

1999 HOUSE AGRICULTURE

HB 1335


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1335

House Agriculture Committee

Conference Committee

Hearing Date 1-29-99

Tape Number	Side A	Side B	Meter #
ONE-HB 1335		x	0.0 to 40.2
Committee Clerk Signature 			

Minutes:

Summary of bill: relates to presence of chemicals in Agriculture products and livestock.

Rep Nichols: Chief sponsor of bill. Has an amendment for the bill This bill has to do primarily with the health and safety issue but also a fairness issue. I think this is an important bill and I hope you will give it favorable consideration.

Roger Johnson: (Testimony attached.) Most important thing about this bill is we need to be harmonizing our pesticides standards and do this with Canada. If you want to compete in our markets you must keep the same standards on pesticides as we do.

Rep Froelich: Hasn't European countries being doing this with beef hormones?

Roger Johnson: They are arguing that they have a higher standard then we do.

Rep Mueller: Do we have the power & willingness to enforce this kind of a bill?

Roger Johnson: We probably don't have a good handle on this issue.

Page 2

House Agriculture Committee
Bill/Resolution Number Hb 1335
Hearing Date 1-29-99

Rep Stefonowicz: Last thing you spoke about would we have trouble detecting these chemicals.

Roger Johnson: Countries would have to certify the grain or product was free of these chemicals.

The language we are asking to have changed will help us with this.

Rep Berg: Can you give us a list of restriction of livestock going into Canada and coming into the USA?

Roger Johnson: Yes the State Vet will provide that list.

Wade Moser: ND Stockmen's Assoc. We support HB 1335. As far as beef cattle are concerned it won't be hard to monitor cattle that are using drugs and chemicals that are banned here in ND.

Nearly 71,000 Canadian cattle were slaughtered in ND in 1997. Slightly over 15,000 hogs also in 1997. With little or no monitoring of slaughtering in plants in ND . 51% of Canadian beef production ends up in the US for processing. Need some tools to be able to get the attention of these other countries. Question. Would this slow down trade? I believe it would speed it up because we will all come to the table and try and make something work.

Rep Mueller: Do you have any indication how much of this 51% Canadian beef comes into ND

Wade Moser: Will get those figures for you.

Brian Kramer: ND FB in support of bill.

Louie Custer: In support of this bill. (Testimony attached)

Marshall Kraft: Stanley, ND In support of bill. ND farmers can only use and buy chemicals approved by the EPA. 22 chemicals Cdn farmer can use and US farmers can not.

Don Nelson: Keene, ND

Jim Defotor. Willow City, farmer. in favor of HB 1335,

Opposition: John Cook Mohall:, opposed to HB 1335. If we stop Canola from Canada the Velva plant will be out of business. Lots of Canola goes to Canada to be loaded on trains & shipped out of the country.

Tom Borgan: Northern Canola Growers, We want everything equal but you don't do it by law. Pro-active approach better solution.

Paul Germolus: Atty Gen office for Dept of Agri some legal ramifications to this bill.
(Testimony attached).

Hearing closed: reopened 2-4-99 for committee action.

Beth Baumstark: Atty General office. (Testimony attached) Basically some of the same questions arise as with HB 1334 relative to the Trade Agreements. Notice should have been sent to Canada and other countries that you were going to change these rules and regulation,

Rep Berg: Would it be appropriate to call them and tell them that we are going to act on it at 2:30
Ha

Rep Nowatzki: Do the States have any authority to regulate International Trade?

Motion by Rep Berg for a DO PASS as amended and refer to Approp. Second by Rep Mueller

Vote Total: YES 12 NO 3 ABSENT 0 MOTION CARRIED

CARRIER: REP BERG

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: _____ Amendment to: Eng. HB1335
 Requested by Legislative Council Date of Request: 3-30-1999

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: This bill would likely require the Department of Agriculture to process sanitary certificates for shipments of agricultural products from another country into the state or through the state from another country. Data from the U.S. Customs Office indicates that 38,710 truckloads of agricultural products came into North Dakota last year from Canada. The cost of processing sanitary certificates is estimated at \$2.00 per certificate. Assuming 38,000 certificates, this would result in processing costs of \$76,000 per year or \$152,000 for the biennium. These figures are based on the assumption that U.S. Customs would forward certificates to the Department of Agriculture for every truckload passing through the border and personnel at the department would inspect and process the certificates.

Salaries and benefits: \$114,000 This includes two FTE's.
 Operating : \$30,000
 Equipment : \$8,000. (Computers, facsimile)

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 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	\$152,000	0

- What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: 0, (0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: 0, (0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 2001-03 biennium: \$152,000

- County, city, and school district fiscal effect in dollar amounts:

- | 1997-99
Biennium | | | 1999-2001
Biennium | | | 2001-03
Biennium | | |
|---------------------|--------|------------------|-----------------------|--------|------------------|---------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 3-31-99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1335 Amendment to: _____

Requested by Legislative Council Date of Request: 1-13-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process.

Narrative: This bill would likely require the Department of Agriculture to process sanitary certificates for shipments of agricultural products from another country into the state or through the state from another country or state. Data from the U.S. Customs Office indicates that 38,710 truckloads of agricultural products came into North Dakota last year from Canada. The costs of processing sanitary certificates is estimated at \$2.00 per certificate. Assuming 38,000 certificates, this would result in processing costs of \$76,000 per year for agricultural products coming into North Dakota from another country. The department has no information to base an estimation on the amount of agricultural products moving through the state, therefore, the number of truckloads passing through North Dakota is assumed to be one-half the amount coming from another country. The total costs would then be \$114,000 per year or \$228,000 per biennium in state general fund dollars. These figures are based on the assumption that U.S. Customs would forward certificates to the Department of Agriculture for every truckload passing through the border and personnel at the department would inspect and process the certificates.

Salaries and benefits: \$180,000 This includes three FTE's.
 Operating : \$40,000 (Phone \$7,200) (Facsimiles \$2,500) (Lease of office space \$5,000) (Network \$4,000)
 (Supplies \$2,500) (Random inspections -travel, lodging, per diem \$11,000) (Random sampling -
 {analysis costs only} \$7,800)
 Equipment : \$8,000. (Computers, facsimile)

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$228,000	\$0	\$228,000	\$0

3. What, if any, is the effect of this measure on the budget for your agency or department:
 - a. For rest of 1997-99 biennium: \$0
 - b. For the 1999-2001 biennium: (\$228,000). None of this amount is included in the 1999-2001 executive budget:)
 - c. For the 2001-03 biennium: (\$228,000).

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 1/20/99

90530.0101
Title.

Prepared by the Legislative Council staff for
Representative Nichols
January 27, 1999

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1335

Page 1, line 10, remove "state or"

Re-number accordingly

Date: 2-4-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1335

House AGRICULTURE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 0 no ~~not~~ pass as amended Refer to

Motion Made By Berg Seconded By Mueller
Renner Brusegaard approp

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman	✓		Bob Stefonowicz	✓	
Dennis E. Johnson, Vice Chm	✓				
Thomas T. Brusegaard	✓				
Earl Rennerfeldt	✓				
Chet Pollert		✓			
Dennis J. Renner	✓				
Michael D. Brandenburg		✓			
Gil Herbel	✓				
Rick Berg	✓				
Myron Koppang	✓				
John M. Warner	✓				
Rod Froelich	✓				
Robert E. Nowatzki		✓			
Phillip Mueller	✓				

Total (Yes) 12 No 3

Absent _____

Floor Assignment Berg

Page 78, line 5, replace "Grants - Design - Coordination" with "Chemical abuse prevention program - Rules"

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1035: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1035 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1092: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1092 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1108: Natural Resources Committee (Rep. Grosz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1108 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "three" with "five"

Page 1, line 3, remove the second "and"

Page 1, line 4, after "carriers" insert ", preservation of records, and resale certificates"

Page 1, line 8, remove "and" and alter "application" insert "; to provide an effective date; and to provide an expiration date"

Page 2, line 17, replace "a reasonable time" with "six months"

Page 3, line 6, replace the second "of" with "or"

Page 3, after line 10, insert:

"SECTION 4. A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

Preservation of records. Every telecommunications carrier required to make a return and pay any tax under this chapter shall preserve records of the gross proceeds of sale as the commissioner may require and every carrier shall preserve for a period of three years and three months all invoices and other records of telecommunications services purchased for resale. All of these books, invoices, and other records must be open to examination at any time by the commissioner or any duly authorized agent of the commissioner.

