

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2236

2005 SENATE AGRICULTURE

SB 2236

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2236

Senate Agriculture Committee

Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1	x		30 - 2992
1		x	5058 - end
2	x		0 - 327
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened the hearing on SB 2236, a bill relating to collection of assessments on corn. All members were present except Senator Erbele.

**Senator Christmann** introduced the bill. The difference in method of collection of the corn checkoff and the beef checkoff is very striking. When a beef producer sells cattle at a sale barn, much like the designated handlers for the corn checkoff, the sale barn collects the checkoff and sends it to the North Dakota Beef Commission. When a producer sells cattle via a private sale, the producer sends the checkoff to the Beef Commission. According to many feedlot operators, they do not know the origin of the corn they are purchasing. Truckers returning west may pick up a load of corn and feedlot operators have no way of knowing the origin. If it has come from a producer, the checkoff has not been paid. If it has come from an elevator, the checkoff has been paid. In sales that are not to an elevator, the producer should be the one who pays the checkoff.

**Senator Seymour** asked how many dollars are involved.

**Senator Christmann** said he doesn't know what dollars are involved with the corn checkoff.

The beef checkoff is \$1 per head.

**Senator Klein** asked if this would make the producer the responsible party for paying the corn checkoff. (meter 232)

**Senator Christmann** says that is correct, the producer is the one person in the chain who knows without a doubt if the checkoff needs to be paid.

**Senator Urlacher** asked what is the enforcement to the producer who sells privately.

**Senator Christmann** said it is an honesty system. Right now, there is no better system in place and we are asking people who are several transactions down the road to guess what the truth is.

**Bill Price**, Chairman of the North Dakota Feeder Council, feedyard manager and Vice President of Red Trail Energy, testified in favor of the bill. He is not opposed to the checkoff. Feedyards don't have grain broker license. They sometimes buy corn from truckers who don't want to reveal the source of the corn because they need to make a profit. Therefore the feedlot doesn't know if they are the first purchaser of the corn. Some trucks belong to the producer but its hard for the feedyard to know this. Mr. Price's feedyard buys 80,000 - 100,000 bushels of corn per month and it is not the feedyard's job to police the corn checkoff. When a cow/calf producer sells calves to Mr. Price's feedlot, the producer pays the checkoff. Red Trail Energy will use 18 million bushels of corn per year and they will be a first user and because of this, they will expect to collect and submit the corn checkoff as a designated handler.

**Wade Moser**, Executive Director of the North Dakota Stockmen's Association, testified in favor of the bill. (meter 620) It is the responsibility of the grower to collect the corn checkoff. There was a determination by the Attorney General that feedlots must collect the checkoff yet it is

difficult to know if they are the first user. Many smaller lots don't collect the checkoff and don't know they are expected to.

**Senator Flakoll** asked if a producer feeds his own corn to his cattle, is the checkoff due.

**Mr. Moser** said no.

**Senator Klein** asked if there is someone to check up on collection of the corn checkoff.

**Mr. Moser** said he doesn't know about the compliance work of the corn council. The Beef Commission has surveillance and compliance procedures that have been in place for years.

**Senator Klein** asked if feedlots have been pressured by the corn council.

**Mr. Moser** said yes, letters have been received by cattle feeders that were sent by the corn council. It is not the business of the feedlot operators to know where the corn came from. The North Dakota Stockmen's Association supports the checkoff.

**Senator Flakoll** asked how many bushels of corn are used by cattle feeders in North Dakota each year. (meter 929)

**Mr. Moser** said he didn't know.

**Senator Flakoll** asked if this applies to all species.

**Mr. Moser** said yes.

**Joel Gilbertson**, on behalf of the North Dakota Corn Council, introduced Duane Dows, a board member of the North Dakota Corn Council from Paige.

**Duane Dows** testified in opposition to the bill. (written testimony) (meter 1020)

**Senator Flakoll** asked if he has talked to the sponsor about the amendments.

**Mr. Gilbertson** said he has spoken to Mr. Moser about the occasional use portion but he has not talked to the prime sponsor of the bill. The amendment was just completed last night.

**Senator Flakoll** asked if the intent of the amendment is to exempt the occasional purchase of 900 bushels in 12 months.

