AMENDMENTS TO THE U.S. GRAIN STANDARDS A

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

AND THE

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

S. 2569

A BILL TO AMEND THE UNITED STATES GRAIN STANDARDS ACT TO PERMIT THE ADMINISTRATOR OF THE FEDERAL GRAIN INSPECTION SERVICE TO DELEGATE AUTHORITY, UNDER CERTAIN CIRCUMSTANCES, TO A STATE AGENCY TO PERFORM OFFICIAL INSPECTION AT EXPORT PORT LOCATIONS WITHIN THE STATE IF SUCH STATE AGENCY PERFORMED OFFICIAL INSPECTIONS UNDER SUCH ACT AT AN EXPORT PORT LOCATION AT ANY TIME BEFORE JULY 1, 1976, AND SUCH STATE AGENCY IS PRESENTLY DESIGNATED TO PERFORM OFFICIAL INSPECTIONS AT LOCATIONS OTHER THAN EXPORT PORT LOCATIONS

AND

S. 2886

A BILL TO AMEND THE UNITED STATES GRAIN STANDARDS ACT TO PERMIT GRAIN DELIVERED TO EXPORT ELEVATORS BY ANY MEANS OF CONVEYANCE OTHER THAN BARGE TO BE TRANSFERRED INTO SUCH EXPORT ELEVATORS WITHOUT OFFICIAL WEIGHING, AND FOR OTHER PURPOSES

JULY 29, 1980

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AMENDMENTS TO THE U.S. GRAIN STANDARDS ACT

TUESDAY, JULY 29, 1980

U.S. SENATE, SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES AND THE SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Washington, D.C.

The subcommittees met, pursuant to notice, at 10 a.m., in room 324, Russell Senate Office Building, Hon. Walter D. Huddleston and Hon. Richard B. Stone (chairmen of the subcommittees), presiding..

Present: Senators Huddleston, Stone, Zorinsky, Helms, and Boschwitz.

Also present: Senator Hayakawa.

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM KENTUCKY

Senator HUDDLESTON. Good morning.

The subcommittees will come to order. We welcome you to the joint hearing of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices and the Subcommittee on Foreign Agricultural Policy of the Senate Committee on Agriculture, Nutrition, and Forestry. The focus of today's hearing is Senate bill S. 2569, introduced by Senator Helms, and S. 2886,[1] introduced by Senator Dole. Both bills would amend the U.S. Grain Standards Act.

The U.S. Grain Standards Act was substantially amended in 1976. As you may recall, Congress at that time expanded the scope of the act and provided the Secretary of Agriculture new authorities to regulate grain inspection and weighing, in order to reestablish confidence in the Nation's grain inspection system and the integrity of the quality and weights of U.S. grain exports. Congress established the Federal Grain Inspection Service within the Department of Agriculture to implement and administer the act, and called upon the grain trade and the Service to cooperate in the implementation of the amendments and the job of restoring the integrity of U.S. grain standards.

Since the 1976 amendments, U.S. grain exports have increased about 40 percent, rising from 85 million metric tons in the 1975 marketing year to about 118 million metric tons in the 1980 mar-

[1] See p. 91 for reprints of S. 2569 and S. 2886 with accompanying staff explanations of each bill.

keting year. Our exports are making increasingly important contributions to our national effort to obtain a favorable trade balance. In fiscal year 1979, grain exports valued at $14 billion helped offset a $29 billion deficit in our nonagricultural trade accounts. I commend the Federal Grain Inspection Service and the industry for their efforts during the last 3½ years to increase agricultural exports and to reduce foreign complaints on our grain exports.

The General Accounting Office recently submitted two reports to Congress on the Federal grain inspection and weighing program. In its report dated November 30, 1979, GAO stated that the Department of Agriculture should continue to strive to improve inspection and weighing procedures, and that Congress—in order to reduce the cost of officially weighing grain—should modify the requirement that all grain transferred into an export elevator be officially weighed. Without objection, the digests of the two GAO reports and GAO's legislative recommendation will be included in the record of the hearing.[1]

The two bills before the committee today propose statutory changes designed to reduce the cost of weighing grain shipped to export elevators and to permit more State agencies to perform export inspection and weighing. I look forward to receiving testimony on these subjects from the witnesses appearing today. The record will be left open for a few days to allow others to submit written comments on S. 2569 and S. 2886.

The proposed reforms in the grain inspection system will, I hope, be evaluated, not on the basis of short-term gains, but in the context of their long-run net savings and their effect on the integrity of our grain marketing system. This integrity must be maintained so that farmers, traders, exporters, and users feel confident in buying and selling on the basis of U.S. grain standards and weights.

I am glad to have with the subcommittees this morning the distinguished Senator from California who has a statement at this time.

STATEMENT OF HON. S. I. HAYAKAWA, A U.S. SENATOR FROM CALIFORNIA

Senator HAYAKAWA. Mr. Chairman, I want to express my full support for S. 2886, legislation to amend the U.S. Grain Standards Act. I appreciate the opportunity to say a few words. Although I am not a member of either subcommittee holding this hearing, I am a member of the full Committee on Agriculture, Nutrition, and Forestry.

I am an original cosponsor of S. 2886, and I hope that we will be able to report this measure out of the full Committee in the very near future. This bill is ultimately designed to save the consumers of this country money by cutting back on unnecessary grain inspections that eventually add to the cost of the grain.

I might add that there is a certain amount of protection in this legislation for both the buyer and the seller of the grain. If either party desires official Government weighing of a shipment of grain, then it would be required under this bill. The legislation simply

[1] See p. 38 for the above-referred to GAO reports with accompanying legislative recommendations.

allows the official weighing to be dispensed with if both parties agree. The official Government supervision of weighing all grain to an export elevator is expensive, and in most cases redundant. The farmers and the consumers eventually pay the added unnecessary costs.

I am happy to report that this legislation is supported by many important groups including the American Farm Bureau Federation, the National Grain Trade Council, the North American Export Grain Association, the National Council of Farmer Cooperatives, and the National Association of Wheat Growers.

In my State of California, we exported 2.9 million metric tons of grain in the 1979–80 market year. This included exports of wheat, corn, sorghum, barley, oats, and rye. The prices fluctuated throughout the year. For rice, according to the Foreign Agricultural Service of the USDA, California exported 2.673 million metric tons of rice.

Because of all of the ports along the coast of California, we do export significant quantities of grain from my State. I strongly support this legislation and hope that we can report the bill out of committee in a timely fashion. I thank my colleagues for taking the time to let me share my views.

Senator HUDDLESTON. Senator Stone, who is chairman of the Subcommittee on Foreign Agricultural Policy.

STATEMENT OF HON. RICHARD B. STONE, A U.S. SENATOR FROM FLORIDA

Senator STONE. Thank you, Mr. Chairman, I will be brief.

I think that these bills, and particularly this first bill that Senator Hayakawa just spoke to, seek to address cost efficiency. This bill does have the protection built into it that the customer can obtain any inspections, that otherwise this bill would waive, just by asking for it.

I think that we also have to address the question of ultimate consumers and whether they will have sufficient verification down the line on further purchases. I think that with those two items addressed, this can be a very helpful piece of legislation in terms of both expanding our transactions and reducing inflated costs.

Thank you, Mr. Chairman.

Senator HUDDLESTON. Thank you, Senator.

Our first witness today will be the Honorable Leland E. Bartelt, Administrator, Federal Grain Inspection Service, U.S. Department of Agriculture.

Will you identify the gentleman with you?

STATEMENT OF HON. LELAND E. BARTELT, ADMINISTRATOR, ACCOMPANIED BY DAVID R. GALLIART, DEPUTY ADMINISTRATOR, AND GEORGE LIPSCOMB, DIRECTOR, WEIGHING DIVISION, FEDERAL GRAIN INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. BARTELT. Yes, sir, Mr. Chairman and members of the subcommittee.

I have with me David R. Galliart, Deputy Administrator and seated next to him is Mr. Lipscomb who is in charge of the weighing operations in the Federal Grain Inspection Service.

First, Mr. Chairman, if it meets with your approval, I believe I will just go through a brief summary of the material I submitted to you and that should allow more time for questions if you so desire.

Mr. Chairman and members of the subcommittee, you have before you my prepared testimony which I submitted for the record.[1]

Senator HUDDLESTON. If you summarize it, it will be all right with me.

Mr. BARTELT. I will try to make this very brief.

The Department believes the enactment of S. 2886 is dangerous to the credibility of the U.S. export grain trade because:

One. It could exempt 100 percent, or virtually 100 percent of the grain, other than export grain, shipped from and an estimated 75 percent of the grain shipped to, export elevators at export port locations from the weigh-in requirements of section 5(a)(2) of the act.

Two. It would damage the objectivity of the grain elevator inventory monitoring program established under the U.S. Grain Standards Act.

Three. It would be discriminatory with respect to grain shipped by barge to export elevators at export port locations and grain shipped to such export elevators for storage or handling.

Four. It would almost certainly reestablish the situation where those responsible for weighing grain have an existing or potential conflict of interest—conflicts similar to those that led to widespread and systematic criminal activity, indictments, fines, and jail sentences in 1976.

In other words, we maintain that third-party weighing or some third-party supervision of weighing of inbound grain, we feel from letters we have received, is almost sure to take its place at least in part.

The administration strongly opposes the enactment of S. 2886. It would strike at the very core of the act; that is, its weighing program.

Senator HAYAKAWA. You mentioned contragrain interest. Would you explain it?

Mr. BARTELT. As we see it, and this is particularly true of inbound grain where a buyer and seller have a right to ask for official inspection, we have some information which would lead us to believe that other private inspection agencies will be used to weigh the inbound grain.

In other words, when you ship grain long distances to export from the different locations and you receive a settlement on that grain, generally speaking the shipper, unless he is settling on origin weights which occur sometime, the shipper wants a third party involved whether that be a board of trade or a chamber of commerce or something of that nature. In our view of this bill, that particular area will be left open and it will be difficult for a shipper to get official weight by demand because there will be many problems connected with it.

Senator HAYAKAWA. Thank you.

Mr. BARTELT. I would like to continue here.

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[1] See p. 42 for the prepared statement of Mr. Bartelt.

Congress spent many weeks and months attempting to find the best way to address the shocking problem we had when the bill was originally enacted. Many felt that a foreign market vital to our national balance of trade was threatened and pointed to serious doubts in our foreign markets about the integrity of our grain quality and weights.

Congress was properly concerned about farmers getting a fair shake. To carry out the objectives Congress intended, the act should remain intact for the following reasons:

One. To maintain and continue to improve our credibility with foreign buyers, and this is done primarily on the basis of inventory support for export shipments.

Two. To ensure the integrity of our grain weighing program for an inventory system for export elevators at export port locations.

Three. To provide a needed service to common carriers for tariff and claims purposes.

Four. The proposed changes are not likely to significantly reduce the marketing costs to export elevators.

I say that primarily because this bill does not remove the need for weighing. In excess of 99 percent of the cases where official weighing is not selected, the weighing will be done by someone.

Furthermore, it is not necessary to amend the act to achieve the important cost savings the industry hopes to achieve with this bill.

Recently, FGIS received an opinion from the General Counsel of the Department which rules that the Administrator has the authority to promulgate exceptions to the act which, in my opinion, would not impair the objectives of the act. On the basis of his opinion and my recommendations, Secretary Bergland decided that FGIS should reduce its supervision of inbound grain at export, as much as is consistent with the purpose of the act. We call this "Y" level of weighing, and we will be instituting it rapidly over the next few months. It consists of the supervision of weighing of as few as 25 percent of inbound carriers.

As a result, I am confident we can achieve the purpose of the bill without undertaking its very serious risks.

The current per bushel cost for class X weighing is one-fifth of a penny per bushel for official inbound weighing and another one-fifth of a penny per bushel for outbound weighing. Just two-fifths of a cent per bushel, Mr. Chairman, that elevators are asked to pay for class X weighing services.

Mr. Chairman, I think we can reduce that cost in half with new technology being developed in the grain-weighing system through the use of electronic weighing equipment plus computerization, the black box approach.

As I pointed out earlier, the provisions of S. 2886 will, at best, seriously cripple the FGIS weighing program. At worst, S. 2886 will so seriously hamper our weighing program that FGIS will be unable to carry out the stated declaration of policy found in the act.

What we are talking about primarily are intermarket differences as well as protection of export weight certificates.

In conclusion, let me reemphasize our conviction that S. 2886 is both dangerous and unnecessary. It would threaten the integrity of our national grain weighing program and our foreign grain mar-

kets, and thus our national balance-of-payments program, and jeopardizes the well-being of our farmers.

Let me just say a few words about the Helms bill, S. 2569. We do not support it because we think the grain weighing and inspection system is working well as it is structured. When Congress amended the U.S. Grain Standards Act in 1976, which created FGIS, it did so because of the irregularities and violations occurring within the system. Congress, in our opinion, did a thorough job in amending the act to make it a more workable and credible system that safeguards U.S. grain exports.

That concludes my prepared statement.

Senator HUDDLESTON. Thank you.

How do you reconcile your opposition to S. 2886 and the GAO recommendation that the law be changed?

Mr. BARTELT. The GAO recommendation is pretty thoroughly answered in Secretary Bergland's reply to the Ashley bill on the House side. They should have their reply in the very near future which I understand will be essentially the same.

Senator HUDDLESTON. Can you see that that reply is made available within the next 10 days while the record is open? [1]

Mr. BARTELT. I have done my darndest and, as you can see, I have not succeeded, but I will do my darndest.

We are faced with the GAO report that recomends a class Y weighing approach. We had oral opinions from our General Counsel that we couldn't go that route and I fought that for quite a period of time. Recently, we have gotten a change of position from General Counsel that class Y weighing on intracompany shipments of grain, so long as it does not impair the objectives of the act, can be done. Basically, GAO's recommendation, and what we propose to do are essentially the same. There is one difference. I don't know where GAO stands legally at the moment. They may question if we have the full legal capacity to do it. Our General Counsel feels that we have.

Senator HUDDLESTON. This relief that your agency indicates it may be willing to offer under the existing law, can you give us a little more detail on how that would work now?

Mr. BARTELT. The alternative approach, class Y weighing would provide for a spot check of weighing. The individual weight is not officially certified, but the certification indicates that the grain elevator which weighed the identified grain has suitable grain handling equipment, accurate scales, and approved weighers who know how to weigh correctly. Under class Y weighing, a minimum of 25 percent of the lots certified would be supervised throughout the entire loading or unloading operation.

Under class II weights of the Association of American Railroads they used to figure a minimum of 25 percent, and that figure needs to be maintained.

Senator HUDDLESTON. You think it needs to be adjusted up or down?

Mr. BARTELT. Depending upon the results in elevators. In some, it is maintained and in some you need to adjust it temporarily upward.

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[1] See p. 46 for the FGIS response.

Senator HUDDLESTON. Do you have an estimate of what your proposal would mean in terms of cost savings?

Mr. BARTELT. Y weighing is a little difficult to look at. We do not know what proportion of the buyers or sellers will request official weights under the proposed bill. Under the bill, as proposed, personnel would be reduced by 100 fee-supported people and an additional 10 people supported by appropriated funds, if only 30–35 percent of the inbound intercompany truck and rail shipments are officially weighed. The maximum reduction we estimated would be in the area of about 150–160 people.

The very low estimate would be in the area of 50. We are talking, I suppose you could put a figure across of roughly 110 people at a cost of roughly $25,000. As far as the Y weighing, you could use about the same figures; not quite, it would be a little less because we would be supervising at least 25 percent of both intra- and inter-company shipments.

Senator HUDDLESTON. Would this plan still maintain the integrity of the system?

Mr. BARTELT. Yes, it would give the Administrator something tougher to follow in case you find violations within the system. With the bill that we are considering here, I question whether we would have the authority.

Senator HUDDLESTON. I understand you prepared written responses to the industry comments concerning the Department of Agriculture provisions on the proposals in S. 2886. Would you briefly summarize your response and submit the industry comments and your written responses for the record?

Mr. BARTELT. Yes. Do you want me to summarize it?

Senator HUDDLESTON. Yes.

Mr. BARTELT. Basically, there seems to be some misunderstanding about the requirement for third-party weighing that I think the trade needs. They are assuming in their response that the elevator would do the inbound weighing without any third-party review. We have received some letters from certain members of the industry. We have also had communications with others in the trade who made it very clear to us that they anticipate bringing in a local "third-party" individual to supervise their weighing of the grain. This is in at least three locations that we are aware of where it is at least being thought about. This gives us some concern because usually those third-party unofficial individuals are controlled or at least in part controlled by boards of trade and similar organizations that the local industry supports and runs.

Senator HUDDLESTON. Do you see that as a conflict of interest?

Mr. BARTELT. I think so. I think when a local trade controls the salaries and hiring and firing of review people in weighing, it puts them in a situation where unnecessary pressure is going to be brought against them.

Senator HUDDLESTON. Do you have any evidence that such pressure has been brought?

Mr. BARTELT. Well, I kind of hate to go back to it, but in the problem days when we first took over weights at export port locations, some investigations by the Inspector General and GAO indicated that the various employees were at times under extreme

pressure to compromise their weighing or inspection functions which resulted in overlooking certain things.

Senator HUDDLESTON. The original legislative proposals that led to the introduction of S. 2886 in its present form provided for waiver of official weighing of intercompany inbound shipments only at the request of shipper and receiver.

S. 2886 uses the reverse approach. It does away with inbound weighing unless the shipper and receiver request it.

Could you comment on the pros and cons of these two approaches?

Mr. BARTELT. They both do the same thing but in reverse of one another, Senator. The problem, as I see it, at the request of the shipper for example, if very little official inbound weighing is occurring, there is no control over when this grain will be weighed and I can see problems with that. There are more teeth in the existing act to ensure their getting an efficient, effective weight at an economic price.

Senator HUDDLESTON. If we were to adopt one of these approaches, from your viewpoint, please tell us which one would be better?

Mr. BARTELT. Well, I would prefer the first one because the mandatory weighing of the grain would still be in place and to obtain a waiver both the shipper and receiver must agree. This would seem to ensure that the buyer or seller can get official weights if desired. If official inbound weights are waived unless requested by the buyer or seller, it seems they could more easily be discouraged by the export elevators from requesting them. And, in my opinion, the first alternative would minimize the damage to the national weighing program.

Senator HUDDLESTON. Would the exemption of the official inbound weighing, as proposed, be a concern to domestic shippers who must rely on destination weighing?

Mr. BARTELT. There has been a lot of interest in interior official weights. I personally have tried to discourage it so long as we have had official weighing at destination. Several rather large grain shipping operations in the interior are having their scales checked and some of them for domestic shipments to port locations either now have official weighing in a couple of instances, or will have it soon if they carry out their intentions as they have indicated to us.

One of the reasons is to double check the weighing system; in other words to compare origin and destination weights. We are in a situation where there are errors made in weighing—I don't care who weighs it—there is always the possibility of the weighing equipment malfunctioning, errors in bookkeeping, and this sort of thing even if computers are used. Sometimes computers really compound the problem in that area. We are really in a situation where it appears to us, at the moment, that if this bill is enacted, there will be a proliferation of official weighing in the interior which will probably be more costly to the producer than the situation that now exists.

Senator HUDDLESTON. In your opinion, do you think that S. 2886 could be implemented in its present form or modified, and preserve the integrity of the official weight certificate?

Mr. BARTELT. Under the proposed bill, the integrity of the official weight certificate will not be impaired because FGIS will continue the offical weighing of grain going into foreign export channels and grain weighed inbound upon request. The bone of contention, here is: We would be unable to ensure the integrity of the unofficial third-party weighing that would occur as a result of this bill.

As far as modification of this bill, I think it is important that it contain appropriate provisions for dealing with expected violations of unofficial weighing of inbound grain. This should be brought under some type of official control so that a record could be developed to support stringent actions when violations occur.

Senator HUDDLESTON. Senator Zorinsky, do you have any question or comment to make at this time?

Senator ZORINSKY. Do you have an estimate of the differential on the cost of the program before or after S. 2886?

Mr. BARTELT. The problem I have, Senator Zorinsky, is that I don't know how to estimate the costs of other systems that may be installed in its place. The actual reduction in cost from the standpoint of what they paid the Federal Government would be involved primarily in personnel. My best estimate would be approximately 100 fee-supported positions plus 10 from appropriated funds.

The low point was an estimated figure at some 50-odd people and the estimated high figure is 150 to 160.

Senator ZORINSKY. Are you aware whether GAO has a figure or not?

Mr. BARTELT. I am not certain whether they do or not.

Senator ZORINSKY. Mr. Chairman, you are aware?

Senator HUDDLESTON. No. There is a representative from GAO who might enlighten us on that. He is Douglas Hogan with the General Accounting Office.

STATEMENT OF DOUGLAS HOGAN, GENERAL ACCOUNTING OFFICE

Mr. HOGAN. I am not sure I understood the question.

Senator ZORINSKY. You are certainly aware what the weighing program costs as conducted currently. The question is—and I know the General Accounting Office generally has figures on anything and everything—what the cost difference was for one system versus the other.

Mr. HOGAN. One of the difficulties, as I understand it, is that either party under S. 2886 could request a waiver of inbound weighing and it could be waivered with respect to all intracompany shipments. Any cost reductions would depend upon the volume of requests for weighing. One of the problems that should be considered though is that if you have to have people standing by waiting for someone to request weighing, this could be rather costly as opposed to having an even workload spread over time.

To answer your question more directly, we do not have any cost estimates per se.

Senator ZORINSKY. Thank you.

Mr. Bartelt, how do you feel credibility is an additional benefit in the event a shipper and a receiver mutually agreed to forego a weighing?

Mr. BARTELT. The problem I really have, and what we put our emphasis on, is the credibility of our export weight certificates. For instance, when you inspect grain as to quality, you have a file sample to go back to which is again not perfect, but it is a lot better than nothing. You can be checking the grain as it goes aboard the ship and you do have, in many foreign lands, a better chance of looking at the grains if you need to at the offload situation. Currently in weighing, you are weighing grain as it boards the ship as soon as it leaves the weight hopper. There is no way to get a doublecheck unless the buyer has a good weighing system and many countries don't have, and even those that may have, you may not have complete confidence in their weights.

Senator ZORINSKY. Is that not a matter of how we do business in the free enterprise system? You trust somebody until they prove otherwise?

Mr. BARTELT. You have got that problem, but you have the problem of those that cannot weigh at all. In some cases, these may be Government Public Law 480 shipments. Draft surveys of loaded vessels would give you an idea within 3- to 5-percent accuracy, plus or minus. Some people can tell you draft surveys are more accurate than this. For certain shipments, that is probably right. For other shipments, it is not correct.

