MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on January 11, 1991, at 1:00 P.M.

ROLL CALL

Members Present:
Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused:
Thomas Beck (R)

Members Absent:
Betty Bruski (D)

Staff Present: Doug Sternberg (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Senator Jergeson announced that since he was the sponsor of the only bill being heard on this date, he would turn the Chair over to Vice-Chairman Koehnke.

HEARING ON SENATE BILL 19

Presentation and Opening Statement by Sponsor:

Senator Greg Jergeson, District 8, informed the committee that there were several reasons why he introduced Senate Bill 19. He stated in 1989 large portions of the country were suffering from drought. Analysts, looking at the crop conditions and amount of grain that should have been available, anticipated the price of wheat to go up substantially. However, it held flat throughout the year. At the same time, several farm groups were discussing their concern about the use of No Price Established contracts (NPEs), where the producer will haul their grain into a local elevator and will transfer title to that grain, sign a NPE, and would have a period of time in which to price that grain. Some farm groups contended that the NPEs were destructive to the industry because the grain was filling the pipeline, causing depressant effect on the price of grain. As long as the grain trade was able to secure supplies of grain, without having to establish a price, they were under no incentive to go out into the market and offer a price for which other farmers would deliver it. It is not clear what the full effect of NPEs were on this, but in Sen. Jergeson's opinion it was substantial. Another issue is the potential risk to the producer who uses a NPE. In the livestock industry legislation has been passed that provides title to those commodities, and does not transfer it back until the commodity is paid for. In view of the above, it was felt that a bill would be worth considering that would offer some protection both for the industry and for individual producers. Sen. Jergeson stated he believes that NPEs are a serious problem, and perhaps SB 19 would help solve the problem.

Proponents' Testimony:

None.

Opponents' Testimony:

DAN PLACE advised he represented Broadwater Grain and Supply which is a grain elevator and agricultural products supplier located in Townsend. He stated he was also speaking on behalf of the Montana Grain Elevator Association, which is a group of approximately 150 grain elevator owners and operators from the state of Montana. He stated both Broadwater Grain and the Montana Grain Elevators Association are opponents of Senate Bill 19. He read and presented written testimony (Exhibit No.1) setting forth his views and reasons for the opposition of the above group.

THOMAS J. REITTER, representing Harvest States Coop, advised that he believed SB 19 would substantially restrict trade and limit Montana wheat farmers by removing some marketing tools now at their disposal. He stated Harvest States Coop has represented its farmer owners in Montana for over 50 years, and the coop sees no benefit to producers as a result of the proposed legislation. If it is the intent of this bill to mandate that all grain is priced and paid for before it leaves the state, then several types of contracts would be eliminated, including deferred payment contracts and price later contracts. Approximately 10% producers use deferred payment contracts to manage their income and tax liability. He believes that removing that alternative would expose producers to higher tax liabilities, market risks and grain ownership costs.

According to Mr. Reitter, farmers choose to use price later contracts because they can deliver grain to the elevator at their convenience, and price the grain at some future time. Service charges are negotiable under these contracts, and farmers may receive a reduced rate. He does not understand why the Montana Legislature would want to control the time the farmers deliver the grain to the elevator. He believes elevators also can use price later grain to better manage logistics. It is his opinion that passage of this bill would limit farmers to pricing wheat before they deliver or pay the higher rates for the warehouse receipt when they deliver. He stated he used price later contracts as an elevator manager in Minnesota from 1978-1988. He believes price later contracts have no effect on price discovery function of the market. He believes Harvest States coop has expended effort to give their producers all the marketing tools available. He believes SB 19 is unduly restrictive and encouraged its defeat.

EMIL NEUMANN stated he is a farmer from Northwest of Great Falls, and was speaking in opposition to SB 19. He stated he wished to make 2 points as to why he feels this way: (1) the demise of the farmers' plight is not because farmers filled the pipeline last year. Rather, it is because of a number of factors. Even though some farmers used the NPE contract, it was still an option to sell anytime. (2) The second point concerned whether farmers want to legislate to the grain elevators what they can do or how they can handle the grain. He believes the people this bill intended to help, would be the ones to be hurt. He urged that SB 19 do not pass.

STEVE CARNEY advised he is a farmer from Scobey, and also a director of Harvest States Coop which is the producer-owned grain marketing cooperative located in 12 states, representing about 250,000 farmers. Specifically in Montana they have 49 affiliated elevators and 3 feed plants. They handle approximately 40 to 50 million bushels per year. Montana produces about 150 million bushels of wheat per year which represents 5% of the total grain produced in the United States. In regard to SB 19, he stated there has been much press regarding what it does to grain prices. He stated Harvest States has developed a marketing tool called the Harvest States Pool which allows the producer to deliver his grain to the elevator, receive a set price in the fall, and the producer decides how he wants to market the grain, ie a three, six or nine-month period. The idea behind this method is that the farmer will receive average or above average price for the grain.

According to Mr. Carney, many factors affect the price of grain - weather, USDA reports, Secretary of Agriculture decisions, amount of loan and reserve grain, farm programs, exports, embargoes, and now NPE contracts. It is his belief that markets respond more to production and not to just what is in the pipeline.

In conclusion, he stated that if SB 19 passed, it would allow one less way to market grain. He queried whether the State of Montana should be making marketing decisions for the farmers.

Mr. Carney provided committee members with an informational brochure for their attention (Exhibit No. 2).

CHARLES L. MERJA, President, Montana Grain Growers Association, and a wheat and barley producer from Sun River, stated he is an opponent of SB 19. He read and presented written testimony to the committee setting forth the reasons for this opposition (Exhibit No.3).

GEORGE PAUL, Montana Farmers Union, advised that his group is in opposition to SB 19. He stated he does not believe NPEs are responsible for price reductions in the grain market. He does not believe the concern with NPEs should be a legislative matter, nor does he believe it appropriate for government to review all marketing devices.

LARRY FASBENDER, Montana Council of Coops, stated he rises in opposition to SB 19. He urged the committee to defeat the legislation.

LARRY JOHNSON stated he is a farmer representing himself. He stated he believed Senator Jergeson's efforts should be applauded. However, he advised there is no similar legislation in any neighboring states nor is there any pending. He does not believe NPEs, the way they have been used, are good devices and he stated he encourages his friends not to use them. He urged opposition to this bill.

Questions From Committee Members:

Senator Williams asked what states have NPEs. Senator Jergeson advised that he did not know if any other states use them.

Senator Aklestad asked should the applicability in Section 3 specifically refer to agricultural commodities. Doug Sternberg, Legislative Council, advised that in order to be really specific the language should reflect the same language in the bill.