**Mr. Gilbertson** said yes.

**Senator Urlacher** asked how this procedure compares to that of surrounding states.

**Mr. Dows** said it is similar to Minnesota. They have a small purchase agreement.

**Senator Urlacher** asked about the procedures in South Dakota and Kansas.

**Mr. Dows** said he would refer the question to the executive director of the North Dakota Corn Council. Ethanol plants aren't always the first purchaser. It is just a matter of determining if you are the first purchaser.

**Senator Flakoll** asked how this applies to corn from another state.

**Mr. Dows** said North Dakota law says the first purchaser of corn pays the checkoff. They see that quite a bit at the plant in Wahpeton where a South Dakota producer sells corn to the plant and the plant is the first purchaser and would collect the checkoff.

**Senator Flakoll** asked if a huderite colony from Minnesota sells corn to a huderite colony in North Dakota, who pays the checkoff.

**Mr. Dows** said the colony in North Dakota would collect it.

**Senator Flakoll** asked if the checkoff is mandatory or voluntary. (meter 1952)

**Mr. Dows** said there is a refund system.

**Senator Taylor** asked if Jocie Iszler could answer the question about the Kansas procedure for the corn checkoff collection. They are a major feeder state with a lot of transactions. (meter 2032)

**Jocie Iszler**, Executive Director of the North Dakota Corn Utilization Council, said in Kansas and Missouri, the Agriculture Department sends out the remittance forms. In talking with their Agriculture Departments, they send the remittances in just like the elevators.

**Senator Klein** asked if this is a big issue. Are we losing a lot of checkoff dollars.

**Ms. Iszler** said we have slippage of about 25% when comparing production to collections. Some of this can be attributed to direct sales to Canada. They are not looking to small producer to producer transactions. They contribute heavily to the livestock industry and they hope the feedlot industry will grow.

**Senator Urlacher** asked if some slippage would be producers feeding their own corn.

**Ms. Iszler** said yes.

**Senator Taylor** said thank you for the support of the livestock industry.

**Senator Seymour** asked Senator Christmann why this bill was introduced.

**Senator Christmann** said it is because of the dilemma of feedlot operators. How do they know if the checkoff has been paid on the corn they are buying each day. The original producer is the one who knows.

**Senator Seymour** asked what is a good enforcement system.

**Senator Christmann** said the beef industry system works well. You need the honesty of the producers who benefit from the checkoff.

**Senator Flakoll** asked about Senator Christmann's opinion of the amendments.

**Senator Christmann** said he has not had time to study them. He can see some sense in exempting small purchases but he can't see why it should be limited to one shipment. A small

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Senate Agriculture Committee

Bill/Resolution Number SB 2236

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hobby farmer might buy a pickup load of corn several times in one year and it wouldn't amount to 900 bushels over the year.

**Mr. Dows** said the perception that the grower always knows where his corn is going is wrong.

Roving grain buyers might go out of state or to Canada.

**Senator Klein** said what would make it any easier for the feedlot operators to know when the producers are struggling. The issue is who wants to carry the responsibility. Why do we put the responsibility on the feedlots.

**Mr. Dows** said the feedlot operator only has to ask.

**Senator Klein** asked if a producer would ask a roving grain buyer some questions. Is it the responsibility of the grower to find out where his corn is going.

**Mr. Dows** deferred to Jocie Iszler.

**Ms. Iszler** said the second part of the amendment would address this. The designated handler, if they chose not to collect the checkoff, could report to the corn council the name of the producer or roving grain buyer and the corn council will collect it. The roving grain buyers are part of the slippage.

Chairman Flakoll closed the hearing on SB 2236.

**Senator Klein** asked if anyone on the committee has spoken with the concerned parties to see if the amendments accomplish the goal. (meter 5058)

**Senator Flakoll** said no.

**Senator Klein** asked if we are just shifting responsibility for collections from one group to another.

**Senator Flakoll** said yes.

**Senator Urlacher** said the proposal is a shift but it seems to be a better shift.

**Senator Flakoll** said its like when you buy a car, you pay the taxes and fees and its built into the price but you don't actually send the check to the state. Usually the seller is responsible for those things.

**Senator Klein** said with the car analogy, the buyer has to declare the price and pay the sales tax. There is still a level of trust. By shifting are they gaining anything. There will still be a lack of responsibility on someone's part, they just don't want it to be on the corn producer's part.