Our other concern is to have a double check capability, and to have a deterrent to people who may want to use a sharp pencil. This would be our inventory monitoring program where you weigh the grain in and out of the elevator and check elevator records in this area. We think this should be done about once a year. If you find unexplained overages, you can be suspicious that something went wrong with the weighing. That was part of the problem in some of the elevators that had weighing problems in the early 1970's.

Senator ZORINSKY. I compliment you for your desire to maintain as high a degree of integrity as possible with respect to the certification of weight.

My concern is that any system, no matter what we adopt or what modifications that we adopt to the system, is only as good as the management of that system.

Locally, I get a taste of that when I step on the scale off the Senate cloakroom in the men's room and it is 3 pounds less than the nurse's scale on the second floor of this building, yet they are both certified as being correct weights.

Mr. BARTELT. You like the lighter one.

Senator ZORINSKY. Thank you, Mr. Chairman.

Thank you, Mr. Bartelt.

Senator HUDDLESTON. Mr. Bartelt, I am a little unclear as to just how inbound weighing provides a backup for your weighing for the outbound, the export? This grain is certainly not kept, or is it kept in such a way that you can identify precisely the outgoing so we can relate it back to the way that it came in?

Mr. BARTELT. Kernel for kernel or railcar for railcar or even when you are talking about a particular shipload, it is probably not identified that close; but if you have a situation where there is a constant error in scale of 1 percent, it is almost sure to show up in an inventory and that is what we are talking about. We don't get

overly excited on foreign complaints when a small shortage beyond what you normally expect as far as an inventory is concerned until several in a row develop on a particular element. We have had very little indication of that.

The first thing we usually check is the weighing certificates or the bookwork that was done on that shipment. We do a complete review of weighing and we also try to review the weighing capabilities of the person who lodges the complaint, how accurate is his weighing system and how does he unload grain.

Senator HUDDLESTON. It is mostly a check of procedure plus the scales themselves where you can identify a problem, and not a certain booked amount of grain that weighs so much coming in and so much going out?

Mr. BARTELT. Well, the average elevator keeps a weekly, monthly, and some even a daily position record as to how much grain they have in the elevator. We feel when everything is going right, we don't need to review this more than about once a year, but where we do have complaints, especially a series of them, then we feel that we need inventory review capability.

Senator HUDDLESTON. That has been useful?

Mr. BARTELT. It has been useful at this point in reverse of what you might expect. Up to this point, we have pretty well been able to show by reviewing, which was a cursory review, not a full review of inventory positions, that the complainant probably was getting full measure the best we could tell from the inventory. Then we reviewed further with the complainant and found there was further discrepancy either in weighing or scaling systems.

Senator HUDDLESTON. In some cases, it is the elevator that verified the correctness of the position as opposed to what the complaint writer suggested?

Mr. BARTELT. Up to this point, that has been the case every time.

Senator HUDDLESTON. Do you have any more questions, Senator Zorinsky?

Senator ZORINSKY. No.

Senator HUDDLESTON. Thank you, Mr. Bartelt.

I might caution our future witnesses that we do have a long list of witnesses. We want to get all the information we can from every aspect of this question, but in order to make sure that everyone is heard, I would suggest that the witnesses summarize to the best of their ability their statements, making them as brief as possible.

We will try to be brief in our questioning. If any witness feels he is not able to present his case as fully as he likes, the record will remain open for further comment or statements that you may want to make.

Our next witness is Harley J. Donnell. He is chairman of the Grain Grades and Weights Committee of the National Grain & Feed Association. He is accompanied by Bill Keating, counsel for public affairs.

You may proceed, Mr. Donnell.

STATEMENT OF HARLEY J. DONNELL, CHAIRMAN, GRAIN GRADES AND WEIGHTS COMMITTEE, NATIONAL GRAIN & FEED ASSOCIATION, ACCOMPANIED BY WILLIAM J. KEATING, COUNSEL FOR PUBLIC AFFAIRS

Senator HUDDLESTON. You may proceed, Mr. Donnell.

Mr. DONNELL. Thank you, Mr. Chairman.

If satisfactory, I will read exerpts from my prepared statement.[1]

Senator HUDDLESTON. Very well.

Mr. DONNELL. Mr. Chairman and members of the subcommittees:

I am Harley J. Donnell, vice president, Grain for Central Soya Co., Inc., Fort Wayne, Ind. I appear in support of S. 2886 on behalf of the National Grain & Feed Association. I am chairman of the National's Grain Grades and Weights Committee, composed of 26 industry experts, which is representative of the grain and feed industry itself: country and terminal elevators, processors and millers, merchandisers, warehousemen, and exporters.

We commend you for calling these hearings and strongly urge the enactment of S. 2886 to correct a serious flaw in the U.S. Grain Standards Act, that flaw being the overregulation requiring excessive and unnecessary official weighing of inbound grain at an export elevator at an export port location.

At the outset, I should point out that export elevators weigh all inbound and outbound grain on equipment and installations approved by the Federal Grain Inspection Service (FGIS). With this amendment the practice of such weighing on FGIS approved equipment will continue but the need for FGIS supervision will be removed for most inbound grain and outbound shipments to U.S. destinations. At Central Soya's export elevator in Baltimore we estimate our annual costs for official weighing and inspection to be $340,000. This amendment will reduce that amount by at least $80,000.

The National Grain & Feed Association and its members are vitally interested in the integrity of the grain inspection and weighing system. Our members are users of inspection and weighing services and pay for those services. No group could be more concerned that the inspection and weighing of grain be efficient, cost effective, and honest.

The association's support of the U.S. Grain Standards Act has a long and well-documented history. The National played an active role in the enactment of the first Grain Standards Act in 1916—it was the grain trade that initiated, worked for, and effected rules for uniform grain standards and inspection procedures so that commerce might be conducted in an orderly and timely manner.

The 1976 Grain Standards Act was legislated in an atmosphere of extreme distrust of the grain and feed industry. However, in May 1979, the USDA's Office of the Inspector General, in its congressionally mandated report entitled, "Study of Grain Inspection and Weighing at the Interior of the United States," concluded: "Although we found irregularities and certain problem areas during our study, we found no evidence to indicate that the practices disclosed during the 'grain scandal' of the early 1970's were widespread in the interior of the United States."

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[1] See p. 64 for the prepared statement of Mr. Donnell with accompanying explanatory material.

Mr. Chairmen, the National Grain & Feed Association believes that some provisions of the 1976 act, as amended, are an overreaction to the situation and atmosphere at the time. Indeed, the 1976 act was 4 months old when hearings were commenced on amendments. We also believe that S. 2886 is a wise step to further correct that overregulation and I would like to detail for you and the subcommittees the reasons why it is not necessary for all inbound grain at export elevators to be officially weighed.

Currently, the U.S. Grain Standards Act, as amended, requires that official weights be taken on all inbound and outbound shipments of grain at export elevators. The effect of this statutory requirement has been 100 percent over-the-shoulder supervision of weighing by a third party at export elevators—that third party being employees of the Federal Grain Inspection Service or a delegated State agency.

I should emphasize that with this amendment, S. 2886, the act will still require FGIS official weights on all grain shipments from an export elevator going into the export trade. The act will also require that official inbound weights be obtained on grain transported by barge to export port locations unless the shipment is an intracompany transfer. Maintaining this requirement is necessary because of the unique nature of barge trading that makes it substantially different from truck and rail shipments of grain.

The amendment would remove a current provision in the act that prevents a shipper and receiver of rail and truck grain to an export elevator from deciding whether inbound official weights actually are necessary for every shipment. The domestic shipper would receive the official inbound weight only if he or the receiver specifically requests it. This amendment would give individual shippers and receivers of truck and rail grain the right to decide what's best for their own businesses.

There are many reasons why individual grain shippers and receivers would choose to forego the process of obtaining official inbound weights. For each of these reasons there is one simple objective—to reduce the unnecessary costs that now exist for a weighing service that in many cases is duplicative and unneeded.

One such instance is the common industry practice of selling truck and rail grain based upon origin weights.

Another case involves intracompany shipments, in which grain is shipped from one company-owned facility to another elevator owned by that same firm. This amendment to the act recognizes that there is no need to protect these companies from themselves.

The Office of Inspector General study referred to earlier shows how prevalent these two forms of grain shipment are. The report stated that OIG's survey of export elevators found that—

> About 40 percent of all grain received at export elevators is owned by the receiving elevators or settled for on interior weights. To determine the amount of grain involved, (OIG) requested information from all major export elevators located in the United States as to total quantities of grain that were received, quantities received from affiliated elevators and quantities settled for on interior weights. More than half of these export elevators responded. Their combined total receipts for last year (1978) totaled more than 2 billion bushels. Approximately 25 percent of these receipts represented grain from affiliated elevators and 19 percent of the remainder were settled for on interior weights.

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The cost to the industry of this duplicative, unnecessary requirement for inbound official weights is great. The revised fee schedule issued by FGIS for official weighing services contains fees of between $11.20 and $16 an hour, per man, depending upon the type of service contracted for and the day on which such services are performed. If shippers and receivers are relieved of the burden of having needless official inbound weighing, FGIS may find that it can reduce the number of personnel needed to supervise official weighing and the resultant savings to the industry can be passed on through the marketing chain.

There are additional reasons why shippers and receivers might choose not to obtain official inbound weighing. In the case of truck shipments, the shipper's agent—the truck driver—is on the premises when the receiver weighs the grain. The trucker has interest in accurate inbound weights because his freight payment is based on the delivered weight of the shipment. We see no desire for FGIS official truck weights.

One purported benefit cited by the FGIS is that such a requirement is necessary if the Service is to obtain a material balance—or inventory check—at an export elevator.

FGIS states that official inbound weights can be used in conjunction with outbound weights as a tool to determine the material balance of an elevator so as to monitor the inventories of grain and grain products moved through an export elevator. Specifically, FGIS states, this is needed as a way of checking for scale manipulation above and beyond its normal supervision of grain weighing.

For several reasons, our association does not believe that official weighing of all inbound and outbound grain is a cost effective or viable method of monitoring grain inventories at a facility. One such reason is that precisely and accurately determining an export elevator's material balance would require that all grain and grain products be weighed. This includes a number of products that are not regulated by the U.S. Grain Standards Act, such as feed pellets, soybean meal, corn screenings, and grain fines.

Grain companies maintain extensive inventory management programs as a tool for regularly checking the book grain stocks against the physical measurement of stocks. And we do it in a cost effective and efficient manner that does not result in delays to our business operation.

Since FGIS, under its investigative powers, already has access to all these company weighing records, any shortages or overages can be monitored by FGIS by checking these records when there is sufficient reason to suspect that a problem is developing. In addition, the U.S. Warehouse Act regulates inventory monitoring of federally licensed warehouse facilities.

Therefore, the mandatory requirement that all inbound shipments of grain be officially weighed at export port locations solely for inventory monitoring cannot be justified.

In conclusion, it should be noted that the National Grain & Feed Association's support of this amendment centers around one major principle. That principle is that domestic shippers and receivers of truck and rail grain and those who move grain intracompany should be allowed to decide whether the costs of FGIS official inbound weights are beneficial to them. Shippers and receivers of

grain and not the Federal Government are best able to judge this aspect of their businesses that has daily ramifications in the marketplace.

I urge the enactment of S. 2886.

We believe that action on S. 2569 should await further study on the potential risks involved in expanding the delegation of inspection and weighing authority to other States.

Thank you.

Senator HUDDLESTON. Thank you, Mr. Donnell.

You gave us the figures on your cost as to the cost of grain weighing and inspection. Do you have any idea of the industry weighing costs?

Mr. DONNELL. I don't feel competent to give you a figure on that. I would not differ very greatly with the figures given with perhaps a fifth of a cent in and a fifth of a cent out as a general statement, and I believe some are much higher than that.

Senator HUDDLESTON. Do you think the industry would object to licensing and further weighing and Federal scale testing and use of Federal procedures in lieu of 100 percent official weighing?

Mr. DONNELL. I think the industry would not object to that providing those requirements were reasonable.

Senator HUDDLESTON. What is your view of the plan that Mr. Bartelt described under which the 100 percent weighing requirement can be waived for elevators where it is not needed?

Mr. DONNELL. It is my opinion that—I differ with his entire approach. I think the FGIS now has the authority and responsibility to check all grain going into export channels. They also have the records, availability to the records of export elevators on the inbound side of the elevator. So if they do suspect something that is not right, they can go to those records and check them. It seems to me that the burden of constant over-the-shoulder supervision of the inbound side is entirely irrelevant.

Senator HUDDLESTON. You do not see any assistance that you could give them in tracing down any irregularities they might find on the outbound side?

Mr. DONNELL. Personally I do not.

Senator HUDDLESTON. Thank you very much. We all appreciate your testimony.

The next witness is William F. Brooks, president and general counsel, National Grain Trade Council.

STATEMENT OF WILLIAM F. BROOKS, PRESIDENT AND GENERAL COUNSEL, NATIONAL GRAIN TRADE COUNCIL

Mr. BROOKS. Thank you, Mr. Chairman.

I would like to have my statement made a part of the record.[1]

Senator HUDDLESTON. Very well, it will be made a part of the record.

Mr. BROOKS. The National Grain Trade Council, a voluntary, unincorporated organization whose policymaking members are grain exchanges or boards of trade and national grain marketing organizations, appreciates this opportunity to submit our views in favor of the pending bill.

The council recommends that the committee approve S. 2886.

[1] See p. 70 for the prepared statement of Mr. Brooks.

S. 2886 would eliminate mandatory official weighing requirements for inbound intracompany shipments of grain and would relax some of the acts' weighing requirements by providing that they be waived unless requested by the shipper or the receiver: One, when grain is transferred into an export elevator—except barge shipments—or two, when grain is transferred out of an export elevator to destinations within the United States.

S. 2886 does not relax or in any way change the acts' mandatory requirement that in general shipments of grain to any place outside the United States shall be officially weighed and officially inspected.

The provisions of S. 2886 are identical with those of H.R. 5546. On July 1, the House Committee on Agriculture, by a vote of 34 to 3 favorably reported that bill with a recommendation that the bill do pass.

The House committee's consideration of the bill was based on 3 days of hearings at two subcommittees of the House committee and a markup session at one subcommittee.

In April last year, the Subcommittee on Departmental Investigation, Oversight, and Research, with its chairman, Congressman de la Garza presiding, held field hearings at Houston, Tex., to look into FGIS activities. There the mandatory weighing requirements of the U.S. Grain Standards Act were considered and discussed.

In October last year, the Subcommittee on Livestock and Grains held 2 days of hearings on H.R. 5546.

In May, this year, that subcommittee, following a markup session, voted unanimously to report H.R. 5546 with an amendment.

We believe that the enactment of S. 2886 will facilitate trading in grain. We believe that the amendments to the U.S. Grain Standards Act provided by S. 2886 are consistent with the act's stated objective that grain be marketed in an orderly and timely manner.

At this time, with about 3 years of experience in the weighing of grain and with weighing equipment at export elevators, it is inaccurate and an admission of weakness on the part of FGIS to state: First, that the enactment of S. 2886 would invite elevators to "adopt inadequate performance standards" for any weighing equipment; "adopt questionable procedures and practices for weighing grain"; and second, that the enactment of S. 2886 would result in the failure of export elevators to have "grain weighing equipment tested in a timely manner and to execute corrections in a timely manner" and to "adequately monitor and supervise the weighing" of all grain loaded into and out of an export elevator.

S. 2886 will not change the registration and reporting requirements of the U.S. Grain Standards Act. S. 2886 will not change in any way the criminal penalties and civil forfeiture provisions of the act.

As you deliberate and debate the merits of S. 2886, you should be reminded that the 1976 amendments to the Grain Standards Act required for the first time that grain exporters register with the Federal Grain Inspection Service; that an exporter's registration is renewable annually:

> No person shall engage in the business of buying grain for sale in foreign commerce and in the business of handling, weighing, or transporting of grain in foreign commerce unless he has registered with the Administrator as required by the Act and has an unsuspended and unrevoked certificate of registration.

The statute provides that an exporter's registration may be suspended or revoked, if after hearing, "The Administrator shall determine that such person"—an exporter—"has violated any provisions of this act or of the regulations promulgated thereunder, or has been convicted of any violations involving the handling, weighing, or inspection of grain under title 18 of the United States Code."

S. 2886 in no way diminishes the Administrator's broad authority to suspend or revoke an exporter's registration. Nor does the pending proposal limit or vary the Administrator's broad authority to refuse to provide official weighing or inspection service. Nor does the proposal limit or vary the Administrator's authority to impose a civil penalty not to exceed $75,000 for each violation of the Act, including violation of section 13.

Section 13 is entitled "prohibited acts."

Section 13(a)(12) provides that no person shall "knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment."

Section 13 enumerates the severe additional criminal penalties on a finding of guilty that a registrant or others have engaged in the acts prohibited by section 13.

This quoted "prohibited act," section 13(a)(12) is not limited to falsifying or to attempting to falsify official certificates or official forms and includes knowingly using anywhere inaccurate, faulty or defective weighing equipment.

In view of the new registration requirements, the new severe penalties for violations of the act, and the new civil forfeiture provisions, FGIS should not argue that official inbound weights or outbound weights of shipments within the United States are required to prevent "improprieties" similar to those found in the weighing program prior to 1976. And only an incomplete or distorted analysis of S. 2886 coupled with an unwarranted distrust of operators of export elevators could lead FGIS to conclude that the enactment of S. 2886 would nullify its inventory monitoring program.

In view of the foregoing, no one should be concerned that registered exporters would be other than eternally vigilant in receiving and handling at export houses grain that is not properly and accurately weighed or in loading out from export houses, for domestic shipment, grain that is not properly and accurately weighed.

In answer to your questions about costs, I have no figures, but Mr. Bergland's letter to Mr. Foley of June 6 says, "On the basis of projected trade and department practice, it could eliminate an estimated $4.8 million in costs from the $16.8 weighing program of the Federal Grain Inspection Service for the year 1981, and in each of the next 5 years."

Senator HUDDLESTON. Twenty-five percent savings?

Mr. BROOKS. It does sounds like it.

Senator HUDDLESTON. Has the use of Federal official weights at export elevators following the enactment of the Grain Standards

Act of 1976 caused any special problems for the export grain companies that make up your organization?

Mr. BROOKS. There is a representative here from the North American Export Grain Association who is going to testify. He could answer it a good deal better than I can.

Senator HUDDLESTON. What are your comments, if any, on Mr. Bartelt's suggestion that some relief can be granted under the existing law?

Mr. BROOKS. In my statement, I make this observation and it doesn't reflect Mr. Bartelt's because it describes his testimony where he was questioned about inconsistent statements of officials in his department. He had difficulty explaining this. He said he was acting according to an opinion of the General Counsel's Office.

At the hearing, he said there was still a division of opinion in the General Counsel's Office, but they came up with a proposal that they could finally relax the requirements a little bit. The FGIS position was they needed a change in the statute to reach the result the General Counsel reached.

Senator HUDDLESTON. Does your organization have a position on S. 2569?

Mr. BROOKS. No, sir, we have not. We have hardly had time to study it. I hesitate to state any more than that because we had certain positions in the beginning in 1976 and 1978 that I don't want to go back to.

Senator HUDDLESTON. Do you anticipate that S. 2886 would make proof of violations any more difficult?

Mr. BROOKS. No, sir. No, sir. I have been convinced for a long time, that under the act of 1976 with its stringent civil penalties and with its loss by forfeitures, nobody in the export business is going to permit an employee to engage in any kind of hanky-panky. The dangers and losses are so tremendous they cannot afford it.

Senator HUDDLESTON. No matter how stiff the laws are and how strict the penalties, we still find violations.

Mr. BROOKS. If someone is going to commit outright larceny in an elevator, whether it be a fellow who is unloading or not, he will do it, whether FGIS is there or somebody else.

Senator HUDDLESTON. If FGIS passing a law would eliminate a crime, we would have a pure society.

Mr. BROOKS. Yes.

Senator HUDDLESTON. You do not see the necessity of having this backup of the inbound record helpful?

Mr. BROOKS. The records will have to be kept anyhow, sir. They are subject to detailed directions as to what records they keep. The only difference is they will not have official weights on the records, but they will be properly weighed, and the weights will be recorded.

Senator HUDDLESTON. Thank you.

Mr. BROOKS. Thank you.

Senator HUDDLESTON. Our next witness will be Glen Hofer, vice president, grain division, National Council of Farmer Cooperatives.

STATEMENT OF GLEN D. HOFER, VICE PRESIDENT, GRAIN DIVISION, NATIONAL COUNCIL OF FARMER COOPERATIVES

Mr. HOFER. Thank you, Mr. Chairman.

We do appreciate this opportunity to give you our views on S. 2886. In the interests of time, I will forego reading my statement if it may be made a part of the record.[1]

I would only call to your attention the fact that the cooperatives, owned lock, stock, and barrel by the farmers, about 2.5 million farmers as a matter of fact, last year handled 3.6 billion bushel barrels of grain. That puts them in the grain trade, but they are farmers, and any costs in the marketing chain that accrue to their elevators obviously comes back to the farm gate. Any profits, of course, come back to the farmers as well.

The cooperatives control a large segment of the off-farm grain storage at inland points and operate a number of export facilities at port locations. They take delivery of grain from farmer members through their local elevators, and merchandise grain to domestic processors, overseas customers, and to the large internationals. They are vitally concerned with grain inspection and weighing as shippers, as receivers, and as exporters. In those respects they are not different from any commercial grain company. They respond to the same market stimuli and face the same competitive business conditions. They are part of the grain trade.

In a very important way, however, the cooperatives are different. They are owned and controlled by the farmers. In fact, they are the farmers. For that reason, their perception of the role which should be played by a Federal grain inspection system should be considered by the committee as the expression of a producer group as well as a trade entity.

Following disclosure of fraudulent activity at certain grain export elevators in the early 1970's, legislation was passed establishing a Federal Grain Inspection Service (FGIS) with authority to rigorously supervise the official weighing and grading of U.S. grain and oilseed shipments overseas. The FGIS has been operational for several years now, and most observers agree that it has effectively controlled the incidence of wrongdoing at the export elevators. In fact, I would like to emphasize here our support for FGIS programs for supervising outbound weights and grades from U.S. grain export elevators. They have done much to restore the credibility damaged by the earlier scandals.

However, as is often the case when Government is given carte blance in a regulatory area, excesses have become apparent—excesses which are superfluous to adequate supervision of exports, but which are adding significantly to the cost of marketing commodities. This cost, we contend, is always eventually borne by the farmer.

