

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

AGRICULTURE AND NATURAL RESOURCES COMMITTEE

Thursday, November 17, 2005

Rooms 148-154, Research Park I, NDSU Tech Park, 1735 Research Park Drive
Fargo, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 9:10 a.m.

Members present: Representatives Chet Pollert, LeRoy G. Bernstein, Michael D. Brandenburg, Chuck Damschen, Lyle Hanson, Craig Headland, Scot Kelsh, Keith Kempenich, Joyce Kingsbury, Matthew M. Klein, Jon O. Nelson, Dorvan Solberg, Gerald Uglem; Senators Bill L. Bowman, Joel C. Heitkamp, Stanley W. Lyson

Members absent: Representatives Tom Brusegaard, Rod Froelich, Eugene Nicholas, Mike Norland; Senators David O'Connell, Herb Urlacher

Others present: See Appendix A

It was moved by Representative Klein, seconded by Representative Nelson, and carried on a voice vote that the minutes of the September 15, 2005, meeting be approved as distributed.

Chairman Pollert announced Representative Dennis Johnson, Devils Lake, although not a member of the committee, was attending the meeting and seated at the table with the committee members.

GRAIN QUALITY ISSUES AND AGRICULTURAL RESEARCH ACTIVITIES

Chairman Pollert recognized Dr. Ken Grafton, Dean, College of Agriculture, Food Systems, and Natural Resources, and Director, North Dakota Agricultural Experiment Station, North Dakota State University. Dr. Grafton welcomed the members of the Agriculture and Natural Resources Committee to Fargo and North Dakota State University. He introduced Dr. Marcia McMullen, Professor of Plant Pathology, North Dakota State University. He said Dr. McMullen would present an overview of the fusarium head blight or scab problem in North Dakota. He said Dr. William E. Njanje, Associate Professor of Agricultural Economics, Agribusiness and Applied Economics Department, North Dakota State University, would present an overview of the economic impact of scab in North Dakota in 2005. He said Dr. Richard D. Horsley, Professor of Plant Sciences, North Dakota State University, would review breeding programs and accomplishments toward scab resistance.

Chairman Pollert recognized Dr. D. C. Coston, Vice President, Agriculture and University Extension,

North Dakota State University. Dr. Coston welcomed the members of the Agriculture and Natural Resources Committee to North Dakota State University and Fargo. He said although the majority of North Dakota State University's resources and employees are located in Fargo, the state's land grant university has resources spread throughout the state, including agricultural research facilities and county extension offices. He said fusarium head blight or scab first became a significant problem in 1993. Since that time, he said, North Dakota State University has undertaken significant research activities on fusarium head blight. Since 1993, he said, North Dakota State University has developed and released three varieties of wheat that have some degree of scab resistance. He said this is a significant accomplishment.

Dr. Coston distributed an article from the November 15, 2005, issue of *The Forum* entitled "June rains lead to scab losses," a copy of which is attached as Appendix B. He said the research scientists that North Dakota State University has attracted to work on fusarium head blight are among the best in the world and a large component of the success of these scientists is due to the infrastructure in place. He said North Dakota State University has some excellent research facilities but also some facilities that are older and without improvement will slow the progress of fusarium head blight research.

Chairman Pollert recognized Mr. Duane Hauck, Director of Extension, North Dakota State University. Mr. Hauck said there is an important partnership between the North Dakota Agricultural Experiment Station and the North Dakota State University Extension Service when it comes to addressing important issues such as fusarium head blight. He said the Agricultural Experiment Station continues to explore efforts to deal with scab as well as other crop diseases. He said it is the Extension Service that connects the findings of North Dakota State University's researchers with the state's agricultural producers.

Chairman Pollert recognized Dr. McMullen, who addressed the committee concerning the severity, quality impact, and management of fusarium head blight or scab in North Dakota. A copy of the slides used in her PowerPoint presentation is attached as

Appendix C. Dr. McMullen said fusarium head blight is caused by a fungus, the spores of which are dependent upon high rainfall for development. She said the fungus spores are then dependent upon high rainfall and humidity to be carried to the grain head. She said infection of wheat and barley only occurs after the head is fully emerged and only under conditions very favorable for the fusarium head blight fungus. She said the high rainfall that North Dakota received in June 2005 was conducive to fusarium head blight infestation.