**Senator Urlacher** said the corn producer would be more motivated to pay the checkoff because it directly affects him.

**Senator Klein** said it would be easier for the producer to account for the sales. He has some responsibility.

**Senator Seymour** doesn't know how good the collection system will be.

**Senator Klein** asked if the 900 bushel issue is a carrot. The feedlot could by 900 bushels from 50 producers.

**Senator Urlacher** said that is not the intent. How do you reeducate the producers.

**Senator Seymour** asked who is on the losing end of this. (meter 6009)

**Senator Klein** said the corn council.

**Senator Seymour** said the corn council doesn't want a change.

**Senator Taylor** said the rub occurred when the feedlots received a letter asking for the checkoff. They have never done this before and now they are being asked to, after the fact.

**Senator Klein** asked why the feedlots should be responsible. The producers should be responsible. They have the knowledge and the technology. They should be happy to do it.

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Senate Agriculture Committee

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**Senator Flakoll** said the corn growers have done a lot for the livestock group but they control the checkbook.

**Senator Urlacher** said the proposed procedure follows the beef checkoff.

**Senator Flakoll** said the beef check off is collected every time an animal is sold. The person who gets the money pays the money.

**Senator Seymour** asked why should someone cheat. The farmer might not want to pay the checkoff.

**Senator Flakoll** said you can request a refund.

**Senator Urlacher** said the beef checkoff is not refundable.

Chairman Flakoll closed the discussion on SB 2236.

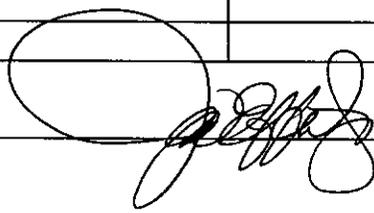
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2236

Senate Agriculture Committee

Conference Committee

Hearing Date February 2, 2005

Tape Number	Side A	Side B	Meter #
1		x	1565 - 2355
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the discussion on SB 2236. All members were present.

**Senator Klein** said the feedlot operators are supposed to find out whether the check off has been paid on the load and remit it to the corn council if it has not been paid. Even with the amendments, how can we put that burden on the back of the feedlot operators. We should leave the bill exactly like it is. The grower should forward the assessment. He knows if he is selling it off the farm or to the elevator.

**Senator Seymour** asked why we put the amendment on.

**Senator Flakoll** said the amendments have not been adopted. Some amendments were proposed by Duane Dows.

**Senator Urlacher** said it would be very cumbersome for the trucker to take care of the check off.

**Senator Klein** said the 900 bushel exemption is noble but the accounting would be cumbersome.

Its a small amount and more of a bookkeeping issue. Is the feedlot operator an enforcer.

**Senator Flakoll** said with the 900 bushel exemption, would some people want the first 900 free.

**Senator Taylor** said the check off rate of .0025% of the value, it comes to \$4.50.

**Senator Klein** said it seems very minimal.

**Senator Taylor** said he is inclined to support the bill. Whenever we have a check off, when the product is funneled through a sale barn or an elevator, there is a desire to do a deduct from the check to be sure they get their check off. They are afraid the feedlot won't collect it but they are just as concerned the grower won't pay it either. We can't solve that on either end.

**Senator Klein** said he agrees. He thinks the grower is more likely to pay. He has an opportunity for refund. There is a responsibility to pay the bill, we need to put it on the person more apt to gain by it.

**Senator Flakoll** said generally the seller has to remit fees or taxes.

**Senator Taylor** said he can see the corn council's hope to keep it with the first purchaser. In an elevator where many checks are written each day, its easy to account for this. When we are trying to grow the feedlot industry, when its pretty much a mom and pop operation and the question is whether or not we should put this on these folks.

**Senator Klein** moved a do pass on SB 2236.

**Senator Taylor** seconded the motion.

The motion passed on a roll call vote 6-0-0.

**Senator Taylor** will carry the bill.

## FISCAL NOTE

Requested by Legislative Council  
01/18/2005

Bill/Resolution No.: SB 2236

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.

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

No fiscal impact. This measure directs producers to pay assessments to Corn Utilization Council directly if there is no "designated handler".