Specifically, I refer to mandatory official Government supervision of weighing of all grain inbound to an export elevator at a port location. Such supervision is expensive, and, in most cases, redundant, with neither shipper nor receiver considering it necessary to settlement of the contract between them.

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[1] See p. 72 for the prepared statement of Mr. Hofer.

Accordingly, legislative relief has been proposed in the form of S. 2886 and its companion bill H.R. 5546, which has been passed by the House Committee on Agriculture. These bills would amend the FGIS sections of the Grain Standards Act in the following manner:

One, provide that intracompany shipments of grain into an export elevator by any mode of transportation need not be officially weighed. This would cover, for instance, shipments of corn from a regional cooperative in Iowa to its export elevator on the gulf.

Two, provide that official weighing requirements on inbound shipments to an export elevator by rail or truck shall be waived unless requested by shipper or receiver. This would give small independent elevators or farmers who ship directly to export elevators by truck or rail the option of requesting Government supervision if they so desire.

Three, provide the waiver, unless requested by shipper or receiver, of supervision on outbound shipments from an export elevator if the grain is not going overseas. Such shipments are somewhat unusual, but some export elevators do make domestic shipments to feedyards or processing plants in their immediate vicinity.

The National Council of Farmer Cooperatives actively supports these proposed amendments. It is our conviction that S. 2886 would save U.S. farmers millions of dollars annually in marketing costs without posing any threat to the authority or ability of FGIS to effectively monitor the export of U.S. grains and oilseeds.

Mr. Chairman, attached to this short statement are several pages of documented costs figures from two of our prominent grain export cooperatives, Union Equity Cooperative Exchange of Enid, Okla., which operates an export facility on the Houston ship channel; and Producers Grain Cooperation of Amarillo, Tex., which owns a similar operation at Corpus Christi, Tex. Please remember that these costs do reflect back to the farm gate as part of marketing costs.

Again, we appreciate the opportunity to appear before the committee and we urge your favorable consideration of S. 2886.

Senator HUDDLESTON. Under S. 2886, will export elevators that receive a large percentage of their grain in intracompany shipments have a strong competitive advantage over elevators that have a large volume of intercompany shipments, especially intercompany barge shipments because of reduced weighing costs?

Mr. HOFER. I am not sure that I have got the thrust of your question. I might say that the view of our management teams that run our elevators is that there would be very little request for weighing on truck or barge. There might well be more requests for official supervision of barge traffic. Taking that into consideration, and if it were a cooperative barge transfer, then their cost for weighing inbound, intracompany barge traffic might be less than for the intercompany.

Senator HUDDLESTON. You do not see that as an item that would be significant enough to give a competitive advantage?

Mr. HOFER. I really do not. Even with cooperatives, official weigh supervision on barges maybe a higher percentage than you might suspect. Barges are harder to unload properly and there may be a tendency for some grain to be carelessly left in the barges.

Senator HUDDLESTON. It would seem that the number of export elevators that an inland shipper has ready access to is really quite small because of the differential in the costs of transporting the grain to different export locations. In light of this, would not Senate 2886 enable export elevators to force the inland shippers into not demanding official weighing destination?

Mr. HOFER. I asked the question of our board and no one can find any way that pressuring can be brought against suppliers. Grain trade is very competitive. It is true that there are relatively few export shippers but the purchasing from inland points is competitive. Any time pressure like that is brought against the supplier they would simply take their business elsewhere. That would control undue pressure effectively.

Senator HUDDLESTON. Does your organization have any position on S. 2569?

Mr. HOFER. Only that we are vaguely uneasy about it. The provisions of the original amendments to the Grain Standards Act in 1976, we think wisely precluded some States from being in the inspection business. To now open the door to increasing the number of States eligible to perform inspections makes us a little uneasy, although we don't have anything specific to say about it.

Senator HUDDLESTON. Would you anticipate that elevators that do not receive a large percentage of grain from affiliates would increase the amount of grain they take title to at inland points under S. 2886?

Mr. HOFER. I really see very little difference in the flow——

Senator HUDDLESTON. Consequently, very little impact?

Mr. HOFER. Yes, sir.

Senator HUDDLESTON. Thank you very much. Your complete statement will be made a part of the record.

John P. Case, president, Minneapolis Grain Exchange.

STATEMENT OF JOHN P. CASE, PRESIDENT, MINNEAPOLIS GRAIN EXCHANGE, MINNEAPOLIS, MINN., ACCOMPANIED BY W. DUSTIN MIRICK, ASSISTANT SECRETARY

Mr. CASE. Good morning, Mr. Chairman and members of the committee. I would like to read a few excerpts from my statement.[1]

Senator HUDDLESTON. Very good.

Mr. CASE. Much of what I have deals with costs of weighing between the Minneapolis market, where we have a weighing conducted by the Minneapolis Grain Exchange, and weighing in the Duluth, Minn., market where weighing is conducted by FGIS.

Mr. Chairman, I am president of the Minneapolis Grain Exchange and the president of the Kellogg Commission Co. in Minneapolis. We appreciate this opportunity to appear before this committee to testify on S. 2886, a bill to amend the Grain Standards Act.

If S. 2886 is enacted, the savings to farmers and country shippers will be substantial. The Minnesota State Grain Inspection Department, the agency designated by FGIS to weigh grain at the Port of Duluth, charges $4.50 per truck and $7.25 per railcar.

At the Port of Superior, fees are $4 per truck and $7.25 per railcar. During the calendar year 1979, we recorded that 186,015

[1] See p. 74 for the prepared statement of Mr. Case.

trucks and 63,888 railcars unloaded at these ports. Using the current fee schedules at Duluth/Superior, the weighing bill paid by the country shipper exceeded $1,245,450. Had the same grain unloaded in the Minneapolis market under the supervision of the Minneapolis Grain Exchange Weighing Department, the cost to the country shipper would have been only $525,274. This is a saving of $720,176, or more than half the fees charged by FGIS in Duluth/Superior.

This saving is for the Duluth/Superior market only, but savings to the country shipper will accrue in every other export market, by eliminating costly, unwanted and unneeded mandatory weighing.

I know from personal experience that the 250 country elevators in Minnesota, North Dakota, South Dakota, and Montana, served by the Kellogg Commission Co., see little need for this costly weighing service that does nothing except drive up their cost of marketing, which they pass back to the producer.

I submitted earlier with my testimony a letter from the North Dakota Grain Dealers Association, which is the State elevator association in North Dakota, representing about 600 elevators.

I also submitted letters from the Farmers Elevator Association in Minnesota with 300 some members and the Northwest Country Elevator Association which has another 300 members or so. These elevator associations all support S. 2886.

The consumers, the people on the other end of the marketing chain, would also benefit from this bill.

In 1979, approximately 8,300 railcars and 47,727,000 bushels of grain in lake vessels moved out of the Duluth/Superior export elevators into the domestic market. The FGIS weighing charges were about $143,697. Had the same amount of grain moved out of the Minneapolis market, the total weighing cost would have been approximately one-third of the FGIS fees—about $55,000—a savings to the consumer of approximately $89,000, which brings us to the question: Why is weighing in the Minneapolis market so much less costly than in the Duluth/Superior market under FGIS?

Grain in Minneapolis is weighed under a class II system of weighing supervised by the Minneapolis Grain Exchange. Under class II weighing, there is partial supervision of all inbound and outbound weights while under FGIS there is 100 percent supervision.

FGIS officials may argue that 100 percent supervision of weighing is necessary for a good weighing program; but we, who operate in both the Minneapolis and Duluth/Superior markets, do not agree on this. We feel not only is our Minneapolis system less costly, it is more efficient.

For instance, before 1967, practically all terminal elevators in both Duluth/Superior and Minneapolis/St. Paul were licensed by the State of Minnesota. Minnesota had a law requiring 100 percent supervision of weights by State of Minnesota employees. With 100 percent supervision, there were still many complaints by shippers about Minnesota weights.

In 1967, all the elevators except two gave up their State license and became licensed as Federal warehouses under the U.S. Warehouse Act, which allows for partial supervision.

The number of complaints about weights at Minnesota terminals dropped dramatically. Furthermore, weights are more accurate under partial supervision. The reason for this is simple: Under partial supervision, the weighers at each elevator are licensed and bonded and are responsible for the weights. Inaccurate weights can cost them their jobs. The result is that weights are better and complaints are rare.

That pretty much concludes my testimony.

In listening to your questions about cost, I recall the other day that we were tallying up the fact that a certain country elevator in southern Minnesota had shipped Kellogg Commission Co. 900 trucks in the last year and those all came to Minneapolis; so his weighing bill was $1.45, times 900.

Had those trucks gone to Duluth/Superior, his weighing bill would have been 900 times $4 to $4.50. That is a saving between those two markets of roughly $2,500 weighing fees for one country elevator.

Senator HUDDLESTON. If Senator Helms agrees, we will turn the questioning over to Senator Boschwitz.

Since these witnesses are from Minnesota, your arrival was very propitious, Senator Boschwitz.

Senator BOSCHWITZ. I know Mr. Case and I recognize, Mr. Chairman, that I am a cosponsor of this bill. We have talked to the Minneapolis Grain Exchange about this legislation. I think it is unfortunate to waste money at any level, so I really have no questions to ask him, because we are in agreement and I will do what I can to see that the bill is reported and passed.

Thank you, Mr. Chairman.

Senator HUDDLESTON. Mr. Case, do you see that S. 2886 would cause any concern at all to domestic shippers who must rely on destination weights?

Mr. CASE. No; I don't.

Senator HUDDLESTON. Do you have any comment on Mr. Bartelt's suggestion that some relief can be granted under existing law?

Mr. CASE. That appears to be in the study stage, and I think that there is certainly—as Mr. Brooks pointed out, there is adequate punishment for breaking these laws; there is adequate supervision of elevator records; and I think that is the best system that can be had.

Senator HUDDLESTON. If intracompany shipments, weighing costs, are reduced, is it likely that the grain companies will pass any of those savings back to the farmer?

Mr. CASE. Well, I think, given the competitive nature of the grain business, those will be passed. You can't say that suddenly everybody's bid changes by a fifth of a cent a bushel, but just the same, if somebody's cost goes up, or down, 10 or 15 percent, or 30 percent, whatever it happens to be, the marketplace usually adjusts for that and there will definitely be benefits, either back to the farmer or forward to the consumer.

Senator HUDDLESTON. Do you have any questions?

Senator HELMS. I have no questions.

Senator HUDDLESTON. Senator Boschwitz?

Senator BOSCHWITZ. My experience is that when a small saving is made, the next increase that comes by virtue of inflation or increased cost is tempered.

Senator HUDDLESTON. Thank you very much, Mr. Case.

Thomas L. Irmen, general partner and general manager, Grain Group, The Andersons, Maumee, Ohio.

If you will yield just a moment, Senator Helms has a statement.

Senator HELMS. Without objection, I would like to submit my statement for the record.[1]

Senator HUDDLESTON. So ordered.

STATEMENT OF THOMAS L. IRMEN, GENERAL PARTNER AND GENERAL MANAGER, GRAIN GROUP, THE ANDERSONS, MAUMEE, OHIO

Mr. IRMEN. Mr. Chairman, and members of the subcommittee, I will paraphrase from the written testimony that will hopefully become a part of the record, as you stated.[2]

I am Thomas L. Irmen, a general partner and manager of the Grain Group of The Andersons, which owns and operates grain terminal warehouses in Maumee, Ohio; Delphi, Ind., and Champaign, Ill., and a marine terminal facility at Toledo, Ohio, with combined storage capacity of slightly less than 40 million bushels.

I am here today to speak in support of Senate bill 2886, a bill to amend the U.S. Grain Standards Act, to permit grain delivered to export elevators by means of conveyance other than barge to be transferred into such export elevators without official weighing, among other purposes. In this regard, I am addressing you on behalf of The Andersons, and also in my capacity as an officer of the Ohio Grain, Feed & Fertilizer Association, which represents over 800 country elevators and grain terminal warehouses throughout Ohio.

If I were to take you all back to our Toledo, Ohio, marine facility today, I would show you a modern, high-speed facility which can receive up to 1,000 trucks per day, loads ships at 60,000 bushels per hour, and which, in the 9-month navigation season of 1979, loaded out 89 million bushels of export grain and soybeans.

As we toured the facility, I would show you our company's dedication to efficient, high-speed, low-cost service to its customers, the farmers and grain dealers in our marketing area.

You would see many examples of the emphasis we place on creating an atmosphere for our employees which recognizes the dignity of hard work; the duty and privilege we have in serving agriculture and the fundamental fairness of rewarding excellence above mediocrity.

In 1979, the Andersons loaded 89 million bushels out of its Toledo marine facility. Of this total volume, 31 percent, or 27.8 million bushels, was grain owned by The Andersons and transferred by rail from its Maumee facility, 9 miles away, to the marine terminal.

FGIS charged The Andersons for weighing its own grain, in its own rail cars, being transferred into its own facility.

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[1] See p. 37 for the prepared statement of Senator Helms.
[2] See p. 76 for the prepared statement of Mr. Irmen.

We realize the current statute is unequivocal in this regard, but, gentlemen, is this what was really intended?

The intent of Congress was apparently to protect shippers against unscrupulous weighing practices. What purpose is served by official weights on our own transferred grain? Was that really what was intended?

For the 1979 9-month navigation season, The Andersons paid $377,000 in FGIS charges. By way of contrast, The Andersons' total labor costs at the marine facility for the entire year of 1979, including all operations, supervision and administration, were $525,000. Of the total FGIS charges, a full $88,000, was attributable to inbound weighing supervision.

A May 21, 1979, report of the Office of the Inspector General of the Department of Agriculture dealt quite properly with the issue of official weighing of inbound, company-owned grain when it concluded at page 25:

> The requirement for official weighing of company-owned grain can only be justified if one takes the position that FGIS cannot adequately supervise outbound weighing to ensure accurate weights.

At this point, the report refers the reader to its comments on inventory monitoring. Again, I quote the Inspector General's report, on page 52:

> We believe that such monitoring of inventory records at export elevators is a wasteful practice. Inventory recordkeeping is not an exact science. The actual beginning and ending inventories used may be in error and the drying and cleaning losses along with the mixing of grains and variables that are very difficult to control. In this regard, we have noted that even though inventories at certain elevators have been monitored, questions still remain concerning what really happened when an overage or shortage was noted.

Compulsory official inbound weighing of the tens of thousands of truckloads which arrive at The Andersons' marine terminal is equally unnecessary. Our customers realize that they must bear the cost of compulsory inbound weights. They often have their own weights at point of origin; and they do not dump their loads unless they are satisfied with the weight indicated.

Even more compelling is the fact that there is still great mutual trust in the grain marketplace, despite what you hear from those outside the industry whose purposes are best served by denying this fact. If a shipper wants official weights, he is more than welcome to them and Senate bill 2886 would guarantee this right; but compulsory inbound weighing is neither fair nor necessary.

Just as disturbing, and in the long run, possibly more costly, is the dampening effect the daily presence of the FGIS "sit-and-watch-someone-else-work" personnel has on the morale of not only our employees, but, indeed, our customers.

It is a simple reaction—people do not like to pay for services they do not want or need and on top of that see their tax dollars wasted.

It is also pretty clear to me that no matter how high the caliber of FGIS personnel, they will never have, nor can they have, the same concern for our customers as we do. To have these people virtually control what happens to our customer delivering grain goes against every sound principle of good customer relations, especially when that same customer would quickly do without the inbound weight inspection.

I have described our situation because it is the one I know best. However, from my many visits and meetings with others in the industry, I can assure you that a similar situation exists at most other export elevators.

The Ohio Grain, Feed & Fertilizer Association supports the position of grain export elevators in this matter because a large percentage of its members' grain flows through the Port of Toledo. They share in these unnecessary costs. Remember, gentlemen, these are the very same people that FGIS purports to "protect."

Gentlemen, Senate bill 2886 is a fair and reasonable way to remedy these most costly and wasteful problems without prejudice to the true purposes of the current Grain Standards Act. Intracompany shipments are relieved of needless official weighing supervision, needless because the FGIS inventory monitoring theory has been proven to be a "myth."

Other inbound shipments, except for barge movements, are also freed of compulsory weighing unless requested by the parties involved and, after all, they are the very best people to make those judgments.

Compulsory official inbound weighing is retained for barge movements solely because this mode of transportation differs significantly from other modes in that title to a barge shipment often changes hands frequently enroute, making owner surveillance of the final disposition of his property almost impossible. Finally, Senate bill 2886 accords domestic shipments from export elevators their proper status under the law.

Gentlemen, I urge the passage of S. 2886.

Thank you.

Senator HUDDLESTON. Mr. Irmen, I understand the FGIS has proposed to industry before that, rather than have its official weighers to just duplicate the work done by the company weighers, the companies agree to let FGIS handle the weighing for the company.

It would appear to be a saving.

What are the pros and cons of this approach, and why has the industry not looked with favor on this approach?

Mr. IRMEN. I can only answer for my own elevator; but I think the same answer would be true with most all elevators.

FGIS would limit their action to weighing, with no other actions. In most cases, whether at the truck receiving scales or at the gallery floor or control floor where the export weighing is actually done, the duties or the accountability of the company weigher go beyond that of just weighing. They also have the job in many instances of directing the truck to the right dumping bin and even the right hold of the ship.

If they limit their accountability to simply weighing, we cannot effectively save another man. We still have to put in a man to direct the flow of the grain.

Senator HUDDLESTON. Prior to Federal weighing at export, there was third-party supervision of weighing at export elevators, by chambers of commerce or private grain inspection agencies.

If S. 2886 is adopted and Federal inbound weighing eliminated almost entirely, do you think that the railroads and the shippers

would push for some third-party supervision of weighing like there was before the Federal Government took over?

Mr. IRMEN. Well, Mr. Chairman, most of the railroads—and I know this to be true in our area, have their own weighing personnel under the AAR and also under the Weighing and Inspection Bureaus.

In our case, it is the Eastern Weighing and Inspection Bureau. They already provide that service. They have to be in our area to take care of the movements. It is not a duplication. The system is in place.

We did away with many of the functions of the Toledo Board of Trade, when FGIS came into the Toledo market area. We have retained the weighing function of the Toledo Board of Trade to handle all the domestic movements, so I do not agree with Mr. Bartelt that there can be a savings under this thing at all, and that it would cause needless duplication of efforts.

I think the system is already in place and it is dealing with it now just as it did back before the enactment of the United States Grain Standards Act of 1976.

Senator HUDDLESTON. Senator Helms, do you have any questions?

Senator HELMS. No.

Senator HUDDLESTON. Thank you very much.

Reuben Johnson, legislative director, National Farmers Union.

Before you begin, Mr. Johnson, if you would permit me, Senator Dole of Kansas, of course, is very interested in your testimony and he is a cosponsor of the legislation. He intended to be here. He found himself in a situation, as we frequently do, of having three committee meetings at the same time.

Senator HELMS. I have the same situation.

Senator HUDDLESTON. Senator Helms has the same situation. He is here.

Senator HELMS. I think you do, too.

Senator HUDDLESTON. So I would like at this time to put in the record a statement by Senator Dole relating to S. 2886.

Without objection, it will be made a part of the record.[1]

Please go ahead, Mr. Johnson.

STATEMENT OF REUBEN JOHNSON, LEGISLATIVE DIRECTOR, NATIONAL FARMERS UNION

Mr. JOHNSON. Mr. Chairman, my name is Reuben L. Johnson. I am director of legislative services, National Farmers Union, 1012 14th Street NW., D.C.[2]

Mr. Chairman, normally longevity is not looked upon with special favor, but it is——

Senator HUDDLESTON. It is here in this organization.

Mr. JOHNSON. I am glad to know that, for I would like the record to show that I am in my 27th year as a representative of the National Farmers Union.

On October 18, we presented testimony before the House Agriculture Subcommittee on Livestock and Grains, in opposition to a bill which is very similar to S. 2886, which would relax provisions of the U.S. Grain Inspection Act, the official grain inspection act.

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[1] See p. 37 for the prepared statement of Senator Dole.

[2] See p. 78 for the prepared statement of Mr. Johnson.

The testimony we presented at the hearing was in opposition to H.R. 5546, and H.R. 5110.

H.R. 5546 has subsequently been approved by the subcommittee and reported by the full committee.

I might say that in spite of our continued attempts to explain all of the problems we see with this legislation, on June 27, the same group of sponsors of the House legislation prevailed upon Senator Dole and several other cosponsors—some of which are members of this committee—to introduce S. 2886. I might say that we have worked very closely with Mr. Bartelt and the staff in developing our concept and attitude toward this legislation and I would like, of course, to be identified with the position of the administration as articulated here today by Mr. Bartelt.

At the time he testified before the House, he said that legislation strikes at the heart of a nationally uniform official weighing program that FGIS has developed from zero over the past 3 years.

In spite of the strong opposition of the Administrator to the bill at that time, the Farmers Union sought to suggest an area of compromise. I might say at this point, Mr. Chairman, that we have, among our membership, a number of cooperatives, and none of our members want to see money spent unwisely and foolishly on grain weighing. So we, after considerable consideration of the legislation, proposed, and our board approved, this position on September 10—to oppose legislative changes in the present system of weight inspection. This position concerned inland and export shipments of grain unless the legislation provides for a system of spot checks to operate in conjunction with and as an alternative at the discretion of the Administrator of the Federal Grain Inspection Service, to the full-time weight inspection requirements of existing law.

Mr. Chairman, you do not need to change the basic legislation in order to accomplish that, as I think Mr. Bartelt has explained. You know, every time we pass some kind of a Federal inspection program—I go back to the poultry inspection program. Remember all of the fuss we had with that? After the shakedown cruise, everybody was happy, I think the whole industry now would oppose eliminating this program and would probably defend it.

As a matter of fact, I sat back here today, and I thought, well, one of the alternatives that you have before you is to reverse the congressional mandate that you imposed on this industry to correct these abuses; and go back to where we were before we put this program into effect.

Isn't that one of the alternatives you have?

Senator HUDDLESTON. It is an alternative. A very unrealistic alternative?

Mr. JOHNSON. A very unrealistic alternative.

We had meat inspections. Some of the States decided they wanted to run their meat inspection program. The first thing, you know, they decided to let Uncle Sam pick up the check for whatever cost is involved and gave up on that idea. Now, we have, I think, one of the finest meat inspection programs of any country in the world. As a matter of fact, I think we are on the way to having one of the finest grain inspection programs of any country in the world, and I am hoping that someday we can come up to the

standard of our neighbor, Canada, who for years has had a program which has given the foreign buyer the confidence that when he bought grain, he got what he bought. That is the whole purpose of this program.