Closing by Sponsor:

Senator Jergeson stated that he believes it is the function of every chairman to cause people to come to Helena, so that purpose as a committee chairman had been achieved. He stated he appreciated the compliments from the opponents of the bill. However, there were some comments that he took opposition to. He believed illogical the argument that outlawing this option means they would consider outlawing all grain sales. A great many of the opposition agree that NPEs are not a good deal, but they hesitate to have the state regulate. Sen. Jergeson suggested that perhaps they should turn that around and review the regulation in existence in this industry in Montana. He added that perhaps there are too many regulations and some deregulation in the industry is necessary so that farmers can be offered some unregulated option in the market. Senator Jergeson concluded by thanking all those who attended the hearing on SB 19.

No executive action taken on this date.

ADJOURNMENT

Adjournment At: 2:00 P.M.

Greg Jergeson
GREG JERGESON, Chairman

Dorothy Quinn
DOROTHY QUINN, Secretary

GJ/dq

ROLL CALL

AGRICULTURE COMMITTEE

DATE 1/11/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK			X
SEN. BRUSKI		X	
SEN. DEVLIN	X		
SEN. REA	X		
SEN. SWIFT	X		
SEN. WILLIAMS	X		

Each day attach to minutes.

Senate bill # 19 Oponent

SENATE AGRICULTURE
EXHIBIT NO. #1
DATE 1/11/91
BILL NO. SB 19

Mr. Chairman--- Members of the Committee;

My name is Dan Place. I am from Townsend. I am here today representing Broadwater Grain and Supply which is a grain elevator and agricultural products supplier located in Townsend. I am also speaking on behalf of the Montana Grain Elevator Association. The MGEA is a group of approximately 150 grain elevator owners and operators form the state of Montana. Both Broadwater Grain and the Montana Grain Elevators Assoc. are opponents of Senate Bill#19.

I have owned and operated Broadwater Grain for 13 years. Being a smaller, independent elevator, we are limited to 150,000 Bu. storage capacity. For 12 years I have used a system called Terminal Storage or as it has more recently been termed---NPE (no price established) Contracts.
Historically, what has happened in the past is this: My elevator-with only 150,000 bu. storage fills up in a very short time at harvest. To continue to take grain in at this time, you have to be able to ship grain. There are two ways to do this:
First: Go on a CASH ONLY BASIS. Every Bu. of grain that is received is automatically priced at that time. Second: Put the grain in Terminal Storage or NPE storage. Either way the grain bushals are carried on my elevators' daily books as a grain bu. liability from the elevator to the grain producer. All of the bu. are covered by a contract, signed by the producer. The producer is told where his bu. are at.

If we go back to option one for a minute--lets look at some of the pitfalls of cash only delivery:

1. The price may not be acceptable.
2. If certain elevators know a producer does not have sterage and grain has to be cash, elevator margins may widen out-- meaning less profit for the producer.
3. Even on Cash only Basis--if transportation is not available (truck or rail) you cannot receive grain.

Now, let's talk ablut some of the positive points of NPE contracts:

1. Grain can be shipped when transportation is available. Here again-sometimes it isn't available ie. rail car shortage, rail strike, embargos.

2. Grain elevators can continue to receive grain as harvest pressure begins to fill them up to capacity.

3. Keeps grain in marketable condition in approved storage and off the ground. Grain stored on the ground can get out of condition and will usually have large discounts because of quality depreciation.

In conclusion---Broadwater Grain and the Montana Grain Elevator Assoc. are opponents to Senate Bill 19.

WHY DO WE NEED LEGISLATION FOR SOMETHING THAT IS AN OPTION ?

If a Montana grain producer does not like No Price Established Contracts--he doesn't have to sign the contract. He can store and handle his grain in any way he choses.

Thank you.

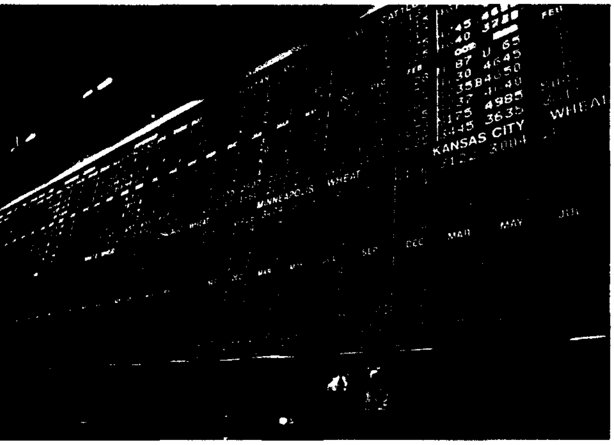
Dan Place

Dan Place
Broadwater Grain and Supply
Montana Grain Elevator Assn.

SENATE AGRICULTURE
EXHIBIT NO. #2
DATE 1/11/91
BILL NO. SB 19

What is the Producer Marketing Pool?

The pool is an alternative designed to enable a producer to effectively market his grain through Harvest States Cooperatives, while taking the guess-work out of "selling at the right time," and reducing the time and the risk involved in dealing with complicated futures and options.



What are the advantages of the Producer Marketing Pool?

With Harvest States involved in the marketplace, merchandisers are able to use various marketing alternatives not readily available to the individual producer.

The producer will receive an advance at the time the grain is delivered to a participating elevator; thus improving cash flow.

The probability of receiving an average to above average price is higher due to Harvest States placement in the trading centers and continuous observation of changing market conditions.

Landlords particularly enjoy the advantages of marketing pools due to the lack of time and resources necessary to stay abreast of the grain markets.

Producers and landlords with limited or no storage facilities find the pool especially attractive.

Who should participate in the Producer Marketing Pool?

The marketing pool program is designed for the producer who feels his time is better spent producing and caring for his crop and does not choose to be involved in complicated futures, options or basis strategies.

The pool should also appeal to those who want to reduce marketing risk and alleviate the pressure of deciding when to "pull the trigger" (or market at the right time) . . . that responsibility is assumed by a merchandising professional.

There are only so many hours in a day. Marketing pools appeal to farmers that choose to spend those hours improving production practices rather than analyzing marketing strategies.

How does the program work?

The producer delivers the grain to a participating cooperative or Harvest States Line elevator. Shortly thereafter, the producer will be issued an advance payment for the delivery.

During the next 3-9 months (depending on the length of pool the producer chooses) the grain will be marketed by Harvest States Merchandisers. Over the length of the pool the producer will receive periodic payments. With the final payment the producer will be issued a settlement sheet detailing the activity.

What are the goals of the Producer Marketing Pool?

To alleviate the pressure of making timely marketing decisions and futures transactions.

For the producer to receive an average to above average price for his grain.

