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OMB/RECORDS MANAGEMENT DIVISION

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DESCRIPTION

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Deanna O'Brien
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10/22/03

Date

2003 SENATE APPROPRIATIONS

SB 2354

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2354

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-04-03

Tape Number	Side A	Side B	Meter #
1	X		83-3895
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Holmberg opened the hearing to SB 2354. Attendance was called, a quorum was established. (Meter 83) Senator Flakoll, District 44: See written testimony Exhibit 1. (Meter 415) Chairman Holmberg: The Dept of Public Instruction will give the committee information concerning the current usage of ND food products in the program currently, will DPI be able to give us that information? (Meter 432) Senator Flakoll: I don't think we have a good handle on that. (Meter 463) Chairman Holmberg: It is a 2. 8 million dollar appropriation. (Meter 465) Senator Mathern: Why a special appropriation? Why didn't you have a bill that states just use ND products? (Meter 517) Senator Flakoll: I believe we just need to slowly set up the mechanism by where they can be reimbursed by them. Can't go full force because some products can not be grown in ND, such as fruits, etc. (Meter 567) Senator Andrist: Giving the budget restrains, would you still like the bill if specified \$20 is an add on to the foundation program? If we took \$20 out of the foundation aid and offered this as a bonus? (Meter 623) Senator Flakoll: I would be comfortable with that. Any new moneys are welcome. (Meter 656) Senator Kilzer:

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Senate Appropriations Committee

Bill/Resolution Number SB 2354

Hearing Date 2-04-03

How did you arrive at the 2.9 million dollars? (Meter 679) Senator Flakoll: 2.8 million dollars is arrived because currently approximately 72,000 students using this school program times \$20

times 2 years and that is where the numbers derive from. (Meter 718) Chairman Holmberg: Is it

possible when we look at a program like this, we will be adding money on to purchases already

made, for example, bread products are purchased locally at the present time. Would we be

paying them \$20 for using ND bread that they are already using? (Meter 762) Senator Flakoll:

That are risks that we run. Gave an example of milk products. This is more design to encourage

new sales. (Meter 809) Senator Kilzer: 2.8 million would be the appropriation out of general

funds presently but there would be federal funds coming? Part of the match? (Meter 836) Senator

Flakoll: They are currently already in the budget, the state budget one half a million dollars

allocated to leverage our federal match. There are some restrictions for what we can and cannot

do. The department was very helpful in determining how we might be able to do this without

risking any federal dollars. This would be a separate entity from our federal dollars. (Meter 884)

Chairman Holmberg: We might get further information from the DPI, the latest sheet from DPI,

the next years budget, 3.6 million for school breakfast, this is federal moneys, 22.7 for school

lunches, 169 for milk, 762,000 for summer food service. (Meter 927) Senator Flakoll: Point of

conversation, we may get to a point if this is a situation we want to get into where we would

require some splitting so they are not all buying the same product, so that a school has to buy two

products from the listings. (Meter 978) Chairman Holmberg: Do we run a risk or we heard

horror or stories about how folks try to maximized their budget from the state. Are we setting up

another fall? (Meter 1089) Senator Erbele, District 29: Stand in support of SB 2354. ND products

have improved and we need people to try them. Personal note- he is a bison producer and would

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Senate Appropriations Committee
Bill/Resolution Number SB 2354
Hearing Date 2-04-03