Now, with respect to cost, I have not had one farmer complaint, and I do not believe that anyone in this room has had a farmer write a letter complaining about spending a fifth of a cent to assure that that clean grain that he brought down and sold to a dealer, whether it be a co-op or a private elevator, got to the foreign buyer in as good a condition as he delivered it. If there is a complaint, then I have not heard it.

I am not very good at arithmetic, but one fifth of a cent works out—if my mathematics is correct, and there are some good mathematicians here—to about $2 million for a billion bushels of grain.

If the trade is worried about that being excessive, I want the trade to know that some of us farmers are worried about what they may be raking off if we didn't have an official grain inspection program. One-fifth of a cent per bushel?

It is a monumental amount of money on the side of anybody, given an opportunity to rake it off. I think that ought to be a consideration in assessing the value of a grain inspection program.

We ship from this country about five billion bushels of grain and soybeans. I am assuming that every bushel is weighed at some time or another. Some of it may be weighed twice. Roughly, we are talking about $10 million for 5 billion bushels of grain.

I don't believe that farmers perceive that as being an excessive amount to pay for the protection that this Nation has under the terms of this law.

Let me also say that as far as I can tell, the Administrator, Mr. Bartelt, deserves a vote of confidence. He has attempted to comply with the provisions of the law. He has attempted today to say to you that in some instances there may be areas where relaxation can be made. I would perceive that running this program, after a time, you would begin to figure out where the "hot spots" are where you really had to take a hard look often and that you would begin to perceive those areas where you had an honest and a genuine cooperative attitude on the part of the people involved and you could therefore relax some of the inspection measures of such cooperators.

Senator HUDDLESTON. You believe that the relief that Mr. Bartelt referred to could be accomplished under the present law?

Mr. JOHNSON. I certainly do, and I would trust him. It really comes back into compliance with what we have suggested, that where there are areas where you can make periodic checks and be assured that you find every time you go back compliance, no fraud or no abuses. That would dictate to a prudent administrator that he could make adjustments in his program that would continue to get the same benefits with opportunity for cutting the costs.

Senator HUDDLESTON. The question is, could you do that under the requirements of the law?

Mr. JOHNSON. I think that the way the law has been explained to me that could be worked out.

Senator HUDDLESTON. You think the savings that might result to the companies under S. 2886 would be passed to the farmer?

Mr. JOHNSON. Well, sir, these companies pass those costs front and back anyway. They are not paying those costs. We farmers are paying it, at least part of it, maybe all of it.

Senator HUDDLESTON. We heard some testimony at the 1976 hearings.

Mr. JOHNSON. There is another angle here and then I will quit.

I have been really trying to dig down to see if I could figure out what is really bugging the trade; and I first ran into what I think the bottom line is over in the House. It is inventory. There is nothing, I found, that seems to disturb a grain handler more than that on inventory. Even though all these inspectors have is a ballpark figure because they weigh in and out. If you weigh it in, and you weigh it out then you have a check on inventory.

Some people might think that is an inordinate amount of knowledge on the part of a Federal grain inspector. I don't think so, because I think that it gives the Federal Grain Inspection Service a ballpark check. That, more than anything else, dictates the reason for this legislation here before you. You ought to take a good, hard look at that and I hope the GAO is taking a good, hard look because it was in the mismanagement of inventory, if you go back to the time when we were looking at the problem, where the rakeoffs were, the ability of a trader to manipulate the amount of grain enabled him to rip off and to short weigh.

Thank you very much.

Senator HUDDLESTON. Do you have any questions?

Senator HELMS. No.

Senator HUDDLESTON. Thank you very much.

Vernie Glasson, director, National Affairs Division, American Farm Bureau Federation.

STATEMENT OF VERNIE R. GLASSON, DIRECTOR, NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FEDERATION

Mr. GLASSON. Thank you, Mr. Chairman.

I have a brief statement that I would like to submit for the record and I would like to summarize it.[1]

The Farm Bureau has been concerned with the matter of grain inspection and weight supervision since the period of 1976, which many alluded to. The Farm Bureau Grain Advisory Committees met on a number of occasions in 1976 to address concerns with respect to grain inspection from the farmers' viewpoint as irregularities came to the attention of the public and Congress. However, most of these concerns and discussions centered around the issue of inspection rather than weight supervision.

We closely followed the legislative proceedings that resulted in the creation of the Federal Grain Inspection Service. At that time, Farm Bureau policy strongly supported changes in the system to improve the integrity, and to assure the quality of U.S. grain exports. Our policy, however, stopped short of supporting a completely federalized system of grain inspection.

Also at that time our policy began to express and our advisory committees generally expressed concern about the cost of the program and during that period of time, the Farm Bureau did commu-

[1] See p. 80 for the prepared statement of Mr. Glasson.

nicate and has communicated with the FGIS relative to ways and efforts to reduce costs of the particular program.

I might say that in 1979, we did have a substantial change in our delegate policy action as it related to the Federal grain inspection, and that policy is in the statement, but generally, the policy change at that time reflected an increased frustration with the new grain inspection system, not only with respect to the additional cost that has been alluded to here today, but also with the problems encountered in transferring grain to export elevators and slowdowns in the overall grain movement system.

The Farm Bureau testified last year in support of legislation similar to S. 2996, which is pending before the House of Representatives. The Farm Bureau continues to support this measure, and we believe that S. 2996 will provide for a significant improvement over the existing inbound weight supervision system at export elevators.

Mr. Chairman, in general, the Farm Bureau has supported a system of "spot checking" by FGIS as the most acceptable method for supervising inbound weighing at export elevators. However, we feel that the provisions in S. 2886 allowing for shippers and/or receivers to request official FGIS supervision will adequately serve shipper-receiver interests.

In conclusion, we would urge expeditious action by this Congress.

Senator HUDDLESTON. Do you have any position on S. 2569?

Mr. GLASSON. No, sir. We have not taken the matter to our board of directors, so we have not taken an official look at it.

Senator HUDDLESTON. Have you considered a suggestion that has been made by Mr. Bartelt that adequate relief may be granted under existing law?

Mr. GLASSON. We have had conversations along that line. I would simply say, Mr. Chairman, we would hope that that would be the case. We have hoped it would be the case for some time. We have been communicating on the issue for almost 3 years. I would say if there is ample direction under the existing law to move toward some relief measure that at some time in the future, perhaps under future administrators or others, there might be an attempt to move back to the present unsatisfactory system. We feel strongly that legislative relief is necessary along this line.

Senator HUDDLESTON. Senator Helms, do you have any questions?

Senator HELMS. No questions.

Senator HUDDLESTON. Thank you very much.

Mr. Joseph Halow, executive director, North American Export Grain Association.

STATEMENT OF JOSEPH HALOW, EXECUTIVE DIRECTOR, NORTH AMERICAN EXPORT GRAIN ASSOCIATION

Mr. HALOW. I am Joseph Halow and I am executive director of the North American Export Grain Association. Our members include about 28 of the leading exporters of grain from the United States. We are interested in this legislation and strongly urge its passage.

I have prepared a brief statement which I would like to present for the record. I would like, here, if I may, merely to make a few

comments which occurred to me as I listened to the statements this morning.[1]

I would like to state, first of all, that I was quite disappointed to find that the strongest opposition expressed against this bill had to do with what the opponents refer to as the scandals in 1974 and 1975. Actually, the irregularities to which they referred were more widely disclosed than they were prevalent in the grain industry, for they involved an extremely small percentage of the total transactions and a very small number of the people employed in grain exporting. They were not typical of the industry and those found guilty of any infractions have already paid for them. In any event, that was 1974, and this is now 1980. We have in the meantime had a great many other scandals, and some of them have involved even Government people. If we were to attempt then to paint all of Government with the same type of brush which Mr. Bartelt wants to use on the grain industry we would have to keep the Federal Grains Inspection Service under constant surveillance.

I would like to see the opposition base its case on the merits or lack of merits. Even the FGIS has indicated that the inbound weighing requirement has not been an important one. Their chief concern has been that it would be the beginning of an erosion of their control over the industry.

I commend you for trying to see if all the regulatory control is necessary. In this case, even the FGIS doesn't find it is necessary. It is counterproductive and very costly.

I would like to comment also on the statement made by Mr. Reuben Johnson that he would like to bring U.S. quality standards up to the Canadian standards. I have represented farmers for at least 10½ years and feel I still do. I very strongly represent the farmer's interest. During the years I worked in the Great Plains, we had a great deal of experience with and were in contact with many buyers of U.S. grains. What we learned over and over again was that the quality of the U.S. grain was unsurpassed. The Canadians suffered loss of export sales because their wheat did not compare to that of U.S. wheats. U.S. wheats have been considered superior to wheats from any other source, so much so that millers have paid a premium for U.S. wheat, despite the fact that Canadian grains were cleaner than U.S. grains; that is, the Canadians removed foreign material—at the expense of the Canadian farmer, I might add, for no one ever paid a premium for it.

I do not like regulation for regulation's sake. Regulation should be considered on the merits of whether it would serve the industry. In this instance, it seems to be an expensive type of regulation which serves no useful purpose, and we recommend the passage of this bill.

My complete statement will be submitted for the record.

Senator HUDDLESTON. Do you have any estimate of added cost to your operations from the grain inspection weighing at the export locations?

Mr. HALOW. I don't have any breakdown of costs. I would like to state—I would like to actually preface my comment by stating fact that there is no one in the industry who objected to the creation of the Federal Grain Inspection Service. We think it is an extremely

[1] See p. 81 for the prepared statement of Mr. Halow.

important function and one which should be continued. The complaints have been overregulation, overextension, and, in some instances, delays and particularly added costs. We have some elevators where, when the Federal Grain Inspection Service took over, costs for inspection have either quadrupled or quintupled.

Senator HUDDLESTON. If savings are effected through S. 2886 or through some other method, could the farmer expect to receive higher prices for his grain?

Mr. HALOW. Anything the grain exporter would save is immediately reflected in the basis, which is the cash price in effect upon which the farmer is paid for his grain. Since the basis is the calculation of all expenses involved in the grain price at a given location at a given time, a reduction in costs would be immediately reflected in the price paid to the farmer.

Senator HUDDLESTON. Senator Helms, do you have any questions?

Senator HELMS. No.

Senator HUDDLESTON. Thank you very much. We appreciate it.

The following witnesses, I believe, are prepared to comment on S. 2569:

First, Peter Lane

Is Peter Lane with us?

Senator HELMS. They are coming as a group.

Senator HUDDLESTON. Very well. Will Mr. Granville Tilghman and Gene Finley accompany Mr. Lane?

Senator HELMS. Good morning.

Mr. Chairman, these are three fine North Carolinians. We have you outnumbered.

Senator HUDDLESTON. Kentucky came out of North Carolina, so did Daniel Boone. We had to go stealing from Missouri.

Mr. FINLEY. I was born in Missouri before I went to North Carolina.

STATEMENTS OF PETER LANE, CHIEF, GRAIN TRANSPORTATION AND COTTON COOPERATIVE SECTION, DIVISION OF MARKETING, NORTH CAROLINA DEPARTMENT OF AGRICULTURE; GRANVILLE TILGHMAN, PRESIDENT, CAROLINA-VIRGINIA GRAIN & FEED ASSOCIATION; AND GENE FINLEY, PRESIDENT, CRESWELL GRAIN CO.

Mr. LANE. Mr. Chairman and Senator Helms, we appreciate the opportunity to be here. I am going to talk to you for a minute without reading the short statement.[1] I have prepared the statement for the record and I will request, after I finish, that Mr. Tilghman and Mr. Finley make a few remarks.

Senator HUDDLESTON. Very well.

Mr. LANE. I am here at the request of and on behalf of the commissioner of agriculture from North Carolina. We are in strong support of Senate bill 2569. North Carolina has had a long history of grain weighing. We have not had any serious complaints. Certainly, we have not had any court actions against us.

We believe that we are capable and eager to perform export services. We do have the opportunity of having an exporter develop a new facility at Port Morehead City. They are concerned. There are some excess charges by the FGIS inspection agency. These

[1] See p. 82 for the prepared statement of Mr. Lane.

charges, I think, can be shown. The FGIS has a charge of $11.20, while North Carolina has a charge of $8 per man-hour.

Senator HUDDLESTON. If you have a listing which is not included in your statement, you might submit it.

Mr. LANE. Yes; we will submit them. We think we can do an excellent job. We believe that with that change, it will not be necessary for any and every state that wants export inspection to do so. There are sufficient regulations in the current statutes that would allow North Carolina to become the agricultural inspection agency and it will not be necessary to open the door to anything and everything. So with the opportunities that we have, developing our agricultural exports more fully in North Carolina and the same opportunities that the North Carolina Department of Agriculture would like to see the department itself do the inspection under the supervision of the Federal Grain Inspection Service, we strongly support this bill.

Senator HUDDLESTON. Mr. Tilghman?

Mr. TILGHMAN. Senator Helms and Senator Huddleston, I am here as president of the Carolina-Virginia Grain & Feed Association, an association of grain and feed dealers. I would like to emphasize the high regard in which the North Carolina Trade Department is held by the trade and farmers alike in North Carolina.[1]

I do not have much else to offer.

Senator HUDDLESTON. Thank you.

Mr. Finley.

Mr. FINLEY. My name is Gene Finley.[1] I am a major stockholder in a small country elevator known as Creswell Grain Co., in Creswell, N.C. As a shipper of grain, which we ship by truck, we are quite concerned in the case of the Morehead facility if FGIS has control of the original inspection that, as a shipper, I would have the opportunity of calling for a second inspection, which is known as a Federal appeal, if I am not satisfied with that first grade. If that were the case of FGIS as the original, they would also have that second inspection. It is just the feeling in the trade that it would be a little better if you had someone else in the picture rather than just the one agency.

I am familiar with the services of both of the organizations and they both do a very conscientious job and I think the better method—and this is done, as has been pointed out—is for the States to have the local State inspection service under the supervision of the FGIS do the original work and then if there is an appeal, to let the Federal people make the second inspection, which is usually the final inspection. Many people feel that with this latter method, it gives the shipper a much better feeling about the fairness of the inspection and even though that last inspection might not be to his benefit, he still likes it better.

I am also convinced, as has been pointed out, that the cost of weighing and grading by the FGIS personnel would be considerably higher than if it is done by the North Carolina agricultural employees.

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[1] See p. 83 for the prepared statement of Mr. Tilghman, and p. 84 for the prepared statement of Mr. Finley.

We buy all of our grain directly from the farmer. We do our own weighing and grading. We make no charge whatsoever to the farmer for any weighing or grading, so therefore the expense of every truck that we ship is borne by the company. This varies from $4.10 to $4.50 per truckload, approximately 800 bushels, which is approximately one-half cent a bushel on a million bushels, which is $5,000 a year.

Up to this point, this has been the operating expense of the company.

We feel like if the FGIS were to have the Morehead facility—we ship there—and if the cost of grading was double or more, which I think it would be, we would have to give some thought to decreasing our price to the farmers.

As with most country elevators, they are at the limit of the expense they can stand. Our profits are here [indicating] and inflation has gone the other way.

When there is a qualified local or State service that can perform the service, they should be allowed to do so. We have that in the North Carolina Department of Agriculture.

One of the major problems I feel in our country today is the fact that too many segments of our economy expect and request Federal assistance on any problems that they confront which could be handled locally and they could do it if they just put their minds to it. This is one of those programs that the State of North Carolina, with the present program they have, could very efficiently handle the situation of weighing and inspection at Morehead City. I would strongly recommend this to the committee.

I thank you for the opportunity to speak to you.

Thank you.

Senator HUDDLESTON. Senator Helms, I am sure you agree that it is nice to have some witnesses who have no accent, who speak pure English.

Senator HELMS. Mr. Chairman, you have just heard three of the finest citizens in my State. My modest friend down here, Gene Finley, is an old country elevator boy. There is no more highly respected citizen of our State than Gene Finley. He has the reputation of being a straight shooter.

I am very proud that you came here this morning, sir.

Mr. FINLEY. Thank you, sir.

Senator HELMS. Mr. Lane, we may be doubling back on your prepared statement; but is there any way for North Carolina to be delegated authority for export grain inspection?

Mr. LANE. Not to my knowledge, without the passage of this bill.

Senator HELMS. How could the State of North Carolina inspect the grain exported cheaper than the Federal Government? Did you cover that in your statement?

Mr. LANE. It is mentioned, but their charges are substantially higher than ours, and I will submit this for the record.

Senator HELMS. All right.

If you feel the need of doing this, fine. If you feel the need of doing this in addition to your statement, that is fine; but I would like for you to elaborate just a little how North Carolina would implement its inspection program.

Mr. LANE. Sir, we already have an inspection program for domestic grain with five offices already located in North Carolina. These are in our department of agriculture in Raleigh and four offices are outside of Raleigh. We have an adequately trained staff. We don't anticipate putting on a large staff at Morehead. We know that before a grain inspection office would be opened, we would have time to train personnel and we already have adequately trained personnel. We see no problem.

Senator HELMS. That is known in the trade as a leading question.

Senator HUDDLESTON. I understand that.

Senator HELMS. Mr. Tilghman, this is also a leading question, but can you think of any justification or rationale for North Carolina not being granted delegated authority for export grain inspection?

Mr. TILGHMAN. I cannot, Senator Helms.

Senator HELMS. I assume you have full confidence in the State of North Carolina to do the job?

Mr. TILGHMAN. Yes, sir. And I have for a great number of years.

Senator HELMS. That is just about it. That comes under the category of what is it that the lawyers say—res ipsa loquitur?—the thing speaks for itself.

He spoke of Jim Graham, who is our Agricultural Commissioner. You met him.

Senator HUDDLESTON. Yes, sir.

Senator HELMS. He is taller than I am and much wider than I am; but I have never known a more dedicated public servant than Jim Graham. He is an institution. He and I no longer belong to the same political party, but Jim knows that I support him and have faith in him.

I think Jim's first thought when he gets up in the morning is the farmers in North Carolina and the last thought before he goes to sleep at night is the farmers in North Carolina.

In a colorful way, the Commissioner has earned the respect of the farmers.

Give him my regards.

Mr. LANE. I can support that. He has no opposition for the election this year.

Senator HELMS. That speaks for itself.

Senator HUDDLESTON. That concludes the list of witnesses for today.

The committee record will remain open for 10 days for any additional submissions that anyone cares to make.

We stand adjourned.

[Whereupon, at 12:10 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

Statement of Hon. Jesse Helms, a U.S. Senator From North Carolina

Mr. Chairman, back in the early 1970's the grain trading industry was rocked by allegations and subsequent confirmations of fraudulent practices of certain grain export elevators. The Congress sought to correct this totally unacceptable state of affairs by adopting the 1976 Grain Standards Act which established the Federal Grain Inspection Service and gave to such agency authority to supervise the official weighing and inspecting of U.S. grain shipped overseas.

Since the enactment of this legislation, it has become clear that certain provisions of the 1976 Act have led to regulatory excesses that are superfluous to the adequate supervision of the grain trade and unnecessarily costly to industry, producers, and consumers. S. 2886, a bill that I have co-sponsored, would reduce such unnecessary costs by making these important changes to the Grain Standards Act of 1976:

First, it would exempt from the official inbound weight requirement all intra-company grain shipments transferred to an export elevator by any mode of transportation.

Second, it would waive official weighing requirements on inbound shipments of grain to an export elevator by any mode of transpotation other than barge, unless the shipper or receiver requests otherwise.

Third, it would waive the official weighing requirements on outbound shipments of grain from an export elevator when the shipment is being made to a U.S. destination, unless the shipper or receiver requests otherwise.

Enactment of these provisions could reduce the total FGIS cost of monitoring inbound weighing by roughly 40 percent without compromising the ability of FGIS to adequately guard against scale manipulation.

I understand that FGIS is very much opposed to S. 2886 because it feels that the bill will strip it of a useful tool for monitoring grain inventories. However, the costs to the grain trade when compared to the meager benefits of this tool cannot be justified.

I think it is far more appropriate for the domestic shipper of truck and rail grain and the shipper who moves intra-company grain to be allowed to decide whether the cost of FGIS official inbound weights is worth it. This is exactly what S. 2886 permits. Such freedom of choice can be exercised without hampering FGIS's ability to prevent fraud. It is this feature of S. 2886—combined with its cost-saving measures—that prompts my support of this legislation.

Statement of Hon. Bob Dole, a U.S. Senator From Kansas

I am pleased that the Committee on Agriculture has called hearings on S. 2885, a bill that I and 9 other Senators introduced on June 26, 1980.

This bill amends the United States Grain Standards Act to permit grain delivered to export by any means of conveyance other than barge to be transferred into such export elevators without official weighing.

I have been working on this legislation for almost one year with many of the groups that are testifying today.

This legislation is supported by the American Farm Bureau Federation, the National Association of Wheat Growers, the U.S. Chamber of Commerce, the National Grain and Feed Association, the National Council of Farmer Cooperatives, the North American Export Grain Association, the National Grain Trade Council and other farm groups.

It is my conviction that this legislation will save U.S. farmers millions of dollars annually in marketing costs without posing any threat to the authority or ability of FGIS to effectively monitor the export of U.S. grain and oilseeds.

The farmers I have talked to support this legislation. They support the idea of paring away unnecessary government "protection" at considerable savings when it can be done with no threat to U.S. export integrity.

I appreciate all those who are testifying today. I hope we will have a complete hearing that gets on the table all the various opinions and ideas that exist regarding this legislation. I will be looking at the testimony of those who favor the legislation and those who don't.

I am hoping that sound legislation can be developed to save farmers and grain organizations unnecessary expenses.

I believe it is important that action be taken on this legislation this year.

I appreciate the support given by the various groups and know we can work together to get the legislation through the House and the Senate and signed by the President.

[The following material was submitted by Senator Huddleston.]

Comptroller General's Report to the Congress: Federal Export Grain Inspection and Weighing Programs: Improvements Can Make Them More Effective and Less Costly

DIGEST

Foreign buyers perceive some improvements in the quality and weights of U.S. grain shipments since the Grain Standards Act of 1976 was passed. The improvement in grain quality was generally attributed to the quality of U.S. grain harvests in the past few years. The improvement in weights was attributed, in part, to the new Federal weighing program implemented under the act.

Further changes to the export inspection and weighing programs are needed, however, to better satisfy the needs of foreign end-users, make the programs more efficient, and ensure that irregularities which occurred prior to the act do not recur.