3 feed plants

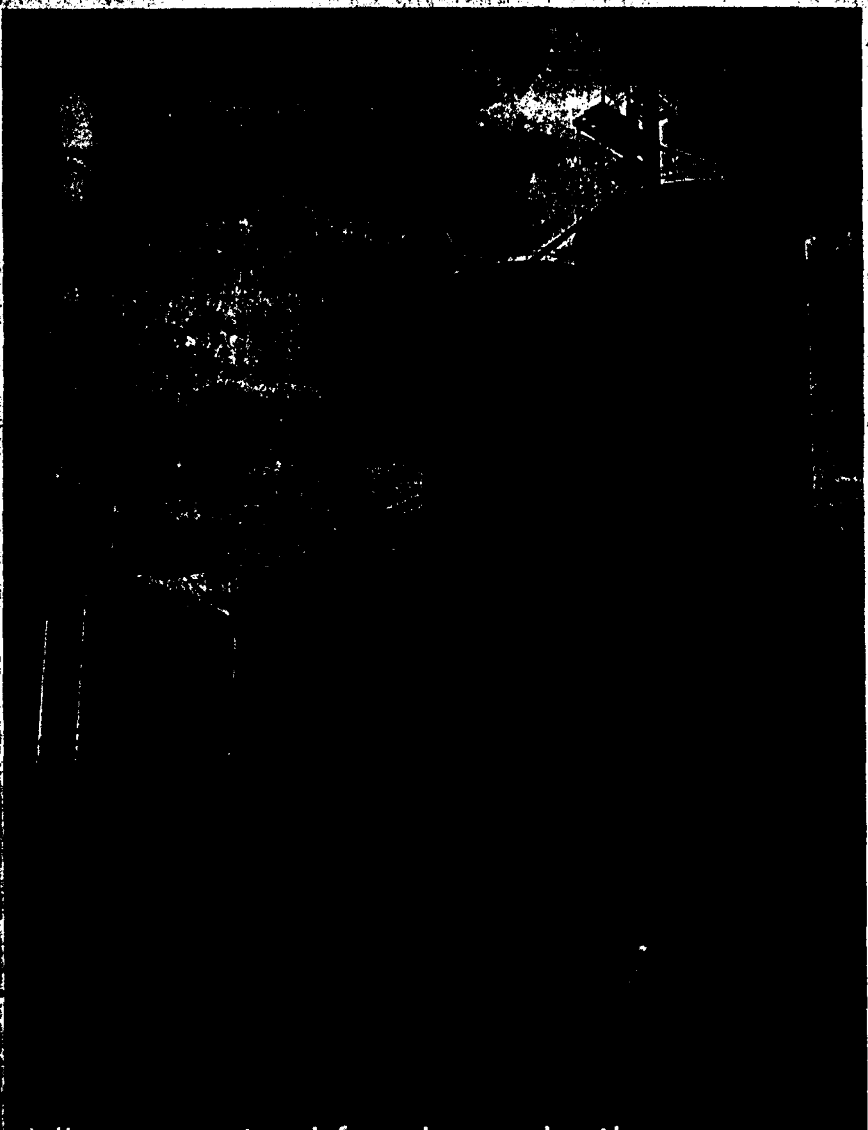
Elevators in Montana affiliated or owned by Harvest States Co-Op

Kalispell	Winifred	Plentywood	Richey
Cut Bank	Geraldine	Reserve	Lindsay
Sunburst	Denton	Medicine Lake	Glendive
Valier	Havre	Homestead	Fallon
Shelby	Harlem	Froid	Baker
Brady	Malta	Wolf Point	Plevna
Dutton	Turner	Poplar	Billings
Choteau	Glasgow	Nashua	Huntley
Great Falls	Opheim	Hindsdale	Broadview
Chester	Peerless	Lambert	Molt
Rudyard	Scobey	Sidney	Columbus
Lewistown	Outlook	Circle	Three Forks

HRS, DURUM, WHITE, HRW & SRW

ALL WHEAT (Mil'n bu.) ***********	1986-87	1987-88	1988-89	1989-90	PROJECTED 1990-91
USA					
CARRYIN JUNE 1	1,905	1,821	1,260	703	531
PRODUCTION	2,092	2,107	1,811	2,036	2,744
IMPORTS	18	16	23	12	24
TOTAL SUPPLY	4,015	3,944	3,094	2,751	3,299
DOMESTIC USE	1,199	1,060	927	931	1,293
TOTAL EXPORTS	995	1,624	1,464	1,289	1,075
TOTAL DISAPPEARANCE	2,194	2,684	2,391	2,220	2,368
CARRY OUT MAY 31	1,821	1,260	703	531	931
PLANTED ACRES	72.503	65.482	65.993	76.691	77.350
HARVESTED ACRES					
MINNESOTA			2.111	2.699	
SOUTH DAKOTA			3.000	3.520	
NORTH DAKOTA			6.600	10.380	
MONTANA			4.270	5.435	
IDAHO			1.270	1.370	
OREGON			0.750	0.800	
WASHINGTON			2.310	2.270	
OTHER			32.978	35.499	
TOTAL (Million Acres)	60.723	56.113	53.289	61.973	70.730
YIELD PER ACRE					
MINNESOTA			24.5	38.0	
SOUTH DAKOTA			12.7	23.5	
NORTH DAKOTA			15.7	23.8	
MONTANA			14.0	27.8	
IDAHO			59.5	68.8	
OREGON			62.5	62.0	
WASHINGTON			53.9	50.7	
OTHER			39.7	33.6	
TOTAL	34.5	37.6	34.0	32.9	38.8
USA - PRODUCTION					
MINNESOTA		102.588	51.730	102.504	
SOUTH DAKOTA		106.704	38.006	82.880	
NORTH DAKOTA		269.120	103.290	246.540	
MONTANA		151.220	59.970	151.200	
IDAHO		85.500	75.520	94.280	
OREGON		49.500	46.860	49.600	
WASHINGTON		114.285	124.620	115.150	
OTHER		1,228.471	1,310.835	1,193.846	
TOTAL	2,092.000	2,107.388	1,810.831	2,036.000	2,744.000

A bit of Wall Street for Midwest marketers



Like a mutual fund, marketing pools give small farmers access to increased marketing opportunities

Our story starts with a farmer named Jack. He's grinning from ear to ear during the growing season, since a bumper corn crop is on the way.

But that smile turns downward as he views dismal fall price forecasts. Since he traditionally has either sold grain off the combine or put it under loan, he grimaces.

But there is no need to fear, he says. "After all, that marketing class I took last winter taught me all there is to know about using futures, options, and forward contracting to market my grain."

But between his farming and a thriving seed corn business, Jack never quite finds the time to use these marketing tools. In the end, he follows his traditional marketing pattern. Thus, he becomes a price taker rather than a price maker.

But a program initiated by Harvest States Cooperatives (HSC) that brings a touch of Wall Street to the countryside could aid farmers like Jack.

Called a marketing pool, this concept closely resembles a mutual fund. Mutual funds are a popular investment, since they enable small investors to participate in stock and bond markets formerly reserved for the big boys.

The same concept applies to marketing pools. Rather than selling grain individually, a farmer pools his grain with other farmers in 100,000 to 500,000 bu. lots. By transferring the title of his grain to HSC, the farmer receives an upfront payment. Then, the final price is determined over the next three to nine months. During this period, HSC uses marketing techniques — such as futures and options — to sell the grain.

