



March 22, 2022

Chairman Mike Sundin
House Agriculture Finance and Policy Committee
100 Rev. Dr. Martin Luther King Jr. Blvd.
St Paul, MN 55155-1298

Dear Chair Sundin and committee members,

The Minnesota Grain and Feed Association (MGFA) is a 115-year-old nonprofit, voluntary membership organization which represents the interests of the State's grain elevator and feed mill industry. Today, I write on behalf of our membership, in opposition to the grain indemnity fund proposal contained in HF 4366. We have several serious concerns about the changes this proposal would force upon not just the grain elevator industry but our producer customers as well.

First and foremost, while understanding there have been staff changes and such at the Minnesota Department of Agriculture (MDA) this year, the MGFA is disappointed in the Department's lack of communication with stakeholders on this issue. To date, the Grain Advisory Group, which MDA originally convened to discuss grain issues in the State, has not met in more than a year and certainly was not consulted regarding this piece of legislation prior to the 3/23/22 committee meeting. The drastic changes to the grain statutes being proposed deserve to be discussed openly with all stakeholders and analyzed appropriately. The late availability of the bill's language also has not been conducive to proper vetting and gathering of input by the stakeholders affected by these changes.

The MGFA is concerned a grain indemnity fund, which would essentially remove most of the risk from a producer's grain marketing decisions, would have an adverse effect on producers by encouraging a willingness, either overtly or subliminally, to engage in high-risk behavior. It would remove the incentive for producers to do their due diligence when entering into a business relationship with grain buyers. The knowledge that producers would have a "safety net" in the form of an indemnity fund when a too-good-to-be-true opportunity presents itself, does not benefit producers or the grain industry in the long run. In essence, a grain indemnity fund would allow producers to make poor marketing decisions and have other farmers pay for their mistakes.

Instead, the MGFA feels very strongly that the current system in place – the grain surety bond program – works quite well when everyone one involved is performing their job. Grain bonding requires the surety, CPA firms/auditors and the MDA to each fulfill specific duties. This screening process provides a minimum threshold through financial reporting that new licensees must attain to participate in the grain business in Minnesota. Once a grain bond is secured, licensed and bonded facilities are required to provide annual financial reports to the surety for a thorough review by qualified underwriters. This independent third-party financial review ensures a certain level of integrity for the grain industry and has worked quite well in Minnesota for more than 80 years.

That being said, MGFA recognizes the surety bond program does not offer a 100% guarantee that a grain buyer/warehouse will not become insolvent. There have been a handful of failures over the last several years for a variety of reasons including fraud, poor management and bankruptcy issues. In our opinion, it is worth noting

that of the five most recent failures, the bulk of the potential losses, \$5,500,000 in claims, were contained to the Pipeline Foods (still unresolved) bankruptcy last summer. Pipeline Foods was a multi-state buyer of high premium non-GMO and specialty grains and primarily used voluntary extension of credit contracts to do business. Those knowledgeable about the specialty grain industry understand there is inherent risk in this business model, as reflected by the premiums offered for these grains over conventionally produced commodity grains. The MDA will argue that grain is grain, whether it is organic, non-GMO, identity preserved (IP) or conventionally raised. I would agree, except when MDA is proposing the creation of a fund that forces all grain sellers, both producers and grain elevators alike, to subsidize the losses incurred by a few, especially those in a niche market.

While MDA has described this indemnity fund as “desperately needed to protect Minnesota’s farmers”, they would saddle both industry and producers with a tax on all grain sales at a time when we are experiencing record inflation and ridiculously high input costs for seed, fertilizer, ag chemicals and fuel. This proposal, especially at this time, is incredibly tone-deaf in the face of the economic pressures all producers are facing.

The MGFA believes if the MDA truly wants to protect producers, a campaign to educate producers about grain bonding and credit contracts should be pursued. Many people in the producer community fail to understand that **grain bonding is not insurance** but simply a screening process conducted by an independent third party that ensures a grain buyer or warehouse has the financial stability to operate at a certain level. Grain bonds have never been meant to make producers whole in the event of an insolvency. If producers want to protect their grain contracts, they need to purchase already available insurance.

In closing, MGFA appreciates the opportunity to provide testimony on this proposed legislation, but we strongly urge you to eliminate the creation of a grain indemnity fund from HF 4366. Please do not hesitate to contact me if you have any questions.

Sincerely,



Laura Lemke
Executive Director
Minnesota Grain and Feed Association