

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2413

2001 SENATE AGRICULTURE

SB 2413

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2413

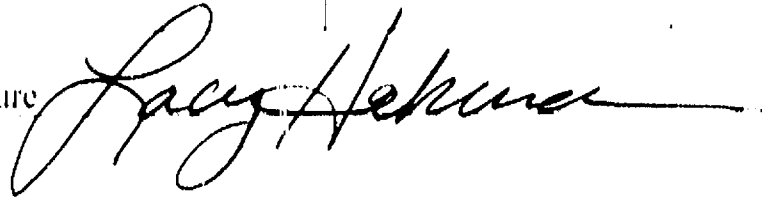
Senate Agriculture Committee

Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
Feb. 8 1	X		10.2 - 27.7
Feb. 15 2	X		3.3 - 7.5

Committee Clerk Signature



Minutes:

SENATOR WANZEK; Sponsor, introduced the bill to the committee. Any contract regarding the production and sale of a agricultural commodity must include a provision for a resolution of a contract dispute and spell out between the two parties and how the process will go.

SENATOR KROEPLIN; Isn't there another section of code that applies to this or are specialty crops are excluded from that?

SENATOR WANZEK; It seems to me that there is a means by which a sample can be gathered but both parties have to agree that it's a representative sample. There is nothing spelling out how we mediate if there a difference, to my knowledge.

REPRESENTATIVE BRANDENBURG; Sponsor, testified in support of this bill. This should be looked into and worked out so it is fair for both parties.

SENATOR URLACHER; testified in support of this bill.

ROGER JOHNSON; Agriculture Commissioner, testified in support of this bill. See attached testimony.

STEVE STREIGE; ND Grain Dealers Association, testified in the neutral position on this bill. Pointed out section 60 02 05, there is a paragraph for dissolving disputes for crop that are covered by US weight standards and another that covers crops not covered by US weight standards and provides for the gathering of a sample.

The hearing was closed.

SENATOR KLEIN moved for a DO PASS.

SENATOR NICHOLS seconded the motion.

Discussion.

The motion was withdrawn.

SENATOR KLEIN moved the amendments changing and to or.

SENATOR ERBELE seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR KLEIN moved for a DO PASS as amended.

SENATOR NICHOLS seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR WANZEK will carry the bill.

Date: 2-15-01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2413

Senate Agriculture Committee

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

Legislative Council Amendment Number 10351.0101

Action Taken Amendments

Motion Made By Sen Klein Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

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

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

Date: 2-15-01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2413

Senate Agriculture Committee

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

or

Conference Committee

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

Action Taken DO PASS AS AMENDED

Motion Made By Sen Klein Seconded By Sen. Nichols

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroepflin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Wanzek

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

REPORT OF STANDING COMMITTEE (410)  
February 16, 2001 11:22 a.m.

Module No: SR-29-3640  
Carrier: Wanzek  
Insert LC: 10351.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SB 2413: Agriculture Committee (Sen. Wanzek, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2413 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "and" with "or"

Renumber accordingly

2001 HOUSE AGRICULTURE

SB 2413



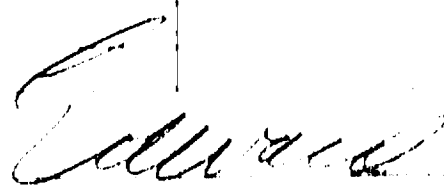
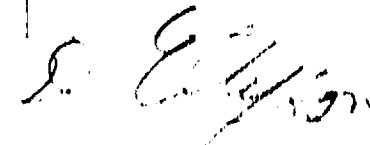
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2413

House Agriculture Committee

Conference Committee

Hearing Date 3--15--01

Tape Number TWO	Side A A	Side B	Meter # 00 TO 3083
Committee Clerk Signature			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON SB 2413.