Such techniques can be successfully used by individual farmers. But successful use takes time, something that a busy farming schedule readily consumes.

The marketing pool permits farmers to take advantage of such tools minus the time requirements. Using these techniques on a large volume basis also minimizes margin calls and commission fees, says Lanny Jass, HSC vice president of specialty marketing. As with a mutual fund, there is a charge for such a service. Currently, it runs 1¢ to 2¢/bu.

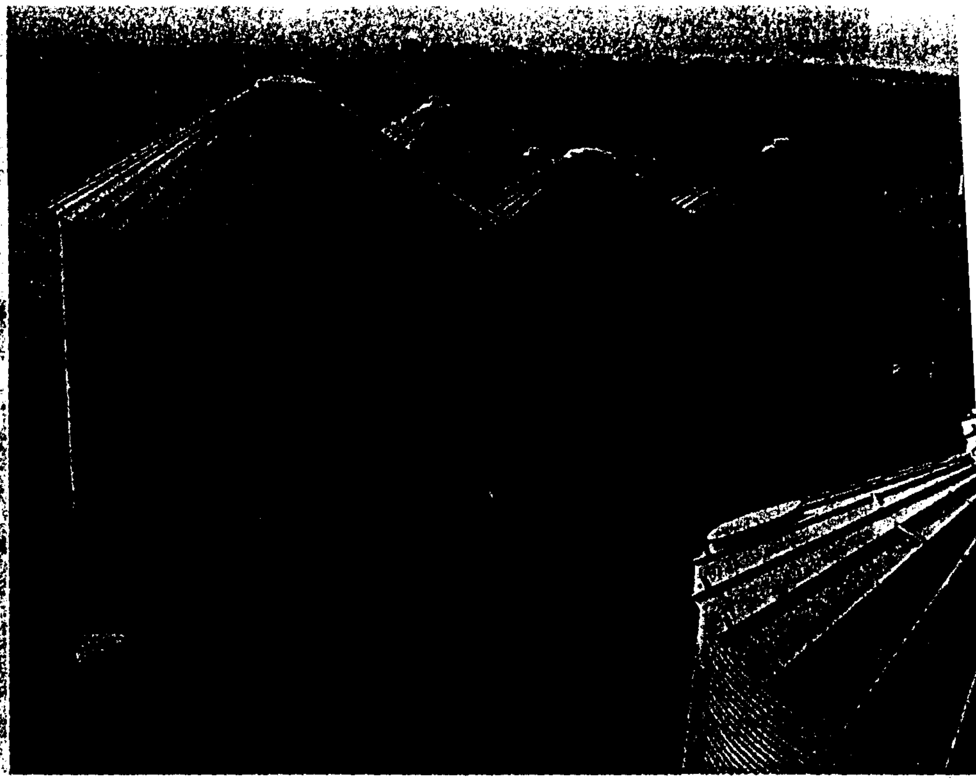
But will all this mean any more money in your pocketbook? "The pools will normally get you over the average price, but it's not going to be the top of the market, nor the bottom of the market," points out Jass. For example, a soybean pool that ran from Sept. 15 to Dec. 15 settled at $5.35/bu. at a HSC elevator in Herman, Minn. Meanwhile, the average cash price over the same time frame was $5.29.

But other advantages exist besides price. Pool participation eliminates storage and interest costs. And this appeals to those short on storage facilities. "We usually only have ½ to ⅔ of the storage space that's needed for our grain, so we have to move some of it right away," says Wayne Brunkow, who farms with his brother, Gary, near Herman, Minn.

The Brunkows entered 10,000 bu. of hard red spring wheat in a Sept. 15 to Dec. 15 pool. After a $2.25 up-front payment, a final $3.70 price was obtained. Meanwhile, this price topped 5000 bu. that they had stored under loan and sold for cash just two days after the pool had settled. Although the stored wheat was sold at $3.79, storage and interest costs whittled the net sale price down to $3.65.

Jass says the program is beneficial to HSC, since it reduces their market risk. If they purchase grain from farmers at a locked-in price, HSC is forced to market it immediately.

But since a final price has not been established with a marketing pool, HSC has more time to price the grain. As a result, market risk is decreased, while marketing efficiency is increased. For example, it is easier to coordinate unit-train shipments, which enables HSC to take advantage of lower freight rates. "If we can improve efficiency, savings are passed right back to the farmer, because they own all of our equity," says Jass.



Eliminating storage costs is one advantage of a marketing pool.

Marketing pools can tie farmers directly with export markets. "When you try to match up the volumes or quantities that a foreign buyer wants to buy with the quantities that the farmer wants to sell, they don't match up one-to-one," says Jass. "In the pool concept, the sale that the farmer makes is tied directly to the export business." Thus, middleman expenses can be reduced, and savings can be passed back to member farmers.

But bear in mind that when a farmer joins a pool, he transfers title of the grain. If the firm offering the pool goes bankrupt or insolvent, problems result.

South Dakota laws give some bonding protection against elevator and warehouse insolvencies. Still, the protection likely wouldn't give farmers the full value of their grain should an insolvency occur, since they are unsecured creditors.

Minnesota farmers would lose all claims to the money that is due them, since bonding coverage does not include deferred payments. This is the same case in North Dakota. "Unless the firm has separate bond insurance to protect credit sales, there is no protection," says Jon Mielke, North Dakota Public Service Commission, grain elevator division director.

"You should look at the financial integrity of the institution, and be clear with whom you are signing the contract," says Brian Schmiesing, South Dakota State University economist. "I really stress that people read the contract and get a portfolio report of how well past pools have performed. Producers must have realistic expectations."