SECTION 5. A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

Resale certificates. A telecommunications carrier who receives a resale certificate certifying that another telecommunications carrier holds a North Dakota sales and use tax permit for sales or use tax purposes under section 57-39.2-14 is relieved from submitting the telecommunications gross receipts tax upon the sale of telecommunications services to be resold by the telecommunications carrier submitting the certificate. When a telecommunications carrier submits a false resale certificate to another telecommunications carrier, the telecommunications carrier that submitted the certificate is liable for the telecommunications gross receipts tax on the sale. A hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to its patients or guests is not a telecommunications carrier under this section.

Page 3, line 18, remove the overstrike over "and" and replace the underscored comma with "less"

Page 3, line 20, replace "and amounts paid to another telecommunications carrier for" with an underscored period

Page 3, remove lines 21 and 22

Page 3, line 26, after "carrier" insert "retail"

Page 4, line 16, overstrike "A hospital, hotel, motel, or similar place of temporary accommodation selling"

Page 4, overstrike line 17

Page 4, line 18, overstrike "stated charge for the service" and insert immediately thereafter "Internet access service or similar service"

Page 5, line 6, replace "inter-company" with "intercarrier"

Page 5, line 9, replace "company" with "telecommunications carrier"

Page 5, line 10, replace "inter-company" with "intercarrier"

Page 6, line 23, after "carrier's" insert "retail"

Page 8, line 23, replace "notice" with "indexing"

Page 8, line 25, replace "notice" with "indexing"

Page 9, line 6, replace "notice" with "indexing"

Page 9, line 7, after "ACT" insert "- EFFECTIVE DATE - EXPIRATION DATE"

Page 9, line 8, after the period insert "The amendments of subsections 1 and 3 of section 57-34-01 as amended by section 6 of this Act are effective for taxable years beginning after December 31, 1998. The amendments to subsections 1 through 3 of section 57-34-02 as amended by section 7 of this Act are effective for the first two taxable years beginning after December 31, 1999, and are thereafter ineffective."

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1302: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **DO NOT PASS** (14 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1302 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1334: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO NOT PASS** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1334 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1335: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REFERRED** to the Appropriations Committee (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1335 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "state or"

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1355: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **DO NOT PASS** (18 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1355 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1368: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1368 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1380: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **DO PASS** (16 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1380 was placed on the Eleventh order on the calendar.

1999 HOUSE APPROPRIATIONS

HB 1335

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1335

House Appropriations Committee

Conference Committee

Hearing Date February 15, 1999

Tape Number	Side A	Side B	Meter #
2		x	0-24.7
Committee Clerk Signature <i>Casey Davis</i>			

Minutes:

HB 1335 - A bill for an act to create an enact a new section to chapter 4-35 of the North Dakota Century Code, relating to the presence of chemicals in agricultural products and livestock; and to provide a penalty.

CHAIRMAN DALRYMPLE opened the hearing on HB 1335.

2B: 4.8 REP. NICHOLS, sponsor, testified in favor of the bill, by discussing it as both a fairness issue and a health issue.

2B: 7.3 REP. DELZER asked if all trucks would be checked at the border or if they would have to present a certificate of origin. Rep. Nichols said that trucks would have to provide a certificate showing that there were no chemicals used beyond the limites set by the federal government.

2B: 8.4 REP. MONSON voiced his concern about what this bill would do to commodities such as canola, which we need for our crushing plants. Rep. Nichols said there was concern from the ADM plant about this issue. However, if certain chemicals are not used in the US because they are considered unsafe for our citizens, then we should not allow the chemicals on agricultural products we import.

2B: 9.8 REP. TIMM asked if this bill will conflict with international regulations. Rep. Nichols said that this bill should not interfere with any international laws.

2B: 11.0 REP. LLOYD questioned whether the Department of Canada would take the farmers' word of what chemicals were used on crops. He also said that NAFTA is moving forward with getting registration on compatible products in the US, Canada, and Mexico. Rep. Lloyd feels that we would have a problem getting documentation. Rep. Nichols said that the system would be difficult to manage.

2B: 20.0 CHAIRMAN DALRYMPLE said that the committee got sidetracked with the workability of the system, when the issue at hand is whether to provide funds for prohibition and a penalty. He said that the legislators need to show citizens that they are concerned about anything that comes into the state that may cause health problems.

CHAIRMAN DALRYMPLE closed discussion on HB 1335.

2B: 21.0 ACTION ON BILL REP. NICHOLS made a motion for a Do Pass. The motion was seconded by Rep. Lloyd. A roll call vote was taken and the motion carried with 11 yeas and 9 nays.

Date: 2-15-99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1335 as engrossed

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Nichols Seconded By Lloyd

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols	X	
Vice-Chairman Byerly		X	Poolman	X	
Aarsvold	X		Svedjan		X
Bernstein		X	Timm		X
Boehm		X	Tollefson		X
Carlson	X		Wentz	X	
Carlisle		X			
Delzer		X			
Gulleson	X				
Hoffner	X				
Huether	X				
Kerzman	X				
Lloyd	X				
Monson		X			

Total (Yes) 11 No 9

Absent _____

Floor Assignment Nichols

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

REPORT OF STANDING COMMITTEE (410)
February 16, 1999 9:53 a.m.

Module No: HR-31-3099
Carrier: Nichols
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1335, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman)
recommends **DO PASS** (11 YEAS, 9 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1335 was placed on the Eleventh order on the calendar.

1999 SENATE AGRICULTURE

HB 1335

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1335

Senate Agriculture Committee

Conference Committee

Hearing Date 3/5/99

Tape Number	Side A	Side B	Meter #
2	X		400-END
2		X	0
3/18 2		X	2330-3900
3/18 2		X	4268-5000
3/25 2		X	1340-4100
3/26 1	X		0-2035
Committee Clerk Signature <i>Tricia Johnson</i>			

Minutes:

Senator Wanzek called the meeting to order, roll call was taken, all were present.

Senator Wanzek opened the hearing on HB 1335.

Representative Nichols introduced the bill. The bill would make it a misdemeanor to bring meat or other agricultural products in from other countries. He also handed out some proposed amendments.

Senator Wanzek: The amendments are going to exclude canola?

Representative Nichols: There are farmers and canola crushers who don't agree with these and you will hear from them too.

Representative Nicholas spoke in support of the bill. Products coming down from Canada has chemicals in it that we are not allowed to use.

Senator Sand: How is this bill going to get message to federal government?

Representative Nicholas: I think very substantially, we have products coming into our food chain with chemicals we are not allowed to use.

Senator Sand: How is Washington going to get the message?

Representative Nicholas: I think Canada will put the heat on our government.

Senator Urlacher: Are we saying on the chemical they are going to have to prove they are safe and try to make it equal?

Representative Nicholas: Try to take some durum up there, you are not going to get it through.

Senator Urlacher: The chemical used there are not available to us as well.

Representative Nicholas: If those chemicals are not safe for you or I to use on our farm should we be able to bring that product in from other countries.

Representative Nelson spoke in support of the bill. This bill is a response to the frustration farmers have in ND. This is an effort to get our government to move.

Senator Sand: There are a lot of two way street here.

Representative Nelson: I couldn't agree more.

Senator Sand: What would happen if this was just a resolution?

Representative Nelson: I would guess bill have a little more teeth to them.

Senator Kroepelin: What's the price of canola?

Representative Nelson: My local elevator is about \$8.40-\$8.50 range.

Senator Kroepelin: If ADM needed more canola to keep the plant going do you suppose they could bump the price a bit and we could plant more?

Representative Nelson: I think that increase is fine but the increases that this state has performed in the last few years is indicative of the fact that canola has been one of the cash crops.

Senator Kroeplin: There could be more acres put into canola.

Representative Nelson: I can't argue.

Senator Wanzek: I'm sure that industry is tied into a soy oil market and there is a certain margin there and they are some what limited to that margin as well.

Representative Nelson: The competing crops that canola works with in the oil seed industry are oil sunflowers and soy beans and I think you can drop comparisons that are as bleak as the apparent canola price.

Senator Wanzek: Loan rates on canola are higher.

Representative Nelson: That could be.

Representative Drovdal spoke in support of the bill.

Representative Lemieux spoke in support of the bill. Passed out handouts. This is not an "in your face" issue it is a safety issue.

Senator Klein: Won't we see this come around us from Montana and South Dakota?

Representative Lemieux: It may just be an arrow toward Washington but unless we start shooting those arrows nothing will happen.

Senator Klein: Our state seems to be firing them by themselves.

Roger Johnson, Ag Commissioner spoke in support of the bill. Testimony enclosed.

James Diepolder spoke in support of the bill. Testimony enclosed.