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>	Jeff Weispfenning	<b>Agency:</b>	Agriculture
<b>Phone Number:</b>	328.4758	<b>Date Prepared:</b>	01/25/2005



**REPORT OF STANDING COMMITTEE (410)**  
February 3, 2005 1:53 p.m.

**Module No: SR-22-1777**  
**Carrier: Taylor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2236: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2236 was placed on the**  
**Eleventh order on the calendar.**

2005 HOUSE AGRICULTURE

SB 2236

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2236

House Agriculture Committee

Conference Committee

Hearing Date 2---25---05

Tape Number	Side A	Side B	Meter #
ONE	A		31.8 TO 51.9
ONE	B		00.0 TO 6.9
Committee Clerk Signature <i>Edward D. Ellyson</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on SB 2236. The bill is relating to collection of assessments on corn. Who would like to offer support of SB 2236.

RANDY: I introduced the bill on behalf of a constituent as to a situation he was in and I feel very strongly that it is something that need correcting. The situation we have run into is with feed lot operators buying corn and being assessed for the corn check off. The comparison that I want to draw you to is how the wheat check off is done in the livestock industry. Let me explain that further. If the price sale livestock is buying from a licensed facility like that they withhold the money and send it into the Beef Commission. That is real simple. If I sell it to you in just a private treaty sale as the original figure it is my responsibility To send that money in. It is not your responsibility to send it in as a buyer and it is not your responsibility to be the watch dog over me and pitting neighbor against neighbor by turning me in. It is my responsibility. The corn council check off works differently. It is similar in that

It has a designated handler. They are to withhold from payment and send it in. Where it is

different pretty much every buyer is a designated handler. If you get a truck load of corn

From somewhere you are responsible to send that in. It is only suppose to be paid once.

What is happening is that operators are hauling a load to the east or corn country and bringing a

load of corn back and finding a buyer in the west. They don't like to give up there source and

tell where they are getting there source. We can send a truck down there to and get a load of corn

cheap. Feedlot operators don't know whether it has been paid or not. This puts the feed lot

operators in a difficult spot. They don't know whether it has been paid or not. Really I think that

if the corn check off worked like the beef check of dose where you don't sell to a designated

handler the producer of the corn know whether it has been paid or not should be responsible for

sending in the check off to there own corn council. Very simple solution. The bill laid out

there is section one defines who the designated handler are. That would take most of the corn

anyway. They would continue to hold it back like they have been. Section 2

If a person is not a designated handler they send in the check off. Very similar to the beef check

off. It works very well and has little confusion. I would answer any questions you may have.

CHAIRMAN NICHOLAS: Next in support of this bill.

BILL PRICE: CHAIRMAN OF NORTH DAKOTA FEEDER COUNCIL. PERSONAL

OPERATOR. WE think the check off is a very good for the program. We support the check

off. We just don't feel as feedlot operators responsible is that a lot of the bigger farms out east

have gone to owning there own trucks. We do not know when those trucks come in whether it

is farmer operated or whether it is a commercial guy. We don't know where the corn is coming

from. A lot of time they don't want to tell you where they are picking up the corn. They haul

wheat east and bring corn back. That give's them a niche. They can charge an extra ten cents a bushel. We are willing to pay that. If they make ten cents delivering corn to my feeder lot I don't care. I know my cost in the feed lot. I know what I can pay for corn. We just pay the trucker. The farmers that we have talked to and said we have sent in check off's. They never even knew I existed. I did not even know anything about this check off. It is a lack of communications with the farmers out there and the producers of corn. They don't realize they have a check off. That is all I have to say and I hope you will support the bill.

CHAIR WOMAN KINGSBURY: Rep. Mueller

REPRESENTATIVE MUELLER: Bill, did you get billed for a check off?

BILL: Yes, what we do is send it in. There is a huge penalty if you do not send it in. I know the yards that have sent the check off's in. We abide by the law. We just feel why is it our job to police out there. We don't know where this corn is coming from. A lot of times they come in the middle of the night, drop the corn off in the facilities that we have. They leave the slip on the desk.

The truckers don't want to tell where they are hauling from. If we tattle tale, they are not going to sell corn in the future.

REPRESENTATIVE ONSTAD: The driver know where the corn is coming from and they know if the check off has been paid. What happens if you make a automatic deduction.

BILL: Independent truckers are very independent. They don't want to deal.