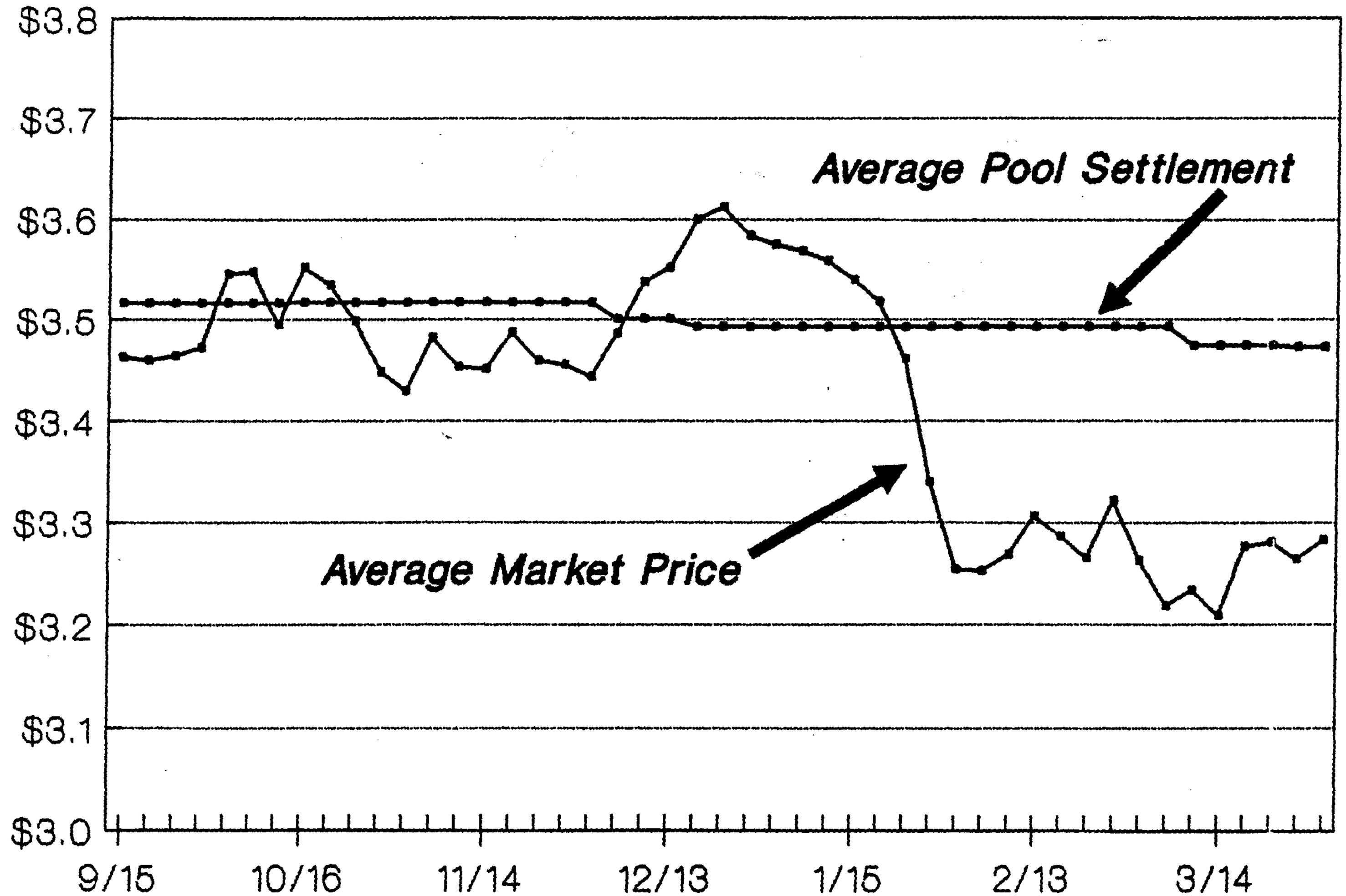
HSC originally formed marketing pools during the late 1970s. But they didn't last, due to railroad transportation troubles at that time. This time, HSC plans to improve participation by offering a number of pools with different time frames.

Pools are offered for soybeans, corn, spring wheat, durum, white wheat, winter wheat, and sunflowers. In the program's first five months, 3 million bushels have been pooled, far above the 1 million bushel goal for the first year.

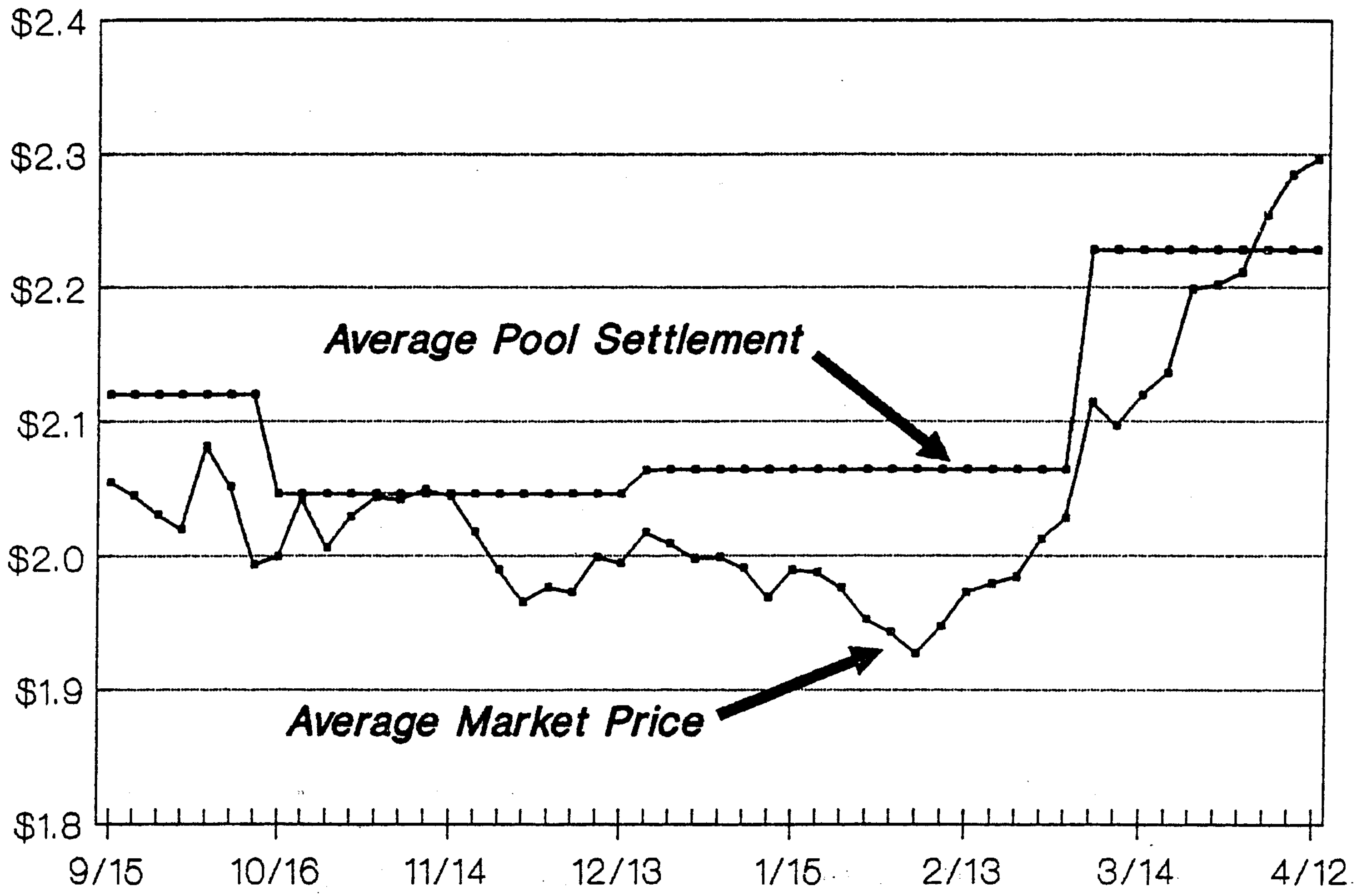
HSC plans to increase the size of the current 100,000 to 500,000-bu. pools in the future. "That size allows us some efficiencies, but the real efficiency will be when we start to develop pools with a 5 to 20 million bushel size," says Jass. "The larger the size, the more options we have to market the grain."