like to see some bison sold and used in the school systems. (Meter 1548) Linda Glaser, School Nutrition Programs Manager: See written testimony Exhibit 2. (Meter 1726) Chairman Holmberg: Do we have a handle of what percentage of food purchased that are already purchased as ND products? (Meter 1752) Linda Glaser: That information I would not have readily, it would vary from district to district. I do have information on the amount of ND products that USDA purchases from use to distributing to state and national commodities distribution programs. That was approximately 7.3 million dollars last years. (Meter 1804) Chairman Holmberg: And that is ND products purchased by USDA for their commodity program? (Meter 1810) Linda Glaser: Yes right, some of which were distributed to ND in commodity distribution programs, some were distributed nationally. (Meter 1830) Senator Andrist: It would seem to me that is would be better, if you are going to administer the payment, that you also administer the selection of vendors. Rather than have the Department of Agriculture do that. How do you respond to that? (Meter 1866) Linda Glaser: The Ag Department has the best knowledge on manufactures and producers of ND products. I do believe that they would work closely with us in selections of that. (Meter 1913) Senator Schobinger: So under this bill, they wouldn't have the opportunity to buy from Simplot plant then, is that correct? (Meter 1936) Linda Glaser: They would definitely have the opportunity to buy from the Simplot plant, it is just a concern of our because the Simplot plant is in ND and does use ND product but then again uses MN products. If the intention of the bill is to use on ND products, it would be hard to differentiate between the whether it is a ND product or another states. (Meter 1989) Senator Schobinger: On line 10, the first requirement of the bill states the products must be grown in this state, processed and prepared which might excluded some, if they are mixing and matching within the plant. That would exclude the whole plant

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Hearing Date 2-04-03

from being able to sell to the state according to how the bill is written. (Meter 2028) Linda Glaser: Yes, I believe that is true. (Meter 2046) Senator Tallackson: This is a good idea to encourage sales but I don't see it being wise for 3 million dollars that we probably don't have. Maybe it is setting state against state with interstate commerce. Along the border, how can you tell if a cow is in ND or SD? (Meter 2108) Linda Glaser: I agree. (Meter 2133) Chairman Holmberg: Linda, you have been able to review this bill, one of the concerns we have when we are dealing with 27 million federal dollars, is there anything in this bill that would jeopardize any of the federal moneys or commodities that come into the state. (Meter 2163) Linda Glaser: One concern was the regulation that provides a geographic difference. We were in contact with the USDA with questions regarding that because this bill points to geographic preference. The response from the USDA was we need to provide training to our school districts regarding bidding on products so that all vendors knew ahead of time that they would be a preference for ND products so they would be receiving refunds back for purchasing ND products. The bidding process has to be sure that the playing field is equal. (Meter 2255) Chairman Holmberg: Are we in this bill paying someone (the school board or district) for doing something that they should be doing. (Meter 2278) Linda Glaser: There is no requirement for purchasing ND products. (Meter 2288) Chairman Holmberg: You say in your testimony, you have a strong commitment to purchasing, we would like our local schools boards to do that. Could one argue that this bill is going to pay them for doing something that the school district in Harvey was already doing buying local products? (Meter 2319) Linda Glaser: Regulations state that our schools must purchase items in a fair and competitive manner with open competition. Certainly when working with vendors and local vendors, they must compare prices. Currently out-of-state products may

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Senate Appropriations Committee

Bill/Resolution Number SB 2354

Hearing Date 2-04-03

or may not be a better deal. (Meter 2358) Chairman Holmberg: Could you do something this bill because it does have a healthy price tag, could you provide us with a survey of ten school districts and find out where a Grand Forks or a Harvey or where these school districts are getting a lot of these products? (Meter 2431) Linda Glaser: Yes, I would. (Meter 2451) Senator Tallackson: I am very proud of ND in leading in crops such as potatoes. (Meter 2489) Senator Thane: Milk and milk products are commingled, some tankers go to ND and MN. Can't be able to identify what is state and non-state. (Meter 2536) Linda Glaser: I agree (Meter 2596) Delbert Moore: Cattle rancher from Forbes ND. Sells a number of feeder cattle and market them at the Butcher Block in Oakes. The Butcher block is federally certified. He feels this bill is important to encourage ND processing plants to expand in ND. (Meter 2775) Senator Tallackson: How big of a herd do you have? (Meter 2780) Delbert Moore Several hundred cows but on this type of bill only about 10-12 cows. I do have feeder cattle in Nebraska. (Meter 2855) Chuck Fleming, Marketing Coordinator for the ND Department of Agriculture: See written testimony Exhibit 3. (Meter 3370) Senator Mathern: Does the Pride of Dakota program, how do you deal with these questions whether a product was grown and processed in state of ND or not? (Meter 3400) Chuck Fleming: I would suggest that the participants to sign an affidavit. (Meter 3545) Chairman Holmberg closed the hearing on SB 2354.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2354 Votes

Senate Appropriations Committee

☐ Conference Committee

Hearing Date Feb. 17, 2003

Tape Number	Side A	Side B	Meter #
#2		x	2569-4160 -2,569
Committee Clerk Signature			

Minutes:

Senator Andrist explained amendments to SB 2354. He did not present formal amendments.

