

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2386

2001 SENATE FINANCE AND TAXATION

SB 2386

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2386

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 2/5/01

Tape Number	Side A	Side B	Meter #
2	x		2.1-34.5
2/7/01 - 2	x		37.6-45.5
Committee Clerk Signature <i>Lynelle M. Kraft</i>			

Minutes:

Senator Urlacher: Opened the hearing on SB 2386, relating to an agricultural cooperative investment income tax credit.

Senator Kroepelin: Co-sponsored the bill, testified in support. Introduced amendment to include Limited Liability Co. & limit the investment credit to an ethanol plant.

John Knudsvig: Representing himself as a farmer, testified in support. Gives an example & history of the problem.

Senator Wardner: What were the incentives in Minnesota?

John Knudsvig: \$.20 a gallon.

Roger Johnson: State Ag Commissioner, testified in support. Written testimony attached.

Senator Stenehjem: Are you opposed to the amendments?

Roger Johnson: No, I just haven't seen them. My plea is why would want to limit it just to corn. I would support these kinds of credits going for a limited liability co. as well.

Senator Kroeplin: Part of the reason for limiting it to ethanol is the fiscal note. The bill failed on those things in the past. I was hoping we could get at least one going and show that this works.

Roger Johnson: Please don't take my testimony as being against the amendments. We ought to do these things. We ought to provide more incentives for farmers to become investors.

Senator Stenchjem: The amendments would give not only the farmers an incentive to invest, but the general public as well.

Roger Johnson: It would also limit just to corn. You have to weigh those things.

Senator Stenchjem: Can't you make ethanol out of some other type of grain?

Roger Johnson: Yes, you can.

Richard Schlosser: ND Farmers Union, testified in support. We have no problem with the LLC section or targeting it to ethanol, but we would prefer to see cooperative ventures where producers would be able to benefit from the value added to their commodities. We would like to see that expanded into other areas.

Duane Dows: Chairman, ND Corn Utilization Council, testified in support. Written testimony attached.

Senator Christmann: Is your assumption on the \$.10 increase what they're seeing in Grafton & Walhalla?

Duane Dows: I think the \$.10 is a conservative figure.

Mike Clemens: President of ND Corn Growers, testified in support. This is the direction ND need to be going in to help agriculture rise to a whole new level of farming. Your do pass vote can help farming industries turn basic commodities into profitable value added products.

Senator Christmann: With the higher fuel prices now, how close are we to a time when ethanol would be a viable market alternative and wouldn't need to be subsidized?

Page 3  
Senate Finance and Taxation Committee  
Bill/Resolution Number 2386  
Hearing Date 2/5/01

Mike Clemens: If the economic would stay right where it's at today, it would be here. But we don't know where it's going to be six months down the road.

Brian Kramer: ND Farm Bureau, testified in support. We support the concept of the investment income tax credit, and we certainly support the amendment that would allow LLC's to be included. The amendment to narrow the scope to ethanol only is an attempt for us to get a start. I would support opening this up for most any agriculture investment. But the fiscal reality points out the need for a go-slow approach.

Senator Urlacher: Closed the hearing. Action delayed.

Other signed the roster in support.

Discussion held 2/7/01. Meter number 37.6-45.5.

Amendment discussed.

AMENDMENT ACTION:

Motion made by Senator Kroeplin, Seconded by Senator Nichols, to move amendment numbered 10731.0202. Voice Vote taken. All present in favor, 1 absent. Amendment adopted.

COMMITTEE ACTION:

Motion made by Senator Kroeplin for a DO PASS AS AMENDED, Seconded by Senator Nichols. Vote was 6 yeas, 0 nays, 0 absent and not voting. Bill carrier was Senator Kroeplin.

## FISCAL NOTE

Requested by Legislative Council  
03/23/2001

Bill/Resolution No.:

Amendment to:           Engrossed  
                                  SB 2386

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed SB 2386 with House Amendments provides tax credits on the short and long individual income tax forms for qualifying investments in agricultural businesses. The fiscal impact cannot be determined.

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

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

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

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Tax Department
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	03/26/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/13/2001

Bill/Resolution No.:

Amendment to: SB 2386

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2386 First Engrossment provides an ethanol production agricultural cooperative or limited liability company investment tax credit. The potential fiscal impact cannot be determined.

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	02/14/2001

## FISCAL NOTE

Requested by Legislative Council  
01/29/2001

Bill/Resolution No.: SB 2386

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2336 provides tax credits on the short and long forms for investments in qualifying agricultural cooperatives. The fiscal impact cannot be determined.