Schmiesing sees marketing pools as another marketing option. "Traditionally, producers don't want to lose control of their grain. But as we move to a deregulated agriculture, producers may be willing to have someone else price and store their product." □

SPRING WHEAT POOLS
POOL SETTLEMENTS VS. MARKET PRICES

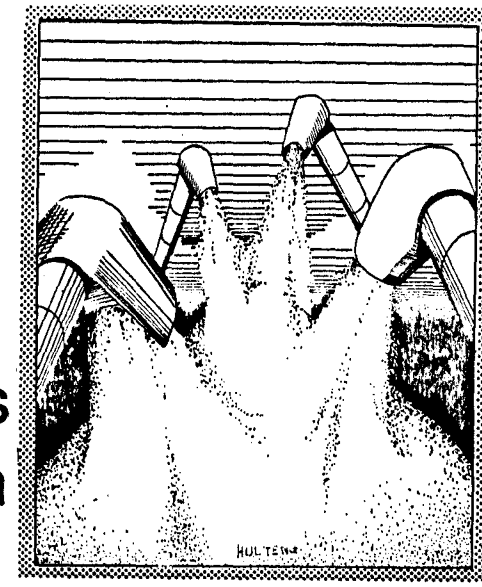


CORN POOLS
POOL SETTLEMENTS VS. MARKET PRICES



COVER STORY

GRAIN POOLS



A growing plan helping farmers get a better price for their grain

By Ken Haggerty
Staff Writer

When it comes time to make grain marketing decisions this year, more and more farmers are deciding to jump into a pool.

The pools aren't the kind filled with water, but rather they are Harvest States Producer Marketing Pools.

Pools have their supporters and they have their detractors, but there's no arguing that they're attracting interest.

Here's how the pools work:

• About once a month Harvest States announces new pools, all commodity specific, that are open for farmers to enroll in.

For example, if you went into an elevator affiliated with Harvest States last week, you could sign-up for a spring wheat pool with a marketing period for spring wheat that would run from Oct. 15 to June 14, a pool to go from Oct. 8 to March 22, or one from Oct. 1 to Jan. 25.

This is the period when the grain is *marketed.* Farmers sign up for the pool during a period that generally runs about a month before each marketing period starts, to about 10 days after the start of the marketing period.

The pools have no limits on the amount of grain a farmer can put in, or the total size of the final pool.

Since the program was begun in September 1989, Harvest States has begun about 30 pools each of spring wheat, winter wheat, durum, white wheat, corn, soybean and sunflowers.

The total amount of grain enrolled in the past crop year was 5.6 million bushels, according to Harvest States.

The co-operative won't say what the total is this year so far except that it is several times more than last year's total.

It is estimated by various sources that about 15 million bushels of spring wheat have been entered into pools this year. The number of pool contracts on 1990-crop grain is estimated at 6,400, and growing daily as harvest continues. A farmer has a different contract for each pool he enters.

• Each pool has an initial price to the farmer, up-front money that the producer receives when delivering grain to the local elevator. For example, pools that are currently open for enrollment offer $2 a bushel for spring wheat, $1.50 for corn, and $4.50 for soybeans.

Last January, initial payments were $2.25 for spring wheat, $1.70 for corn, and $4.50 for soybeans.

• Producers deliver the grain to their local elevator, where Harvest States takes title to the grain.

• Harvest States merchandisers in St. Paul market the grain in a specific pool over the set marketing period.

Merchandising team

To be credible with farmers, Harvest States has set up a merchandising team to sell the pool grain that is entirely separate from the merchandisers that handle other grain operations for Harvest States.

The company seems to want to make it clear to the producer that the pools aren't just another way for Harvest States to generate bushels for use in their domestic and export marketing programs, but are being set-up as a program to help producers get a good price for their grain.

There's no formula for how the grain is marketed. The marketing decisions that pool merchandisers make are "dictated by market conditions," says Lanny Jass, who heads up the pool program. But generally the merchandisers follow conservative, risk-avoidance policies, he says.

The basic goal is to get the farmer a price better than the average cash price at the local elevator during the marketing period, Jass says.

To make sure they get that average price, Harvest States limits its risk by spreading out its sales throughout the marketing period. By halfway through a marketing period, Jass says they want to have priced half of the grain in a pool.

But they're not satisfied with just getting the average. So they allow themselves some leeway in making sales. Jass says they are willing to hedge up to 20 percent of the remaining pool grain, either long or short.

For example, if a certain six-month pool had 1 million bushels in it, at three months, the halfway point, the pool must have closed positions on at least 300,000 bushels but no more than 700,000.

Beginning this month, new pools are being offered that are identified as more aggressive. In these pools, the market exposure level will be increased to 40 percent. With the bigger exposure, there is a chance for a bigger return to farmers, but there is also the risk of a bigger loss.

• At the completion of the marketing period, the total proceeds of a pool are calculated and divided up among the pool participants. Harvest States deducts two cents a bushel to cover their overhead costs. A settlement price is determined at each elevator with considerations factored in for local cash markets, freight charges, handling costs and premiums.

If the settlement is above the initial payment, proceeds are distributed. If the settlement is below that of the advance payment, farmers must return the difference.

Out of the 80 or so 1989-crop pools completed so far, no returns were required, and in the majority of them the pools did settle above the average cash price at the local elevator, says Jass. This is one of the reasons the program has caught on so fast. Even though Jass says they haven't done much to publicize their results, word traveled fast.

The next few months will test the program's success.

That's when the first pools that may not cover the advance will expire.

The fast-falling wheat market this summer more than likely will catch those pools that were offering an advance of $2.50 on spring wheat during sign-up in July.

Although collecting back an advance payment could be a sticky situation, (just ask your local ASCS office) Jass thinks most farmers understand the reality of the markets.

He also points out that the advance was cash that farmers may not have been able to get from any other source. □

Do they ease marketing frustrations?

Is a grain pool a viable marketing alternative?

Don Staehnke, manager at the Crookston (Minn.) Farmers Co-op, an affiliate of Harvest States, tells his patrons to look at it as another tool to use in marketing.

"Just as you don't try to fix a combine with one tool, you shouldn't try to market your grain in just one way," says Staehnke.

And Stan Stevens, extension grain marketing specialist at the University of Minnesota, also thinks a pool has a place in farmers' marketing plans.

He sees the benefits as allowing the producer to acquire expertise in the timing of cash sales and relieving some of the management problems and costs associated with storage.

Stevens says he can see the appeal for farmers of turning over the marketing to somebody else. "There are a lot of farmers who are frustrated by marketing.

"I run into a lot of farmers who really don't want a lot of details on marketing. They say 'Just tell me whether or not to sell,'" says Stevens.

