

Presented by: Tony Clark
Commissioner
Public Service Commission

Before: Agriculture Committee
Honorable Phillip Mueller, Chairman

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TESTIMONY

Chairman Mueller and members of the Committee. Thank you for the invitation to be with you today. For the record, I am Public Service Commissioner Tony Clark. I am here today with Sue Richter, who leads the Commission's grain elevator licensing program.

The Commission was asked to give the Committee an overview of grain elevator licensing in North Dakota and update you on recent discussions we have led with regard to possible changes to the way the State of North Dakota provides protection to our farmers.

Prior to the last legislative session, in the summer of 2008, the PSC convened a working group of ag industry stakeholders to discuss how the state licenses grain elevators and grain buyers and whether the protections offered farmers should be tweaked in response to volatile market conditions.

While the PSC has fairly broad discretion to adjust bonding levels and the manner in which bonding levels are calculated through administrative code, we have traditionally viewed such actions as working, in practice, in conjunction with legislative guidance. Any changes to this program will be closely watched within our state's number one industry, and are therefore likely to be a major topic of discussion at the administrative rules committee and subsequent legislative sessions. Therefore, we

have always worked to seek consensus from the ag community and have consulted with ag leaders within the legislature prior to making any changes.

The general agreement after our 2008 discussions was that, while there were concerns about the amount of exposure to farmers given the volatile crop prices of the time, there was also a reluctance to make any major changes to the licensing law considering the unintended consequences that could occur.

Coming out of the 2009 legislative session, especially with the insolvency at the Hankinson VeraSun facility, the PSC along with Ag Commissioner Doug Goehring, chose to facilitate further discussions about the manner in which the State of North Dakota licenses grain facilities and buyers. That, along with the study resolution before you, is what brings us here today.

Working through the attachments, I will explain North Dakota's current licensing laws, the protections afforded farmers, as well as a brief review of other states' laws and a history of North Dakota insolvencies.

Finally, I will conclude by discussing attachments that describe the various options and comments the PSC has received as a result of the discussions we have led over the past year with legislative leaders, and ag industry stakeholders.

I hasten to note that the PSC itself has not come to any final decisions about whether we believe changes are appropriate at this time. Nonetheless, we are hopeful that this presentation will give the Committee helpful background on what has brought us here today.

Mr. Chairman, that concludes my prepared introductory remarks, and if there are no initial questions, I would be happy to walk you through the attachments.