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

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

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

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Tax Department
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	02/02/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2386

Page 1, line 2, after "an" insert "ethanol production" and after "cooperative" insert "or limited liability company"

Page 1, line 13, after "that" insert "produces ethanol"

Page 1, line 14, replace "adds" with "to add"

Page 1, line 18, replace the first "cooperative" with "business" and after the second "cooperative" insert "or a limited liability company"

Page 1, line 19, after "incorporated" insert "or organized"

Page 1, line 20, replace "processing and marketing agricultural commodities capable of being raised" with "establishing and operating an ethanol production facility"

Page 2, line 4, replace "cooperatives" with "businesses"

Page 2, line 5, replace "cooperative" with "business"

Page 2, line 6, replace "cooperative" with "business"

Page 2, line 7, replace "cooperatives" with "businesses"

Page 2, line 8, replace "cooperative" with "business"

Page 2, line 9, replace "cooperative" with "business"

Page 2, line 12, replace "cooperatives" with "businesses"

Page 2, line 25, replace "cooperative" with "business"

Page 2, line 28, replace "cooperative" with "business"

Page 3, line 1, replace "cooperative" with "business"

Page 3, line 2, replace "stock" with "ownership interests"

Page 3, line 3, replace "cooperative" with "business"

Page 3, line 4, replace "cooperative" with "business"

Page 3, line 6, replace "cooperative" with "business"

Page 3, line 8, replace "cooperative" with "business"

Page 3, line 10, replace "cooperative" with "business"

Page 3, line 11, replace the first "cooperative" with "business" and replace the second "cooperative" with "business"

Page 3, line 17, replace "cooperative" with "business"

Page 3, line 19, replace "cooperative" with "business"

Page 3, line 20, replace "cooperative" with "business"

Page 3, line 21, replace "cooperative" with "business"

Page 3, line 24, replace "cooperative" with "business"

Page 3, line 25, replace "cooperative" with "business"

Page 3, line 27, replace the first "cooperative" with "business" and replace the second "cooperative" with "business"

Page 3, line 29, replace "cooperative" with "business"

Page 4, line 4, replace "cooperative" with "business"

Page 4, line 9, replace "cooperatives" with "businesses"

Page 4, line 12, replace "cooperatives" with "businesses"

Renumber accordingly

Date: 2/7/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2386

Senate Finance and Taxation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 10731.0202

Action Taken Move Amendment (voice vote)

Motion Made By Kroeplin Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 5 No 0

Absent 1

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

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

Date: 2/7/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2386

Senate Finance and Taxation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Kroeplin Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenehjem	✓				
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Kroeplin

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

**REPORT OF STANDING COMMITTEE**

**SB 2386: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2386 was placed on the Sixth order on the calendar.

Page 1, line 2, after "an" insert "ethanol production" and after "cooperative" insert "or limited liability company"

Page 1, line 13, after "that" insert "produces ethanol"

Page 1, line 14, replace "adds" with "to add"

Page 1, line 18, replace the first "cooperative" with "business" and after the second "cooperative" insert "or a limited liability company"

Page 1, line 19, after "incorporated" insert "or organized"

Page 1, line 20, replace "processing and marketing agricultural commodities capable of being raised" with "establishing and operating an ethanol production facility"

Page 2, line 4, replace "**cooperatives**" with "**businesses**"

Page 2, line 5, replace "cooperative" with "business"

Page 2, line 6, replace "cooperative" with "business"

Page 2, line 7, replace "cooperatives" with "businesses"

Page 2, line 8, replace "**cooperative**" with "**business**"

Page 2, line 9, replace "cooperative" with "business"

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Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

SB 2386

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2386

House Finance and Taxation Committee

Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
1		X	1,369

Committee Clerk Signature *Janie Stein*

Minutes:

**REP. DROVDAL, VICE-CHAIRMAN**, Opened the hearing.

**SEN. KEN KROEPLIN, DIST. 33**, Introduced the bill as the prime sponsor. This bill has been around for awhile. It was introduced in the 1993 session and last session. The bill was set up as a thirty percent investment tax credit for value added investments. We included the L L C to the bill. The other part limits it to an ethanol plant. The thirty percent tax credit is based on a twenty thousand dollar investment, which would be a six thousand dollar tax credit. It could be carried forward for fifteen years. Some years ago, I was involved in getting an ethanol plant started in the Clifford area, and we always came up short of money, so it never did materialize. Finally the money was refunded and the investors disbanded. If we would have had a tool such as this bill, we may have been able to get it started.

**REP. DROVDAL** This tax credit is on the short and long form?

**SEN. KROEPLIN** It is on both.

**REP. WINRICH** Is there any particular rationale for the credit being carried forward fifteen taxable years, that seems much longer than what we have written into some of the other bills involving tax credits?

**SEN. KROEPLIN** I really doubt if anyone will go that far forward with it, maybe that could have been adjusted. An individual can offset half of their tax liability.

**REP. WINRICH** Do you think there would be a major objection to making this consistent with some of the other seed capital investment bills?