Don't dive completely in

Lanny Jass, who heads Harvest States' marketing pool program, doesn't recommend that a farmer put 100 percent of his grain into a pool. He says to put maybe 20 percent in and then compare your results with the pool's results.

"See what complications are created and what problems are solved," says Jass.

For many farmers, the pools that coincide with harvest are attractive because the producer can bring grain to town and be free of complications of having to worry about the mechanics of deciding when to sell and the costs and hassles of handling.

"The individual farmer could make sales over the time period just as well on his own," says Marv Hanson, a Kennedy, Minn. farmer and a Harvest States board member.

"But you've got an average of 22 trading days in a month. How do you know which one to use?" says Hanson, who put about a third of his wheat into the pool this year.

Hanson considers himself a pretty knowledgeable marketer. He follows the news in the markets, has a DTN screen to keep up on a daily basis, and has charts to watch the trends. But he admits he has as a hard time pulling the trigger as anybody else.

Continued on next page

Critics question the impact on markets

Some merchandisers think it's a bad deal for farmers

By Ken Haggerty
Staff Writer

Judging by the amount of business it has attracted, Harvest States marketing pool obviously has a lot of supporters.

Elevators offering the program that have seen their volume increase speak favorably of it.

Farmers who were in pools that returned a price above the market average are pleased with it.

Harvest States Board members who see their company providing a service to farmers at the same time bringing business in for the company express their happiness with the program, too.

The critics

But not everyone is happy about the pool. There are critics who question the impact of the pool on the markets.

One elevator manager, who isn't affiliated with Harvest States, says he doesn't like Harvest States, one of the major buyers of cash grain in this region, getting access to a large cash position without having to pay up for it.

He maintains it's screwing up the market. If they can use the pool to get 15 million bushels out of farmers' hands, they won't have to push their bids to bring in grain, the disgruntled manager notes. He thinks when the market is weak, Harvest States can get what they want on the open market, but when demand starts to get hot, they can draw from pool stocks, instead of bidding up the basis.

Stan Stevens, extension grain marketing specialist with the University of Minnesota, agrees that there may be some impact on the cash market.

He cites as an example the case when the Soviets come into the market with a big purchase, and they want the grain immediately.

Normally the basis improves at such times as the market pushes to gather enough grain to fill the sale, says Stevens.

This offers sophisticated marketers a good opportunity to make cash sales.

However, if some of that demand is met by pool wheat, then the basis response at country elevators may not be quite as large.

Other farmers who are watching to take advantage of the basis may be pre-empted to some degree, Stevens says.

Still, he thinks the impact on the cash market is subtle, maybe pennies per bushel.

Futures market impact

Others attack the pool program for its impact on the futures market. The argument goes like this: As Harvest States gets all this pool wheat delivered, they turn to the futures market, selling futures contracts to get it hedged.

This selling puts downward pressure on the market.

"Absolutely, without question, it's a bad deal for the farmer," says Ray Jergensen, vice president and grain analyst with CIMS, an agricultural information and marketing service in Great Falls, Montana.

"We've been watching the daily summary of futures activity at the Minneapolis Grain Exchange and consistently we see Country Hedging (Harvest States brokerage arm) as a large seller, pressuring prices," notes Jergensen.

He has spoken out loudly over the last few years over any form of grain marketing program that involves title transfer of the grain to a buyer without making the buyer pay market price.

"These transfers are always a disaster for prices," Jergensen says. "That's all this is, another form of turning the grain over without making the market pay for it."

In the big picture...

Bob Miller, manager of the St. Hilaire (Minn.) Co-op, a Harvest States affiliate, says he doesn't believe the pool has much of an impact on the markets because the volumes aren't that large in the big picture.

And the grain usually ends up being moved in smaller amounts anyway, Miller says.

That is to say, even if Harvest States had 15 million bushels of grain signed up for the pool, they're not sitting on all 15 million.

A pool merchandiser says they try to run the pools as cost-efficient as possible. So, they are constantly moving out the grain from country elevators, so they don't rack up storage costs beyond the 20-day free storage period required of participating elevators. "The market hasn't had enough of a carry into it to justify lugging the grain along," he says.

For example, of the 1 million or so bushels of wheat signed up in the pool through St. Hilaire this year, Miller says 75 percent has already been moved out.

"One big export sale or even a good rumor has more of an impact than the amount that they have," says Miller.

Pools may help prices

Miller thinks the pool may actually help prices.

If the grain doesn't get moved, it would probably end up getting put into the reserve, and then everybody knows how much is out there, where it is, and what it takes to get it out, says Miller.

With the pool, it's not as clear to the trade as to what's out there.

Protecting farmers interests

The shots that critics are taking at Harvest States are especially interesting because of the history of the co-op.

Harvest States evolved out of the Farmers Union Grain Terminal Authority. Part of the reason for creating GTA was to protect farmers' interests from manipulations of the big private grain firms. □

Pros and cons of grain pools

PLUSES

For farmers:

- Eliminate storage costs
- Eliminate delivery hassles like loading grain when its 20 below
- Get cash up front to cover operating expenses
- Don't have to worry about marketing grain in pool
- Keeping grain moving helps market
- Potential for pool to command a premium from end user

For elevators

- Provides service to customer that could help build loyalty
- Another way to bring in business when prices are depressed
- Allows elevator to line up transportation in advance

MINUSES

For farmers:

- Restricts marketing opportunity to the designated period
- Can't be assured that up front cash won't have to be repaid
- May be able to do better marketing on own
- Turning over grain hurts market
- May not get premium for quality grain

For elevators:

- May alienate customers if pool results are poor
- Pool grain in storage could prevent you from doing other business
- Takes business away from elevator's own marketing programs

Continued from previous page

"I think the pool gives you a disciplined marketing plan," Hanson says.

Other uses for pools

There are some who don't recommend the pool for marketing.

One merchandiser with a Harvest States affiliate says the pool is good for "the absentee landowner, farmers who don't have a marketing plan and those who just don't give a rip."

He thinks a farmer can do better on his own if he's willing to put the time into it.

Less than 5 percent of the grain handled at this particular Harvest States elevator went into the pool this year, the merchandiser notes.

But that was probably in part because the protein premium offered for the pool wasn't comparable to what farmers could get marketing elsewhere.

Producers have the option of locking in the quality scales offered by the local elevator at the time they deliver the grain or choosing to take an average of the protein premiums received by the merchandisers over the marketing period.

Customized service

Still, elevators that offer their own marketing programs, as well as private grain marketing advisory services, say that producers are better off getting that type of customized, localized, individual service than putting wheat in the pool.

They say they can develop marketing plans that aren't so time-restrictive and conservative as the pools are.

The restrictions the pool has on making sales in an even, orderly fashion over the marketing period handicaps the pool in taking advantage of a peak in prices, they say. □ — **Ken Haggerty**

What does the future hold?

What lies ahead for Harvest States' marketing pools?