Legislative Council will take care of the amendments. SB 2354 deals with using the school lunch program to increase consumption of the state's agriculture products. The total appropriation would be \$2.8 million for agriculture products.

Motion by **Senator Andrist** to accept amendments as presented, seconded by **Senator**

Tallackson. Discussion:

Senator Holmberg stated that one of the problems was how to monitor where a product actually comes from, our state or another. **Senator Andrist** replied that there would have to be rules drafted regarding this, just turning in a bill would not do. The product would have to be processed in the state, prepared in the state. **Senator Holmberg** added, grown in the state.

Senator Andrist all would get the \$10.00 per student eventually, but in the process they had made the effort to buy locally grown items. **Senator Holmberg** stated that there was about 20%

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Page 2
Senate Appropriations Committee
Bill/Resolution Number SB 2354 Votes
Hearing Date Feb. 17, 2003

already is purchased in the state, most of which is milk. **Voice vote of the amendments to the bill. A show of hands was then taken. 8 yes. Motion carried.**

Senator Andrist moved for a **DO PASS** as **AMENDED**, seconded by **Senator Mathern**.

Senator Schobinger asked if there was another amendment in order, **Senator Holmberg** agreed.

Senator Schobinger suggested additional amendments regarding language. **Senator Bowman**

wondered what stopped the schools from buying products from North Dakota now. He

wondered if a bill was really necessary. **Senator Andrist** responded, this bill would give the

school up to \$10.00 per student as a reward for doing it. That is what the purpose of the bill is.

Concerns were expressed by **Senator Mathern** and **Senator Schobinger** regarding the schools using N.D. products and how the language in the bill could mean other things rather than what is

meant. **Senator Christmann** wanted verifications of the percentage on line 20 that was in the

amendment. **Senator Holmberg** stated that is was 25%. He also expressed concerns about the

possibilities of other states passing the same type of bills and what it would do for exports.

Motion by **Senator Schobinger** to change "and" to "or" on page 1, line 10. Seconded by **Senator**

Tallackson. **Senator Krauter** had concerns about the number of students vs how much money

is appropriated for this. **Senator Holmberg** explained the bill stated "up to 25%". **Senator**

Bowman wanted to know what happens if the product that was purchased was not grown or

processed in North Dakota, and had a wrapper put on it stating it was a ND product. Is there

some penalty, etc? **Senator Andrist** stated that subsection 1 states that a file of preferred vendors

is to be complied by the Agricultural commissioner. Purchases made from that list would qualify.

Voice vote to accept Senator Schobinger amendment to SB 2354. Motion carried.

Senator Andrist moved for a **DO PASS** as **AMENDED**, seconded by **Senator Mathern**.

Page 3

Senate Appropriations Committee
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Hearing Date Feb. 17, 2003

Senator Krauter expressed his concern about paying this, is it out of foundation aid or some kind of compensation and we are going to be robbing Peter to pay Paul on this bill. **Senator Andrist** stated that the Superintendent of Public Instruction would be paying this, and we would have to make some adjustment in the DPI budget to pay this. **Senator Holmberg** stated that if this committee decided to pass this bill then when he had Legislative Council make the amendments he would have to reduce some foundation aid by \$1.4 Million, he didn't know where else he could reduce it unless it was from the tower. Question was called.

Roll call vote for a **DO PASS** as **AMENDED**, which is attached. Total: 5 yes, 7 no and 2 absent and not voting. Motion failed.

