producers that participate at least some degree of protection.

Granting exemptions to these requirements would be a systematic destruction of this tried and proven system. If this exemption were asked only on the crops that are directly related to a particular industry or crop, then an argument could be made to all that it is seller beware and there are no protections being granted by law in this state.

To make the argument that there are companies doing business without the licensing and bonding requirements is self-defeating. We all know that there are people driving without a license, does this make it less important for the need for a drivers license?

Grain Millers buys millions of bushels of grain per year in the state of North Dakota and we have found the statement of being licensed and bonded in North Dakota is a positive in our relationships with our suppliers not a negative.

It is no secret that over the past years of history that several buying companies have had financial difficulties and have left the seller with little or recourse. We must ask ourselves why our partners in agriculture in Canada are moving in exactly the opposite direction related to licensing and bonding requirements? In the past licensing and bonding has been somewhat optional but at this time the Canadian Government is making this procedure mandatory and stepping up enforcement.

We must examine the law and how it is written today. Today if a company in ND wishes to solicit business outside the state of ND they are free to sell to any company they wish with or without that company being licensed and bonded in North Dakota. Where the law provides protection is when companies are soliciting business from others in the state of North Dakota. If we open this up to any company can solicit grain in North Dakota with or without a license we then remove the most basic form of protection available to the industry today.

I would like to say that Grain Millers does more research on our potential customers than any entity in charge of regulation could in North Dakota, but in reality we have called on the Public Service Commission on more than one occasion for enforcement of the licensing and bonding requirements and to great success.

Grain Millers has no alternative motive behind wanting to keep the status quo regarding the license and bonding requirements related to business. However we do have an interest in maintaining the integrity of the industry as a whole and stand with the ND Grain Dealers Association in opposition of this bill.

In Great Regard

Myron Jepson
Grain Millers Inc.

Grain Dealers 1 – Just a thought. Doesn't mean we support.

CURRENT SB 2247

"Roving grain buyer" means a grain buyer who does not operate a facility where grain is received. The term does not include a person that purchases from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1 grain that has been cleaned and processed and has had value added to it.

POSSIBLE AMENDMENT TO SB 2247

In line 7 through 10 remove The term does not include a person that purchases from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1 grain that has been cleaned and processed and has had value added to it.

Insert in its place: The term does not include a foreign or domestic government or government entity that purchases grain from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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TESTIMONY OF NORTH DAKOTA GRAIN DEALERS ASSOCIATION SB 2247 – ROVING GRAIN BUYER LICENSING HOUSE AG COMMITTEE – MARCH 8, 2007

Good morning Mr. Chairman and members of the committee. My name is Steve Strege and I represent the North Dakota Grain Dealers Association.

We testified against this bill in the Senate. It was amended and there has been plenty of discussion since then about trying to satisfy everyone. Amendments discussed as recently as yesterday will limit application of the statute change, which is an improvement in our opinion. However, we still have reservations about exempting certain grain buyers from the licensing laws of our state, and want to point out why.

First of all it is important to understand that nothing in our current law prevents farmers, grain elevators, pulse crop processors or handlers of edible beans from shipping and selling their products to anyone outside the state. At issue here is what our state requires when someone solicits or buys grain within the state. Those requirements are a license and bond. Maybe it is somewhat like owning a motor vehicle in the state; there are licensing and minimum insurance requirements.

I have for each of you a list of roving grain buyers, taken off the Public Service Commission website. There are about 60. About a third are from North Dakota. Others are from as far away as New Jersey to the east, the states of Washington and California to the west, and Mississippi to the south. Nine are from Minnesota, six from Manitoba and two from Saskatchewan. They are complying with the law and the protections it offers to North Dakota business and individuals. Some of these are long-time licensees; others came onboard more recently. My point is that licensing CAN be done and IS BEING done.

I've heard it said we need to change our law for economic development. These 60 companies and the 400 or so licensed and bonded grain elevators in North Dakota are also

involved in economic development, most for many years, a few of the elevators for more than a century. These firms have gotten licensed, bought the raw product locally, made their deliveries, and in so doing brought billions of dollars back into this state. They have followed the law and served so well for so long. Is it wise to relax our requirements for others in the name of economic development?

Some of you know that the ND Grain Dealers Association is in the bond writing business; has been for 70 or 80 years. But we write grain warehouses, not these grain buyers, and so this bill has no effect on us in that regard.

To get a license the buyer must post a bond with the PSC. A significant value of that bond comes before any transactions have taken place. A bonding company requires the submission of financial statements. Some of the most important items are net worth, working capital, debt to equity, and profitability. If the applicant has serious deficiencies that bonding company will not write a bond. Consequently the applicant doesn't get a license from state government. It is a financial screening tool. The bonds are based on reported business volume. Bigger buyers should have bigger bonds. This means higher financial standards by bonding companies and more money should an insolvency occur.

At the present time the line between who needs a license and who doesn't is pretty clear – either a company is soliciting business here or it isn't. We've been skeptical of a license exemption based on grain being in a certain stage of processing. Will that be more difficult to enforce?