**SEN. KROEPLIN** I don't think there would be a serious objection, I would like to avoid conference committees, I would like to see it as it is.

**REP. SCHMIDT** Are you aware of the resolution we heard in the Transportation Committee to study the use of ethanol in North Dakota? In that committee, we heard that North Dakota is light years behind in the use of ethanol. Are you aware of that?

**SEN. KROEPLIN** Yes, I am aware of that. I believe the bill would have mandated that at least one pump, would have been ethanol. When you go to Minnesota, you are burning ethanol, they mandated it all across the state.

**REP. SCHMIDT** In that resolution brought before the committee, there is an ethanol plant being planned by Casselton?

**SEN. KROEPLIN** I am not aware that there is a particular plant being planned. The corn growers would like to get a plant going, but I have not heard where it would be.

If we look at what Minnesota has as tax credits for ethanol plants, all of the ethanol plants in Minnesota, I think there are thirteen plants, then you look at that central part of North Dakota,

there is a big void, there is not an ethanol plant in North Dakota. I would hope this investment tax credit would entice a plant to be built in North Dakota instead of Minnesota.

**REP. JAMES KERZMAN, DIST. 35**, Co-sponsor of the bill, testified in support. He stated he was disappointed in what the senate had done to the bill. He stated the original bill he signed on took care of just about any kind of value added cooperative. This bill just relates to ethanol, it is pretty limited in scope. I will still support it, I burn ethanol, but I would like to see it opened up to other ventures too.

**REP. WINRICH** What was the rationale for limiting it to ethanol?

**REP. KERZMAN** I don't know, I didn't get in on the discussion on the ethanol. I asked the prime sponsor, basically what they did is take away the fiscal note.

**REP. WINRICH TO SEN. KROEPLIN** Regarding the rationale for limiting the bill to ethanol

**SEN. KROEPLIN** This bill was in two previous sessions and we tried to get it passed, and it was getting killed on the basis of the fiscal note. By limiting it to ethanol, we would at least get the bill on the books probably, and it limits the fiscal note considerably. One other comment, the bill is for a new plant after a certain date. It is also required that the plant be located in the state.

**REP. DROVDAL** One of the concerns is using the short form for additional credits, because it will no longer be a short form, we have five or six bills so far this session. Would you object to the fact that we make it available only on the long form?

**SEN. KROEPLIN** I believe there was an interim committee on that, and as you are aware, on the long form, they don't get used.

**REP. MIKE BRANDENBURG, DIST. 26**, Testified in support of the bill as a co-sponsor.

This bill works with ethanol, and whatever we can do to get some of these ethanol plants going, whether it be an investment tax credit, this may be the mechanism that will make it work.

**REP. LLOYD** As an investor, in this type of a business, what kind of dollars am I looking at to invest in order to make it viable as an individual?

**REP. BRANDENBURG** In these types of investments, it could be whatever the stock would be, it is as minimal as five thousand up to one hundred thousand dollars. If you take ten thousand dollars, the person could claim fifty percent of that ten thousand dollars over a fifteen year period, which I am not sure if that is the right number to use. If he did his taxes, he could claim five thousand dollars over that period of time.

**REP. LLOYD** What does it cost to build an ethanol plant today?

**REP. BRANDENBURG** I can only speak, they are very expensive, I was involved in a gasohol plant some years ago, I believe that was a twenty million dollar plant.

**ROGER JOHNSON, STATE AGRICULTURE COMMISSIONER**, Testified in support of the bill. See attached written testimony.

**REP. KROEBER** One of the other bills had to do with limited liability companies, what was the reason expanding this beyond the cooperatives and including limited liability companies?

**ROGER JOHNSON** I can only speculate, and my speculation is that it is another business form that has become relatively popular, and they have attempted to broaden that a little. That adds to the fiscal note by expanding it, but then it also takes it away on the other side by limiting it only to ethanol. Maybe it is because of the discussion of ethanol may involve either one of those two business organizations.

WALLIE HARDIE, NORTH DAKOTA CORN GROWERS ASSOCIATION, Testified in support of the bill. See attached written testimony.

REP. NICHOLAS In that one hundred fifty million which former Secretary Glickman made available for ethanol, tell the committee exactly what that was for and what it is supposed to do.

WALLIE HARDIE There is a program called the Bio Energy Program, administered under USDA, and what they are going to do is, any plant that expands production or a new plant, any new production of ethanol in a state, one third of the corn required for that expanded production, is going to come from government stock. If we build a new plant in North Dakota, one out of three bushels of corn, will come from the government. The problem is, it is a two year program, if we don't get going, we are going to miss those bushels.

REP. NICHOLAS Is it possible for ProGold to come in and do an offshot plant to take advantage of that program and utilize a program like this for additional investment?