NEED TO IMPROVE INSPECTION PROCEDURES AND GRAIN STANDARDS

The Department of Agriculture's Federal Grain Inspection Service has taken steps to eliminate or minimize conflicts of interest of inspection personnel and agencies and has improved certain inspection procedures. However, further improvements are needed in the U.S. inspection and certification system.

Most quality problems which foreign end-users have with U.S. grain are caused by grain standards and inspection procedures which are too lenient or do not adequately address the end-users' needs. For example, GAO found that:

Infestation certifications were sometimes misleading. The proportion of grain tested for insects was not standardized and, even when detected, the infestation was not always declared on the inspection certificates because the standards allow the presence of some insects. When infested grain is received, not only does the foreign buyer have to pay the added costs of fumigation and demurrage, but the delay in unloading the ship disrupts the distribution schedule along the entire marketing chain.

Some foreign buyers, particularly recipients of partial shipments, had sometimes received lower grade (quality) grain than specified on inspection certificates because Service procedures did not assure that all grain in a shipment was within grade requirements. Of 271 shiploading logs GAO reviewed, about 40 percent showed that portions of the individual shipments, ranging up to 24 percent, were lower quality grain than the grade specified. This can create a problem when a buyer received grain only from the part of the shipment containing the lower quality grain.

The actual amount of dockage (lower quality grain and foreign material that is generally deducted from the shipment weight in determining the final sales price) can exceed the amount certified by up to 0.49 percent for wheat and 0.99 percent for sorghum because of rounding procedures prescribed by the grain standards. This inflates the sales prices, transportation costs, and import taxes paid by foreign buyers.

Quality problems, such as excessive sprout damage in wheat, foreign material in soybeans, and moisture in corn, resulted from what the foreign end-users consider to be too lenient grain standards. Department of Agriculture studies support these contentions.

The Service should make certain changes to the grain standards and inspection procedures which would (1) result in inspection certificates more accurately reflecting grain quality, (2) provide foreign end-users with better information on certain quality factors, and (3) assure greater uniformity in grain quality within a shipment.

WEIGHING PROGRAM IMPROVEMENTS NEEDED

The Service's new weighing program has resulted in some improvement in the accuracy of grain weights, particularly on export shipments. But certain changes are needed.

The act requires that all grain transferred into and out of an export elevator be officially weighed. The per unit cost of providing weight supervision for arriving shipments can be high, particularly for truck and rail shipments, because of the small quantities of grain involved. Grain companies oppose paying for the high cost of inbound weight supervision, particularly when the elevator already owns the arriving grain.

The Service could reduce its level of weight supervision for truck and rail shipments arriving at export elevators and still maintain reasonable control over the accuracy of the weights. However, to do so will require legislation.

The Congress should amend the act to authorize the Service Administrator to reduce the amount of weight monitoring required on rail and truck shipments arriving at export elevators. (See p. 44 for suggested language.) In the event the act is amended, the Service should develop and implement more cost-effective programs for monitoring the weighing of truck and rail shipments.

GAO and the Service's own staff noted many instances when Service personnel were not performing their weight monitoring or supervision duties properly. For example, proper adjustments were not always made for grain weighed for export but returned to storage and railcar conditions were not always properly checked and recorded although this is important in determining liability for weight shortages. Some personnel admitted to not knowing what they were supposed to be doing.

Most weight program deficiencies can be attributed to the lack of proper training and the high turnover of weighing personnel and to inadequate instructions and supervision.

As of January 1979 less than half the Service's weight monitoring personnel had received formal weight training.

In 1978 turnover rates of weighing personnel were as high as 50 percent at some locations.

Instructions which the Service had to develop for its new weighing program did not cover all weighing areas adequately. For example, they did not cover field office supervision of delegated State agencies' activities.

Field office supervisors, who had inspection but not weighing program backgrounds, had little knowledge of and had not devoted adequate attention to weighing activities.

The Service should issue additional instructions covering weight monitoring and supervision activities, and require that all weighing personnel be adequately trained before being assigned weight monitoring or supervision duties.

MONITORING EXPORT SHIPMENTS

Agriculture's formal complaint system is not providing enough information for the Service to determine the magnitude, source, or cause of problems which foreign end-users are having with U.S. grain. Some foreign buyers had stopped submitting formal complaints because Agriculture could do little to help them settle disputes with U.S. exporters. Also, Agriculture was not contacting foreign end-users regularly to obtain their views on grain quality and to explain why the Service needs to know when they have problems.

The most promising program for monitoring export shipments is one that would provide systematic feedback of destination quality and weight data. Although a number of importers had indicated that they would cooperate in such a program, the Service had not determined its data requirements, established a system for gathering and analyzing the data, or requested the importers to periodically submit data they were already collecting.

The Service should give priority attention to developing this monitoring program, and the Service and the Foreign Agricultural Service should regularly contact major end-users to obtain their views on the quality of U.S. grain.

This report also discusses:

—Problems foreign buyers are having with U.S. grain and grain products not covered by the act.

—Certain costs associated with the inspection and weighing programs that could be reduced.

AGENCY COMMENTS

The agencies generally agreed with most of GAO's recommendations and said that they were in the process of implementing some of them. The Service differed,

however, with the recommendations that (1) inspection instructions be revised to prohibit the loading of offgrade grain when a shipment is destined for multiple buyers, (2) the act be amended to reduce the requirement for monitoring the weighing of grain transferred into an export elevator, and (3) the program developed to monitor elevator inventories be curtailed.

Comptroller General's Report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry: Grain Inspection and Weighing Systems in the Interior of the United States—An Evaluation

DIGEST

In enacting the Grain Standards Act of 1976, the Congress decided not to impose a Federal system of grain inspection and weighing at interior locations as it had for export port locations. Instead, it (1) strengthened the interior grain inspection system, (2) authorized the Department of Agriculture's Federal Grain Inspection Service to establish an interior grain weight supervision system, (3) directed the Service, the Department's Office of Inspector General, and GAO to study the systems to provide information to the Congress for evaluating the systems, and (4) required GAO to submit a report recommending any changes to the act.

Under the existing systems, the Service Administrator (1) designates agencies to provide inspection and weight supervision services, (2) licenses the agencies' inspection and weight supervision personnel, and (3) supervises the agencies' operations.

NO NEED FOR INCREASED FEDERAL CONTROL OVER INTERIOR GRAIN INSPECTION AND WEIGHING

After evaluating the interior grain inspection and weighing systems, the Service's and Inspector General's study reports, and recent improvements made or initiated by the Service, GAO believes that the overall structures of the existing systems should be retained.

Some additional improvements are needed, however, to strengthen the grain inspection and weighing services available under the act and the Service's controls over such services. The act gives the Service Administrator sufficient authority to make or require these additional improvements. Therefore, the Congress does not need to increase the Administrator's authority over the systems.

Further, most of the grain trade officials GAO interviewed were generally satisfied with the existing systems and were opposed to further changes or increased Federal involvement. The Service and Inspector General reported similar responses from officials they interviewed during their studies of the systems.

Moreover, grain company officials told GAO that the interior grain marketing system is, to a large extent, self-policing. Traders dissatisfied with grain grades or weights assigned in a marketing area are free to deal with another company the next time they do business, or they can refuse to base future purchases or sales on grades or weights assigned in that market. Therefore, to stay competitive, grain companies must maintain a good reputation.

IMPROVEMENTS MADE BUT MORE NEEDED IN THE INTERIOR GRAIN INSPECTION SYSTEM

The Service has taken several actions to improve the grain inspection system and its controls over it. For example:

The Service has initiated action to correct improper rounding of grading results and "grade shaving," [1] which have been identified by GAO and the Service as fairly widespread problems.

In its initial designations of inspection agencies under the 1976 act, the Service insisted on legal arrangements to avoid or lessen the effects of conflicts of interest and thus protect inspection agencies from grain company influence. Such conflicts of interest were a major problem cited in GAO's earlier report entitled "Assessment of the National Grain Inspection System" (Feb. 12, 1976, RED–76–71).

These actions were needed, but other problems make further improvements necessary. The principal areas needing improvement are as follows.

The Service had either not established clear and definitive standards or not enforced such standards for certain quality controls that grain inspection agencies should maintain, such as equipment testing and training and supervising employ-

[1] An illegal practice whereby inspectors adjust grading results which are on or near grade or known discount lines, generally in favor of the elevator company requesting and paying for the inspection.

ees. The agencies had not maintained adequate quality controls on their own. Consequently, the agencies often used equipment that had not been properly tested or had not been approved by the Service for official inspection use. Also, the agencies' staffs were often too small, poorly trained, and inadequately supervised.

Improper grain sampling, especially by contract samplers, was a serious and widespread problem. For example, samplers skipped required procedures such as checking samples for odor, insects, condition, and uniformity. Moreover, some inspection agencies used contract samplers—rather than employees under the agencies' direct supervision and control—to obtain official samples. This practice is not authorized by the act.

The Service's supervision or monitoring of inspection agencies' operations generally has not provided a reliable control over grain sampling and grading accuracy. For example, grain samples selected for regrading have not been representative of inspectors' work, Service field offices have not had enough staff to maintain a minimum level of supervision, and the Service has given higher priority to appeal inspections and other projects than to supervision.

The Service generally has not effectively used its sample regrading results and appeal inspection results to identify grading problems, investigate their causes, and take action to correct them.

GAO is recommended a number of actions the Secretary of Agriculture should have the Service Administrator take to further improve the existing interior grain inspection system and the Service's controls over the system.

GRAIN WEIGHING SYSTEM COULD BE IMPROVED

Grain weight supervision is currently available in the U.S. interior under two separate and distinct systems. One is operated under the general direction of the Association of American Railroads. The other is under the Service's direction, pursuant to the Grain Standards Act. To date, nearly all weight supervision on domestic rail shipments in the interior has been provided under the Association's system. Many of the agencies providing weight supervision on rail shipments also provide weight supervision on barge and/or truck shipments. The Service's system only recently became available to the grain industry and has been implemented on domestic shipments at only a few locations.

Most of the elevator and domestic processor officials GAO interviewed, as well as those interviewed by the Service and the Office of Inspector General, were satisfied with the existing interior grain weighing system and were opposed to changes or increased Federal involvement. GAO's comparisons of origin and destination weights on 5,677 grain shipments generally confirmed that their satisfaction was justified.

Although origin and destination weights on some shipments differed widely, for the majority they were identical or within accepted tolerances. Where there were wide differences, they were often attributable to factors unrelated to weighing accuracy, such as leaks in railcars, grain spills, or grain left in the conveyance at destination. GAO excluded such shipments from its comparisons. On other shipments where weight differences exceeded accepted tolerances, however, available records did not indicate reasons for the differences.

GAO concluded that, although the Association's weight supervision system has some limitations and service by the Association's weight supervision agencies is not always available on all modes of transportation, it serves the interests of the railroads and the grain industry reasonably well. Therefore, GAO sees no need to expand the Service's weight supervision system to other interior locations or to institute other major structural changes.

To make the interior grain weighing system more effective, however, GAO is recommending that the Secretary of Agriculture direct the Service Administrator to revise the program instructions for partial (Class Y) weight supervision to require that the weighing of at least 25 percent of the conveyances of grain lots covered by Class Y weight supervision certificates be observed each shift of each day that such certificates are to be issued.

GRAIN STANDARDS ACT PROVIDES THE SERVICE BROAD GRAIN WEIGHING AUTHORITY

Currently, the Grain Standards Act provides the Service (1) broader weighing than inspection authority at interior locations and (2) greater weighing authority at some interior locations than at others.

The act provides that at interior locations where official inspection is provided, the Service can implement mandatory weighing services on its own initiative, while at other interior locations the services can be provided only upon request. However, neither the act nor its legislative history provide any guidance as to the conditions

or criteria that must be met before such services can be required. Moreover, the Service Administrator had not established regulations specifying the conditions or criteria that must be met.

While the Service can implement weighing services at certain interior locations, official inspection can only be provided at interior locations upon request. Moreover, the Service's own personnel can provide grain weighing services at interior locations for an indefinite period, while they can provide inspection services at such locations only until an official agency can provide the services.

GAO is recommending that the Secretary of Agriculture direct the Service Administrator to issue regulations specifying the criteria or conditions that must be met before the Administrator would implement mandatory weighing services at interior locations where official inspection is provided. Because neither the law nor its legislative history provide any guidance on this matter, the Administrator should consult with the House and Senate Agriculture Committees to ensure that the regulations meet their expectations.

AGENCY COMMENTS

The Service agreed with all but one of GAO's recommendations and outlined the actions it has taken or plans to take. It did not agree with the recommendation that program instructions be revised for partial (Class Y) weight supervision. It said among other things that it did not believe that the recommendation was practical or cost effective. It added that use of the Class Y weight supervision system was minimal, involving less than half a dozen locations.

The arguments raised by the Service may have some merit, but GAO questions the validity and propriety of the Service's allowing designated weight supervision agencies to issue Class Y weight certificates on unit trains or other lots of grain on the basis of weight tickets or scale tickets furnished by the weighing elevator, rather than requiring that the weighing of at least 25 percent of all conveyances or grain lots covered by the certificates be observed each shift of each day that such certificates are to be issued. The fact that use of the Class Y system is currently limited to five locations should have no bearing on the credibility of the service provided.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress amend the Grain Standards Act to provide the FGIS Administrator with the authority to reduce the amount of weight monitoring required on truck and rail shipments arriving at export elevators. This could be accomplished by amending section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)(2)) to read as follows: "except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this act, all other grain transferred out of and all grain transferred other than from a truck or railcar into an export elevator at at an export port location shall be officially weighed in accordance with such standards or procedures; where grain is delivered to an export elevator at an export port location by truck or railcar, the Administrator shall provide for supervision of weighing as defined in section 3(y) of this act; and".

STATEMENT OF HON. L. E. BARTELT, ADMINISTRATOR, FEDERAL GRAIN INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee, I am L. E. Bartelt, Administrator of the Federal Grain Inspection Service (FGIS). I am pleased to be with you this morning and appreciate the opportunity to offer our views on S. 2886 and S. 2569 which seek to amend the United States Grain Standards Act.

At the table with me this morning are two of my key staff members. On my right is David R. Galliart, who is the Deputy Administrator of FGIS, and on my left is George Lipscomb, Director of the Weighing Division. You have before you my prepared testimony that I submit for the record. If it is all right with the Subcommittee, I would like to briefly summarize the contents of the prepared testimony in the interest of saving time as well as to provide an opportunity for you and the Subcommittee to raise any questions you might have.

Before I comment on S. 2886, perhaps a brief description of the mission of FGIS is in order. Basically, the Congress instructed FGIS to establish a national grain inspection and weighing system in such a manner that the grain scandals of the early 1970's would not occur again. The integrity required by this kind of system would protect and promote the marketing of U.S. grain, particularly the foreign market and the contribution that export grain sales make to our national balance of

payments. At the core of this integrity are the certificates which FGIS issues regarding the quality and quantity of grain which is officially inspected and weighed by FGIS. It is important that we understand the vital role that these certificates play in the grain trade. Without these certificates and their necessarily sound reputation, buying and selling of grain would be seriously compromised. It is also important to keep in mind a careful distinction between the mandatory weighing provisions of the Act at export and the permissive weighing provisions of the Act at interior points.

The FGIS weighing program is, of course, vital to our mission. Perhaps the importance of the FGIS weighing program will become more clear if we look at the necessary elements of any weighing program which protects and maintains the integrity I spoke of earlier. Those elements:

1. Provide for accurate scales that are tested nationwide by the same procedures to meet uniform tolerances;
2. Provide for official supervision of the scales at any place where official weighing is performed;
3. Provide for a uniform national operational procedure assuring the accurate weighing of grain;
4. Provide for the issuance of an honest and reliable weight with emphasis on export certification;
5. Provide for an independent and objective third party validation of the actual weight of the lot which is recognized as an official basis for settlement by both seller and buyer, and for settlement of transportation claims by shippers of grain at export locations and allows for a double check capability on export official weights.

These elements are credible because the 1976 Act provides the authority to carry them out. The Congress, under the U.S. Grain Standards Act, requires FGIS to perform the following functions:

1. Test, approve and certify scales;
2. Verify that the grain was received and transferred within the elevator and shipped according to national procedures;
3. Supervise and license weighing personnel;
4. Issue a nationally uniform certification of weights guaranteeing the objectivity of the weighing process.

Before 1976, the Department lacked the authority to undertake such a weighing program existing at export port locations. We have, over the past 3½ years, developed and implemented a thoroughly credible and, I believe, very efficient program. It is not perfect, and we are changing it in important ways which I will describe later. S. 2886 would strike at the heart of the national uniform weighing program—a risk I believe we cannot and should not take.

Once more, I wish to emphasize how crucial the integrity of the weighing certificates is in the buying and selling of American grain. To curtail the authority FGIS has to oversee inbound weighing at export, would greatly increase the risk of loss of credibility of our national uniform and objective weighing program. It could seriously diminish the reliability of our export weight certificates. We could be left with the worst possible situation—the requirement that we issue certificates, but have no way to ensure the veracity of those certificates. S. 2886 is both unnecessary and dangerous. Let me explain my position.

The Department believes the enactment of S. 2886 is dangerous to the credibility of the U.S. export grain trade because:

1. It could exempt 100 percent, or virtually 100 percent of the grain, other than export grain, shipped from and an estimated 75 percent of the grain shipped to, export elevators at export port locations from the weighing requirements of Section 5(a)(2) of the Act.
2. It would damage the objectivity of the grain elevator inventory monitoring program established under the U.S. Grain Standards Act.
3. It would be discriminatory with respect to grain shipped by barge to export elevators at export port locations and grain shipped to such export elevators for storage or handling.
4. It would almost certainly reestablish the situation where those responsible for weighing grain have an existing or potential conflict of interest—conflicts similar to those that led to widespread and systematic criminal activity, indictments, fines and jail sentences in 1976.

The Administration strongly opposes the enactment of S. 2886. It would strike at the very core of the U.S. Grain Standards Act; that is, its weighing program. Congress provided for the weighing program after investigations and thorough debates. As you recall, Congress spent weeks and months attempting to find the best way to address the shocking scandal found in the trade. Many felt that a foreign market vital to our national balance of trade was threatened and pointed to serious

doubts in our foreign markets about the integrity of our grain quality and weights. Congress was properly concerned about farmers getting a fair shake. Following those investigations and debates, Congress amended the U.S. Grain Standards Act on October 1, 1976.

To carry out the objectives that Congress intended in its careful and difficult deliberations in 1976, we need the authority of the current Act. In my opinion, the Act should remain intact for the following reasons:

1. To maintain and continue to improve our credibility with foreign buyers;
2. To ensure the integrity of our grain weighing program for an inventory system for export elevators at export port locations;
3. To provide a needed service to common carriers for tariffs and claims purposes;
4. The proposed changes are not likely to significantly reduce the marketing costs of export elevators.

Furthermore, it is not necessary to amend the Act to achieve the important cost savings the industry hopes to achieve with this bill.

Recently, FGIS received an opinion from the General Counsel of the Department which rules that the Administrator has the authority to promulgate exceptions to the Act which, in my opinion, would not impair the objectives of the Act. On the basis of this opinion and my recommendations, Secretary Bergland decided that FGIS should reduce its supervision of inbound grain at export, as much as is consistent with the purpose of the Act. We call this "Y" level of weighing, and we will be instituting it rapidly over the next few months. It consists of the supervision of weighing of as few as 25 percent of inbound carriers.

As a result, I am confident we can achieve the purpose of the bill without undertaking its very serious risks. Let me elaborate upon the four areas where this bill would cause the most risks.

IMPROVED CREDIBILITY WITH FOREIGN BUYERS

Representatives of FGIS have visited every foreign country that is a major purchaser of U.G. grain in an effort to overcome the lack of trust and loss of confidence in our grain marketing system generated by the widely disclosed irregularities in inspection and weighing in 1974 and 1975. We have placed great emphasis on the Federal supervision of weighing at export elevators and the current system of checks and controls over all grain processed through an export elevator. Any change in our current weighing program will be looked upon as a breach of faith and a return to the previous system's risks of short deliveries. Many of the foreign purchasers of U.S. grain have no means of ensuring that they receive the quantity of grain they purchased. They must depend entirely on the safeguards found in the U.S. Grain Standards Act.

Those countries with modern weighing systems have reacted favorably to the FGIS program and are reporting the most accurate weights they have ever received on U.S. grain.

INVENTORY MONITORING

An inventory monitoring program is the equivalent of a bank audit or an audit of any business establishment. It is a common and accepted business practice. You examine receipts, disbursements, and the stock or cash on hand. Things have to balance or you need explanations. To eliminate any part of this cycle, either the inbound weighing or the weighing of certain export grain, makes an audit useless.

Past investigations of many export elevators disclosed large unexplained overages of grain stocks. These same investigations disclosed that is was not uncommon for elevators to shortweigh inbound grain by 100 pounds or more per carrier. Outbound shipments were also shortweighed. The inventory monitoring system provides an early warning of potential problems or possible manipulation of weighing systems. Make no mistake, elevators are complex operations with ample opportunities for errors or for deliberate irregularities despite our best efforts to prevent this from happening. We need every advantage and safeguard to control and prevent deceptive practices and errors.

COMMON CARRIER TARIFFS AND CLAIMS

The railroads depend upon the official weighing services provided by FGIS on inbound rail movements of grain at export port locations to assess freight charges and to adjust claims. There are no other agencies available at most export port locations to provide these services. If it becomes necessary to establish private agencies to provide this service, this would result in duplication of effort, crowded weighing facilities, and in our opinion, a more costly weighing program.

COSTS

Lest there be a disagreement on this, neither this bill nor the "Y" weighing we propose will save huge amounts of money. To our knowledge, there is no export elevator (with one possible exception) at any port location that does not weigh all grain received regardless of whether or not it is an intracompany shipment or purchased on the basis of origin weight. We do not believe the discontinuation of mandatory inbound weighing will result in significant reductions in weighing costs to most elevators. Because FGIS personnel perform both weighing and inspection functions at export elevators, the elimination of inbound weighing would result in nonproductive time as well as higher unit costs for inspection.

In other testimony today, the Subcommittee will no doubt hear some dreadful tales of how much elevators must pay in FGIS weighing fees. Mr. Chairman, I have all due regard for the role of profit in our enterprise system and appreciate the sensitivity that all businessmen have about costs; but at the risk of appearing impatient, I cannot help but remark that I know of no export elevator during my tenure that has gone bankrupt because of FGIS weighing fees. Indeed, I know of no elevator whose profit margin has been strained by FGIS weighing fees. The Subcommittee might very well wish to explore with some of the remaining witnesses the extent to which FGIS costs have caused a precarious profit condition for the elevator. (Increased costs are passed to the producer.)