If it can be established that this exemption applies to buyers who purchase only grains cleaned and processed and made ready for consumption, and that this is enforceable, then the bill's scope is reduced and it is less objectionable in our opinion.

I'll try to answer any questions.

Grain Buyer State License Comparison

State	Is a grain buyer license required when purchasing from other licensed grain buyers?
Indiana	No, a grain buyer does not have to be licensed to buy from another buyer
Montana	No, commodity dealer license covers only farmer to dealer transactions
Arkansas	No, the law covers stored grain only
Kansas	No
Wisconsin	No
Michigan	No, however a license is required for outstate entities that take title from a producer in Michigan
Minnesota	Yes – the only time a license is <u>not</u> needed is when buying grain for feeding livestock. Law changed about 6-7 years ago as the result of a failed company.
Tennessee	No, anyone can buy from a licensed warehouse or grain dealer
Georgia	No (grain dealers license only required for grain purchased from a GA producer and if not paid for by cash, money order or certified check
Nebraska	Yes – licenses are not needed if purchasing grain for own purpose such as feeding cattle or for ethanol production. Brokers – have same requirements as grain dealers except they only have to file a \$35,000 bond.
Ohio	Yes, but only if additional services are offered
Idaho	Yes - from one public warehouse to another public warehouse No - from commodity dealers (Commodity dealers only need a license if buying from producers)

Illinois	No
Missouri	No, as long as 100% of their purchases are from licensed dealers
Texas	No, we don't have a grain dealers license, only a grain warehouse license
South Dakota	Yes for the purpose of resale except if the grain has been cleaned or processed or will be cleaned or processed before reselling. Grain brokers must also be licensed. (License fee is \$160 and \$50,000 flat bond for a broker.)
Oklahoma	No, does not regulate grain buyers or brokers
Louisiana	No
Wyoming	No, licenses required only for those who are storing grain

S. B. 2247

Presented by: Sue Richter
Public Service Commission

Before: House Agriculture Committee
Honorable Dennis Johnson, Chairman

Date: March 8, 2007

TESTIMONY

Chairman Johnson and committee members, my name is Sue Richter. I am the Director of the Public Service Commission's Licensing Division. The Licensing Division administers the Commission's jurisdiction over grain warehouses and grain buyers in North Dakota. The Commission asked me to appear here today to testify on Engrossed Senate Bill 2247. The Commission position is neutral on this bill.

The Commission is concerned with the engrossed bill that exists today because it contains the phrase "value added." Value added is not adequately defined. My testimony addresses the concerns the Commission has with the bill.

We understand an amendment is being prepared that may make the rest of my testimony irrelevant. As I understand this amendment, the concerns that we bring to your attention below are resolved. If you do not pass this bill with the amendment, or if the amendment is different from what we understand it to be, please give consideration to our prepared testimony.

Section 1 provides an exemption from roving grain buyer licensing if the grain is being purchased from a licensee and has been cleaned and processed and has had value added to it.

Section 2 defines "value added" as taking grain to the next stage of production in preparation for consumption.

The Commission is concerned with the way the bill currently reads. Value added has not been adequately defined. Unless it is clearly defined in statute, the only thing this bill will accomplish will be for the Commission to define value added through a rulemaking proceeding. That will only drag the process out for a prolonged period of time with results subject to challenge.

An attempt was made in 2005 to address the matter through rulemaking. The North Dakota Dry Pea and Lentil Association (NDDPLA) requested the Commission review an existing rule which provides an exemption for grain buyers purchasing "grain that is owned by a licensed entity and has been (1) substantially altered by processing or blending with a nongrain product; or (2) cleaned and bagged and made ready for consumption." Initially the NDDPLA's proposed rule exempted all grains. The NDDPLA revised their proposed rule to exempt only peas, lentils, and chickpeas.

The North Central Bean Dealers Association (NDBDA) filed a letter of support of the NDDPLA's proposed rule and asked the Commission to consider an additional change in the proposed rule to also exempt a grain buyer from the licensing requirement when the grain buyer purchases dry edible beans.

The statutory definition of grain has been established by the legislature in NDCC Section 60-02.1-01(5). The proposed rule that was submitted to the Commission by the NDDPLA and NDBDA attempted to redefine grain differently than the statutory definition. Such a rule would clearly be invalid.

The Commission met with industry in an attempt to develop language that would address the problems and concerns expressed by the North Dakota Dry Pea and Lentil Association and the North Central Bean Dealers Association and also address the concerns of the North Dakota Grain Dealers Association. We were unable to develop language that was acceptable to all parties. In its final order, the Commission decided not to take further action on the proposal because it would violate state law. The issue is before the legislature because the matter could not be resolved through the rulemaking process.

This completes my testimony. I will be happy to answer any questions you may have.

SB 2247 Summary

Senator David P. O'Connell

Adds additional meaning to the definition of "roving grain buyer" and "value added" to North Dakota Century Code.

Roving grain buyer is defined as:

A grain buyer who does not operate a facility where grain is received

The term does not include a person that purchases from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1 grain that has been cleaned and processed and has had value added to it.

Value added is defined as:

Taking grain to the next stage of production in preparation for consumption