REPRESENTATIVE BRANDENBURG: I think you are right. The truckers are out there trying to make a buck. They sleep in there cabs. Etc.

They don't want to deal with this check of business. This is not simple.

REPRESENTATIVE BOE: A trucker that picks up corn in NORTH DAKOTA has to have a roving grain dealers license and has to be bonded and is required to get the check off.

REPRESENTATIVE DAMSCHEN: This bill is probably not going to make it any more enforceable, I don't disagree with the idea with taking the feed lot off the hook. Smaller feed lots don't have the staff for this.

BILL: We have to treat the farmer right.

VICE CHAIR WOMAN KINGSBURY: Any additional testimony in favor of bill.

WADE MOSER: North Dakota Stockman's Association. We are here in support of this bill.

Bill has done a good job of covering the circumstances. The bottom line, the people who are responsible for the check off should be the one's that submit it and we hope you will look with favor on that. As Bill mentioned you may deal with the same trucker all the time but he may have several different sources. The paper work is where did this load come from and whether it was check off and the way the liability is now it lies with the feed yard. I hope we can correct that. We also want to go on record that we do support the corn check off.

The have been good for the industry.

VICE CHAIR WOMAN KINGSBURY Any other testimony in support of bill.

Is there any opposition to SB 2236?

JOCIE ISZLER, EXECUTIVE DIRECTOR NORTH DAKOTA CORN COUNCIL In many states the check off's are collected by the states. The check off's in North Dakota are relatively new. Relative to other states. We sort of looked into the state collection. We should have probably gone to each feed lot and tried to educate them as to the check off. Instead of sending a

letter which is what we did. We have met with the feed lots. What do they do. How do you address the situation when the truckers come in a unload and leave slip on desk how do we address this. The guy is gone. We would like to offer if we knew who they were getting corn from we would help them with that. If we could have the address of the corn growers. We would contact that grower and say we understand that you sold so much corn to feed lot and this is the remittance you need to send in to council. We could use some help as to the roving grain buyers. Find out who did you buy from. In keeping with that we would like to propose some amendments to the bill. [the amendments are attached ----please read.]

Minnesota already dose this as to the amendments. [please see printed testimony provided by JOICE ISZLER]]

REPRESENTATIVE FROELICH: It appears to me that you are penalizing the feed lots. It is easy to go after the 45 feed lots but not go after the thousands of farmers.

REPRESENTATIVE MUELLER: As to amendments. I like part of what you are doing. Section 4 council enforce collection in any appropriate court within this state. It would seem to me giving the fact that we have a mechanism to get that check of back it seem to be harsh In some ways to me. They can take there check off back. I am not sure you will accomplish the end result you want with that part of the amendment.

CHAIRMAN NICHOLAS: Any other comments.

RANDY: In looking at this even though there are two amendments. If I could probably divide it into three parts. Regarding the nine hundred bushels, I don't see it as a big deal The second part counter to what the bill is all about. The bill says that the feed lot is not a designated Handler. It dose not seem to fit into the bill to me. The last which is labeled section four

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House Agriculture Committee

Bill/Resolution Number SB 2236

Hearing Date 2---25---05

About growers fails to pay a designated handler the assessment . If you are selling to a designated handler they are suppose to withhold it from payment so I can't see how that can happen. I guess genially we oppose he amendment.

CHAIRMAN NICHOLAS: Any other comments. Any opposition to bill.

CHAIRMAN NICHOLAS: We will close on 2236

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2236

House Agriculture Committee

Conference Committee

Hearing Date 3---17---05

Tape Number	Side A	Side B	Meter #
ONE	A		27.7 TO 38.8
Committee Clerk Signature <i>Edward D. Ellyson</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, lets go to SB 2236. RELATING TO ASSESSMENTS ON CORN.

BEING ASKED TO SUBMIT THE CORN CHECK-OFF.

REPRESENTATIVE MUELLER: I think we did have some amendments brought in by I think that they do have an issue especially if it is corn because a lot of of it goes to feed lots. I think we should look at the amendments.

REPRESENTATIVE HEADLAND: I am going to resist these amendments.

I think they are burdensome to the feed lots. How do you put a number on what is fair.

REPRESENTATIVE FROELICH: Resisting amendment.