SENATOR WANZEK: Please see Bill prior to the following testimony. It basically says that the contract for sales of agriculture commodity must include provisions regarding the manner in which mediation or arbitration is to be initiated and be resolved. This is something that would be required in the contract. How are we going to settle disputes. I told my story to the senate and now I will tell it to you. Personal experience. I signed a contract, a very lucrative contract, to grow confection sunflowers. It paid bonus's if my insect damage was below a certain threshold and if my seed was above a certain threshold. A very good contract. Sure fire thing. A lot of people signed contracts that year. The price for confection sunflowers dropped below, SEVEN CENTS below what my contract says. I harvested them and sent truckloads to collection point and it came back with a very high dockage. My threshold was three percent or more and the insect damage was three point zero five three point one and anyway

I became frustrated and I sent the next six semi-loads thinking I wanted to get a pattern here to the Jamestown grain association USDA FEDERAL GRAIN ASSOCIATION, paid for it out of my own pocket, had each semi-load probed, samples gathered, some an official third party government official. The samples were analyzed and assessed and every load had half as much dockage, not one load had more than one percent insect damage, and when I confronted the individual with the documentation from the six loads, I will never forget what he said to me. This the reason I am here. Who are you anyway, I don't need to deal with you. Get out of my office and leave me alone. I called the public service commission. In the century code there is a provision that talks about how disputes are settled. The two parties have to agree on a representative sample which creates some problems there. This individual would not even sit down with me and look at a sample etc. We we were never able to resolve it and I felt cheated. There has to be a fair way of doing it. What I am trying to get at with this Bill is have a format that we can follow to resolve a dispute that may arise between the seller and buyer when there is a contract involved. We want a procedure or process. We have worked out some amendments as to this Bill. I am going to have the grain dealers present the amendments. I am in agreement with the amendments. This would be only for written contracts.

Representative Froelich. You have a thirty day clause. Shouldn't it be longer?

SENATOR WANZEK: It dose not make the contract void. The grain dealers can explain that to you. The contracts that we are trying to target here are the contracts that are presented to us in the spring. Specialty contracts are more of the problem. High price in the spring and low price at harvest. The use every angle that they can to cheapen up the product that you have agreed to at a certain price. If the table were turned, we would be expected to deliver at the

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contract price. This is a unique contract. This is not an invasive Bill. We are limited in our negotiation as to specialty contracts. It is negotiable. Agricultural contracting is somewhat unique. There are efforts throughout the whole country to provide rights for contracts for producers and in contracting agricultural producers. You think this is invasive, you should see some of those. They go a lot further in trying to protect.

REPRESENTATIVE LLOYD: Potato growers face the same problem. It has never been resolved. Potato growers send a load of potatoes down to the chip factory and they tell grow ere that the potatoes did not meet specifications simply because they had all they needed. The grower had to pay the trucking to and from. It is still an issue today. See Bill 4--24--13, is there a penalty for breaking the contract?

SENATOR WANZEK: We discussed that, there is legality situations with fines. There is not any with this Bill. Maybe Dan could touch on that when he testifies.

REPRESENTATIVE MUELLER: Are we running any risk because contractors may not want to do business in ND because of this Bill?

SENATOR WANZEK: I don't want this Bill to be so onerous that it a slanted one way or the other. I don't want to limit opportunities that might otherwise be there. I don't see that it is so much to ask that just up front say we have a dispute. Lets put it in the contract, as to how we would settle a grading etc. dispute.

REPRESENTATIVE KINGSBURY: We have few chip and potato manufacturing in Valley. Do we want to rock the boat. They probably don't need our potatoes here in ND. They can get them anywhere else in the country. Do other states have laws like this?

SEN WANZEK: REALLY DID NOT ANSWER QUESTION AS TO OTHER STATES.

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House Agriculture Committee

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We as growers don't carry clout. I am just asking for the minimum level of some kind of direction in disputes. The market is take it or leave it. Verses going to court. Maybe we are to productive. There is a good contract out there, we all grow the crop and there is an overflow. This Bill is not adversarial to grain dealers.