Louis Kuster spoke in support of the bill. Feels the bill will help see the law be enforced.

Senator Kinnoin: You are not in favor of the amendment?

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Senate Agriculture Committee
Bill/Resolution Number Hb 1335
Hearing Date 3/5/99

Louis Kuster: No I am not.

Eric Mack from ADM in Velva spoke in opposition to the bill. Testimony enclosed.

Senator Sand: Do they unload trucks at Altona and then load them and bring them to Velva?

Eric Mark: No.

Jarvis Haugeberg from the ND Grain Dealers spoke in opposition to the bill. Opposed to the bill but not opposed to harmonization of chemicals, not opposed to American farmers being treated fair at the border, not opposed to American farmers being able to compete on level playing field.

John McClean from Cargill West Fargo stood in opposition to the bill.

Randy Hauck stood in opposition to the bill.

Dennis Oster from the Velva Economic Development Corporation stood in opposition to the bill.

Marshall Craft stood in opposition to the bill.

Mary Christenson from the Dakota Resource Council stood in support of the bill. Testimony enclosed.

Curt Trulson stood in support of the bill.

Senator Wanzek closed the hearing on HB 1335.

MARCH 18, 1999

Discussion was held.

MARCH 25, 1999

Discussion was held.

Senator Klein made the motion to amend the bill.

Senator Sand seconded.

Motion failed.

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Senate Agriculture Committee
Bill/Resolution Number Hb 1335
Hearing Date 3/5/99

Discussion was held.

MARCH 26, 1999

Discussion was held.

Senator Klein made the motion do adopt an amendment that would put in a date.

Senator Mathern seconded.

Motion carried.

Discussion.

Senator Klein made the motion for a Do Pass as Amended.

Senator Urlacher seconded.

ROLL CALL: 6 Yes, 1 No

CARRIER: Senator Wanzek

90530.0201
Title.

Prepared by the Legislative Council staff for
Representative Nichols
March 4, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1335

Page 1, line 11, remove "phytosanitary or"

Page 1, line 20, after "include" insert "canola, canola seed, hemp, hemp seed, or"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1335

Page 1, line 1, replace "a" with "two" and replace "section" with "sections"

Page 1, line 3, after "penalty" insert "; to provide an effective date; and to provide an expiration date"

Page 1, line 11, remove "phytosanitary or"

Page 1, line 20, after "include" insert "canola, canola seed, hemp, hemp seed, or"

Page 1, after line 23, insert:

"SECTION 2. A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

Agricultural products and livestock - Certified as chemical free - Penalty.

1. It is a class B misdemeanor for any person to transport any agricultural product or livestock into this state from another country or to pass through this state with an agricultural product from another country unless the product or livestock has a phytosanitary or sanitary certificate stating:
 - a. The agricultural product or livestock does not contain any chemical levels in excess of established maximum residue limits;
 - b. The agricultural product or livestock shows no trace of any chemical for which no maximum residue limit has been established; and
 - c. The agricultural product or livestock shows no trace of any chemical not approved for use on such agricultural product or livestock in this country.
2. For purposes of this section:
 - a. "Agricultural product" means crops, crop products, or plants, but does not include products for the sole consumption of the transporter or the transporter's family.
 - b. "Livestock" does not include products for the sole consumption of the transporter or the transporter's family.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act becomes effective on July 1, 2001.

SECTION 4. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2001, and after that date is ineffective."

Renumber accordingly

Date: 3/25
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1335

Senate Agriculture Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendments

Motion Made By Klein Seconded By Sand

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher		✓			
Senator Kinnoin		✓			
Senator Kroeplin		✓			
Senator Mathern		✓			

Total (Yes) 3 No 4

Absent _____

Floor Assignment _____

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

Date: 3/26
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1335

Senate Agriculture Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendment

Motion Made By Klein Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand		✓			
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin		✓			
Senator Mathern	✓				

Total (Yes) 5 No 2

Absent _____

Floor Assignment _____

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

Put in effective date

Date: 3/26
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1335

Senate Agriculture Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Klein Seconded By Urlacher

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand		✓			
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroepflin	✓				
Senator Mathern	✓				

Total (Yes) 6 No 1

Absent _____

Floor Assignment Senator Wanzek

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

REPORT OF STANDING COMMITTEE

HB 1335, as engrossed: Agriculture Committee (Sen. Wanzek, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1335 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and"

Page 1, line 3, after penalty insert "; and to provide an effective date"

Page 1, after line 23, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2001."

Renumber accordingly

1999 TESTIMONY

HB 1335

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON



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

House Bill 1335
29 January, 1999
10:00 AM
Peace Garden Room
Roger Johnson

Testimony before the House Agriculture Committee

Chairman Nicholas and members of the House Agriculture Committee, I am Roger Johnson, Commissioner of Agriculture. I am here to testify on House Bill 1335.

I understand that an amendment has been drafted to remove the reference to agricultural products from another state from Section 1, paragraph 1 and I support this change. If such an amendment is adopted you will want to reexamine the fiscal note.

I support the intent to put Canada and the United States on a level playing field with respect to the use of various agricultural inputs. Our goal should be to assure that countries exporting agricultural products to the United States live by the same standards as our growers are required to meet.

We should assure that our public health concerns are recognized. Agricultural products contaminated with residues above allowable maximum residue levels or contaminated with residues when no MRL has been established should not be allowed.

When chemicals are not allowed to be used in the United States because of environmental concerns, we should not provide an incentive for other countries to use these products by allowing them to export their agricultural products that were grown using these products into the United States.

We should encourage chemical companies to register safe effective products in the United States when they have registered them in other countries. Allowing agricultural products that were produced using chemicals that are not registered in the United States does not encourage registration in this country.

I would further recommend that this bill be amended to require that foreign countries wishing to export agricultural products to the United States be prohibited from using chemicals that are not similarly registered for use in this country, on any commodity or product which is grown or produced for import into this country.

While there may be practical issues associated with implementation of the provisions of this bill that should be considered, the intent of the proposed legislation should be supported.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

STEVEN D. STREGE, Executive Vice President
ANN KORZENDORFER, Assistant Secretary
Ph: 701-235-4184, Fax: 701-235-1026
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GRAIN DEALERS TESTIMONY ON HB 1335

January 29, 1999 – House Ag Committee – Rep Gene Nicholas, Chmn.

Good morning Mr. Chairman and members of the committee. My name is Steve Strege. I am the Executive Vice President of the North Dakota Grain Dealers Association. NDGDA is an 87-year-old voluntary membership organization in which more than 90% of the state's grain elevators hold membership. We are here to offer some comments on HB 1335.

HB 1335 appears to be a 'level the playing field bill', and we support that objective. Through the work of the North Dakota Ag Department, Wheat Commission, Grain Dealers, and others, the Canadians have finally been convinced to relax their certification requirements regarding Karnal bunt, which had involved much paper-shuffling and shipment delays. In other words we have been moving in the right direction on that point. Our Association is concerned that this bit of progress might be jeopardized by this legislation. Others who are more expert in this matter than we are, such as the North Dakota Ag Department, might be able to shed more light on how much risk of that there is.

That concludes our formal testimony at this time. I'd be happy to respond to any questions.

ingredients is currently underway between Canada and the U.S. Sharing of reviews results in increased efficiency in each country.

- TWG partners worked with industry to develop a process for industry authorization for sharing data reviews, overcoming national restrictions on sharing of reviews that may contain confidential business information.

Food Residues (MRL) Subcommittee

(MRL) ~~Maximum Residue Limit~~
Maximum - Residue Limit

- A process for the identification and resolution of pesticide trade irritants is under development in cooperation with a multistakeholder advisory group. Lack of an established MRL for a pesticide means that a crop treated with that pesticide may not legally be imported into a country. To date specific MRLs for seven pesticides used on potatoes, blueberries, preharvest oats, celery, lettuce, and canola have been harmonized.

- Residue zone maps for Canada and the U.S. have been developed and are being extended to Mexico. The zone maps will allow pesticide residue studies on food or feed to be conducted in one country for submission in another to support registration and MRLs.

Risk Reduction Subcommittee

- Data requirements for insect pheromone registrations have been harmonized between the US and Canada and have been proposed as the basis for the development of an Organization for Economic Cooperation and Development (OECD) wide standard.

- To facilitate the registration of biopesticides, the joint review process has been extended to microbial and pheromone products. Joint presubmission consultations have been completed for two candidate biopesticides, a pheromone and a microorganism.

- PMRA and OPP are collaborating on integrated pest management (IPM) projects for control of late blight and Colorado beetle on potatoes. The late blight IPM project was successfully completed, leading to new control strategies. The Colorado beetle project is ongoing.