REPRESENTATIVE MUELLER: Some pay and some don't. Like 5% get off with out paying check of and the other 95% do. I don't think any kind of a bill will change that.

REPRESENTATIVE BRNDENBURG: The amendment give some of them an out.

The second part of it is crucial. Those that are hauling directly to feed lot are kind of taking a walk on the obligation.

REPRESENTATIVE DAMSHEN: Basically stated they can pay the check off and then go through the paper work and get the money paid in back.

REPRESENTATIVE HEADLAND: I don't think the feedlots know the name of he trucker They don't want to give out what they paid for it.

CHAIRMAN NICHOLAS: Do you want to move on the amendments.

REPRESENTATIVE BRANDENBURG: I would move that Section Two amendments not be adopted. The motion failed because of lack of a second.

**CHAIRMAN NICHOLAS: THE CHAIR WAILL ENTERTAIN A MOTION ON SB2236 AS IT IS.**

**REPRESENTATIVE HEADLAND: MADE A MOTION FOR A DO PASS.**

**REPRESENTATIVE KREIDT: SECONDED THE MOTION**

**ANY FURTHER DISCUSSION COMMITTEE MEMBERS?**

**THE CLERK WILL TAKE THE ROLL.**

**THE ROLL WAS TAKEN: THERE WERE 11 YES 0 NO 2 ABSENT**

**REPRESENTATIVE KREIDT WILL CARRY THE BILL.**

**CHAIRMAN NICHOLAS CLOSED ON SB 2236**

SB 2236  
3-17-08

Date:  
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House HOUSE AGRICULTURE COMMITTEE Committee

Check here for Conference Committee

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

Action Taken DO PASS

Motion Made By HEADLAND Seconded By KREIDT

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH		
REP. WESLEY BELTER			REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment KREIDT

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

**REPORT OF STANDING COMMITTEE (410)**  
March 17, 2005 12:48 p.m.

**Module No: HR-49-5259**  
**Carrier: Kreidt**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2236: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS**  
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2236 was placed on the  
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2236

TESTIMONY  
To the  
SENATE AGRICULTURE COMMITTEE  
Of the  
NORTH DAKOTA LEGISLATURE

RE: SENATE BILL 2236

By Duane Dows, Director  
North Dakota Corn Council

January 27, 2005

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Chairman Flakoll and Members of the Committee:

Thank you for this opportunity to submit testimony on Senate Bill 2236. I am here today to speak in opposition of this bill which amends the corn promotion statute and to offer an amendment that we feel would be acceptable to both sides of this issue.

I would like to start off by saying that the ND Corn Council is a very strong supporter of the livestock industry in North Dakota. Next to ethanol production and use, the livestock industry is the Council's second top priority with 25% of the Council's total budget going toward livestock. Attached to my testimony is an accounting of Council expenditures covering the last fiscal year and current fiscal year through November plus the balance remaining.

The Dried Distillers Grains/Ethanol co-products program was so successful in FY 03 and 04 that the budget was increased in FY 05. The Beef Center of Excellence funds of \$125,000 cover two research projects. The Council also funds numerous research projects on dried distillers grains, promotes the benefits of the livestock industry in radio and print ads, and contributes toward the ND Dairy Coalition. Total Council commitment to livestock over the last two fiscal years is approximately \$286,000.

I would also like to give some history on the corn promotion check off in ND and in surrounding states. In ND the corn promotion check off began in 1992. The statute has always broadly defined "designated handlers" as all first purchasers of corn. The statutes in other states are similarly broad. States vary in their collection method. In Missouri, Kansas and South Dakota the state sends the remittance forms to the designated handlers. In North Dakota the responsibility lies with the commodity group

itself. Up until 2002, the ND Corn Council did not send remittances to feedlots. The Corn Council ask their Attorney General designee Paul Germolus for his opinion on the Council's obligation to do so. It was his opinion that the Council was responsible for sending remittances to feedlots asking them to collect the check off from the growers they buy from.