WALLIE HARDIE We have been trying to work on that for quite awhile. We think it would make a lot of economic sense for, say, twenty percent of the total variety of the Progold plant to go to ethanol and eighty percent \_\_\_\_\_? \_\_\_\_\_ unfortunately, Cargill is not interested in it. I am hoping that Golden Growers work with this new facility. There is a group called the Dakota Ethanol Steering Committee. There is a number of key people in the state, Duane Dows who is chairman of the North Dakota Corn Utilization Council, is chairman of this group, they meet quite frequently, in fact, they are meeting tomorrow night with a group called North Central Construction in Fargo who builds ethanol plants. This group is well on the way of putting things together for an ethanol facility. Someone asked what an ethanol plant costs, most plants

constructed now, are about forty million gallons per year capacity, that is the most economic, and it costs a little over forty million dollars.

**REP. CARLSON** Wouldn't it make sense to do some kind of incentive to encourage people to buy it at the pump, compared to producing it?

**WALLIE HARDIE** Part of that is our job, we need to find ways to promote our product, get it out there. We are going to start a major promotional effort, to talk about the virtues of ethanol. The other problem is, it is not available.

One of the things we want to do in this study thing, you mentioned. We have to figure out a way to get ethanol in some of these smaller facilities without causing undue problems for the small retailers.

**BRIAN KRAMER, NORTH DAKOTA FARM BUREAU** Testified in support of the bill. As was earlier mentioned, the senate amendments to the bill, on one hand, from our perspective, made it better because it included the LLC's, on the other hand, made it a little worse, because it restricted it only to ethanol. We would certainly support an amendment to remove that produces ethanol from line 13. The arguments have been made in the ability to produce ethanol needs to be enhanced on the marketing side of things. There are some other opportunities beyond ethanol. biodiesel, etc., we need to have a lot of opportunities out there for value added to go forward.

**JOSEPH BECKER, STATE TAX OFFICE**, Appeared to answer any questions committee members had.

**REP. DROVDAL** If we amended this bill back to include other types of plants, can you tell me what the fiscal note was?

**JOSEPH BECKER** The fiscal note we gave to the senate, indicated an undetermined fiscal note.

**REP. CARLSON** If you could take an example of a taxpayer and work through the formula and tell us what kind of benefits they would receive. And, also, we did a seed capital investment tax credit bill out of here the first half and we amended in cooperatives and plants into that bill, is that a duplication?

**JOSEPH BECKER** Assume the maximum investment of twenty thousand that the bill provides, that in effect, will be your top end for a taxpayer. There are no caps on the credit other than that. Using twenty thousand investment, the credit rate is thirty percent of that or six thousand dollars. In the first year, you can claim half of that or three thousand dollars. Staying with that first year, we also have to look at the tax liability of that year, if your tax liability is six thousand dollars, you are limited to half of that, you could use up to the full three thousand, but if your tax liability was four thousand, you would be limited to taking two thousand the first year, carrying the other thousand over to the next year.

Whatever you are not able to use in the first year, you have fifteen years to carry it

**REP. CARLSON** If you go on a fund raising effort to set up a plant and you wanted to raise five to ten million dollars, does the bill call for a twenty thousand dollar maximum?

**JOSEPH BECKER** On page 2 as engrossed, you will see that the aggregate annual investment for a taxpayer is not more than twenty thousand dollars.

**REP. NICHOLAS** Responded, I can say this, when we put together the Dakota Growers, we raised about thirteen million in equity, and we had a little over one thousand members, so the average investment for the average member was about eleven or twelve thousand per member.

The minimum investment was about five thousand dollars. The minimum investment in ProGold was fourteen thousand, the plant at Carrington was five thousand, Farmers Choice Pasta was five thousand, and US Spring Wheat Processors was around five thousand. It doesn't take long to eat up fifty thousand if you invest in a few of these.

**REP. CARLSON** Asked Joseph Becker to use eleven hundred people investing five thousand dollars, what kind of fiscal note would that be?

**JOSEPH BECKER** Eleven hundred investors at an average of ten thousand dollars would be eleven million in investments, credit would be thirty percent of that or three million, three hundred thousand dollars.

He stated that HB 1413 which was already heard, the definition of a qualified business is broader in scope, the catch there, it has to be primary sector, which means it must sell things outside the state, or it must serve a product that is not available in the state.

**REP. NICHOLAS** Stated, another significant thing is the way these co-op's and LLC's work. Dakota Growers and US Spring Wheat Processors are closed co-op's, in other words, not everyone in this room could invest, unless you own farmland and have the ability to deliver. An LLC, everybody in this room could invest in. There is a distinct difference in the investment mechanisms that you are dealing with.

**REP. GROSZ** Referred to Page 3, lines 5 and 6, what kind of problems does that create for the ag department if they only keep the investment in there for two years and they already took the tax credit?