Regulatory Capacity Building Subcommittee

- Pesticide environmental fate and toxicology data requirements for registration have been harmonized. A map of ecologically similar zones for fate and metabolism studies is under development between Canada and the U.S. and will be extended into Mexico. These activities will allow the same studies to be submitted for registration in all three countries.

- Worker and residential exposure guideline studies and policy issues are being harmonized.

- An electronic pesticide registration data submission system is being collaboratively developed including NAFTA TWG partners, other OECD countries, and industry.

HOUSE COMMITTEE ON AGRICULTURE
HOUSE BILL NO. 1335
TESTIMONY OF BETH BAUMSTARK

My name is Beth Baumstark and I am an assistant attorney general appearing on behalf of the Attorney General. I am not here to either support or oppose House Bill 1335, but to testify on whether there are any concerns about the bill under NAFTA.

With the amendments proposed at the hearing on House Bill 1335, this bill would make it a class B misdemeanor for anyone to transport into North Dakota an agricultural product or livestock from another country unless that product had a phytosanitary or sanitary certificate stating that the product or livestock does not contain any chemical levels in excess of maximum residue limits and that it shows no trace of a chemical not approved for use in this country.

The questions which must be addressed under NAFTA when a sanitary or phytosanitary measure is passed are: first, whether a scientific basis exists to support the measure, and second, whether the other NAFTA countries have been given notice and a meaningful opportunity to comment on the proposed measure before it goes into effect.

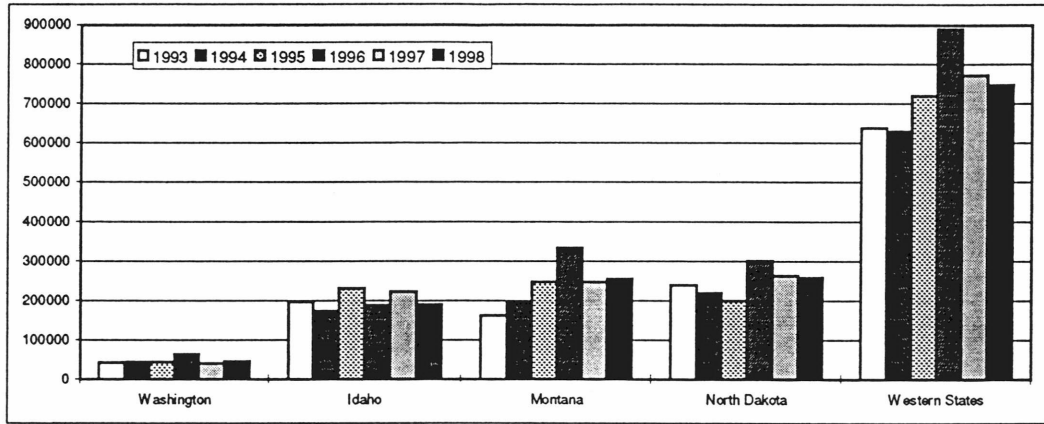
I am informed by the federal Food and Drug Administration that the federal Food, Drug and Cosmetic Act currently prohibits the importation into the United States of any products which are used for food for humans or animals (including raw agricultural products) which contain pesticide chemicals in excess of the minimum residue limits. See 21 U.S.C. 321; 21 U.S.C. 342; 21 U.S.C. 381. To the extent that federal law already prohibits importation of any product covered by this bill, the scientific basis for the measure has most likely been shown.

HB 1335

Imports of Canadian Slaughter Cattle

Calendar year-to-date comparison through October 10

	Washington	Idaho	Montana	North Dakota	Western States	U.S. Total	Annual U.S. Total
1993	41,940	196,425	161,922	238,096	638,383	NA	NA
1994	43,154	172,986	195,272	218,963	630,375	NA	NA
1995	44,083	230,652	246,848	199,375	720,958	815,024	1,003,668
1996	64,348	188,853	334,279	302,066	889,546	1,017,686	1,220,642
1997	40,087	222,683	245,856	254,515	773,141	872,029	1,097,412
1998	45,211	190,243	255,320	258,482	749,256	859,950	
98%87	112.8%	85.4%	103.8%	97.7%	96.9%	98.6%	

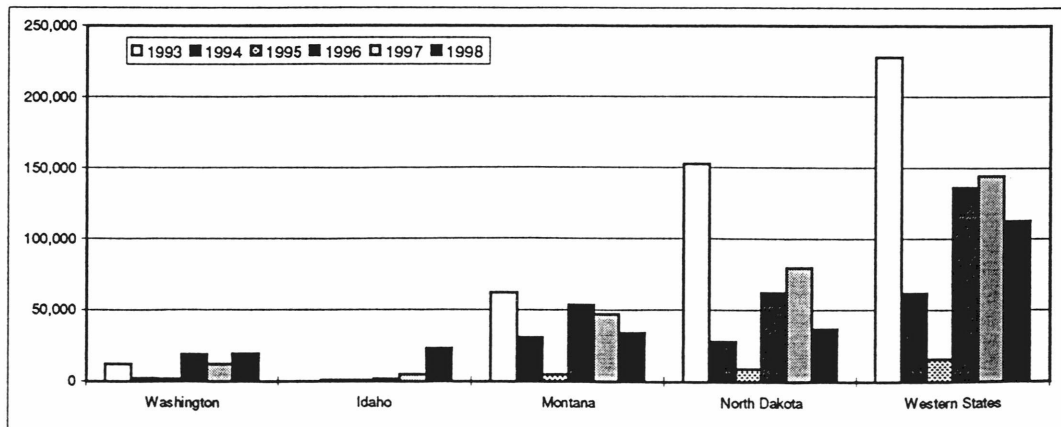


Source: USDA/APHIS

Imports of Canadian Feeder Cattle

Calendar year-to-date comparison through October 10

	Washington	Idaho	Montana	North Dakota	Western States	U.S. Total	Annual U.S. Total
1993	12,287	78	62,361	152,924	227,650	NA	NA
1994	2,167	747	31,120	27,790	61,824	NA	NA
1995	1,425	617	4,845	9,239	16,126	32,270	46,901
1996	19,038	1,661	53,505	62,020	136,224	154,203	177,929
1997	12,107	5,016	47,319	79,838	144,280	168,386	210,822
1998	19,301	23,059	33,747	36,754	112,861	133,134	
98%87	159%	460%	71%	46%	78%	79%	



Source: USDA/APHIS

House Bill 1335
5 March, 1999
11:00 AM
Roosevelt Park Room
Roger Johnson

Testimony before the Senate Agriculture Committee

Chairman Wanzek and members of the Senate Agriculture Committee. I am Roger Johnson, Commissioner of Agriculture. I am here to testify on House Bill 1335.

HB1335 would require that Canadian agricultural products and livestock be certified free of various chemical residues. While public health and food safety issues are important, the real issue is the competitive disadvantage that North Dakota producers have been forced to endure due to the lack of access to the same agricultural chemicals and seeds available to our Canadian neighbors.

North Dakota and Canadian farmers should be on a level playing field with respect to the use of crop and livestock protection products. It is unfair competition when Canadian farmers may use agricultural inputs that are banned or not available in the United States and then export their crops or livestock into this country. Our producers are being required to meet a higher standard by having restricted access to agricultural chemicals compared to their Canadian competition.

This issue is fundamentally one that demands harmonization of pesticide registrations. Progress in this area has been far too slow but momentum is building from numerous states to direct our Federal government to recognize and rectify the competitive inequities that have been created by the current registration system.

Food safety concerns and potential residues on imported agricultural products should be addressed. Agricultural products with residues above allowable maximum residue levels or with detectable residues when no MRL has been established should not be allowed. Existing federal and state regulatory systems should provide this security. Requiring special certification attesting to freedom from chemical residues would likely invite similar requirements from other countries and will cause hardships for North Dakota agriculture that we may not want.

I have personally spoken with top officials within the U.S. Food and Drug Administration, the Environmental Protection Agency, and U.S. Department of Agriculture. I know that FDA is planning to initiate a limited field assignment in the next several months to sample and test Canadian wheat that is already in U.S. commerce to ascertain whether potential residues of pesticide products not similarly registered in the United States are present. In addition, the FDA along with other federal agencies/departments is working with appropriate Canadian authorities to ascertain specific information on current pesticide monitoring programs on wheat that is exported to the United States. However, I have been as disappointed as all of our producers in that there seems to be no coordinated commitment to deal with these fundamental issues. I am most disappointed with the slow progress on chemical harmonization.