Starting in June of 2002 the ND Corn Council sent remittances to 43 feedlots which have an estimated total capacity of 55,000 head. This figure is in keeping with the National Ag Statistics figure in the January 2004 cattle on feed report that North Dakota had 65,000 cattle on feed. Of those 43 feedlots, 17 did not respond, 11 were deleted because they said they raised their own corn, one responded with a negative letter, and 15 remitted. The ND Corn Council estimates that about \$1,300 was remitted in FY 04. The Council has estimated capacity figures for nine of the 15 feedlots which remitted. The nine feedlots carry a total of about 20,000 head. Using a factor of 1.5 to account for the turn over rate in feedlots approximately 30,000 head are fed during the year in these nine feedlots. Using the figure of 18 lbs of corn per day during a 210 day finishing period, the average animal would consume 67 bushels of corn. Therefore, a total of 3,229,400 bushels of corn is fed to 30,000 feeder cattle per year in those nine feedlots. Using an average value of \$2.00 per bushel and the check off rate of .0025 of the value of the purchase the expected check off from this volume would be about \$16,000.

Directors from the ND Corn Council met with directors from the Feeder Council to try to understand their concerns. The Corn Council understands that this is a new process for the feedlot owners. When corn producers sell their corn to the elevator, the elevator automatically makes the deduction on the sale. The elevators have been collecting the check for years and their bookkeeping systems are set up for it. It is important to note that in all other grain commodity check offs, the first purchaser is required to make the deduction. It would be extremely difficult for the Council to enforce a check off program without any mechanism for determining where the grower was making sales.

The Council is recommending these three amendments to the statute:

1. Change the statute to exclude "occasional purchases" defined as one semi-hopper (900 bushels) and is limited to no more than one "occasional" purchase in any 12 month

period. This would exempt the majority of transactions between corn producers and livestock producers. In Minnesota, the Council has granted this type of exemption.

2. Change the statute to state that a designated handler that purchases corn as part of a feedlot operation and does not collect the assessment must supply the Council with the name and address of the person from which the purchase was made, and the amount of the purchase and that the Council may itself collect from the grower.

3. Amend the statute to add that if a grower fails to pay a designated handler the assessment, that the grower is subject to the same penalties as a designated handler who fails to pay the assessment.

In summary, the ND Corn Council urges your DO NO PASS on SB 2236 as introduced. In an effort to accommodate the feedlots, the ND Corn Council encourages you and your committee to consider the amendments proposed by the ND Corn Council. We would support the bill with the amendments.

Thank you. I would be pleased to respond to questions.

Livestock Expenditures July 1, 2003 through November 30, 2004  
and balance of budgeted funds to be spent in FY '05

<b>Livestock Funding:</b>	<b>July 1, 2003 through Nov. 30, 2004</b>	<b>Balance of Budget</b>	<b>Total Committed</b>
<b>Project</b>	<b>Spent</b>	<b>Available</b>	<b>Sum of Spent and Budget Bal.</b>
Beef Center of Excellence	25,000.00	100,000.00	125,000.00
ND Prok Producers Council	5,500.00		5,500.00
NCGA DDG Research Portfolio	1,500.00	1,500.00	3,000.00
NCGA: DDG Portfolio		5,000.00	5,000.00
DDG Co. Products '03	20,432.24		20,432.24
DDG Co. Products '04	22,616.36		22,616.36
DDG Co. Products '05		30,000.00	30,000.00
DDG Publications	5,000.00		5,000.00
Livestock Promotion	616.00		616.00
NCGA/KSU Distil Grain Portfolio		15,000.00	15,000.00
NCI (DDG Project)		5,000.00	5,000.00
Brain Project	5,408.00	8,092.00	13,500.00
ND Dairy Coalition	20,000.00		20,000.00
Producer Communications	3,138.00		3,138.00
Travel/Meetings/Misc.	1,906.00		1,906.00
Overhead expenses (Staff & Ex Dir Time)	11,000.00		11,000.00
<b>Totals</b>	<b>122,116.60</b>	<b>164,592.00</b>	<b>286,708.60</b>

## PROPOSED AMENDMENTS TO SENATE BILL NO. 2236

Page 1, after line 11, insert:

**“SECTION 2. AMENDMENT.** Section 4-10.6-08 of the North Dakota Century Code is amended and reenacted as follows:

**4-10.6-08. Assessment.** Effective July 1, 1991, an assessment at the rate of one-quarter of one percent of the value of a bushel must be levied and imposed upon all corn marketed in this state, until a national corn checkoff is implemented. This assessment is due upon any identifiable lot or quantity of corn, except it shall not apply to a farmer transacting an occasional purchase from another producer. An occasional purchase consists of no more than 900 bushels and is limited to no more than one such purchase in any twelve month period.”