**JOSEPH BECKER** The provisions of this bill are nearly identical to our seed capital provision. There are some differences between the two, the seed capital provisions we now have on the

books, we are already administering. We are aware the investment must remain in the entity for at least three years. It poses some problem for us. If the original investor walks in and takes it out, that's pretty easy, we can ask the entities to keep us informed of that situation. The problem we have, if that ownership interest can be transferred to somebody else. In looking back at old venture capital provisions which we have had a similar issue with, we did not allow the credit if you passed your ownership interest onto somebody else. We also didn't recapture the credit because you sold it within two years of buying in.

**REP. GROSZ** In previous bills that we have seen which changes the short form and the long form, we have seen expenditures in the fiscal notes for form changes, would this have any of those affects?

**JOSEPH BECKER** I work with forms and whatnot, I don't anticipate any major administrative cost to this. We basically, have to create an investment form, which we can duplicate from what we have already done, and issue it to whatever business comes on line. We would have to restructure our long and short form to incorporate the credit, but I don't see any major administrative cost.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION 3-21-01, TAPE #1, SIDE B, METER #3463**

**REP. CARLSON** Reviewed the bill for committee members.

He suggested amendments to remove the words on Line 2, "ethanol production"

And Line 14, "produces ethanol", he wanted it opened up to all commodities instead of just ethanol.

He stated HB 1413 opened it to all facilities, and this bill would match it.

This will undo the amendments the Senate put on.

**REP. RENNER** Made a motion to amend the bill as mentioned above.

**REP. BRANDENBURG** Second the motion. **MOTION CARRIED BY VOICE VOTE**

**WITH 1 NO VOTE BY REP. KELSH.**

**REP. RENNER** Made a motion for a **DO PASS AS AMENDED.**

**REP. LLOYD** Second the motion. **MOTION CARRIED**

**9 YES      4 NO      2 ABSENT**

**REP. RENNER** Was given the floor assignment.

Date: 3-21-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2386

House FINANCE & TAXATION Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

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

Action Taken Do Pass as amended

Motion Made By Rep. Renner Seconded By Rep. Lloyd

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	A	
DROVDAL, DAVID, V-CHAIR		✓	RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	A	
CLARK, BYRON		✓	SCHMIDT, ARLO	✓	
GROSZ, MICHAEL		✓	WIKENHEISER, RAY	✓	
HERBEL, GIL		✓	WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 9 No 4

Absent 2

Floor Assignment Rep. Renner

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

**REPORT OF STANDING COMMITTEE (410)**  
March 22, 2001 9:01 a.m.

Module No: HR-50-6358  
Carrier: Renner  
Insert LC: 10731.0301 Title: .0400

**REPORT OF STANDING COMMITTEE**

**SB 2386, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2386 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "ethanol production"

Page 1, line 3, remove "or limited liability company"

Page 1, line 14, remove "produces ethanol"

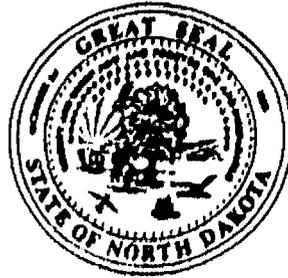
Page 1, line 21, replace "establishing and operating an ethanol production facility" with "processing and marketing agricultural commodities capable of being raised"

Renumber accordingly

2001 TESTIMONY

SB 2386

COMMISSIONER OF AGRICULTURE  
ROXIER JOHNSON



PHONE (701) 328-2231  
(800) 242-7535  
FAX (701) 328-4567

DEPARTMENT OF AGRICULTURE  
State of North Dakota  
600 E. Boulevard Ave. Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner  
Senate Bill 2386  
Senate Finance and Taxation Committee  
Lewis and Clark Room  
February 5, 2001**

---

Chairman Urlacher and members of the Senate Finance and Taxation Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2386, which provides an agricultural cooperative investment tax credit.

Since the early 90's, nearly 30 cooperatives have formed with the specific purpose of adding value to agricultural products. North Dakota agricultural processing cooperatives process many different products including bison, sugar, cheese, fish, potatoes, wheat, pasta, hogs, corn sweetener, specialty oils, and organically-grown crops.