Dr. McMullen said fusarium head blight causes lower test weight in pounds per bushel, the presence of vomitoxin and deoxynivalenol, and damaged kernels. She said fusarium head blight management techniques include reduction of infected stubble, crop rotation with nonhost crop varieties, development of fusarium head blight resistant crop varieties, and the use of fungicides. She said the prevalence of no-till and minimum-till practices in North Dakota reduce the viability of reducing infected stubble. However, she said, the other methods are somewhat effective. She said the use of fungicides has proven beneficial and studies have shown that the use of scab fungicides may result in a 20 percent yield increase.

In response to a question from Representative Brandenburg, Dr. McMullen said the ideal time to apply folicur, a fusarium head blight fungicide, on barley, is after the head has emerged. She agreed that two applications may be beneficial, especially if there is continued high moisture and high humidity conditions.

In response to a question from Representative Pollert, Dr. McMullen agreed that a producer must use an integrated approach, including the use of certain crop varieties, rotation practices, and fungicides to reduce the detrimental impact of fusarium head blight.

Chairman Pollert recognized Dr. Nganje. A copy of the slides used by Dr. Nganje in his PowerPoint presentation is attached as Appendix D. Dr. Nganje discussed the economic impact of fusarium head blight in wheat and barley in North Dakota from 1993 through 2005. He said research conducted by North Dakota State University revealed that for each \$1 in crop losses there is a corresponding \$2.08 in total economic loss as a result of fusarium head blight. He said fusarium head blight has caused a total of \$1.5 billion in direct economic losses to North Dakota producers since 1993.

In response to a question from Senator Bowman, Dr. Grafton said the United States Wheat and Barley Scab Initiative is comprised of 26 states that provide \$5.5 million in research funds per year. Of this amount, he said, North Dakota receives approximately \$1 million for wheat and barley scab research. The fact that North Dakota receives almost 25 percent of the funds provided by the 26 states for wheat and scab research, he said, shows the recognition that

North Dakota State University has received for the research being done at that university.

Chairman Pollert recognized Dr. Richard D. Horsley. A copy of the slides used by Dr. Horsley in his PowerPoint presentation is attached as Appendix E. Dr. Horsley reviewed various breeding programs and accomplishments toward enhancing scab resistance in wheat and barley varieties. He said Glenn wheat has the potential to become the leading wheat variety in North Dakota. He said two 6-rowed barley lines from North Dakota State University were entered in the pilot scale program in 2005. He said durum wheat from North Dakota State University has successfully incorporated resistance from Chinese wheat and wild relatives of wheat.

In response to a question from Representative Pollert concerning the use of biotechnology in fusarium head blight research, Dr. Grafton said North Dakota State University scientists are working with researchers from 26 other states, industry, and any other source in an attempt to find a solution to fusarium head blight or scab.

In response to a question from Representative Nelson, Dr. Grafton said North Dakota State University researchers are working as fast as possible to find a solution to fusarium head blight. In response to a further question from Representative Nelson, Dr. Grafton said the use of biotechnology is not a "silver bullet" because the regulation and testing that must take place add to the timeline of any biotech solution.

In response to a question from Representative Pollert, Dr. Grafton said biotechnology research is accelerating around the world. For example, he said, China has released transgenic rice, wheat, tomatoes, and other vegetable crops. In addition, he said, a large number of scientists are working in the biotech area in China.

Representative Pollert requested that at a future meeting Dr. Grafton provide a summary of state funds used for fusarium head blight research, as well as all funds used by North Dakota State University for fusarium head blight research activities.

The committee toured North Dakota State University agricultural research facilities.

RAILROAD FUEL SURCHARGES STUDY

Chairman Pollert recognized Mr. Tony Clark, President, Public Service Commission, who presented an update of the rail rate case, information on the regulation of the secondary railcar market, information relating to federal preemption of state regulation of the railway industry, and information relating to the feasibility of state legislation compelling a railroad to open its rail network to competing railroads. A copy of Mr. Clark's written comments is attached as Appendix F.

In response to a question from Senator Bowman, Mr. Clark agreed that Congress is long overdue in enacting legislation to address the concerns of North Dakota agricultural shippers. He said there is a disturbing trend in the deterioration of rail service as evidenced by the large stockpiles of grain piled around the state. Year after year, he said, there is a lack of railcar availability in North Dakota. He said two of the last three years were the record years for ground grain storage in North Dakota and it is anticipated that 30 million bushels of grain will be stored on the ground in North Dakota this year. He said the railroads know they have a captive market in North Dakota and direct their railcars to areas of the country where there is competition from barge traffic or meaningful truck transportation because they know that grain stored on the ground in North Dakota will be available for transportation later, whereas in states with competition the railroads would lose transportation business to competitors.