Paul Germolus, assistant North Dakota attorney general, testified before the House Agriculture Committee, and compared the responsibility of the Pesticide Control Board as defined in Chapter 4-35 and the Food, Drug, & Cosmetic Act found at N.D.C.C. ch. 19-02.1. The North Dakota Pesticide Control Board, through the North Dakota Department of Agriculture enforces the use of restricted use pesticides by certified commercial and private applicators. The North Dakota Food, Drug, & Cosmetic Act regulates the presence of pesticide chemicals in raw agricultural commodities and provides authority to sample and test food to determine whether the act has been violated. Issues of chemical residues in food products may therefore be more appropriately dealt with through this act.

HB1335 makes reference to phytosanitary certificates (line 11). Phytosanitary certificates are used to certify freedom from quarantine insect pests and plant diseases. The focus of this bill is chemical residues and has nothing to do with phytosanitary issues.

I support the intent of this bill but this is a difficult issue. Its importance is expressed in three concurrent resolutions. This bill may need to be amended to accomplish its objectives and I would be happy to work with the committee in this effort. The intent should be to fully harmonize pesticide issues between the U.S. and all trading partners so that foreign producers are held to the same high standards that our producers must meet. To continue to do otherwise puts our producers at a serious competitive disadvantage in the world-trading environment.

TESTIMONY OF PAUL C. GERMOLUS
ON HOUSE BILL 1335
BEFORE THE SENATE AGRICULTURE COMMITTEE

My name is Paul Germolus. I am an assistant attorney general testifying on behalf of the North Dakota Department of Agriculture. I appear neither in support of nor in opposition to House Bill 1335, but rather to offer testimony on its legal effects. I draw the committees' attention to five points about House Bill 1335 that should be clarified or amended.

1. Under HB1335, it is a Class B Misdemeanor for any person to transport agricultural products or livestock into this state from another country without meeting certain requirements. This bill would not impose liability on a foreign seller or chemical manufacturer unless the seller or manufacturer were also the "person" doing the transporting. "Person" is defined under Chapter 4-35 as "any individual, partnership, association, fiduciary, corporation, limited liability company, or any organized group of persons, whether or not incorporated". N.D.C.C. § 4-35-05(19).
2. The new section created by the bill would more appropriately be placed in chapter 19-02.1 because the State Health Department already regulates the presence of chemicals in food products under the Food, Drug & Cosmetic Act. This act also regulates the presence of pesticide chemicals in raw agricultural commodities. See, N.D.C.C. §19-02.1-09. Section 19-02.1-21 gives the Department of Health the power to enter any vehicle being used to transport food in commerce. The

Department may also obtain samples of any food product. Those samples may then be tested to determine whether the Food, Drug & Cosmetic Act has been violated.

Placing HB 1335 in chapter 4-35 gives the Pesticide Control Board the responsibility for enforcing restrictions on chemical residues in agricultural products and livestock. This Board currently prescribes standards and requirements for the licensing and certification of applicators that it deems necessary to prevent damage or injury by drift or misapplication. The Board also enforces the use of restricted-use pesticides by certified commercial and private applicators.

The focus of this bill goes far beyond the scope of the Pesticide Control Board. The Board does not regulate the use of drugs or hormones that may appear in crops or livestock. The Board regulates the storage and application of pesticides, not the results of their use.

If HB 1335 is not amended, care should be taken so that conduct made legal under Chapter 19-02.1 is not made illegal under Chapter 4-35. Section 19-02.1-12 already provides for the establishment of tolerances of pesticide chemicals in raw agricultural commodities. Consequently, a conflict may exist if chapter 19-02.1 is not carefully reconciled with HB 1335.

3. House Bill 1335 refers to "established maximum residue limits." These residue limits are not defined. Criminal statutes must be clear so

people reading the statute can determine whether their conduct violates state law. If HB 1335 establishes maximum residue limits for chemicals in agricultural products and livestock, those residue limits should be clearly identifiable by persons subject to enforcement. Residue limits may have already been established under the N.D. Food, Drug & Cosmetic Act. If so, HB 1335 should reference those residue limits if it is intended that they apply.

4. The current definition of "agricultural product" includes certified seed, nursery stock, Christmas trees, flowers, bedding plants, etc. If the intent of HB 1335 was to include only crops or plants intended for human consumption, this committee may want to seek the exclusion of non-consumable items from the definition of "agricultural products."
5. House Bill 1335 attempts to define "livestock" by stating that it does not include products for the sole consumption of the transporter or the transporter's family. Chapter 4-35 does not contain its own definition of "livestock" since it deals primarily with plant and insect pests. "Livestock" is defined elsewhere as horses, mules, cattle, swine, sheep, and goats. See, N.D.C.C. § 36-05-01. It is unclear under HB 1335 whether livestock not intended for human consumption, such as horses or most nontraditional livestock, would be governed by this bill's chemical residue limits.

SENATE COMMITTEE ON AGRICULTURE
ENGROSSED HOUSE BILL NO. 1335
TESTIMONY OF BETH BAUMSTARK

My name is Beth Baumstark and I am an assistant attorney general appearing on behalf of the Attorney General. I am not here to either support or oppose Engrossed House Bill 1335, but to testify on whether there are any concerns about the bill under NAFTA.

This bill would make it a class B misdemeanor for anyone to transport into North Dakota an agricultural product or livestock from another country unless that product had a phytosanitary or sanitary certificate stating that the product or livestock does not contain any chemical levels in excess of maximum residue limits and that it shows no trace of a chemical not approved for use in this country.

The questions which must be addressed under NAFTA when a sanitary or phytosanitary measure is passed are: first, whether a scientific basis exists to support the measure, and second, whether the other NAFTA countries have been given notice and a meaningful opportunity to comment on the proposed measure before it goes into effect.

I am informed by the federal Food and Drug Administration that the federal Food, Drug and Cosmetic Act currently prohibits the importation into the United States of any products which are used for food for humans or animals (including raw agricultural products) which contain pesticide chemicals in excess of the minimum residue limits. See 21 U.S.C. 321; 21 U.S.C. 342; 21 U.S.C. 381. To the extent that federal law already prohibits importation of any product covered by this bill, the scientific basis for the measure has most likely been shown.

Chairman Wanzak:

Members of the Senate Ag Committee:

My name is Marshall Craft. I am a durum farmer South of Stanley, N.Dak.

To insure food safety in this country, the Environmental Protection Agency and the Food and Drug Administration have done years of research and testing of chemicals used by the American farmers on their crops. The American farmer can purchase only the chemicals approved for use by the EPA and the FDA.

Each pesticide labeled for the American farmer has an established Maximum Residue Limit or MRL set by the EPA in parts per million. The EPA doesn't establish MRL's for chemicals not legal for use in the U.S.

We have found 22 chemicals that the Canadian farmers use on wheat that aren't labeled for wheat in N.D. and the U.S. 13 of these chemicals are registered in the U.S. but not to be applied on wheat. 17 of these chemicals are herbicides, 5 are insecticides. 9 of these chemicals can't be used on a parking lot or oil field site. They are illegal for use in this state and country, yet Canada uses them on Wheat and imports it into our food system. These 9 chemicals have no established MRL's. This information was sent to the EPA in Nov. of 1998.

Yesterday, John Pitchford from the Federal Grain Inspection Service out of Washington D.C. called me. The EPA and the FDA has confirmed the list of chemicals and the useage of these chemicals by the Canadian wheat farmer is correct. He informed me some of these chemicals have no established method set up for monitoring chemical residue.

Mr. Pitchford is sending the information to me on the study the EPA and the FDA has completed. He is also setting up a conference call for the end of next week between the EPA, FDA, the

Federal Grain Inspection Service and us 4 farmers. The FDA will go through the information with us and explain their intentions of a surveillance spot check of Canadian grain being imported into this country.

I'm asking the Senate to support bill #1335 to force the N.D. Health Dept. to do their job. It's our Government's responsibility to insure food safety in our state of N.D. and the U.S. If the EPA has not approved these chemicals applied on agricultural products and drugs injected into livestock that are produced in a foreign country, then don't let these products be imported into our state to contaminate our food system.

To: Senate Agriculture Committee Chairman Wanzek
Senate Agriculture Committee Members

From: Eric Mack, Merchandising Manager, ADM Velva, ND

Subj. HB 1335

Chairman Wanzek and Senate Ag. Committee Members, I would like to make mention of some of the concerns I have with HB 1335, as it relates to the ADM crushing plant in Velva and the general Ag. community of North Dakota. Also, the North Dakota farmer who has embraced canola in his rotation, due to the farm saving profit potential, will also suffer.

Here are some facts and opinions about the canola industry in North Dakota.