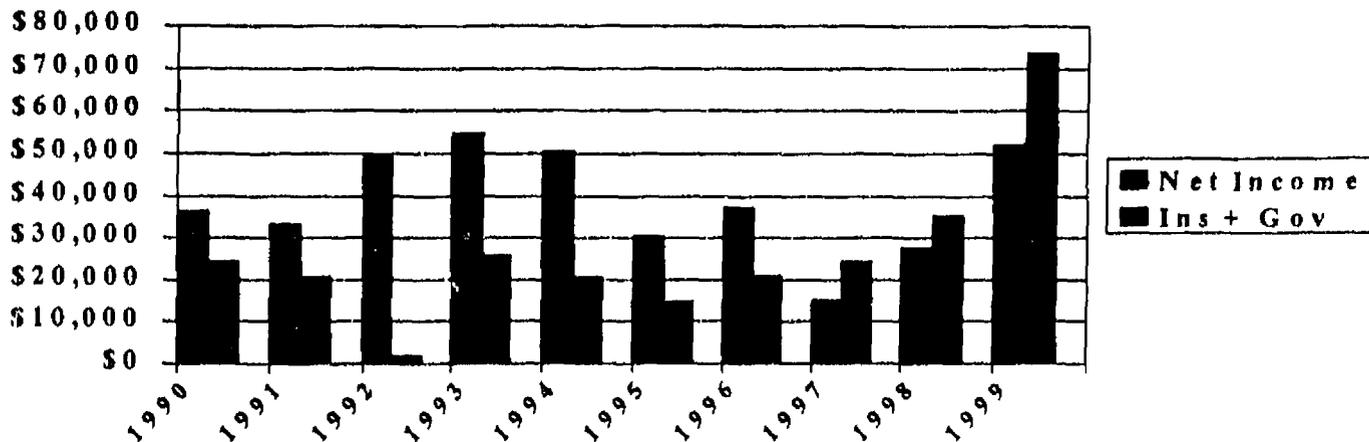
Some of these new generation cooperatives have been very successful, while others have struggled. North Dakota-based new generation cooperatives have about 8,600 members and generate more than 1,320 jobs.

In order to increase value-added agricultural processing in North Dakota, we must provide opportunities for more producers to invest in these ventures. Unfortunately, farmers and ranchers in North Dakota have recently been experiencing very difficult economic times. For the past three years, the collapse of most commodity market prices has led to a heavy reliance on

additional federal assistance to bolster farm income. The following chart shows the disturbing reality of three consecutive years where the total of crop insurance indemnities plus government payments exceeds net farm income.

## Net Farm Income vs. Insurance plus Government Payments

ND Farm and Ranch Business Management



The uncertainty of future federal farm policy, natural and economic disaster assistance, and commodity prices demands that we do everything possible to stimulate growth and progress in adding value to North Dakota commodities.

Equity investments in value-added processing facilities are a key component and foundation for the startup and establishment of such ventures. This bill would provide an additional financial incentive and ability to encourage those critical investments.

Adding value to our agricultural commodities is true economic development that benefits producers, creates jobs, and reduces the reliance on federal assistance to maintain farm income.

Chairman Urlacher and committee members, I urge a do pass on SB 2386. I would be happy to answer any questions you may have.

## Senate Bill 2386

Mr. Chairman and Committee members.

My name is Duane Dows - I farm in the Page area and currently serve as the chairman of the North Dakota Corn Utilization Council.

I also have the pleasure of serving as the chairman of a newly formed committee that is studying the feasibility of additional Ethanol production. We are in the early stages of this project and to date are simply taking a region wide approach as we consider sites. Since we are a North Dakota committee we hope that a North Dakota site proves to be the most feasible. However at this time we are not ruling anything out.

I have provided you with a map that shows the location of the current Ethanol plants in the region. There are additional plants in the planning stages not shown. As you can see Minnesota and South Dakota have developed the Ethanol Industry much more than North Dakota. There is an obvious reason for that. State support.

Minnesota has a program that provides each Ethanol plant 3 million dollars a year for 10 years. The concern with that level of support would be the cost to the State. However a 1997 study sponsored by Ethanol opponents showed that for every dollar invested by the State \$4 in economic benefits were created.

An easy example of the potential return can be calculated in the increase in corn price alone. A typical 15 million-gallon per year plant uses 5.6 million bushels of corn. Assuming a \$.10 per bushel increase this creates a half million of additional taxable income per year.

Senate Bill 2386 has the ability to help promote additional Ethanol production in North Dakota. One of our concerns as we move forward with this project is whether farmers will have the ability to invest. Venture capital can sometimes be hard to come by. This bill will give those farmers the confidence and ability to make those investments.