Page 1, after line 18, insert “ A designated handler who purchases corn as part of a feedlot operation and who fails to collect the assessment must supply the council with the name and address of the person from whom the purchase was made and the amount of the purchase. The council may collect from the grower those uncollected assessments.”

Page 1, after line 18, insert:

**“SECTION 4. AMENDMENT.** Section 4-10.6-13 of the North Dakota Century Code is amended and reenacted as follows:

**4-10.6-13. Collection of unpaid assessment.** If a designated handler fails to pay the assessment provided by this chapter, or if a grower fails to pay a designated handler the assessment, the council may enforce collection in any appropriate court within this state.”

Renumber accordingly

TESTIMONY  
To the  
HOUSE AGRICULTURE COMMITTEE  
Of the  
NORTH DAKOTA LEGISLATURE

RE: SENATE BILL 2236

By Jocie Iszler, Executive Director  
North Dakota Corn Council

February 25, 2005

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Chairman Nicholas and Members of the Committee:

Thank you for this opportunity to submit testimony on Senate Bill 2236. I am here today to speak in opposition of this bill which amends the corn promotion statute and to urge your consideration of amendments that would provide for a mechanism whereby the Council would have the means to collect the promotional assessment from the corn grower.

I would like to start off by saying that the ND Corn Council is a very strong supporter of the livestock industry in North Dakota. Next to ethanol production and use, the livestock industry is the Council's second top priority with 25% of the Council's total budget going toward livestock. Attached to my testimony is an accounting of Council expenditures covering the last fiscal year and current fiscal year through November plus the balance remaining.

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designated handlers. In North Dakota the responsibility lies with the commodity group itself. Up until 2002, the ND Corn Council did not send remittances to feedlots. The Corn Council ask their Attorney General designee Paul Germolus for his opinion on the Council's obligation to do so. It was his opinion that the Council was responsible for sending remittances to feedlots.

Starting in June of 2002 the ND Corn Council sent remittances to 43 feedlots which have an estimated total capacity of 55,000 head. This figure is in keeping with the National Ag Statistics figure in the January 2004 cattle on feed report that North Dakota had 65,000 cattle on feed. Of those 45 feedlots, 17 did not respond, 11 were deleted because they said they raised their own corn, one responded with a negative letter, and 15 remitted. The ND Corn Council estimates that about \$1,300 was remitted in FY 04. The Council has estimated capacity figures for nine of the 15 feedlots which remitted. The nine feedlots carry a total of about 20,000 head. Using a factor of 1.5 to account for the turn over rate in feedlots approximately 30,000 head are fed during the year in these nine feedlots. Using the figure of 18 lbs of corn per day during a 210 day finishing period, the average animal would consume 67 bushels of corn/ Therefore, a total of 3,229,400 bushels of corn is fed to 30,000 feeder cattle per year in those nine feedlots. Using an average value of \$2.00 per bushel and the check off rate of .0025 of the value of the purchase the expected check off from this volume would be about \$16,000.

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In an effort to accommodate the feedlots the Council is offered these amendments

1. Change the statute to exclude "occasional purchases" defined as one semi-hopper (900 bushels) and is limited to no more than one "occasional" purchase in any 12 month period. This would exempt the majority of transactions between

corn producers and livestock producers. In Minnesota, the Council has granted this type of exemption.

2. Change the statute to state that feedlots owners that purchase corn as part of a feedlot operation and do not collect the assessment must supply the Corn Council with the name and address of the person from which the purchase was made, and the amount of the purchase and that the Council may itself collect from the grower.

In summary, the ND Corn Council urges your DO NO PASS on SB 2236 as introduced. In an effort to accommodate the feedlots, the ND Corn Council encourages you and your committee to consider the amendments proposed by the ND Corn Council. The Corn Council would support the bill with the amendments.

***PROPOSED AMENDMENTS TO SENATE BILL NO. 2236***

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Page 1, after line 18, insert “ A person who purchases corn as part of a feedlot operation must supply the council with the name and address of the person from whom the purchase was made and the amount of the purchase. The council may collect from the grower those assessments.”

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Renumber accordingly