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Calista Richardson
Operator's Signature

10/16/03
Date

2003 HOUSE AGRICULTURE

HCR 3021

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3021

House Agriculture Committee

Conference Committee

Hearing Date 2--07--03

Tape Number	Side A	Side B	Meter #
ONE	A		00 TO 16.7
Committee Clerk Signature <i>Edward D. Elton</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will start the hearing on HCR 3021.

REP. MUELLER : I am here this morning to talk to you about HCR 3021. I am Phil Mueller, Dist. 24. I farm in that part of the world. This Bill is about Federal licensing of grain ware houses. In the state of ND. And across the country for that matter. The reason the United States supported the Agr. Action ruled that if grain warehouses had a Federal License, they were not required to have a state license. N.D. Requires that state license for all grain warehouses and elevators in our state. That ruling is not in affect as yet. HCR asks that the congressional and the USDA to rescind that ruling and that is now why we want to do it. There are a number of reasons. The USDA through the commodities credit corporation come out and works with Federally licensed warehouses. Were we not in a position to protect cash grain sales. As one example. We are not in a position to protect cash gain sales/ We don't have a down home

Jo Costa Richardson
Operator's Signature

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Date

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mechanism to inform farmers about there rights in case of elevator insolvency's. There are all kinds of issues. I think what the PSC has done is to be involved with elevator insolvency's There is going to be less protection and less trust funds resources in the case of elevator insolvency's if the USDA is sole license. The PSA is in a position to those licensees, grain elevators on a day to day basis. I would submit that the Kansas City and the USDA dose not quite as well as the ND PSA. Wimbelton Grain had both a State license and a Federal license. They chose to have a Federal license. In the end the ND PSA put about \$750,000.00 Back into the hands of the producers and the community of Wimbelton through there efforts. The \$750,000.00 dollars involved bounced checks, unsigned contracts, forged contracts, credit sale types, thirty day cash sales and I guess I would ask John what he gets here. Talked about 30 day cash sales. That was new stuff for all of us. USDA and there licensee and there involvement with the Wimbelton situation did not want any thing to do with that stuff. They could not wait to get back to Kansas City. I am not trying to be critical. They did what they thought they had to do. The NDPSC had a lot to do with resolving those issues. They did what the law allowed them to do. In conclusion I think that if we continue to have dual licensing Of elevator warehouses grain warehouses in our state. Some mechanism needs to be put in place. The Resolution says don't come in the ND and tell us that you don't have to be licensed by the state. That is what the Federal preemption is attempting to do.

CHAIRMAN NICHOLAS: We have dealt with these issues over a period of time and we have the new bill that you and Rep. Pollert. What were the losses experienced in your community. What was recovered and what was the actual loss? In a nut shell there were about \$4,000,000.00 million dollars out there that was in question when the elevator went insolvent.

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Through the efforts of the PSC and I will say USDA about \$3,000,000.00 million dollars came back to stored grain people. Cash sale things etc. In that process, what happens in an insolvency the group that comes in, in this case the USDA we are going to have a sale here the seventh of January. What ever the date is. So you kind of have a fire sale. Even for those who considered themselves to be the luck ones in the community, they did not come out all that well I represent a group that were not so lucky. We have in excess in one million dollars that did not come back to the farmers because of credit sales. It is not yet resolved. We are going to the supreme court. Be care full with credit sales.

TONY CLARK: PSC {{{{{{HANDED OUT TESTIMONY}}}}} I am testifying for the NDPSC. Please read testimony. Testified in SUPPORT OF THE BILL.

I passed out a NEW RELEASE AS TO USDA. TESTIMONY case read New Release.

CHAIRMAN NICHOLAS: Any questions of Mr. Clark? Rep. Mueller.

REPRESENTATIVE MUELLER: Who is footing the Bill. The Farmers in the end.

TONY CLARK: In the end it is always the farmers. In elevator that chooses to enter one of there contracts. Within these licensing contracts, they want the elevators to first there will be a miximum assessment amount that they may pay at the end of the year. If there is a Federal elevator insolvency in Wimbelton. What they would do is asses all the other Federal elevators around the country an amount to make up for that loss. There is a maximum amount that these elevators could be made to pay at end of year. If that dose not cover it there is also going to be another fee that will be tacked on regatrldless. The fee will buy an umbrella insurance policy.

CHAIRMAN NICHOLAS : Any other questions. Thank you Tony.

JOHN MILKEN: EXECUTIVE SECRETARY OF THE PUBLIC COMMISSION

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John passed out testimony of Roger Johnson's testimony. {{{{PLEASE READ
TESTIMONY}}}} Commissioner Johnson is in support of the Resolution.

CHAIRMAN NICHOLAS: Any questions of John?

REP. MUELLER : Talk about the thirty day cash window. Sales.

JOHN MILKEN: Right now state law that applies to credit sales contracts is any contract
any kind of agreement where payment will or may be made thirty days after title passes.

If we have a sale that is taking place in lets say Dec. 5 with a payment to be made on Jan. 2
that is not a credit sale contract. In Wimbelton we ran into a situation where farmers were
signing deferred payment contracts on Dec 5 and the contract says the payment will be made
between Jan 2 and Jan. 12, so we got into a situation there where the warehouseman had the
latitude to extend the payment option beyond 30 days. Farmers in that case were hoping that it
was going to be 30 days or less but the elevator had the latitude to go over 30 days. Those were
determined to be credit sales contracts. They were on those window of opportunity contracts.

CHAIRMAN NICHOLAS: Any other support for this Resolution?

CLYDE KREBS: Executive Vice President of the NDGDA. I own and operate an elevator in
Glen Ullin. Four years ago the legislature reworked our grain warehousing to accomrnodate
the Federal Laws. Now they want to eliminate any state jurisdiction whatsoever for Federally
licensed grain warehouses. I am distributing a copy of a Resolution that unanimously
adopted at our convention opposing the Federal preemption. It says we urge USDA to rescind
this rule and corrective action is not taken soon we urge Congress to act to restore the states
right in this regard. Earlier this week as John Milke mentioned they did come out with a plan if
you can call it that the silver gap coverage for farmers at Federal Warehouses. We are not

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overly impressed with the way this is written. We like our State Law much better. Had the PSC not had jurisdiction at Wimbeldon through the state grain buyer law farmers would have received about \$775,000.00 dollars less in payments. Most elevator managers and farmers in ND would much rather deal with the PSC. In Bismarck then someone in KANSAS City.

Attaching this Resolution send a message to the Fed's that state government is united in keeping Some state control for all of it's grain buyers.

CHAIRMAN NICHOLAS: Any more testimony in support of this Bill. Any opposition?

THE COMMITTEE WILL CLOSE THE HEARING ON HCR 3021

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Sal Costa Richardson
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Tape Number	Side A	Side B	Meter #
ONE		B	TO END
Committee Clerk Signature <i>Edward J. Ellyson</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members we will open on HCR 3021

The chair will entertain a motion on HCR 3021. REPRESENTATIVE KREIDT MADE MOTION FOR DO PASS IT WAS SECONDED BY REPRESENTATIVE BOE THE ROLL WAS TAKEN THERE WAS 12 YES 0 NO 1 ABSENT

NICHOLAS CARRIED THE BILL.

Loiseta Richardson
Operator's Signature

10/10/03
Date