At the request of Chairman Pollert, committee counsel distributed a letter from Mr. Brian J. Sweeney, Executive Director, Government Affairs and Legislative Counsel, Burlington Northern Santa Fe Railway Company, St. Paul, Minnesota. A copy of the letter is attached as Appendix G.

Chairman Pollert addressed the committee. He said he had just spoken with Mr. Sweeney and Mr. John Olson, Bismarck, concerning the testimony of the Public Service Commission. He said Mr. Sweeney and Mr. Olson were unable to attend the meeting but wanted to state that if the Public Service Commission presents a workable compromise on the rail rate case, the Burlington Northern Santa Fe Railway is willing to continue negotiations with the state.

In response to Chairman Pollert's comment, Mr. Clark said the proposals developed and put forward by the Public Service Commission were the result of input from stakeholders in the rail rate case.

In response to a question from Representative Pollert, Mr. Clark said the Public Service Commission has not approached any shippers to see if they would be interested in being named as plaintiffs in the rail rate case. He said there is some speculation in the shipping industry that if a shipper steps forward and is named as a plaintiff in the rail rate case, the railroad will retaliate against that shipper.

In response to a question from Representative Solberg, Mr. Clark said if an elevator steps forward and is named a plaintiff, the Public Service Commission will undertake an extensive review and study of past shipping rates to ensure that there is no retaliation by the railroad against the plaintiff.

In response to a question from Senator Heitkamp, Mr. Clark said the Public Service Commission has everything it needs under state law to allow it to regulate railroads in the state to the extent allowed under federal law and regulation. He said the Public

Service Commission does not require any change in state law to address rail regulation issues.

In response to a question from Representative Kempenich, Mr. Clark said the Public Service Commission intends to file the rail rate lawsuit in the first quarter of 2006 and the commission's legal counsel anticipates that the case will take 12 to 18 months to resolve.

Chairman Pollert distributed a letter from Mr. John Mittleider, Vice President of Public Policy, North Dakota Farm Bureau, concerning grain shipment rates. A copy of the letter is attached as Appendix H.

Chairman Pollert recognized Mr. Steve Strege, Executive Vice President, North Dakota Grain Dealers Association. Mr. Strege distributed a schedule of railroad fuel surcharges for the period January 2004 through December 2005, a copy of which is attached as Appendix I. He said the Burlington Northern Santa Fe Railway Corporation is converting to a mileage-based surcharge beginning January 1, 2006, which will be better for North Dakota wheat shippers but will increase costs for North Dakota corn and soybean shippers. The reason for this outcome, he said, is that Burlington Northern Santa Fe wants to ensure that the fuel surcharge is revenue-neutral and that it generates the same amount of income from the surcharge. Therefore, he said, any reduction in the wheat surcharge must be compensated for by an increase in the surcharge to other commodities.

In response to a question from Representative Brandenburg, Mr. Strege said in some instances the fuel surcharge charged by the railroads has been more than the total cost of fuel, not just the incremental cost in fuel as a result of increased fuel costs.

Senator Heitkamp said it appears that the authority of the Public Service Commission to address the issue of fuel surcharges in North Dakota is limited by federal law and that any solution to this problem must come from the federal level.

Chairman Pollert recognized Mr. Dan Wogsland, Executive Director, North Dakota Grain Growers Association and United States Durum Growers Association. Mr. Wogsland said North Dakota grain shippers are paying a premium for poor service. He said it is untenable to have 30 million bushels of grain stored on the ground in North Dakota. He said ground storage costs both North Dakota grain elevators and producers a substantial amount of money and this situation must be resolved.

Senator Heitkamp suggested that the Congressional Delegation be invited to appear at a future meeting to discuss federal legislation to address rail regulation and railroad fuel surcharges.

Representative Pollert suggested that representatives of the Surface Transportation Board be invited to appear at a future meeting to discuss railroad fuel surcharges.

In response to a question from Representative Pollert, Mr. Clark said the Public Service Commission

could arrange to have a member of the law firm representing the state in the rail rate case brief the committee on the case. No further business appearing, Chairman Pollert adjourned the meeting at 2:30 p.m.

Jeffrey N. Nelson
Committee Counsel

[ATTACH:9](#)