Motion by **Senator Bowman**, seconded by **Senator Kilzer** for a **DO NOT PASS** as **AMENDED**. Roll call vote taken, which is attached. Total: 7 yes, 5 no and 2 absent and not voting. **Senator Holmberg** will carry the bill.

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30763.0101
Title.0200

Prepared by the Legislative Council staff for
Senate Appropriations
February 18, 2003

QJ3
2-18-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2354

Page 1, line 20, replace "for the purchases" with "In an amount up to twenty-five percent of the total purchase price"

Page 1, line 21, replace "twenty" with "ten"

Page 2, line 2, replace "\$2,800,000" with "\$1,400,000"

Renumber accordingly

Page No. 1

30763.0101

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Date: 2/17/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2354

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass as amendment

Motion Made By Andrist Andrist Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman		✓			
Senator Bowman, Vice Chair		✓			
Senator Grindberg, Vice Chair					
Senator Andrist	✓				
Senator Christmann		✓			
Senator Kilzer		✓			
Senator Krauter	✓				
Senator Kringstad		✓			
Senator Lindaas		✓			
Senator Mathern	✓				
Senator Robinson		✓			
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane					

Total (Yes) 5 No 7

Absent 2

Floor Assignment _____

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

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Date: 2/17/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2354

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do not pass as amend.

Motion Made By Bowman Seconded By Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair					
Senator Andrist		✓			
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter		✓			
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern		✓			
Senator Robinson	✓				
Senator Schobinger		✓			
Senator Tallackson		✓			
Senator Thane					

Total (Yes) 1 No 5

Absent 2

Floor Assignment Holmberg

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

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REPORT OF STANDING COMMITTEE (410)
February 19, 2003 8:22 a.m.

Module No: SR-32-3215
Carrier: Holmberg
Insert LC: 30763.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2354: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). SB 2354 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "for the purchases" with "In an amount up to twenty-five percent of the total purchase price"

Page 1, line 21, replace "twenty" with "ten"

Page 2, line 2, replace "\$2,800,000" with "\$1,400,000"

Renumber accordingly

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2003 TESTIMONY

SD 2354

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Date

Exhibit 1

SB 2354
February 4, 2003

Chairman Holmberg and committee members. For the record I am Senator Tim Flakoll of District 44 in Fargo.

It is no news flash that our agriculture community is in need of help on many fronts. In state government, we are generally limited to making advances on the production side of agriculture, as opposed to the market side of the business.

SB 2354 is different in that it centers around the marketing side of agriculture. It deals with using our school lunch program to increase consumption of our state's agriculture products. The bill takes a minute part of our state's largest budget area (education) and uses it to generate increased sales of food products grown in the state.

As noted in the bill, the total appropriation would be \$2.8 million for agriculture products and our schools. This bill would fuel our state's largest industry and will encourage our state dollars to stay in our state longer.

The process:

- 1) The program requires that the ND Agriculture Commissioner establish a list of acceptable food vendors and products (bread from a baker is good and double stuffed jelly doughnuts are likely not). Those wishing to be on the list would need to apply and be accepted. The acceptable items can be incorporate with the collaborative efforts of DPI's Child Nutrition and Food Distribution Programs.
- 2) Public schools in the state can then purchase food products from those acceptable items contained on the list.
- 3) The school will then send their receipts from those purchases to the Department of Public Instruction. DPI will then reimburse the school's lunch program up to \$20/student in the school lunch program per year.

The \$20 amount would cover approximately two weeks worth of meals for a school's lunch program. Or about ten days out of the 180 days of school (5.6% of the days).

Food items could include such North Dakota staples as meat, potatoes, pasta, flour and edible beans.

Mr. Chairman, North Dakota food products are unsurpassed in the world when it comes to quality and healthfulness. I think there is great merit of providing money for schools as a method to enhance the sales of North Dakota agriculture products. It should be noted that some legislators, including myself have received calls and e-mails from vendors and producers who are interested in being included in the program. I hope you share that excitement.