1) **The canola plant @ Velva alone can crush 1,400,000 acres worth of canola.**

The United States only planted 1,133,000 acres of canola in the 98-99 crop year.

North Dakota only produced 793,000 acres of canola in the 98-99 crop year.

****As you can see from the above, it is obvious that the Canadian seed is not displacing North Dakota seed, but rather supplementing the North Dakota seed.**

2) The Velva plant would not have ever started up without Canadian canola. **As of January 22nd, 45% of the canola purchased to date at the Velva plant was Canadian seed.** I expect this % to increase to between 50-55% by the end of the crop year. Eastern crushers in North Dakota and Manitoba, pull a fair amount of the Eastern North Dakota seed, making it necessary to have 2,000,000 acres+ in North Dakota before there would be enough acres to get 100% of Velva's canola seed needs from North Dakota.

3) The Velva plant started up for the third time in September of 1993, and has been running ever since, as the only plant in North Dakota, and the US, entirely dedicated to canola crushing.

4) **The increase in canola acres in North Dakota, can be directly tied to the fact that there is a full time canola crushing plant in the state.**

1992 ND Acres = 22,000
1998 ND Acres = 793,000
est 1999 ND Acres = 1,200,000

** Also NAFTA with its elimination of the import tariff of \$10.00/mt., has helped the Velva crushing plant by making the necessary tonnage of canola seed available at economical values.

5) Also because of the increased amount of oilseed processing ADM has been doing in the state of North Dakota, **an oil refinery was built in Enderlin, ND. two years ago.**

6) **75% of the oil refined at Enderlin, ND comes from the Velva Canola Plant.** If the Velva plant closed, it would also shut the Enderlin refinery down.

7) I feel legislation like HB 1335 will reduce the willingness of companies to invest in agri-business within the state of North Dakota.

8) The small town of Velva would suffer greatly if the plant closed. There are about 52 employees, plus 3 full-time electricians and 5 full-time contracted construction personnel that would be out of work.

9) I also question the Canadian rail shipments of canola to Mexico. Would HB 1335 make it illegal to ship canola from Canada to Mexico through the state of North Dakota? What about Flax from Canada, through North Dakota to Redwing, MN?

10) If HB 1335 passes and does close the Velva plant, it's almost certain that the LDP payments for canola would greatly increase, expending tax payer funds.

11) It is evident that HB 1335's main objective is to get the attention of the EPA and FDA, and to push them toward harmonization with the Canadians on these key issues. This is on FQPA's agenda.

**** The US Canola Association has had great success toward harmonization with the announcement from the Canadian Canola Council stating that Canada does not want any new chemical registered in Canada, unless the chemical company dual registers that chemical in the United States.**

12) **There are no restrictions on canola going into Canada from the US, that I am aware of.** I would guess that 75,000 MT of canola has shipped into Altona, MB from North Dakota.

13) Just to clarify one point, its not just the Velva canola plant that would suffer, but all oil seed crushing plants in the state. I know, that both Cargill at West Fargo and Northern Sun at Enderlin have bought canola from Canada. They crushed canola last year before the sunflower harvest came off. North Dakota is the net importer of oilseeds, so all crushers have to look outside North Dakota's borders to find the seed to efficiently run a crush plant.

14) It's not as simple as it sounds. "Just have every load of Agricultural Commodity certified to be under the established MRL before entering North Dakota".

Testing for which chemicals on which commodities?

Using what methodology?

To what MRL's? If they aren't established then the MRL is to equal zero.

Okay, zero when tested to parts per million, billion or trillion?

Who would conduct the tests? FDA in the US.? What about Canada, PMRA?

Who would be guilty of the Class B Misdemeanor, the driver or the shipper?

** I would NOT be in favor of HB 1335, due to the economic damage it would inflict on North Dakota farmers and the Ag. Industry. As well as the additional confusion it would add to the ongoing FQPA Legislation.

** **At the very least we would ask for an amendment exempting canola and/or all oilseeds from this Bill.**

HB1335

American wheat farmers snub Canadian elevators

Designated border delivery points are still waiting for their first North Dakota or Montana farmer with a truckload of wheat.

By Adrian Ewins
Saskatoon newsroom

Twenty-seven Canadian grain elevators have opened their doors to American wheat growers.

But so far, no farmers from the United States have made use of a new program designed to make it easier for them to deliver their grain across the border.

"No wheat has yet moved into Canada," said Norm Woodbeck, director of the prairie region for the Canadian Grain Commission.

And an official with one of the grain companies involved in the project said market conditions make it unlikely that much wheat will flow north.

"Today from an economic standpoint, it's questionable," said Jeff Johnston of Cargill Ltd. "By the time you bring it up here, whether you take it into the domestic market or the export market, it's borderline."

He said the company has received no inquiries from U.S. producers about delivering to a Canadian elevator. And he said that given the current economics, there's not much point in promoting the program south of the border.

"I think we're going to sit back a bit right now," he said. "If there isn't an opportunity there from a price standpoint for the producer in the States, then I don't think there's a lot of us in advertising it."

Cargill, Saskatchewan Wheat Pool, Pioneer Grain Co. and Agricore are participating in the program and have designated 27 specific delivery points.

The record of understanding signed between Canada and the U.S. following last fall's agricultural trade dispute included a commitment by Canada to "facilitate" wheat sales by North Dakota and Montana producers to Canadian elevators close to the border.

"The main concern on the grain commission's part and the Canadian Wheat Board's part is that the U.S. wheat not be commingled with Canadian product," said Woodbeck.

Here's how the process will work:

- The Canadian grain company must obtain an import declaration from the grain commission for each shipment. A permit will be granted except in exceptional circumstance.
- **When the wheat arrives at the border, the shipper must present the appropriate phyto-sanitary certificate and fill out the requisite Canada Customs forms.**
- The grain commission is notified by the company that a shipment will be arriving at a particular elevator. CGC personnel are sent to the elevator to sample the grain, check for infestation and forward a sample to the Canadian Food

Inspection Agency for weed and disease analysis.

- The wheat is identity-preserved and put in a sealed bin. when the grain is to be shipped out of the elevator, CGC personnel will return to monitor the unloading into a truck or rail car. The bins will be re-sealed if some wheat remains.
- If the wheat is loaded into a rail car and shipped to a terminal elevator, the same process will be repeated at the terminal.
- If the U.S. wheat is cleaned at the primary elevator, all of the screenings will be kept separate from Canadian screenings unless they are being shipped directly to a pelleting plant or feed mill.

Woodbeck said the rules are no different than the rules that have always been in place.

“Canadian companies have always been allowed to bring in U.S. grain,” he said. “This has just been basically the formalizing of it, putting down on paper exactly what we would do.”

Wheat being delivered anywhere other than a primary elevator, such as a feed mill or feedlot, is not subject to the new program. That grain will continue to move under the existing rules, which include the requirement for an end-use certificate.

The Western Producer January 28, 1999

HB 1335

Canada: United States: North Dakota Import Requirements:

Species	Canada to United States	Canada to North Dakota	United States to Canada
Breeding Cattle	Individually identified on an endorsed Canadian health certificate, must include statements that the animal and the herd of origin are free of brucellosis and tuberculosis.	In addition to U. S. requirements, North Dakota requires a negative brucellosis and TB test within the last 30 days. A pre-entry permit is also required. Adult female cattle over 12 months of age must also be calftood vaccinated for brucellosis.	Individual identification on an endorsed USDA health certificate. Nine certification statements are required about the status of the area and the herd they originate from. A negative brucellosis, anaplasmosis, and TB test is required. A negative bluetongue test is required if shipment occurs between April 1 and Oct. 14.
Breeding Bison	Individually identified on an endorsed Canadian health certificate, must include statements that the animals and the herd of origin are free of brucellosis and tuberculosis.	In addition to U. S. requirements, North Dakota requires a negative brucellosis and tuberculosis test within the last 30 days. A pre-entry permit is also required.	Individual identification on an endorsed USDA health certificate. Nine certification statements are required about the status of the area and the herd they originate from. A negative brucellosis, TB, anaplasmosis, and bluetongue test within 30 days is required. Additionally, bison are quarantined for 60 days in Canada and retested for the above four diseases.