As I pointed out earlier, the provisions of S. 2886 will, at best, seriously cripple the FGIS weighing program. At worst, S. 2886 will so seriously hamper our weighing program that FGIS will be unable to carry out the Stated Declaration of Policy found in the U.S. Grain Standards Act. On the basis of projected trade and Departmental practices, enactment of this bill could, at the maximum, eliminate an estimated $4.8 million in costs to the Department and in user charges to the grain industry for Fiscal Year 1981 and each of the next 5 years.

While on the subject of costs, some sense of perspective can be gained by looking at the current cost of FGIS weighing fees, under the existing program, in terms of cost per bushel rather than viewing fee costs as an annual accumulation of costs for a given export elevator. The current per bushel costs, for Class X weighing, is roughly ⅛ of a penny per bushel for official inbound weighing and another ⅛ of a penny per bushel for outbound weighing. Just two-fifths of a cent per bushel, Mr. Chairman, that elevators are asked to pay for Class X weighing services!

In any event, it is difficult to understand how our fees are as burdensome as some would have us believe when one considers the increased volume of grain going through export elevators since FGIS began operations in November 1976.

For example, export elevators shipped in:

Period	Volume of grain (thousands of bushels)
Fiscal year 1977	3,458,867
Fiscal year 1978	4,028,345
Fiscal year 1979	4,225,834
Percent increase	22

The most recent figures are those for the first 9 months of fiscal year 1979, compared with a comparable period for fiscal year 1980:

Period	Volume of grain (thousands of bushels)
October 1978 to June 1979	3,032,801
October 1979 to June 1980	3,753,386
Percent increase	24

Almost all of that grain was officially inspected and all of it was officially weighed, both inbound and outbound. Clearly, it was profitable. Obviously, these incredible volumes are a tribute to our producers, shippers and elevators. Just as obvious, some small tribute must be paid to FGIS for playing their role well.

Certainly, credibility is pushed when the claim is made that our fees are burdensome and our employees' ineptness has slowed the elevators down. The volume figures and per bushel costs do not support the claims.

In conclusion, let me reemphasize our conviction that S. 2886 is both dangerous and unnecessary. It would threaten the integrity of our grain weighing program and our foreign grain markets, and thus our national balance of payments program, and jeopardizes the well being of our farmers.

Let me just say a few words about the Helms Bill (S. 2569). We do not support it because we think the grain weighing and inspection system is working well as it is structured. When Congress amended the U.S. Grain Standards Act in 1976, which created FGIS, it did so because of the irregularities and violations occurring within the system. Additional changes, at this time, are not appropriate in view of the problems in the past. FGIS has been in operation for a short period of time and improvements have been made in the system. If, in the future, changes become necessary, we will make such recommendations to the Congress. Congress, in our opinion, did a thorough job in amending the Act to make it a more workable and credible system that safeguards U.S. grain exports.

Once more, my colleagues and I are grateful for the opportunity to share our views with you, and we are at your disposal any time you wish to call on us. We will be happy to answer any questions you might have.

[The following material was supplied by Mr. Bartelt of the FGIS at the request of Senator Huddleston, see p. 6.]

Federal Grain Inspection Service Response to June 30 National Grain & Feed Association Letter to House Agriculture Committee

The National Grain and Feed Association has sent to the Congress its objections to the Department of Agriculture's opposition to H.R. 5546, introduced by Congressman Ashley in the House and Senator Dole (S. 2886) in the Senate. The Department received a copy of the objections from the National Grain and Feed Association.

The Department's Legislative Report and the transmittal letter from Secretary Bergland were, in our judgement, straight forward and sound in their opposition to shortcomings in the proposed legislation. FGIS recognizes that some in the grain trade have perceptions of the Ashley/Dole Bills that are different from ours. Nevertheless, we are concerned by the gross misunderstandings some of our critics have of both the United States Grain Standards Act (USGSA), as presently written, and the portent of the two Bills presently before Congress.

The record begs to be set straight.

Item No. 1 of the Association's cover letter states that, under H.R. 5546, all grain going into export channels will be officially weighed. The statement is generally true but misleading. Section 5(a)(1) of the Act requires official weighing of export grain. Section 5(a)(2) goes on and specifically requires all that grain transferred out of, and all grain transferred into an export elevator at an export port location shall be officially weighed. H.R. 5546, amends Section 5(a)(2) by exempting incoming intracompany shipments totally and incoming intercompany shipments generally unless unless the shipper or receiver specifically asks for official weights. What is misleading is the implication that because grain going out of the export elevators has been officially weighed the requirements of the Act have then been fully met. Not so. Only some of the requirements have been met.

Congress in 1976 specifically identified export elevators as requiring official weighing because the grain scandals of the early 1970's showed that the grain merchandising system is not as self-policing as some in the grain trade claim. Congress, in its address to the problem, provided for a national official weighing system; i.e., official testing of weighing equipment (Section 7B), mandatory official inbound weights and mandatory official outbound weights (Section 5(a)), and for the maintenance of complete and accurate records (Section 12(d)). Further, in the case of export elevators at export port locations, the regulations provide that the method and order of keeping the records shall facilitate a reconciliation of receipts, shipments, and stock on hand.

With these parts of a national weighing system intact, FGIS can effectively and efficiently meet the basic requirements of the Act. Moreover, we can then carry out the Congressional Declaration of Policy that there be a national program for weighing and certification of the weight of grain shipped in interstate or foreign commerce to the end that the promotion and protection of such commerce is in the interests of producers, merchandisers, warehousemen, processors and consumers of grain, and the general welfare of the people of the United States. H.R. 5546 goes too far and strikes down an essential component of the weighing system and denies FGIS the capability of meeting the Congressional objectives of the Act.

In Item No. 2 of the letter the Association indicates that "FGIS will approve the installation of . . . the weighing equipment and will be onsite to supervise the procedures, both inbound and outbound."

Again, the Association seems unclear as to the facts. What FGIS does under the Act is to test grain weighing equipment where official weighing or supervision of weighing, as defined by the Act, occurs. Since H.R. 5546 exempts certain inbound grain from official weighing or supervision of weighing the requirements of Section 7B of the Act would not be applicable. If no official inbound weighing is going on, why would FGIS "be onsite to supervise the procedures"?

In Item No. 4 of the letter, the Association states that "all inbound grain will continue to be weighed using the FGIS approved equipment." It is misleading to imply that the scales used to weigh grain exempted under the provisions of H.R. 5546 will be officially tested and checked by FGIS. Worse, it is deceptive to suggest that officially tested scales per se will provide accurate weights. Our Legislative Report points out that the enactment of H.R. 5546 would result in a proliferation of unofficial weighing agencies at export port locations that may adopt inadequate performance standards for equipment used in the unofficial weighing of inbound and outbound grain that is not weighed under the Act. The Association can not have it both ways; i.e., official services on the scale and unofficial weighing by someone other than FGIS or a delegated State agency. If FGIS certifies scales for official weighing under the Act, should we be obligated to certify a scale that will be used for unofficial weighing under less than desirable circumstances?

The last major paragraph of the Association's letter shows confusion about the United States Grain Standards Act, the cost savings under H.R. 5546, and weighing procedures.

The Association repeats a misconception often held about the Act. That is, "Class Y weights are still official weights." Not so. In the definition section of the Act, Congress defines Class X weighing (complete supervision) as official weighing. Class Y weighing is less than complete supervision of weighing and is not official weighing. Class Y weighing as defined in the Act is quite different from Class X weighing. The Secretary's letter is correct in stating that the Act provides the Administrator with the authority to do some of what H.R. 5546 proposes to do legislatively.

The Association to the contrary, FGIS did indeed take into account the Bedell amendment when we estimated a cost savings under the bill. In fact, the Bedell amendment made no difference to our estimated cost savings under H.R. 5546. Moreover, the estimate is a maximum estimate under the assumption of no official inbound weighing at all. An assumption that is not likely to work out in reality. Attached is a set of scenarios that is a more realistic appraisal of the cost savings under H.R. 5546. See attachment C.

The Association asserts that "there is no valid reason to assume private weighing agencies will replace FGIS" if H.R. 5546 is enacted. The Associations' point is disputable. The Bill exempts all intracompany inbound grain from official weighing, but allows official weighing of intercompany inbound grain upon request by either the shipper or receiver. In the latter case FGIS would have to provide official weighing. Incidently it is just this random official weighing which would drive up per bushel weighing costs and put as under timely service.

In the former case (intracompany shipments) no official weighing of inbound grain would occur. In both cases there is every reason to believe that "disinterested third party" weighing would occur, absent FGIS official weighing. The history of the grain trade prior to the 1976 amendment to the Act shows almost total reliance on "disinterested third party" in and out weighing at export elevators. Indeed Congress looked askance at just how "disinterested" these third parties were and as a result legislated official in and out weighing at export elevators. At any rate, FGIS fails to see how export elevators can settle railcar grain loss claims on the basis of a "company" weight.

With respect to the comments of the National Grain and Feed Association on the FGIS Legislative Report, we would like to provide responses to the Association's comments. Even though we risk a burdensome length, we have provided the nine FGIS objections to H.R. 5546 found in our Legislative Report as well as the Association's disagreements along with our responses. It seems to us our differences are better joined when both points of view are presented in tandem.

"Enactment of H.R. 5546 would:

"1. Neither eliminate nor reduce the trade need, nor the trade practice, of weighing grain received and grain shipped by export elevators at export port locations."

Association Comment: "We concur. What it would do is remove the burdensome requirement of having all the grain officially weighed thus reducing costs and need for FGIS personnel."

FGIS Response: The trade needs a third party weighment to conduct business and that involves a cost to the elevator. If the company weighs grain without a third party, how are disputes between shipper and receiver about weights going to be settled?

"2. Probably result in an increase in the hourly fee assessed by the Department for official weighing services for inbound grain at export elevators at export port locations."

Association Comment: "This is merely speculation with no anlaysis included. Excluded from their consideration is the fact that all outbound export grain must be officially weighed and the FGIS personnel providing that service would be available for official weighing of inbound grain when required. This may, in fact, cause a reduction in the nonproductive time of FGIS personnel onsite. In any event, it will reduce the total FGIS cost."

FGIS Response: Providing official service on an intermittent basis rather than as a total activity seldom results in a more efficient or less costly service. The same FGIS personnel cannot be in two locations at the same time. Requests for weights on inbound grain would of necessity be delayed if they conflicted with mandatory export weighing. Further, the total FGIS cost is not the point, the quality and cost of service per weighment is the name of the game. See attachment C.

"3. Apparently exempt much of the grain shipped to export elevators at export port locations from the weighing requirements of Section 5(a)(2) of the Act."

Association Comment: "Again, we concur. That is the purpose of H.R. 5546, to remove the requirement of total official weighing at export elevators to reduce costs to the benefit of the producers, the grain marketing industry and the consumers, and to facilitate the orderly marketing of grain."

FGIS Response: Removing the requirement for mandatory official inbound weighing at export elevators may not, in the long run, benefit anyone but the receiving elevators and may actually cost the producers, the grain marketing industry, and the consumers more money as the export elevators would be free, as some did in the past, to return to their old proven practices of weighing "light" inbound for the house. With no official third party to maintain the credibility of inbound weighing, there is no way of anticipating the true "cost" of the orderly marketing of grain. Indeed, there may be increased cost to the industry as official weights may be requested at interior. See attachments A and B.

"4. Nullify the Department's grain elevator inventory monitoring program."

Association Comment: "As to the Department's program, this is probably so. The Department is laboring under the premise that 'grain in minus grain out equals grain inventory.' This premise is not correct as any knowledgeable grain man knows and FGIS would be well advised to disabuse itself of the fallacious premise. As stated in (1) above paraphrased, all grain in and all grain out of export elevators is weighed. Section 17A(a) of the Act requires exporters to register with the FGIS and the regulation's Sections 800.25 and 800.26 require certain records to be kept and permit FGIS access to the records and facilities. In addition, those elevators which are Federal warehouses under the U.S. Warehouse Act receive an audit and inventory certification at least annually. To require official inbound and outbound weighing just to verify that official weighing has been properly performed and supervised is an undue burden on commerce requiring the U.S. taxpayers and elevator operators to expend needless funds."

FGIS Response: The inventory monitoring program is an essential tool which FGIS must have to ensure the integrity of the weight certificates and the weighing process. The program has four major segments:

(a) Collecting official weight certificate information for both receipts and shipments;

(b) Comparing official weights with elevator records;

(c) Conducting a physical inventory; and

(d) Calculating inventory gains or losses.

All of these segments are important, but it is noteworthy that some in the industry are particularly sensitive to our calculating inventory gains or losses. This is exactly the type of activity that our office of investigation and other investigative agencies have been encouraging FGIS to pursue. Such a procedure would have detected large inventory overages such as those found during the grain scandals of the 1970's. See attachments A and B.

"5. Discriminate in favor of grain handling facilities that are cooperatively owned."

Association Comment: "FGIS completely missed the point on this and even more so when the Bedell amendment is considered. The same exemption is available to any non-cooperative except for intercompany shipments of grain by barge."

FGIS Response: The Bedell amendment was considered. The Legislative Report makes clear with elementary logic, that in the bill, noncooperatives simply are not treated the same as cooperatives. Moreover, the FGIS' point on how noncooperatives would be discriminated against is reinforced by the Bedell amendment, since the shipper would have to request official inbound weighing and the fee charged by the receiving elevator can be used as a deterrent to discourage and inhibit requests for official inbound weighing because it would make such a request uneconomical for the shipper.

"6. Discriminate against grain shipped by barge to export port locations."

Association Comment: "Again, FGIS missed the point. Only intercompany shipments by barge require official weights and that was purposely excluded from the operation of H.R. 5546. Knowledgeable grain merchandisers recognized that barge grain is handled differently than truck or rail grain shipments. After loading, barges are sold many times before they arrive and are unloaded by the final consignee. The capacity of barges is such that a cargo of $300–400 thousand is involved. Complete unloading of a barge is difficult. In view of these considerations, the barge shippers of grain insisted that no waiver or exemption from the official weight requirements of intercompany barge grain be sought in the legislation."

FGIS Response: Barge shippers of intercompany grain insisted on no exemptions from the official weight requirements of the Act because they and even the Association admit that the official weight certificate is needed by the trade in order that the marketing of barge grains can be accomplished in an orderly manner. The Congress in the 1970's and FGIS believe that the same holds true with all inbound shipments to export elevators. The Department does recognize that intracompany receipts of grain may not require Class X weighing and has proposed to change FGIS weighing procedures through rulemaking so that Class Y weighing could be provided for such receipts, provided the overall objectives of the Act are not impaired.

"7. Result in a duplication and proliferation of unofficial weighing agencies and confusion and complaints in the weighing of grain."

Association Comment: "There is no justification for this statement. Upon enactment of H.R. 5546, the export elevator would be relieved of the burden of having official weights on a majority of inbound grain and some outbound grain to domestic consignees. The same FGIS-approved weighing equipment and procedures will be used by export elevator personnel. There will be no need for unofficial weighing agencies since the grain industry is looking for ways to reduce costs by doing away with unnecessary duplication of effort. FGIS should realize by now that the grain merchandising system is self-policing in a highly competitive market. Merchandisers dissatisfied with weights and grades of a buyer or seller go to other markets."

FGIS Response: Two facts are irrefutable. First, the grain trade historically has required a third party weighment for settling claims; i.e., that Class II weighment under AAR supervision. Second, historic fact shows that the grain merchandising system has not been self-policing. The indictment in the 1970's of 111 individuals and 16 grain firms, most of whom were found guilty or plead nolo contendere, hardly stand as a monument to "self-policing." See attachments A and B.

"8. Result in significant implementation, supervision, circumvention, and interpretation problems."

Association Comment: "FGIS apparently overlooks the fact that it is a service and was established to provide a service to facilitate the marketing of grain. Instead, it would prefer to take the bureaucratic approach to rigidly enforce, in a uniform manner, operations which are dissimilar. The ease of circumvention of the intent of Section 5(a)(2) in weighing at export elevators is more imagined than real. FGIS personnel will still be at export elevators, will continue to supervise weighing of some inbound grain. Their comment on the definition of an "export elevator at an export location" can be rectified easily by a simple amendment to H.R. 5546."

FGIS Response: The official weighing of grain at an export elevator at an export port location is mandatory under Section 5(a) of the Act. Therefore, it is not only a service to the industry, but a legal and regulatory requirement. Our activity in meeting the regulatory portions of the Act are characterized as being bureaucratic because we are doing what the law requires and have not compromised that trust. This has been FGIS' position and, until the Congress provides different direction, we will continue to perceive our role as one of providing a national uniform official weighing program which provides as an end product an official weighing certificate that, to quote the Act (Section 7(d)), "shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein."

"9. Provide an opportunity for large merchants to apply pressure to small shippers to waive official weights."

Association Comment: "Failing to recognize the Bedell amendment to H.R. 5546 is a fatal error by FGIS. But even without the Bedell amendment, the statement is insane since together with FGIS' explanation of the statement, it sets forth a clear violation of the antitrust laws of the United States for which there are adequate remedies."

FGIS Response: History and past practices of the grain trade belie the Association's statement that the antitrust laws of the United States would prevent large merchants from applying pressure on small shippers. In the Association's comment in item #7, above, they indicate "there will be no need for unofficial weighing agencies since the grain industry is looking for ways to reduce costs by doing away with unnecessary duplication of effort." This implies there will be no third party weighment which then leaves the shipper with only the company employee weighment at the receiving export elevator. That type of "service" will not stand the test of the shippers' needs. The Bedell amendment was considered in the writing of the Legislative Report and makes little or no difference as to the opportunity for receiving elevators to pressure small shippers not to request official weights.

Attachments A–D follow:

[Attachment A]

DESCRIPTION OF THE POTENTIAL DEFICIENCIES ASSOCIATED WITH THE ABSENCE OF OFFICIAL INBOUND WEIGHING

The Federal Grain Inspection Service (FGIS) currently provides official weighing services at export grain elevators as mandated by the United States Grain Standards Act (USGSA), as amended in 1976 and 1977. The present regulations, weighing procedures, and standards for weighing equipment were established by FGIS to facilitate the orderly marketing of grain while providing adequate protection to both foreign importers and interior sellers. FGIS believes that deficiencies could develop in this weighing system if H.R. 5546 were to become law, because of the reduction in official inbound weighing services that would result.

These inbound weighing deficiencies include:

1. irregular and inadequate scale testing;
2. using non-calibrated scale testweights;
3. inadequate scale security that allows any person, qualified or otherwise, to alter the scale's calibration and accuracy; and
4. improper operation of scales and weighing equipment (e.g., exceeding the scale's certified capacity and improper load balancing).

Under H.R. 5546, export elevators would not have official weighing protection against the potential systematic shortweighing of inbound grain shipments. This can be done by tampering with scale tolerances and/or skimming a small quantity of grain from each carrier. This amount could go unnoticed because of the nominal amount per carrier, but, as indicated in the following example, the accumulated volume can amount to many thousands of dollars.

Example:

100 pounds per railcar—an amount within the scale's tolerance and probably not noticed by the shipper
×50 cars weighed per day—moderate rate

5,000 pounds per day shortweight
×365 days operating per year

1,825,000 pounds per year shortweighed, or as:

	Volume
Soybeans (60 lbs. per bushel)	30,417 bu.
Corn (56 lbs. per bushel)	32,589 bu.
Wheat (60 lbs. per bushel)	30,417 bu.

	Value/year
Soybeans ($6.00 per bushel)	$182,500
Corn ($2.50 per bushel)	81,473
Wheat ($4.00 per bushel)	121,667

In addition, the reporting of carrier condition, seal condition, and carrier cleanout by FGIS personnel on inbound shipments would be discontinued. Thus, shippers and carriers (railroads) may turn to an unofficial, third party source for the information concerning these conditions needed for filing weight complaints and applying freight tariffs. In many cases, the third party would either substitute for FGIS or be in addition to an FGIS person who is waiting to perform other functions.

Even with FGIS weighing personnel present at outbound, inaccurate export weight situations can occur and would more easily be detected if official inbound and outbound weights exist for an inventory monitoring system. This method of maintaining inventory records on official weights provides a backup system to help identify weighing errors, whether they be systematic, occasional, intentional, or due to equipment malfunction at the scale or elsewhere. These situations include:

1. The programming of, or even tampering with, the electronic readout equipment used at most export elevators to systematically shortweigh each lot of grain aboard a cargo vessel;
2. The routing of grain around a scale via a complex system of conveying equipment or hidden spouts and gates;
3. The malfunctioning of load cells or other parts causing inaccurate weights; and
4. The loading of a scale in excess of its certified capacity.

[Attachment B]

The Potential Gains From Shortweighing

The credibility of the official weights certified by FGIS for export grain shipments has been enhanced through the United States Grain Standards Act (USGSA), as amended. The USGSA provides for a complete weighing system, with the official weighing of both inbound and outbound grain shipments and periodic inventory audits to spot elevators with weighing problems, whether purposeful or not. The significant reduction in the number of weight discrepancy complaints from foreign buyers attests to the credibility of FGIS' current weighing program.

Skimming on the weights of inbound grain shipments at some export elevators was identified in the 1975 and 1976 Congressional Hearings. The amount of grain involved per carrier may be relatively small, but its accumulation can be significant. A systematic practice can be detected with a good inventory monitoring program, one based on the official weighing in and out of grain at the elevator.

To illustrate the potential magnitude of shortweighing, consider the following medium-sized elevator that annually receives about 87 million bushels (2.4 mil. metric tons) of soybeans in 26,100 hopper cars. Each hopper car carries approximately 200,000 pounds of grain. By systematically shortweighing each car 500 pounds, about 217,500 bushels of grain could be accumulated by the elevator in one year. At $6.00 per bushel, the grain shortage would have a value in excess of $1.3 million. A 500 pound shortage per hopper car is only one-fourth of one percent of the volume of grain carried by the railcar and well within the range of loss accepted by the shipper.

Most of the major export elevators annually weigh in at least 150 million bushels. The top four of the 83 export port elevators in the U.S. annually receive in excess of 200 million bushels of grain. Thus, the market value of the grain that could be accumulated through shortweighing at just two or three of the largest export elevators could exceed the reduction in the cost of FGIS' inbound weighing program should the Ashley Bill become law.

[Attachment C]

Analysis of Selected Grain Elevator Situations

The purpose of this analysis is to examine the weighing operations of four selected elevators (A, B, C, and D) and estimate the potential impacts of the Ashley Bill (H.R. 5546) on 1) the staffing pattern of weighing personnel and 2) the cost of the inbound weighing activity. The impact of the Ashley Bill on the staffing pattern and cost of inbound weighing will vary significantly among the export grain elevators. These case studies merely show the types of costs and benefits incurred. Since they are not representative, the results cannot be extrapolated to the industry.