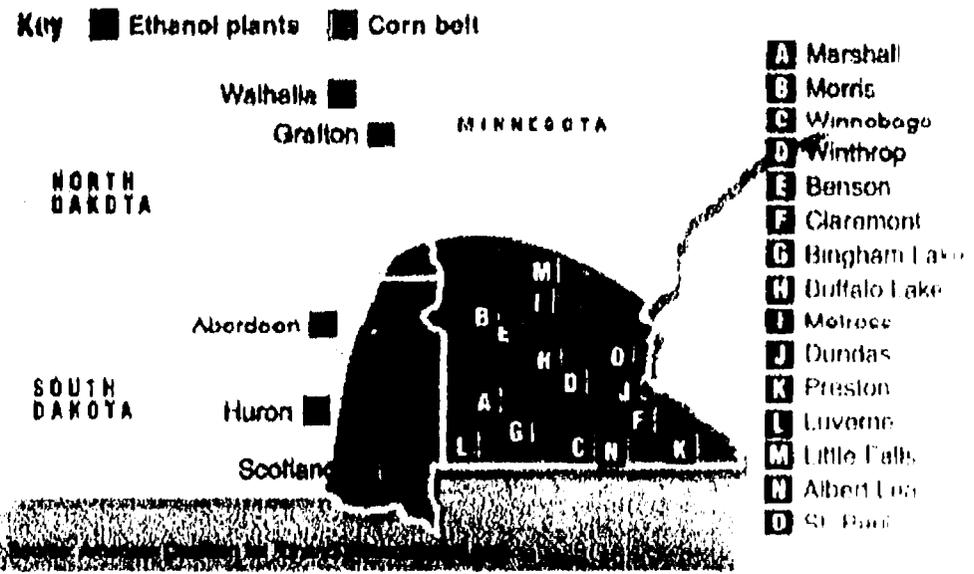
One concern I have with this bill is in the section of Definitions - Part 3 - line d - where it states the majority of ownership must be owned by producers. As we develop our project we will be looking for partnerships that could lead to ownership along with producers. I wouldn't want to restrict our project with this limitation.

In summary this bill has the potential to help create additional Ethanol production in our State. It is an investment that would return much more than any cost it might have. I urge you to give it a DO PASS vote.

**COVER STORY**

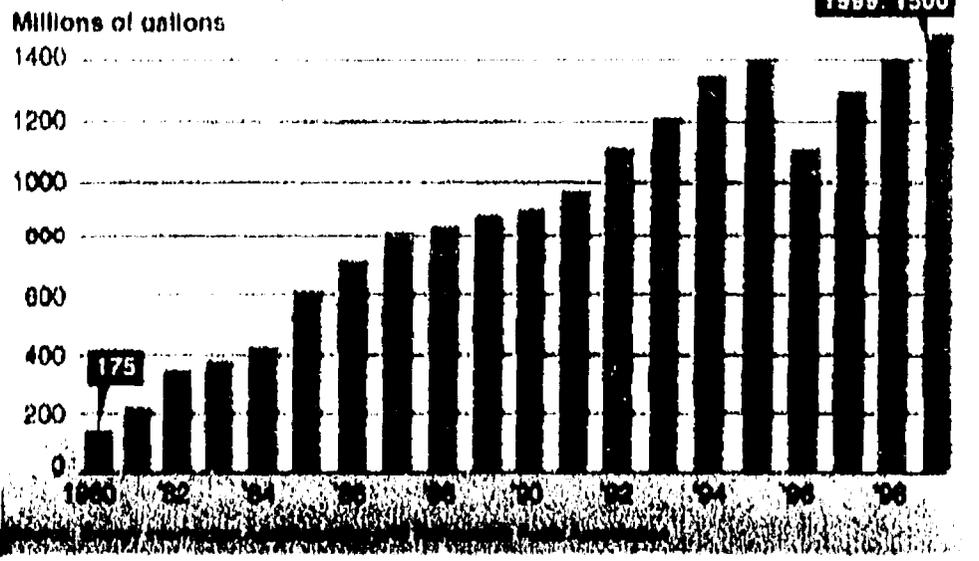
**Regional ethanol plants**

One bushel of No. 2 yellow corn produces about 2.6 gallons of ethanol. It also produces about 17 pounds, or one-third bushel of distiller's grain. Much of Minnesota's DDG is used in dairy, beef and turkey production. The grain is 20 percent to 30 percent protein and contains all of the corn ingredients except the starch, which is taken for the ethanol. A few plants capture and sell CO<sub>2</sub>, which is sold to food companies for use freezing



Agweek graphic

**U.S. ethanol production**



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**Testimony of Roger Johnson  
Agriculture Commissioner  
Senate Bill 2386  
House Finance and Taxation Committee  
Fort Totten Room  
March 5, 2001**

---

Chairman Carlson and members of the House Finance and Taxation Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2386, which provides an investment tax credit for ethanol production by an agricultural cooperative or limited liability company.

Since the early 90's, nearly 30 cooperatives have formed with the specific purpose of adding value to agricultural products. North Dakota agricultural processing cooperatives process many different products including bison, sugar, cheese, fish, potatoes, wheat, pasta, hogs, corn sweetener, specialty oils, and organically-grown crops.