This completes my testimony. I would be happy to stand for questions.

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10/22/03
Date

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



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

Exhibit 3

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

**Testimony of Charles Fleming
Marketing Coordinator
North Dakota Department of Agriculture
Senate Bill 2354
Senate Appropriations Committee
Harvest Room
February 4, 2003**

Chairman Holmberg and members of the Senate Appropriations Committee. My name is Chuck Fleming and I am the Marketing Coordinator for the North Dakota Department of Agriculture. I am here today to testify neither for nor against Senate Bill 2354, but rather to provide you with background information that may be helpful in your deliberations.

In March of last year, with the help and cooperation of the Department of Public Instruction, we initiated the first annual Pride of Dakota School Lunch Day in North Dakota. The purpose of the event was to encourage North Dakota school lunch administrators to purchase North Dakota produced and/or processed food products for the menu for that day. While this special day was one of many activities to promote March as Pride of Dakota Month in the state, we also encouraged food companies who are not members of Pride of Dakota to participate as well.

It was a great success with over 250 schools totaling 59,000 plus kids participating. The Department of Public Instruction provided sample menus and we worked with North Dakota companies and the five major food distributors to North Dakota schools.

We wanted to use this day to remind every one of the emerging food industry in our state. The North Dakota Food Processors Association endorsed the activity and encouraged their members to participate.

But one of the most important aspects of the event was to instill to the food administrators in the various schools that they can play a very important role in the economic activity of our state. The purchasing power they have has a tremendous impact on the economy of the state. And the more they buy from North Dakotans, the better off we are.

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Following last year's School Lunch Day, the Department of Agriculture had a booth at the annual ND School Lunch Administrators Trade Show held in Minot in August. Again we tried to encourage everyone to purchase North Dakota products. We prepared a brochure of Pride of Dakota companies that are currently selling to school or who want to get into the school lunch market. Attached to my testimony is that brochure.

The second annual school lunch day will be held on March 25th and as of this date we have 77,237 kids signed up to eat North Dakota products on that day. We have a lot of unique activities planned that will help tell the story of the food industry of our state. We hope this event will continue to encourage North Dakota School Lunch Administrators to purchase North Dakota products.

The School lunch program market is a very competitive and price sensitive market. It is dominated by a handful of distributors. Many of our Pride of Dakota companies fit the gourmet food market better. But there are some who can really service this market. Of course there are a lot of other North Dakota companies who are not members of Pride of Dakota that could do so as well.

Thank you.

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Exhibit 2

TESTIMONY ON (SB # 2354)
Senate Appropriations COMMITTEE
February 4, 2003
by Linda Glaser, School Nutrition Programs Manager
328-3549
Department of Public Instruction

Mister Chairman and Members of the Committee:

My name is Linda Glaser and I am the Manager of School Nutrition Programs in the Department of Public Instruction. Our office oversees 8 nutrition and food assistance programs of the United States Department of Agriculture including the School Lunch Program. I am here to provide information relative to Senate Bill 2354.

First of all, I would like to state that our agency is very supportive of efforts to encourage the use of North Dakota products in school food service. We currently work in cooperation with the North Dakota Agriculture Department on a promotion "Pride of Dakota School Lunch Day", which is scheduled for March 25th this year.

North Dakota schools purchase 80% of the foods needed for program operations. The remaining 20% of foods needed in the programs are provided through commodity assistance from the USDA.

The bill does not contain a mechanism to determine if a particular product is grown in the state, and processed or prepared in the state. For example, it will be difficult to determine if the processed potatoes from the Simplot potato processing plant in Grand Forks were grown in North Dakota or Minnesota. Processed potatoes are a common school lunch menu item. I realize that under the proposed bill this responsibility would fall with the Agriculture Commissioner. However, it is our belief that a great deal of administrative effort would need to be expended in efforts to determine the appropriate foods under subsection 1.

It is our belief that school food service programs in North Dakota have a strong commitment to purchasing North Dakota products for use in the school lunch and breakfast programs.