ELEVATOR A

Export elevator A received grain shipments totaling about 87.3 million bushels, mostly soybeans and corn, in the 1979 calendar year (table 1). About 78.6 million bushels, or 90 percent of all inbound grain shipments, arrived by rail (about 22,600 loads) and the remaining 8.7 million bushels by truck. About 90 percent of all grain received was purchased from non-affiliated grain companies, i.e., was intercompany grain. The remaining 10 percent was intracompany grain.

Industry-wide, an estimated 25 to 30 percent of the inbound grain at export grain elevators represents intracompany shipments. An estimated 65 to 70 percent of all grain arrives by truck and rail.

WEIGHING CHARACTERISTICS

Scales

Official weights are provided at ten scales in elevator A. Nine of these are electronic (lever-tronic) scales utilizing a combination of Toledo load cells and a Fairbanks type-S lever system. Depending on the desired movement of grain in the facility, the scales may be used separately or in combination for both inbound and outbound weighing. All nine lever-tronic scales are positioned on the fourth floor in the headhouse. The remaining scale, a mechanical Howe dial platform dump scale, is located at the truck pit.

Grain movement

Grain arriving at the elevator by hopper car or box car may be unloaded at any of the six rail pits. Five legs elevate the grain from the rail pits to the headhouse for weighing using one or more of the nine lever-tronic scales. Next, depending on the quality when unloaded, the grain is either transferred to a storage bin or routed directly to and loaded aboard a cargo vessel. When the grain is moved directly to a cargo vessel, two official weights (inbound and outbound) are issued with one weighing.

Trucks arriving at the facility are weighed and unloaded at the truck pit. The grain is then elevated to the headhouse for storage or loading directly aboard a cargo vessel.

Scale staffing

The present weighing operation at export elevator A utilizes three elevator weighmen, three licensed FGIS weighing specialists, and two FGIS weighing technicians per shift. Two elevator weighmen and two FGIS licensed weighers man the nine scales in the headhouse weighing both inbound and outbound grain. The elevator employees perform the actual weighing, under the close supervision of the two FGIS licensed weighers. Two FGIS technicians are located at the rail pits to identify the numbers on the railcars, clean out the pits and carriers, and to note any other carrier condition that might affect the accuracy of the weight certificates issued. The truck platform dump scale is manned by one elevator weighman and one licensed FGIS weighing specialist.

The cost of the five FGIS weighing personnel utilized per shift to provide official weighing services is charged to a trust fund, which is reimbursed by fees that FGIS charges the grain elevator for the official services it provides. These individuals are supervised by an FGIS shift supervisor at each elevator who is supported by appropriated funds and is responsible for overseeing the inspection and the inbound and outbound weighing operations. One FGIS employee is cross-utilized as a rover for the official inspection and weighing activities. The primary duties of the rover include maintaining grain security as grain moves throughout the elevator and observing and reporting on the condition and cleanliness of carriers as per Section 7A(f) of the USGSA.

This export facility operates two or three shifts per day. The third shift becomes operational primarily during the winter months when cargo vessels cannot access the Great Lakes for grain.[1] It was assumed for this analysis that the facility operates, on average, with about 2.2 shifts per day during the calendar year. Consequently, an estimated 12.1 FGIS fee-supported man-years are utilized to provide official weighing services at this elevator (see table 1).

Under H.R. 5546, at export elevator A, 8.7 million bushels of intracompany grain would be exempt from the official inbound weighing requirements. Official weights could still be requested. However, it is expected that none of this grain would be officially weighed, because of pressure being applied to the shipper by the receiving elevator. The remaining 78.6 million bushels of inbound grain are intercompany rail and truck shipments, the weighing of which could be waived by mutual consent of the buyer and seller. Half of the intercompany grain shipments are settled on origin weights. It is likely that this grain would be waived from official weights at destination.

Because of the difficulty in estimating the remaining volume of intercompany grain that would be weighed in at this elevator, three possible scenarios were analyzed. The three scenarios show the effects of whether 10, 40, or 70 percent of the remaining 39.3 million bushels of intercompany grain shipments, which would be settled on the basis of destination weights, would be officially weighed.

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[1] During the closed navigation season for the Great Lakes, some employees may be detailed to other elevators or for training. A few employees are likely to remain to perform fix-up and clean-up duties and weigh some inbound grain.

This analysis assumes that all outbound cargo grain shipments would require official weights. Even though the Ashley Bill would exempt official weights on shipments from export elevators to domestic locations, such volume represents less than 1 percent of the business at export elevators.

Staffing pattern

The number of FGIS employees needed to provide official inbound weighing services under H.R. 5546 may be reduced 1.1 to 4.4 man-years, depending on the volume of intercompany shipments of grain requested to be waived from official weighing (table 1). No reduction would be expected in the number of elevator employees associated with the weighing operation.

The reduction in FGIS weighing personnel would involve the single licensed FGIS weighing specialist at the truck dump and the two weighing technicians at the rail car pit. Under Scenario 1, one FGIS employee would be able to perform the functions now performed by three FGIS employees. As the percent of inbound intercompany grain officially weighed increases (Scenarios 2 and 3), it becomes increasingly necessary to maintain a full complement of FGIS weighing personnel, even though not all of the inbound grain requires official weights. This creates an inefficient use of FGIS employees, whose salaries come from the trust fund. Because of this inefficiency, it is likely that the hourly rate charged for weighing services to support the trust fund would be increased to cover the cost of down-time.

No reduction is likely in the nubmer of FGIS licensed weighers providing official inbound and outbound weights in the headhouse. Presently, the duties of the two FGIS weighing personnel located in the headhouse include signing inbound and outbound weight certificates and completing the shipping logs. Even though these activities would be reduced with a decline in inbound weighing, the physical proximity of the nine scales would still require two FGIS personnel to perform outbound weighing duties.

Weighing costs

The reductions in FGIS inbound weighing personnel under the three scenarios analyzed could be accomplished by removing weighing employees from the elevator, either by transferring them to other locations or laying them off. Therefore, inbound weighing costs at this particular elevator may be reduced $22,000 to $88,000 annually (table 1). These figures are based on an estimated cost of $20,000 per man-year to cover the salaries and travel of inbound weighing employees.

The cost savings indicated for export elevator A relates only to FGIS' portion of the total weighing costs. The cost of the third party weighing of the grain that may be weighed unofficially under H.R. 5546 would reduce the savings to the grain trade. Since a reduced volume of grain would be officially weighed under H.R. 5546, the inefficiencies (e.g., idle time) associated with this scaling down would result in an increased per bushel cost to provide official weighing services, inbound and outbound. Consequently, the official weighing fees that are on a per hour of service basis would likely need to be increased to provide additional trust funds.

Most elevators would likely pass the cost of official weighing back to the grain merchandisers. Currently, FGIS has no control over the weighing service fees that are charged the sellers by the elevators. However, there is evidence that some elevators charge significantly higher fees than the fees that FGIS charges the elevator.

FURTHER ANALYSIS OF SELECTED GRAIN ELEVATOR SITUATIONS

ELEVATOR B

Export elevator B received grain shipments in 1979 totaling about 185.0 million bushels (table 2). About 147.8 million bushels, or 80 percent of the total, arrived in barges and the remaining 36.9 million bushels in railcars. Fifty-six percent of the grain received was purchased from affiliated companies, i.e., was intracompany grain. Of the intercompany grain received (44 percent of the total), an estimated 8 percent was settled on the basis of origin weights.

WEIGHING CHARACTERISTICS

Scales

Official weights for all inbound and outbound grain at this export elevator are provided by five Howe-Richardson, full-electronic scales. These scales are located in the headhouse and operated from a central control room. The scales are flexible in that all five may be used to weigh outbound grain, three may also be used to weigh incoming railcars, and four may also be used to weigh incoming barges.

Presently, one scale is being used to weigh grain arriving in railcars, another to weigh grain arriving in barges, and three to weigh outbound grain for export. Although the elevator also has two B&R System-1 hopper scales at the railcar dump, they are not being used, nor are they certified for official weighing.

Grain movement

All grain received at export elevator B is weighed in the headhouse. Grain arriving in boxcars and hopper cars is unloaded at the railcar dump and elevated to the headhouse. Barges are unloaded at the wharf and the grain is moved horizontally by belts to the elevator and then elevated to the headhouse. After being weighed, the grain may be conveyed to a storage bin or directly to an awaiting cargo vessel.

Table 1 -- Weighing characteristics of and staffing levels for export elevator A operating under the United States Grain Standards Act (USGSA) and hypothetically under H.R. 5546 with alternative levels of intercompany grain receipts

Item	Unit	USGSA	H.R. 5546		
			Scenario 1 1/	Scenario 2 2/	Scenario 3 3/
1) Movement of grain to the elevator by:					
Rail	Percent	90.0	90.0	90.0	90.0
Truck	"	10.0	10.0	10.0	10.0
Barge	"	0.0	0.0	0.0	0.0
2) Volume of inbound grain shipments (1979 calendar year)	Mil. bu.	87.3	87.3	87.3	87.3
3) Volume of grain officially weighed by FGIS personnel:					
Inbound:					
Intracompany shipments (affiliated company)	Mil. bu.	8.7	0.0	0.0	0.0
Intercompany shipments (non-affiliated company)	"	78.6	3.9	15.7	27.5
Subtotal	"	87.3	3.9	15.7	27.5
Outbound:					
Export shipments 4/	"	87.3	87.3	87.3	87.3
Total	"	174.6	91.2	103.0	114.8
4) Intercompany shipments settled on origin weights	Percent	50.0	50.0	50.0	50.0
5) Certified scales used to perform official weighing:					
Railcar and cargo vessel (scales located in headhouse)	Number	9.0	9.0	9.0	9.0
Truck platform dump	"	1.0	1.0	1.0	1.0
6) Total staffing of inbound and outbound weighing personnel (all shifts)					
FGIS 5/:					
Licensed weighing specialists (3 per shift)	Man-years	6.6	5.5	5.5	6.6
Technicians (2 per shift)	"	4.4	1.1	2.2	3.3
Rover (1 man split between weighing and inspection per shift)	"	1.1	1.1	1.1	1.1
Subtotal	"	12.1	7.7	8.8	11.0
Elevator employees:					
Weighmen (3 per shift)	"	6.6	6.6	6.6	6.6
Total		18.7	14.3	15.4	17.6
7) Reductions under the Ashley Bill in the:					
Volume of grain officially weighed	Mil. bu.	----	83.4	71.6	59.8
FGIS weighing personnel	Man-years	----	4.4	3.3	1.1
Cost of fee-supported personnel ($20,000 per man-year)	Dollars	----	88,000	66,000	22,000

1/ Assumes 10 percent of the inbound intercompany truck and rail shipments settled on destination weights (39.3 mil. bu.) would be officially weighed.
2/ Assumes 40 percent of the inbound intercompany truck and rail shipments settled on destination weights (39.3 mil. bu.) would be officially weighed.
3/ Assumes 70 percent of the inbound intercompany truck and rail shipments settled on destination weights (39.3 mil. bu.) would be officially weighed.
4/ Assumes that all grain is weighed outbound, i.e., domestic shipment exemptions are nonexistent.
5/ Includes only fee-supported FGIS weighing personnel charged to the trust fund.

Table 2 -- Weighing characteristics of and staffing levels for the export elevator B operating under the United States Grain Standards Act (USGSA) and hypothetically under H.R. 5546 with alternative levels of intercompany grain receipts that are requested to be officially weighed

Item	Unit	USGSA	H.R. 5546 Scenario 1 1/	H.R. 5546 Scenario 2 2/	H.R. 5546 Scenario 3 3/
1) Movement of grain to the elevator by:					
Rail	Percent	20.0	20.0	20.0	20.0
Truck	"	0.0	0.0	0.0	0.0
Barge	"	80.0	80.0	80.0	80.0
2) Volume of inbound grain shipments (1979 calendar year)	Mil. bu.	184.7	184.7	184.7	184.7
3) Volume of grain officially weighed by FGIS personnel:					
Inbound:					
Intracompany shipments (affiliated company)	Mil. bu.	103.5	0.0	0.0	0.0
Intercompany shipments (non-affiliated company)	"	81.2	61.3	65.8	70.2
Subtotal	"	184.7	61.3	65.8	70.2
Outbound:					
Export shipments 4/	"	184.7	184.7	184.7	184.7
Total	"	369.4	246.0	250.5	254.9
4) Intercompany shipments settled on origin weights	Percent	8.0	8.0	8.0	8.0
5) Certified scales used to perform official weighing:					
Railcars, barges, and cargo vessels (scales located in the headhouse)	Number	5.0	5.0	5.0	5.0
6) Total staffing of inbound and outbound weighing personnel (all shifts) FGIS 5/:					
Weighing specialists (2 per shift)	Man-years 6/	6.0	6.0	6.0	6.0
Technicians (1 per shift)	"	3.0	0.5	1.5	2.5
Rover (2 per shift)	"	6.0	6.0	6.0	6.0
Subtotal	"	15.0	12.5	13.5	14.5
Elevator employees:					
Weighmen (2 per shift)	"	6.0	6.0	6.0	6.0
Total	"	21.0	18.5	19.5	20.5
7) Reductions under the Ashley Bill in the:					
Volume of grain officially weighed	Mil. bu.	----	123.4	118.9	114.5
FGIS weighing personnel	Man-years	----	2.5	1.5	0.5
Cost of fee-supported personnel ($20,000 per man-year)	Dollars	----	50,000	30,000	10,000

1/ Assumes 10 percent of the inbound intercompany rail shipments (14.9 mil bu.) and the 59.8 mil. bu. of barge shipments settled on destination weights would be officially weighed.

2/ Assumes 40 percent of the inbound intercompany rail shipments (14.9 mil bu.) and the 59.8 mil. bu. of barge shipments settled on destination weights would be officially weighed.

3/ Assumes 70 percent of the inbound intercompany rail shipments (14.9 mil bu.) and the 59.8 mil. bu. of barge shipments settled on destination weights would be officially weighed.

4/ Assumes that all grain is weighed outbound, i.e., domestic shipment exemptions are nonexistent.

5/ Includes only fee-supported FGIS weighing personnel charged to the trust fund.

6/ Represents a 7 day work week.

Scale staffing

The weighing operation utilizes two elevator weighmen, two FGIS weighing specialists, and three FGIS weighing technicians per shift. The weighmen perform the actual weighing of all inbound and outbound grain shipments at the five scales in the control room, under the close supervision of the weighing specialists. One weighing technician is located at the railcar dump to observe that the pits and railcars are cleaned out, to note the identification number on each railcar, and to observe any other condition that might affect weighing accuracy. The other two weighing technicians serve as rovers, observing inbound grain arriving by barge and the loading of outbound grain aboard cargo vessels. One technician is stationed on the wharf to observe the unloading of barges and loading of cargo vessels. The other technician moves throughout the elevator, observing the grain movement within the facility and reporting anything that might affect the quality or quantity of the grain, such as grain spills.

The direct cost of the five FGIS weighing personnel utilized per shift to provide official weighing services is charged to the trust fund. The indirect costs associated with these individuals and the cost of their shift supervisor are supported by appropriated funds. None of the weighing technicians is cross-utilized in inspection activities.

Export elevator B operators year round with three shifts per day. The facility stops operations only for repairs to the buildings and equipment and for emergencies. Consequently, an estimated 15.0 man-years of labor, supported by the trust fund, are needed to provide official weighing services at this facility (table 2).

IMPACT OF THE ASHLEY BILL

Volume of grain weighed

Under the Ashley Bill (H.R. 5546), all of the intracompany grain (103.5) million bushels would be exempt from the official inbound weighing requirements. The remaining inbound grain (81.2 million bushels) is intercompany barge and rail shipments, 6.5 million bushels of which are settled on origin weights. Of the estimated 74.7 million bushels of intercompany shipments settled on destination weights, 59.8 million bushels are expected to arrive by barge and 14.9 million bushels by rail.

Under H.R. 5546, the 59.8 million bushels of intercompany grain arriving by barge would need to be officially weighed. Because of the difficulty in estimating the portion of the 14.9 million bushels of intercompany grain arriving by rail and settled on destination weights that would be requested to be officially weighed, three possible scenarios were analyzed. The three scenarios show the effects if 10, 40, or 70 percent of the 14.9 million bushels of intercompany grain arriving by rail, and the 59.8 million bushels of intercompany grain arriving by barge (both of which are settled on destination weights) would be officially weighed. This analysis assumes that all outbound grain loaded aboard cargo vessels for export would require official weights.

Staffing pattern

The number of FGIS employees needed to provide official inbound weighing services at export elevator B under H.R. 5546 may be reduced 0.5 to 2.5 man-years, depending on the volume of intercompany grain arriving by railcar requested to be waived from official weighing (table 2). No reduction would be expected in the number of elevator employees associated with the weighing operation.

The reduction in FGIS weighing personnel would involve the single technician at the railcar dump. Under Scenario 1, only 1.5 million bushels of grain arriving by railcars, 4.1 percent of all intercompany and intracompany grain arriving by railcars, is estimated to need official weights. This should free about 2.5 man-years of FGIS labor at the railcar dump. As the volume of intercompany grain arriving by railcars that must be officially weighed increases, it becomes increasingly necessary to maintain a technician at the railcar dump full-time.

No reduction is expected in the number of FGIS weighing specialists and rovers that perform inbound and outbound weighing services. Even though the volume of grain requiring official weights may be reduced under H.R. 5546, these employees must still perform the official services on the outbound grain. The nature of the jobs performed does not permit any consolidation of manpower.

Weighing costs

The reductions in the need for an FGIS weighing technician at the railcar dump could reduce inbound weighing costs at this particular elevator, under the three scenarios, from $10,000 to $50,000 annually (table 2). These figures are based on an

estimated cost of $20,000 per man-year to cover the salaries and travel of inbound weighing personnel.

These cost savings relate only to FGIS' portion of the total weighing costs. The cost considerations for unofficial weighing services, see analysis of export elevator A on page C–4, also apply.

ELEVATOR C

An estimated 61.0 million bushels of grain were received at export elevator C in 1979 (table 3). All the grain arrives by truck and is settled on destination weights. About 57.3 million bushels, or 94 percent, of the grain was purchased from affiliated elevators.

WEIGHING CHARACTERISTICS

Scales

Official weights at export elevator C are provided by five full electronic and one lever-tronic scales each having Toledo 8130 and 8191 weighing systems. Four of these scales are located at the truck dumps and two are in the headhouse. Trucks are unloaded at two different locations each having two pits and two platform scales. The one full electronic and one lever-tronic scale located in the headhouse is operated from a control room and used only to weigh grain being loaded aboard cargo vessels for export.

Grain movement

Assuming a net weight of 40,000 pounds per truck, an estimated 87,840 truckloads of grain were unloaded at this elevator last year. All the trucks are weighed and unloaded at one of the four truck dumps. The grain is then elevated to the headhouse and diverted to a storage bin or aboard a cargo vessel. When grain is being exported from storage, it moves from the storage bins to the headhouse for weighing and sampling, and then onto a cargo vessel for shipment.

Scale staffing

Five elevator weighmen, three FGIS weighing specialists, and two FGIS technicians perform the weighing services at this export elevator each shift. Four elevator weighmen each weigh grain arriving by truck at one of the four truck dumps, under the supervision of two FGIS weighmen. One elevator weighmen is located in the control room to operate, under the supervision of one FGIS weighing specialist, the two scales used to weigh grain being exported.

The two FGIS technicians serve strickly as rovers. One technician observes the grain as it moves from the elevator, through the gallery, and aboard the cargo vessels. The second technician spends half his time on the dock observing the loading of cargo vessels and half monitoring the receiving and unloading of incoming trucks. All the FGIS weighing specialists and technicians are paid from the trust fund.

Export elevator C operates two shifts to load grain aboard cargo vessels during the nine months navigation season. For about three months during the peak harvest season, the elevator operates two shifts to unload incoming trucks and weigh the grain. Only one shift is used to unload trucks during the six months non-harvest season. For the three months non-navigation season this elevator receives only sporadic shipments of grain, so most of the FGIS weighing personnel are detailed to other elevators.

FGIS currently uses about 6.25 man-years of labor to provide weighing services at this elevator (table 2). An estimated 3.75 man-years are expended on the outbound loading of cargo vessels and 2.5 man-years are used at the truck dumps.

IMPACT OF THE ASHLEY BILL

Volume of grain weighed

Under H.R. 5546, an estimated 57.3 million bushels of intracompany grain would be exempt from the official inbound weighing requirements. Of the remaining 3.7 million bushels of intercompany truck shipments, it is difficult to estimate the amount of grain that would be requested to be officially weighed. Consequently, three possible scenarios were analyzed that show the effects when 10, 40, or 70 percent of this grain is officially weighed.

Staffing pattern

The number of FGIS weighing personnel needed to perform official inbound weighing services at export elevator C under H.R. 5546 may be reduced 1.5 to 2.0 man-years, depending on the volume of intercompany grain arriving by truck that

requests official weights for this grain (table 3). No reduction would be expected in the number of elevator employees used to perform weighing functions.

Enactment of H.R. 5546 would virtually eliminate the need for FGIS weighing personnel at the truck dumps. Under the three scenarios, the volume of inbound grain needing official weights would be reduced to an estimated 0.4 to 2.6 million bushels. This volume is over 95 percent less than the 61.0 million bushels of inbound grain expected to be weighed at the truck dump under the USGSA. No reduction is expected in the number of FGIS weighing personnel providing services to the outbound grain.

Weighing costs

The reduction in the number of FGIS weighing personnel needed at the truck dumps, under the three scenarios, could reduce the cost of FGIS' weighing services at this elevator by $30,000 to $40,000 annually—based on an estimated cost of $20,000 per man-year (table 3). These cost savings relate only to FGIS' portion of the elevator's total weighing costs.

ELEVATOR D

This new export elevator D, began operating this navigation season, and will take most of the business from the old elevator it replaced. Although an historical record of the volume of grain handled by this facility has not yet been established, it is estimated from the designed operating capacity of this plant that about 93.6 million bushels of grain will be received annually (table 4). This elevator was selected for anlysis because it is expected that official inbound weighing services would virtually be unchanged under H.R. 5546. In the past, the management at the older elevator requested official weights on inbound grain year-round, even during the non-navigation season when official weights were not required. Official weights were probably requested by the elevator's management to maintain inventories and to check on the accuracy of the weights of the incoming grain, since most of it was purchased on the basis of origin weights.