CHAIRMAN NICHOLAS: We have all been there. WE can all right our own book on it. I don't think that you can go in with an elevator manager one time that there is not some kind of a hassle. That is just the way it is and If I look around at other farmers they will all be nodding their heads. IN AGREEMENT.. There is always a hook.

STEVE STREGE: Grain Dealers. Handed out amendments. The problem is specialty crops. There are already sections of the code that deal with disputes. sixty o two o five. sixty o two point one o five and THE PSC provides a poster for each elevator in this regard. WE don't want this bill to be contradictive with existing laws. Inserting the word written gets us aground oral contracts where there are no written contract. Amendment in line seven adds livestock which is OK with the stockman's association.

The language about 30 days is needed to exclude immediate delivery contracts that with the quality determination on loans at the time of the sale. Most of the contracts are written in the fall.

DAN KUNTS: LEAD COUNCIL FOR THE GRAIN DEALERS ASSOCIATION.

I helped draft these amendments. If there are any questions. Implementation of This Bill without some kind of standard? How would we enforce this Bill.

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House Agriculture Committee

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DAN: This is pretty broad at this time. It would be buyer.....seller decision as to arbitration or mediation etc. No penalty enforcement at this time. The courts would state where it me arbitration or mediation at this time.

JEFF KNUTSON: Printed testimony. From Roger Johnson, Agr. Commissioner.

CHAIRMAN NICHOLAS: Any additional testimony on SB 2413

WE WILL CLOSE THE HEARING ON SB 2413.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2413 B

House Agriculture Committee

Conference Committee

Hearing Date 3--15--01

Tape Number	Side A	Side B	Meter #
TWO	Λ		4955 to END
THREE	Λ		00 to 116
Committee Clerk Signature <i>Edward D. Wilson</i>			

Minutes:

CHAIRMAN NICHOLAS: O.K. THE CHAIR WILL ENTERTAIN A MOTION TO ACCEPT THE AMENDMENTS ON 2413 .

REPRESENTATIVE LLOYD: I think that before people vote they may want to take a look at at was handed out at the time we looked at Bill Bowmans Bill. This whole thing is about what Sen. Wanzeks bill is. This whole document here relates to all of the ramifications of contracts between producer and processor. Whether his bill will benefit or hinder, quite frankly this contract with all of these definitions that are outlined in this document here, quite frankly says it probably won't do much good. We have got to be careful about putting in place state regulations because the nature of processing is permitting and there are those who simply do not want to do business with those who are against it. You have to realize that is the situation and to parallel that I will just tell you about what has happened in the potato industry, the chip industry where Freta Lays quite frankly said OK if you are not going to play with us, you don't

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get to raise anymore potatoes for us and right now they have five contract growers in the whole US. Everybody else is out.

REPRESENTATIVE KINGSBURLY: You mentioned penalty, we keep raising more potatoes. We bring out our own penalty, we keep raising more potatoes. Dealing with the companies. This makes me a little nervous, because of the nature of dealing with a company like that who can just say. I am not saying there is not something wrong with the company deep down buy we just have to dance to their music.

REPRESENTATIVE MUELLER: I think that all this one is asking some form of contract resolution stated in the contract. I don't think it is talking about the provisions in the contract or suggesting to a contract provider that they have to do certain things in terms of level of potatoes. It says that if we have a problem, you folks have to come to the table to talk about it. That is all I am seeing.

REPRESENTATIVE FROELICH: I am in favor of this Bill. Rite it in or scratch it out.

REPRESENTATIVE LLOYD: The way I read this is it says any written contracts as to production or selling Agr. commodities must include a provision for the resolution of the contract dispute. So if Rep. Froelich is correct and they don't want to write in that resolution into the contract, that means that there is no agreement for that particular producer to be able to utilize that contract. That what I would interpret that. That is what we have right now. If you don't want to sign the contract, you don't. I don't see any benefit. I see we are in the same boat as to where the producer sits.

REPRESENTATIVE ONSTAD: Malting Barley. Pick and choose. Take it or leave it. A good crop, now they can take it or leave it. Do we have currently state mediation. Do we have