The first attempt to expand is beginning this month in offering more aggressive pools, where the merchandisers will have more leeway in taking risk to get a better price.

Another innovation involves allowing producers more time and flexibility by offering them extensions or rollovers of grain from one marketing pool into another, says Lanny Jass, who heads Harvest States' grain pool program.

He also hopes to expand the commodities to dry edible beans, canola, buckwheat, millet and safflower.

Jass says there may be some things Harvest States can do to enhance the attractiveness of the pools, such as more specific premiums for quality.

For example, milling quality durum and high-quality corn pools are offered already. In the future, Harvest States may offer some high-protein spring wheat or soybean pools or high-oil sunflower pools.

Harvest States is also willing to consider joint ventures in marketing with some of the market advisory services if there was enough interest in one service from producers.

Another aspect of the program that needs to be developed is providing farmers more information on the status of the pools in progress.

Jass says they had hoped to have more information available but have been swamped in just keeping up with required paperwork, let alone turning out extra information. □

— **Ken Haggerty**

Montana Grain Growers Association

SENATE AGRICULTURE
EXHIBIT NO. #3
DATE 1/11/91
BILL NO. SB 19

P.O. Box 1165 • 750 6th Street S.W. • Great Falls, Montana 59403 • 406/761-4596

Testimony of the Montana Grain Growers Association By Charles L. Merja, President

before the
Senate Agriculture Committee
January 11, 1991

Senate Bill 19

"An Act To Clarify That Title To Ag Commodities Sold By Credit Sale Contract And Intended For Interstate Shipment Does Not Transfer Until A Price Is Established"

Mr. Chairman and honorable members, my name is Chuck Merja, President of the Montana Grain Growers Association. I am a wheat and barley producer from Sun River and I truly appreciate the opportunity to address you today.

I address you as an opponent of Senate Bill 19, which is a bill that will outlaw No Price Established (NPE) contracts on agricultural commodities by not transferring title of those commodities intended for interstate shipment until the price is established.

The Montana Grain Growers Association and many of its individual members have been vociferous in opposition to the use of NPE's. While we are not advocates of the use of NPE's under current conditions without also minimizing price risk, we need to retreat from our total opposition to NPE's. The reason for this retreat is one of realization that NPE's are not bad in and of themselves. Rather they are only one of a multitude of price or delivery options available to producers and purchasers. Various contracts allow producers and purchasers to fix any combination of price, time for action, quantity, quality, or time of delivery along with other terms or conditions unique to the particular agreement.

NPE's, in general, fix the quantity, time and place of delivery, while setting a limit on the time the producer has to set the price of the product . Thus, the grain becomes available to the marketplace, the purchaser has title to the grain and may sell and ship it, while the producer has the promise to be paid the market price on the day of his choosing, within the parameters of the contract and has been able to deliver the grain at his convenience. By definition, the producer still has ALL the price risk on the commodity. These contracts would then be a "good" tool for a producer when he needs to move grain and/or the price of his particular commodity is steady or increasing, because "time is on his side"--the longer he waits, the higher the price will be. It follows then that these are not "good" contracts for a producer when prices are declining. Many farmers during the past two years, believed wheat would go up after harvest, otherwise they would have taken actions to protect their price by preselling, hedging, contracting or other means. They "bet" the price was going up, but it didn't, so now we are unwisely looking at eliminating this particular marketing option.

There is an argument that NPE's cause the price of a commodity to go down, because producers fill the pipeline without forcing the market to pay for it.

I will not take up the time of this committee by entering into a debate on this matter, but I think it could be argued that ANY arrangement or even offer to sell a commodity is destructive to prices. Will we, in the absurd case, not allow producers to offer grain for sale, because it causes the price to go down?

As we move into a global economy, we need to define new ways to "sell" our products--new combinations of the items mentioned earlier. This law would do exactly the opposite and it is for that reason that we oppose this bill or any attempt to further restrict the marketing of our commodities. I would much rather see this committee created producer education program that helps them become better able to cope in these times of changing markets.

Again, thank you very much for this opportunity to address this committee, I would be happy to answer any questions that you might have.

STAN STEPHENS
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

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EVERETT M. SNORTLAND
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ORAN ROY BJORNSON
ADMINISTRATOR

January 11, 1991

MEMORANDUM

Plant Industry Division

Position Statement

Senate Bill 19 "An Act to clarify that title to agricultural commodities sold by credit sale contract and intended for instate shipment does not transfer until a price is established by contract; amending sections 30-2-401 and 80-4-422, MCA; and providing an immediate effective date and an applicability date."

The intent of Senate Bill 19 is to eliminate the use of "No Price Established Contract". The Montana Department of Agriculture will establish a neutral position on this bill due to the following reasons:

Are "NPE" contracts issued in violation of the State Grain Law?

Answer: NO! The wording on the contract must not indicate that a storage fee will be charged to the producer. However, the elevator company may establish a charge which is denoted as a "service charge" which is permissible according to the current statute. The department has reviewed some "NPE" contracts to make sure that no deceptive charges are being utilized.

In the event of financial difficulty, the price of the grain would be established on the date that the company is declared insolvent.

What is an "NPE" contract?

Answer: The department considers a "NPE" contract as another marketing tool utilized by both the producer and the grain companies. The department views this type of contract the same as any other contract which is outlined in Section 80-4-422.
When auditing companies with credit sale contracts, the auditor considers the contracts as an unpaid company-owned commodity.

A certain amount of risk is assumed by persons who enter into a credit sales contract. In some cases, the producer is able to realize the advantages and in other cases the advantage is in favor of the grain company. The department believes that a grain company limits the use of any sales credit contract to its financial capability. The department, on occasion, has advised grain companies not to exceed its financial ability to meet all conditions of a credit sales contract on the books.

In our opinion a "NPE" contract is another form of marketing tool that should be carefully considered by all parties who enter into such agreements. The producer must be aware that all credit sales contracts pose a risk and when the grain is physically removed from the state then the risk or chance of recovery in the event of an insolvency is much greater than if the producer held in possession a warehouse receipt.

SB19.ps

DATE ____________

COMMITTEE ON Agriculture BILL NO. SB 19

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO.	Check One Support	Oppose
Chuck Merja	Montana Grain Growers	SB19		X
Larry Johnson	Self	SB19		X
[illegible] Newman	Self	SB 19		X
Thomas J. Ruttler	HARVEST STATES COOP	SB19		X
STEVE CARNEY	SELF & HARVEST STATES COOP	SB19		X
GEORGE PAUL	Montana Farmers Union	SB19		X
Dean Place	Montana Grain Elev Assn. Broadwater Grain Terminal	SB19		X
Mary Ann Arnone				
Everett M. Snortland	DOA	SB 19		
~~[illegible]~~ Pam Langley	Montana Grain Elevator Montana AgriBusiness	SB19		X
Larry Fasbender	Mt. Council of Coops	SB19		X

(Please leave prepared statement with Secretary)