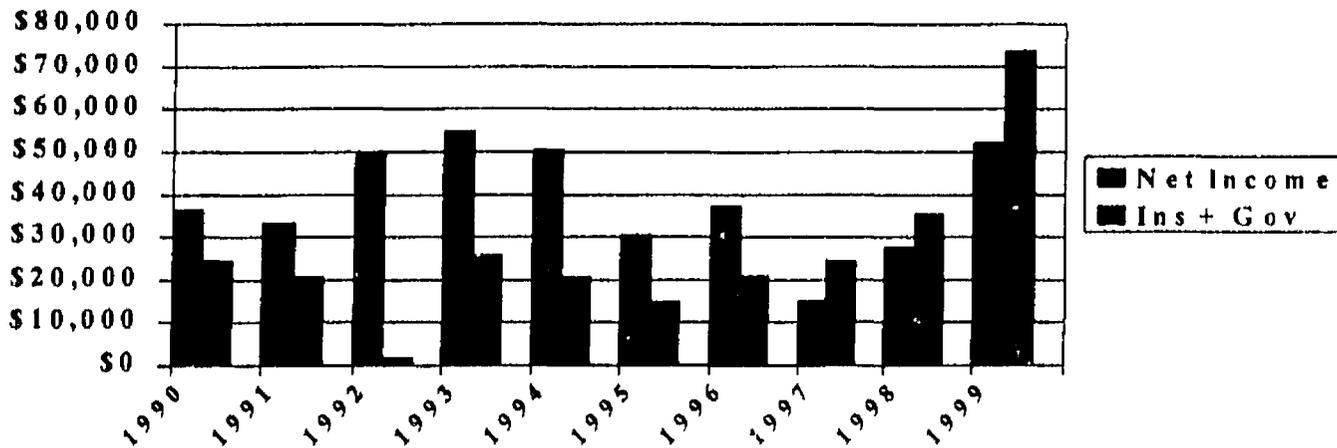
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Equity investments in value-added processing facilities are a key component and foundation for the startup and establishment of such ventures. This bill would provide an additional financial incentive and ability to encourage investments in one type of value-added venture. Adding value to our agricultural commodities is true economic development that benefits producers, creates jobs, and reduces the reliance on federal assistance to maintain farm income.

Chairman Carlson and Committee members, I support this bill—it is a step in the right direction. However, I am disappointed that the original bill has been amended to limit the tax credit to ethanol production. I encourage this Committee to reconsider SB 2386 in its original form, which provided the tax credit for all agricultural commodity-processing facilities. I would be happy to answer any questions you may have.

TESTIMONY  
To the  
HOUSE FINANCE AND TAXATION COMMITTEE  
Of the  
NORTH DAKOTA LEGISLATURE

RE: SENATE BILL 2386

By Wallie Hardie  
Director: North Dakota Corn Growers Association

March 5, 2001

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Chairman Carlson and Members of the Committee:

Thank you for this opportunity to submit testimony on Senate Bill 2386. I urge your DO PASS vote on this bill which provides an investment tax credit for ethanol production by an agricultural cooperative or limited liability company. We need this bill to prove what corn growers know is true based on the successes of surrounding states.

The latest edition of Minnesota's Ethanol Economic Impact Study released by the Minnesota Department of Agriculture concludes that:

"The projected level of output in 2000 of 178 million gallons per year will generate an estimated \$341 to \$549 million in annual statewide economic benefit"

During that time period, Minnesota invested \$27 million in producer incentives. Therefore, using the conservative numbers, the ratio of output return to the impact of the incentive payment would be \$341 million to \$27 million or 12.6/1. Ethanol incentives are not costing the state of Minnesota money. Those incentives are generating income. In addition, the 7000 Minnesota corn growers who participate in one of their producer owned ethanol cooperatives are enjoying the following benefits:



- reliable markets for their corn that pay a premium
- dividends on their investments
- the addition of good paying jobs to their communities
- increased capital investment in their communities,
- and most importantly, the sense that they taking measures to control of their economic destinies.

The Minnesota program started with an ethanol tax credit which raised the ethanol blend market share to 40% by 1985. Today, that tax credit has been replaced with a state wide gasoline oxygenate requirement, which resulted in an ethanol market share of 97%.

To the south of us South Dakota currently enjoys a market share of 60%. South Dakota currently has 3 operating plants, 2 are under construction and 2 more are raising money. At the end of 2001 their ethanol plants will contribute \$488 million to their state's economy. South Dakota offers a 2 cent per gallon exemption from state gasoline taxes for ethanol blends, and a payment of 20 cents per gallon to ethanol producers. South Dakota producers receive a 20 cent/bushel premium on corn sold near an ethanol facility.

To the west of us Montana is working on legislation to give tax incentives for ethanol production which is projected to increase the state's payroll by \$4.5 million annually.

We are surrounded by progressive activity in regards to ethanol. We urge North Dakota to increase both the production and utilization of ethanol.