Species	Canada to United States	Canada to North Dakota	United States to Canada
Breeding Swine	Individually identified on an endorsed Canadian health certificate, must include a statement that the animals and herd of origin are free of hog cholera, swine plague, and psuedorabies.	In addition to U. S. requirements, North Dakota requires a permit on all swine entering the state.	Individually identified on an endorsed U. S. health certificate, which must contain 5 certification statements. A negative Brucellosis and psuedorabies test is required within 30 days of shipment. All swine imported into Canada are quarantined for 30 days in an Agriculture Canada quarantine station and retested for psuedorabies.
Breeding Sheep	Individually identified on an endorsed Canadian health certificate, must include 5 statements about scrapie, scabies and the flock and area of origin.	In addition to U. S. requirements North Dakota requires a statement that the flock of origin is free of infectious footrot. A negative test for <i>Brucella ovis</i> is required for all male sheep over 6 months of age. A permit is required on all sheep.	Individually identified on an endorsed U. S. health certificate, which must contain 5 certification statements. A bluetongue test is required if shipment occurs between April 1 and Oct. 14.

SELLING U.S. WHEAT TO CANADIAN ELEVATORS NOW 'EASIER'

On average, Canada produces 1.5 to 2 times the amount of hard red spring and durum wheat grown in the United States, but only has about one-tenth the population to consume the crop.

These numbers place a natural limit on export opportunities in Canada for U.S. wheat producers, particularly those in North Dakota and Montana. If these raw numbers aren't enough to squelch enthusiasm among the region's farmers for the new Canadian Wheat Access Facilitation Program, a review of prices received by U.S. and Canadian farmers might (see page 2). So will the series of hoops that producers have to jump through.

Promoted by USDA's Foreign Agricultural Service as "an important step in the effort to improve access for U.S. grain producers and other sellers to the grain handling and consumption system in Canada," the program is only for

wheat producers from approved areas in North Dakota and Montana. Other sellers of wheat produced in these areas can also arrange to sell and truck wheat directly to participating Canadian country elevators for resale or transhipment.

Sellers must complete a compliance agreement and obtain an appropriate phytosanitary certificate to truck wheat into Canada. Participating Canadian grain companies must arrange for a representative of the Canadian Grain Commission to be available at the elevator at the arranged time of delivery to monitor the unloading of the grain and to take a sample for information purposes. The CGC must ensure that the elevator does not commingle U.S. and Canadian wheat.

There are 27 participating country elevators (owned by the

Saskatchewan Wheat Pool, Cargill, Pioneer Grain and Agricore) in Manitoba, Saskatchewan and Alberta.

Still interested? Contact Dave Nelson at the North Dakota Department of Agriculture, phone 701-328-4765, to arrange for the necessary paperwork.

For more information on the Canadian Wheat Access Facilitation Program, check out the USDA Foreign Agricultural Service's web site at: <http://www.fas.usda.gov/info/factsheets/canwheat.html>.

Meanwhile, Canada has eased its phytosanitary regulations for shipments of U.S. wheat that transit through Canada by rail. On the flip side, Canada is considering a proposal to eliminate the exemption for straw that comes into the country with livestock. Canada's concern over Karnal bunt, dwarf bunt and flag smut is the reported reason.

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Tougher U.S. pesticide rules could sink canola

By Dawson

Brandon — The good ship agriculture is headed for an iceberg called the Food Quality Protection Act, but by working together, the industry will not sink, says Tony Zatylny, the Canola Council of Canada's vice-president of crop production.

"We have already left port and are probably already halfway across the Atlantic and we are going to hit an iceberg... but we don't necessarily have to sink," he told the 29th annual meeting of the Manitoba Canola Growers Association January 18.

The Food Quality Protection Act (FQPA) became law in the United States in 1996. Although it's a foreign act, it will have a profound

impact on Canadian agriculture, especially canola production, if the industry, including farmers, is not proactive. Zatylny warned.

Under the legislation, pesticide residues in or on food are deemed unsafe unless the tolerance for that pesticide is in effect or there is an exemption.

"When you look at the canola industry in Canada, there are more than 30 pesticides to which there is no tolerance or exemption from tolerance in the U.S.," Zatylny said. "So that means

if a cargo of seed is going across the border and they find a pesticide in there, they can embargo that load and if worse comes to worst, they

can embargo the whole crop."

As draconian as that sounds, Canada has similar regulations in place, Zatylny said. What makes the FQPA so potentially harmful to

Canada's canola industry is the likelihood that some of the pesticides used to grow canola will be restricted or banned.

That means farmers face the hardship of losing important crop protection products or losing one of the best-paying markets in the world. Each year, the United States imports \$1 billion worth of Canadian canola seed, oil and meal.

"I can't overemphasize how important this is," Zatylny said. "A

lot of people said, 'what if it costs us more money?' That's a very valid concern, but if we lose the U.S. market, it doesn't matter how much more it costs.

"If you believe canola is paying the bills on your farm today, it is very important that we are in full compliance."

Some products will be restricted or even banned because the FQPA takes a different approach to assessing pesticide risk. In the past, the risk was based on the amount of residue on food only. Now all exposure, including through air and drinking water, will be included. Groups of pesticides will be assessed in total, including everything from home and garden

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Tony Zatylny

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products to pet shampoo. The legislation also reduces the allowable exposure to infants and children by tenfold.

"A residue that was considered safe in 1996, in 1999 may not be considered safe," Zatylny said.

"The outcome is some things (pesticides) will have to drop out."

Canola is especially vulnerable given it's such a small crop in North America. Pesticide-makers will try to maintain products that are used on major U.S. crops like corn, soybeans and wheat.

Under threat of up to a \$50,000 fine and five years in prison, U.S. regulators are supposed to pass judgment on 3,000 pesticides by the end of the year. The work has hardly begun and as a result, Zatylny fears whole groups of products may be restricted or eliminated.

Organophosphates are under the gun, including insecticides like

Lorsban, malathion and Cygon used by farmers now.

"I'm not saying that all these will disappear but some uses could be eliminated and there could be some restrictions applied," Zatylny said. "Some of these chemicals on the list I know for a fact will not be here a year from today."

Other insecticides like Furadan and Sevin are also being scrutinized.

Canada, with the blessing of the Manitoba Canola Growers Association, will voluntarily withdraw Lindane, a fungicide used in most canola seed treatments, by 2001, Zatylny said. The Americans were demanding it anyway because it's not registered in the U.S. (Lindane is on a list of "persistent organic pollutants" and is in the same family as DDT. Like DDT, Lindane is stored in fat and is passed on to the next generation.)

The new restrictions are not going away, Zatylny said. "It

behooves us to be in line with what consumers want."

So what can the canola industry do? One approach is for Canada and the U.S. to jointly register new pesticides. So far, that has speeded up the process, Zatylny said.

Integrated Pest Management is another approach. Farmers are already using it, but even more can be done in an effort to control pests so that fewer pesticides are used. But the strategy will only work if consumers have faith in it, he added.

"If we don't do this, then somebody will put legislation in place like they have in California where a farmer has to apply for a permit to use a pesticide and he has to be licensed to buy it and then he has to monitor and record all the environmental conditions and report any spill and what he did with the containers. That, ladies and gentlemen, takes away our freedom to operate. The only way we can protect ourselves is a proactive approach."

Food quality rules will change herbicide use

By Laura Rance

Canadian farmers will have to curtail their use of certain pesticides if they want continued access to the U.S. et. canola industry official.

The U.S. Food Quality Protection Act, implemented in 1997, has targeted a long list of pesticide products which are to be reviewed by the year 2006 and possibly removed from the American food chain.

Many of those products are commonly used in Canada.

That list includes organophos-

phates such as Malathion and Lorsban, carbamates such as Sevin and Furadan, and any product deemed to be a carcinogen, which could put phenoxy herbicides such as 2,4-D at risk.

"There is a huge number of pesticides which are going to be pulled out of the market," said Tom Borgen, president of the Northern Canola Growers Association.

Borgen told Manitoba seed growers meeting in Brandon recently U.S. laws also require tolerance levels to be set for any imported commodities which have been treated

with those chemicals.

The legislation requires the EPA to establish both aggregate and accumulative levels of pesticide residues which will be allowed. If the so-called "risk-cup" for an active ingredient is filled by products on the market, no new products will be registered. If the risk cup is overflowing, some products may be removed from the marketplace.

Borgen said that will affect farmers on both sides of the border. "If you want to continue to move commodities across the border, you will have to address it," the Langdon,

North Dakota farmer told seed growers meeting in Brandon recently.

Canadian farmers got their first taste of how the new laws will be applied last spring when the U.S. Environmental Protection Agency ruled that canola seed treated with lindane could not be imported. Lindane is not registered for use in the U.S. and no import tolerances are in place.

Officials relented after American farmers complained the ruling came

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too late for them to source alternative seed supplies for last summer's crop.

But the Canadian seed trade was put on notice that as of July 1, seed treated with lindane would not be allowed into the U.S., said Tony Zatylny, vice-president of the Canola Council of Canada.

But it's not just lindane.

A truck carrying Canadian canola seed spent two weeks in limbo at the Canada-U.S. border last fall, entangled in conflicting pesticide registration policies.

The shipment of seed for variety trials was stopped at the border October 23 and barred from entering the United States because it had been treated with the product Benomyl-T. Benomyl is registered for use in the U.S. but the thiram contained in the T formulation is not.

As well, no import tolerance has been established for the active ingredients in the product as is required by the FQPA.

The seed was then refused re-entry into Canada because it had been treated with the product Gaucho, which is registered for use in Canada — but only for exported seed.

Zatylny said state officials intervened and the shipment was eventually allowed into the U.S.

But he said the incident is a sign of what life will be like for the Canadian industry until the two countries find a way to harmonize their laws. "I think everybody who has been involved with the seed

trade knows you don't ship treated seed into the U.S.," Zatylny said.

But it's not just treated seed.

Borgen said the new rules requiring tolerance levels also apply to commodities which have been grown using the treated seed.

In the case of lindane, there are no residues of the chemical left in canola oil processed from seed. But there is some in the meal. "It's found in England that meal fed to cattle at 10 times the rate, there are traces of lindane in the meat," Borgen said.

Canada's exports of canola meal into the U.S. market have been rising steadily throughout the 1990s. Last year, it sold nearly one million tonnes of canola meal worth more than \$237 million to the U.S.

Borgen said that market is in jeopardy along with a host of other markets Canadian farmers serve in his country.

For starters, it's a hot political issue. U.S. farmers attempting to diversify into crops such as canola have access to only a handful of crop protection products. Canadian farmers have access to more than 40.

If American farmers don't have access to a product, it's hard for them to understand why they should compete with imported products in their domestic market which have been treated with it. Canadian agricultural imports are already controversial.

Borgen said he has many concerns over how the new legislation will be interpreted as well as what data the EPA will choose to use when establishing residue tolerances.

But he said it is a hard law to fight.

"Who is going to argue with a law that says it is trying to protect you from exposure to chemicals?" he asked.

Zatylny said the impact of the U.S. food quality legislation differs little than the position the European Union has taken on genetically modified organisms. Canadian canola has been shut out of the European market indefinitely because it contains seed produced using the technology.

"We have to comply with the rules of importing countries or we risk not doing business," Zatylny said.

"If you want to do business in that country you have to conform with their regulations or you run the risk of not doing business with them," Zatylny said. "If I ask you to do work for me, I expect you to do it the way I prefer."

Canola industry officials from both sides of the border have formed a joint committee to meet with pesticide manufacturers and urge them to apply to have registration and tolerances established in both countries.

But Zatylny warned that may prove difficult because many of the products currently used in Canada could be on the EPA's hit list.

Relatively speaking, Canada isn't a large market. It's too cold.

Insect outbreaks occur sporadically. "We tend to have older technology in which the investment has been recovered from other countries on other crops," he said.

By Alex Binkley

Vanclief gains respect

Alex Binkley is a freelance agricultural writer and veteran member of the national press corps based in Ottawa.

much of the time since his appointment as agriculture minister last year. Lyle Vanclief has maintained such a low profile that he has seemed almost invisible in Ottawa. However, recent events have shown that he was certainly tending to his departmental and political chores and now he is reaping the rewards.

His patient juggling of the farm income issue and trade disputes with the U.S. while getting the farm and food processing community talking in a co-operative spirit about Canada's position in the next round of international trade talks have given him a sudden burst of recognition and respect from colleagues, political opponents and the media. Even his opposition critics are careful not to make their attacks on the government carry any personal sting against the minister.

What's most important is that he was able to get a commitment from his Cabinet colleagues to spend \$900 million supporting farmers during the next two years. If the plan is backed by all the provinces, it will translate into a \$1.5 billion package for hard-pressed Canadian farmers. Not too shabby. Getting that kind of money out of the government required a lot of patient advance work by the minister. He had to make sure other members of Cabinet as well as senior government officials comprehended the magnitude of the problem facing the farm community and the consequence of not acting.

Throughout the process, Vanclief has remained low-key and cautious. At a news conference in Ottawa after a mid-November meeting with provincial ag ministers, Vanclief wouldn't promise a farm-aid package, despite a lot of leading questions from the media, for the simple reason that he hadn't presented a plan to Cabinet and gained the approval of his colleagues. Still, he tried to send plenty of signals that there would be help. He maintained the same position at a subsequent meeting with the Commons agricultural committee.

From his days as an opposition backbencher, Vanclief has had a reputation for being hard-working but usually with a low profile. This re-evaluation situation has brought out a seldom-seen passion in him. He joshed with opposition MPs for calling for support for farmers even though their parties have advocated cutting farm spending. He dished both Senator Byron Dorgan of North Dakota and his complaints about Canadian farm imports as the usual anti-Canadian bellyaching of

that particular politician.

He actually got animated when he talked about the need to tackle the myths and misconceptions of Canada/U.S. farm trade and pointed out that for every \$31 worth of Canadian food that ends up on U.S. dinner plates, \$216 worth of U.S. food products goes into Canadian homes. He's been to Washington several times to talk to politicians and farm leaders there about bilateral farm trade and how we should be working together instead of trying to beat each other up.

Vanclief seemed especially pumped up after a brief trip to Washington to finalize the agreement that made short work of the Canada/U.S. border blockades. He recounted for the agriculture committee his two meetings with U.S. Vice-President Al Gore as well as his sessions with other U.S. politicians. He even told the MPs how he was able to phone some old friends in Iowa and tease them about meeting their vice-president. When the agreement became public, he explained how all the gains the U.S. crowd about were in fact all normal developments under free trade. Most of them could have been in place earlier.

He may be a bit more excited than usual but Vanclief is not gloating about his triumphs. He knows there are still plenty of details about the farm-aid package to be worked out and that as bad as this year has been, next year likely will be worse. He clearly was hoping for a longer-term program than he was able to get out of Cabinet. As well, he knows there's still plenty of negotiations to be conducted with the Americans and that his U.S. counterpart will be in Ottawa during the next few days for even more talks. The new year will also bring up all the work involved in pulling together a Canadian position for the upcoming WTO negotiations.

But for the moment, Vanclief has every right to enjoy his successes. The Canadian Federation of Agriculture, which has been critical of him in the past, has praised both the farm-aid package and the deal with the U.S. In the small world of Ottawa, this kind of endorsement, plus the ability to have one's portfolio under control, counts big-time.

Ag committee chairman John Harvard noted that in 10 years in Parliament, he hasn't seen anything come together as quickly as the farm-aid package. It's obvious that Vanclief gets a lot of the credit for the government's quick action. It would also be quite like Vanclief to give credit to the MPs, his officials and the farm groups and their united stand for a program that will help those who need it. □

Canada would fight North Dakota import bills

By Ron Friesen

the state Senate and government have to ratify them into law, official said.

Canada will retaliate if North Dakota passes legislation to ban grain and livestock imports unless they are certified free of drugs and weed seeds, according to federal officials.

States cannot exceed requirements which the U.S. government has agreed to in international trade pacts, a spokesperson for Agriculture Minister Lyle Vanclief said.

"If it's contrary to agreements that both parties have made, I presume some action would be taken," she said.

Two bills currently before the North Dakota state legislature would make it illegal to ship grain and livestock into the state unless they are certified as weed- and chemical-free.

The bills are an apparent attempt to write into law what South Dakota did unilaterally last fall.

South Dakota Governor Bill Janklow ordered state troopers to turn back Canadian livestock and grain trucks without such certificates.

The action lasted only a few weeks. But it created an international incident after other northern border states stepped up inspections of Canadian trucks in support.

Ottawa asked for consultations with Washington as the first step toward a WTO or NAFTA trade dispute panel.

It withdrew the complaint after the two sides agreed to negotiate agricultural trade issues.

A 17-point agreement in December aimed to reduce irritants in grain and livestock trade between the two countries. But many U.S. farmers rejected the deal.

An Agriculture Canada trade official said he could not comment on the North Dakota bills or if they superseded U.S. trade obligations.

But he said the U.S. has to give prior notice and conduct a scientific risk assessment before legislating new phytosanitary measures. In this case, it has done neither.

A North Dakota state agricultural liaison officer said the bills have a long way to go before they become law.

They were introduced in the state legislature and sent to the House of Representatives' agricultural committee for discussion. The committee discusses the bills this Friday. It will then send them back to the legislature with a recommendation to either pass or reject them.

Even if the bills clear the House,