Based on the volume of truck and rail traffic at the older facility, about 85 percent of the grain, or 79.6 million bushels, will arrive by rail and the remaining 14.0 million bushels by truck. Also, based on the records for the old facility, about 90 percent of the grain, or 84.2 million bushels, can be expected to be purchased from non-affiliated companies.

Table 3 -- Weighing characteristics of and staffing levels for the export elevator C operating under the United States Grain Standards A hypothetically under H.R. 5546 with alternative levels of intercompany grain receipts that are requested to be officially weighed

Item	Unit	USGSA	H.R. 5546 Scenario 1 1/	H.R. 5546 Scenario 2 2/
1) Movement of grain to the elevator by:				
Rail	Percent	0.0	0.0	0.0
Truck	"	10.0	100.0	100.0
Barge	"	0.0	0.0	0.0
2) Volume of inbound grain shipments (1979 calendar year)	Mil. bu.	61.0	61.0	61.0
3) Volume of grain officially weighed by FGIS personnel:				
Inbound:				
Intracompany shipments (affiliated company)	Mil. bu.	57.3	0.0	0.0
Intercompany shipments (non-affiliated company)	"	3.7	0.4	1.5
Subtotal	"	61.0	0.4	1.5
Outbound:				
Export shipments 4/	"	61.0	61.0	61.0
Total	"	122.0	61.4	62.5
4) Intercompany shipments settled on origin weights	Percent	0.0	0.0	0.0
5) Certified scales used to perform official weighing:				
Truck platform dump	Number	4.0	4.0	4.0
Cargo vessles (scales located in the weigh house)	"	2.0	2.0	2.0
6) Total staffing of inbound and outbound weighing personnel (all shifts)				
FGIS 5/:				
Weighing specialists (3 per shift)	Man-years	3.50	1.75	2.00
Rover (2 per shift)	"	2.75	2.50	2.50
Subtotal	"	6.25	4.25	4.50
Elevator employees:				
Weighmen (5 per shift)	"	5.50	5.50	5.50
Total	"	11.75	9.75	10.00
7) Reductions under the Ashley Bill in the:				
Volume of grain officially weighed	Mil. bu.	----	60.6	59.5
FGIS weighing personnel	Man-years	----	2.00	1.75
Cost of fee-supported personnel ($20,000 per man-year)	Dollars	----	40,000	35,000

1/ Assumes 10 percent of the inbound intercompany truck shipments (3.7 mil. bu.) settled on destination weights would be officially weig
2/ Assumes 40 percent of the inbound intercompany truck shipments (3.7 mil. bu.) settled on destination weights would be officially weig
3/ Assumes 70 percent of the inbound intercompany truck shipments (3.7 mil. bu.) settled on destination weights would be officially weig
4/ Assumes that all grain is weighed outbound, i.e., domestic shipment exemptions are nonexistent.
5/ Includes only fee-supported FGIS weighing personnel charged to the trust fund.

Table 4 -- Weighing characteristics of and staffing levels for the export elevator D operating under the United States Grain Standards Act (USCSA) and hypothetically under H.R. 5546

Item	Unit	USGSA	H.R. 5546
1) Movement of grain to the elevator by:			
Rail	Percent	85.0	85.0
Truck	"	15.0	15.0
Barge	"	0.0	0.0
2) Volume of inbound grain shipments (estimated for 1980 calendar year)	Mil. bu.	93.6	93.6
3) Volume of grain officially weighed by FGIS personnel:			
Inbound:			
Intracompany shipments (affiliated company)	Mil. bu.	9.4	9.4
Intercompany shipments (non-affiliated company)	"	84.2	84.2
Subtotal	"	93.6	93.6
Outbound:			
Export shipments 2/	"	93.6	93.6
Total	"	187.2	187.2
4) Intercompany shipments settled on origin weights	Percent	100.0	100.0
5) Certified scales used to perform official weighing:			
Truck platform dump	Number	2.0	2.0
Railcars and cargo vessels (scales located in the headhouse)	"	1.0	1.0
6) Total staffing of inbound and outbound weighing personnel (all shifts)			
FGIS 3/:			
Weighing specialists (2 per shift)	Man-years	3.25	3.25
Rover (2 per shift)	"	1.50	1.50
Subtotal	"	4.75	4.75
Elevator employees:			
Weighmen (2 per shift)	"	3.25	3.25
Total		8.00	8.00
7) Reductions under the Ashley Bill in the:			
Volume of grain officially weighed	Mil. bu.	----	0.00
FGIS weighing personnel	Man-years	----	0.00
Cost of fee-supported personnel ($20,000 per man-year)	Dollars	----	0.00

1/ Assumes all inbound intercompany and intracompany grain would be officially weighed.
2/ Assumes that all grain is weighed outbound, i.e., domestic shipment exemptions are nonexistent.
3/ Includes only fee-supported FGIS weighing personnel charged to the trust fund.

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WEIGHING CHARACTERISTICS

Scales

Three full-electronic Toledo 8132 series scales are presently used to provide official weights at this export elevator. Two of these scales are of a platform type and located at the two truck dumps. The third scale, located in the headhouse and operated from a control room, is used to weigh inbound railcar grain and outbound grain.

Grain movement

Trucks delivering grain to this elevator are officially weighed and unloaded at the two truck dumps. The grain is then elevated to the headhouse for routing to the storage area or directly to a cargo vessel. Grain arriving by railcar is unloaded at the rail pit and elevated to the headhouse for official weighing.

Scale staffing

The weighing operation at the new elevator utilizes two elevator weighmen, two FGIS weighing specialists, and one FGIS weighing technician per shift. One elevator weighman operates the two electronic scales at the truck dump, under the supervision of an FGIS weighing specialist. The second elevator weighman operates the scales in the headhouse, also under FGIS supervision. The FGIS technician is involved with both the inbound rail shipments and the outbound shipments. The major tasks performed by the technician include observing the unloading operations at the rail pit and the loading of cargo vessels.

During the nine months long navigation season, grain is loaded aboard cargo vessels at this elevator with two shifts. Two shifts per day unload the inbound rail and truck shipments for about six months and one shift per day is used the remainder of the year. Thus, an estimated 4.75 man-years of FGIS labor, supported by the trust fund, are needed to provide official weighing services at this elevator (table 4).

Under H.R. 5546, 9.4 million bushels of intracompany grain arriving by truck and rail would be exempt from FGIS' inbound weighing requirements. The 84.2 million bushels of inbound grain arriving from non-affiliated companies could be waived by mutual agreement of the buyer and seller. However, for this analysis it is assumed that official weights will continue to be requested by the elevator on all inbound grain.

Staffing pattern

No change would be expected in the staffing pattern of FGIS weighing personnel at this elevator provided all inbound grain continues to be officially weighed. These results are similar to those expected at several other export elevators located in geographic areas regulated by State laws that require the official weighing of inbound grain.

Weighing costs

No man-year and dollar savings are expected under H.R. 5546, assuming that the elevator continues to request official weights on inbound grain.

CONCLUSIONS

The results of this analysis of four selected export elevator situations indicate that there are several factors associated with the amount of savings an elevator may realize under H.R. 5546. This savings involves the number of man-years of FGIS labor needed to provide official weights on inbound and outbound grain shipments and the cost of this labor.

The major factors that determine the amount of potential savings to an elevator under H.R. 5546 are the quantity of inbound grain that will need to be officially weighed, the location of the certified scales, and the functions of the official weighing personnel. This potential savings also depends on the cost of the FGIS labor needed to provide official weights on inbound and outbound grain shipments.

Quantity of grain

The quantity of inbound grain that is expected to be officially weighed under H.R. 5546 at an elevator will be directly related to whether or not the seller and the receiving elevator are affiliated and to the mode used to transport the grain to the receiving elevator. Under H.R. 5546, all intracompany grain shipments, irrespective of the mode of transportation, would be exempt, and all intercompany grain shipments other than barge could be waived by mutual agreement of the shippers and receiving elevators.

Conclusion 1. The higher the ratio of intracompany grain to intercompany grain, the greater is the potential for man-year and dollar savings.
Conclusion 2. The higher the ratio of intercompany truck and rail to barge shipments, is the potential for man-year and dollar savings.
Conclusion 3. The larger the number of requests by sellers or other interested parties for official weights at destination on intercompany truck and rail shipments, the smaller is the potential for man-year and dollar savings.

Location of certified scales

Each export elevator is essentially unique in terms of the number and location of the certified scales used to weigh inbound and outbound grain. At some facilities, all of the scales are operated from a central control room and used to weigh both inbound and outbound grain. At other facilities, there are separate scales at the truck and railcar dumps and for grain being loaded aboard cargo vessels. There are numerous combinations between these extremes in the location of the scales.

Scales that are used to weigh both inbound and outbound grain offer little opportunity for man-year and dollar savings. The FGIS weighing personnel simply must be present to supervise the weighing of export grain, whether or not a reduced volume of inbound grain is being officially weighed. Greater savings may be realized at the facilities where inbound truck, rail, and barge shipments and outbound cargo vessel shipments are each weighed at a separate location.

Conclusion 4. Given the configuration of an elevator's scales that are certified for weighing grain, the more flexible the scales are, the smaller is the potential for man-year and dollar savings.

Functions of official personnel

The actual functions performed by the FGIS weighing specialists and technicians at a particular elevator also relate to the potential man-year and dollar savings. Some FGIS weighing specialists supervise the weighing of both inbound and outbound grain. Others are responsible for supervising the weighing of grain arriving by a particular mode of transportation. Some weighing technicians may also perform duties related to inbound and outbound grain shipments, and sometimes even inspection services in addition. Others may be stationed at a particular location, like a truck dump, strictly observing inbound shipments.

Conclusion 5. The more diverse the duties of the FGIS weighing specialists and technicians, the smaller is the potential for man-year and dollar savings.

From these conclusions, it should be evident that it is extremely difficult to estimate the specific impacts of H.R. 5546 on the grain industry without analyzing the impacts on each of the 83 export elevators. FGIS analysts believe that the results of this analysis of four elevators accurately reflect the range of the impacts expected.

[Attachment D]

The Mechanization of the Grain Weighing System

The official weighing of bulk grain at export elevators is undergoing a revolutionary change, with the conversion of the mechanical, lever-type, manual scales to electronic scales utilizing loadcells, micro processors, and auto-printing devices. Electronic scales are increasing the efficiency of the weighing operation by significantly reducing the time required to weigh a given volume of grain, the number of scales needed, and, consequently, the manpower required to operate the system. Both of these savings translate into a reduced cost per bushel for weighing.

Mechanical scales require a weigher for each scale, with official personnel able to supervise effectively the weighing at no more than two scales. Many older elevators had scale floors with 15 to 20 mechanical scales that required 20 to 30 FGIS and elevator employees to operate. One FGIS employee can supervise the operation of four electronic scales that can be manned by one elevator employee.

The efficiencies associated with electronic scales have already induced many elevators to convert from mechanical to electronic weighing systems. In 1976, about 40 percent of the scales approved for official weighing at export elevators were electronic. It is estimated that now 60 percent of the approved scales are electronic. The conversion to electronic scales eliminates the need for weighing personnel on the scale floor, since the weight can be recorded at some remote location, usually the elevator's control room. Because the weight reading may be at a location away from the head house, elevator and FGIS weighing personnel are not as likely to be exposed to the dangers associated with elevator explosions.

The state of the art with electronic scales is continuing to change, so that further manpower reductions are likely. Also, the use of micro-processing equipment to analyze the various elements of the electronic weighing system has the potential of further reducing the number of personnel needed to perform these tasks. With these systems, there is only the occasional need for weighing personnel to observe the weighing activity, because all of the operations can be displayed on a single video screen and simultaneously recorded by a printer.

STATEMENT OF HARLEY J. DONNELL, VICE PRESIDENT-GRAIN, CENTRAL SOYA CO., INC., ON BEHALF OF NATIONAL GRAIN AND FEED ASSOCIATION

I am Harley J. Donnell, Vice President-Grain for Central Soya Co., Inc., Fort Wayne, Indiana. I appear in support of S. 2886 on behalf of the National Grain and Feed Association. I am chairman of the National's Grain Grades and Weights Committee, composed of 26 industry experts, which is representative of the grain and feed industry itself: country and terminal elevators, processors and millers, merchandisers, warehousemen and exporters.

We commend you for calling these hearings and strongly urge the enactment of S. 2886 to correct a serious flaw in the United States Grain Standards Act, that flaw being the overregulation requiring excessive and unnecessary official weighing of inbound grain at an export elevator at an export port location (export elevator). This amendment to the Act is in agreement with action taken by our Grain Grades and Weights Committee at a July 23, 1979 meeting in Washington, D.C., at which 22 of the 26 members were present. At the outset I should point out that export elevators weigh all inbound and outbound grain on equipment and installations approved by the Federal Grain Inspection Service (FGIS). With this amendment the practice of such weighing on FGIS approved equipment will continue but the need for FGIS supervision will be removed for most inbound grain and outbound shipments to U.S. destinations. At Central Soya's export elevator in Baltimore we estimate our annual costs for official weighing and inspection to be $340,000. This amendment will reduce that amount by at least $80,000.

The National Grain and Feed Association is a voluntary association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex. It includes merchandisers, processors, country elevators, warehousemen and exporters of a wide spectrum of grains and feeds. Its membership includes 1,250 active members and 46 State or regional affiliated associations with upwards of 10,000 members.

The National Grain and Feed Associatioin and its members are vitally interested in the integrity of the grain inspection and weighing system. Our members are users of inspection and weighing services and pay for those services. No group could be more concerned that the inspection and weighing of grain be efficient, cost-effective and honest.

The association's support of the U.S. Grain Standards Act has a long and well-documented history. The National played an active role in the enactment of the first Grain Standards Act in 1916—it was the grain trade that initiated, worked for and effected rules for uniform grain standards and inspection procedures so that commerce might be conducted in an orderly and timely manner.

Similarly in 1967, when, because of changes in marketing methods and trade practices it became apparent that the 1916 Act was outmoded, the National Grain and Feed Association, in cooperation with members of the Congress and USDA, actively worked for new legislation.

Conversely, the 1976 Grain Standards Act was legislated in an atmosphere of extreme distrust of the grain and feed industry. However, in May 1979, the USDA's Office of the Inspector General, in its Congressionally-mandated report entitled, "Study of Grain Inspection and Weighing at the Interior of the United States," concluded:

"Although we found irregularities and certain problem areas during our study, we found no evidence to indicate that the practice disclosed during the 'Grain Scandal' of the early 1970s were widespread in the Interior of the United States."

Mr. Chairman, the National Grain and Feed Association believes that some provisions of the 1976 Act, as amended, are an overreaction to the situation and atmosphere at the time. Indeed, the 1976 Act was four months old when hearings were commenced on amendments. We also believe that S. 2886 is a wise step to further correct that overregulation and I would like to detail for you and the subcommittees the reasons why it is not necessary for all inbound grain at export elevators to be officially weighed.

Prior to the 1976 revisions to the Act, the Grain Division of USDA's Agricultural Marketing Service had no role in supervising the weighing of grain at export

elevators. Under the former system, weight supervision and scale certification services were offered by the weighing branches of various state governments; boards of trade; the Association of American Railroads; independent agencies, such as the Terminal Grain Weighmasters Association; and by some chambers of commerce.

Currently, the U.S. Grain Standards Act, as amended, requires that official weights be taken on all inbound and outbound shipments of grain at export elevators. The effect of this statutory requirement has been 100 percent "over-the-shoulder" supervision of weighing by a third party at export elevators—that third party being employees of the Federal Grain Inspection Service or a delegated State agency.

This amendment would make three important changes to the Act to enhance its ability to fulfill its stated purpose, which is to "facilitate the orderly and timely marketing of grain." First, it would exempt from the official inbound weight requirement all intra-company grain shipments transported into an export elevator by any mode. Second, it would exempt from the official inbound weight requirement intercompany shipments transported by truck or rail into an export elevator but either the shipper or receiver may request official weights. And third, it would exempt from the official weight requirement grain transferred out of an export elevator to destinations within the United States, but either the shipper or receiver may request official weights.

I should emphasize that with this amendment, S. 2886, the Act will still require FGIS official weight on all grain shipments from an export elevator going into the export trade. The Act will also require that official inbound weights be obtained on grain transported by barge to export port locations unless the shipment is an intra-company transfer. Maintaining this requirement is necessary because of the unique nature of barge trading that makes it substantially different from truck and rail shipments of grain. As grain moves down the rivers by barge toward the Gulf ports, the commodities on board may be traded numerous times. The final elevator to which the barge shipment is destined is seldom known at the time of the original sale. In addition, practically all barges are sold based upon the unloading weight of the grain as determined at the final destination. There is concern by some shippers that a few barges may not be unloaded completely or may have grain spilled during the unloading process without FGIS supervision. Such circumstances necessitate that the official inbound weight requirement be maintained on barge shipments to export elevators, except for intra-company transfers.

The amendment would remove a current provision in the Act that prevents a shipper and receiver of rail and truck grain to an export elevator from deciding whether inbound official weights actually are necessary for every shipment. The domestic shipper would receive the official inbound weight only if he or the receiver specifically requests it. This amendment would give individual shippers and receivers of truck and rail grain the right to decide what's best for their own businesses.

There are many reasons why individual grain shippers and receivers would choose to forego the process of obtaining official inbound weights. For each of these reasons there is one simple objective—to reduce the unnecessary costs that now exist for a weighing service that in many cases is duplicative and unneeded.

One such instance is the common industry practice of selling truck and rail grain based upon origin weights. Under this method of sale, the weight of the grain shipment is determined at the time of the original loading. Sometimes contract terms specify that origin weights will be the basis of settlement. The current provision in the Act that requires mandatory official inbound weights at the receiving elevator causes an unnecessary official weighing of grain that has no bearing on the contracted weight.

Another case involves intra-company shipments, in which grain is shipped from one company-owned facility to another elevator owned by that same firm. This amendment to the Act recognizes that there is no need to protect these companies from themselves.

The Office of Inspector General study referred to earlier shows how prevalent these two forms of grain shipment are. The report stated that OIG's survey of export elevators found that:

"About 40 percent of all grain received at export elevators is owned by the receiving elevators or settled for on interior weights. To determine the amount of grain involved, (OIG) requested information from all major export elevators located in the United States as to total quantities of grain that were received, quantities received from affiliated elevators and quantities settled for on interior weights. More than half of these export elevators responded. Their combined total receipts for last year (1978) totaled more than 2 billion bushels. Approximately 25 percent of these receipts represented grain from affiliated elevators and 19 percent of the remainder were settled for on interior weights."

In other words, about one-fourth of the grain received by the surveyed export elevators was intra-company shipments while almost 15 percent was contracted for on the basis of origin weights. The study found that these export elevators handled 800 million bushels through origin weight contracts or intra-company shipments.

The cost to the industry of this duplicative, unnecessary requirement for inbound official weights is great. The revised fee schedule issued by FGIS for official weighing services contains fees of between $11.20 and $16.00 an hour, per man, depending upon the type of service contracted for and the day on which such services are performed. If shippers and receivers are relieved of the burden of having needless official inbound weighing, FGIS may find that it can reduce the number of personnel needed to supervise official weighing and the resultant savings to the industry can be passed on through the marketing chain.

There are additional reasons why shippers and receivers might choose not to obtain official inbound weighing. In the case of truck shipments, the shipper's agent—the truck driver—is on the premises when the receiver weighs the grain. The trucker has interest in accurate inbound weights because his freight payment is based on the delivered weight of the shipment. We see no desire for FGIS official truck weights.

In addition, as the industry moves toward increased automation and high-speed operation, delays that can result during inbound weighing become increasingly costly. The increased paperwork that results from mandatory official inbound weighing can be eliminated when official weights are not used.

These reasons far outweigh any possible benefits that might result from maintaining the current statutory requirement of official weights on all inbound shipments to export elevators. One purported benefit cited by the FGIS is that such a requirement is necessary if the Service is to obtain a material balance—or inventory check—at an export elevator.

FGIS states that official inbound weights can be used in conjunction with outbound weights as a tool to determine the material balance of an elevator so as to monitor the inventories of grain and grain products moved through an export elevator. Specifically, FGIS states, this is needed as a way of checking for scale manipulation above and beyond its normal supervision of grain weighing.

For several reasons, our association does not believe that official weighing of all inbound and outbound grain is a cost-effective or viable method of monitoring grain inventories at a facility. One such reason is that precisely and accurately determining an export elevator's material balance would require that all grain and grain products be weighed. This includes a number of products that are not regulated by the U.S. Grain Standards Act, such as feed pellets, soybean meal, corn screenings and grain fines. We think that the Congress does not wish to add to the already high cost of official weighing. We are certain that the grain industry and the agricultural producer do not want to incur the added costs of requiring these products to be officially weighed.

Further, the FGIS concept of using this type of inventory monitoring system to check for scale manipulation is not technically valid. Precise inventory monitoring is difficult because of losses that can occur during grain handling. Such losses can occur because of weight reduction during grain drying, cleaning and handling. For instance, in grain drying alone, the industry has experienced as much as 0.5 percent weight loss that cannot be accounted for.

This is not to say that inventories are not monitored. Grain companies maintain extensive inventory management programs as a tool for regularly checking the book grain stocks against the physical measurement of stocks. And we do it in a cost-effective and efficient manner that does not result in delays to our business operation.

Since FGIS, under its investigative powers, already has access to all these company weighing records, any shortages or overages can be monitored by FGIS by checking these records when there is sufficient reason to suspect that a problem is developing. In addition, the U.S. Warehouse Act regulates inventory monitoring of federally licensed warehouse facilities.

We can understand FGIS' desire for an additional tool to protect itself from failing to perform good supervision of weighing. But the tremendous costs to the grain trade compared to the meager benefits derived are simply unjustified. If FGIS properly supervised the weighing system for exports and for those domestic shippers who opt for official weights, there is no need for the type of inventory monitoring that FGIS desires. Therefore, the mandatory requirement that all inbound shipments of grain be officially weighed at export port locations solely for inventory monitoring cannot be justified.

In conclusion, it should be noted that the National Grain and Feed Association's support of this amendment centers around one major principle. That principle is

that domestic shippers and receivers of truck and rail grain and those who move grain intra-company should be allowed to decide whether the costs of FGIS official inbound weights are beneficial to them. Shipper and receivers of grain and not the Federal Government are best able to judge this aspect of their businesses that has daily ramifications in the marketplace.

I urge the enactment of S. 2886.

We believe that action on S. 2569 should await further study on the potential risks involved in expanding the delegation of inspection and weighing authority to other states.

[For release July 29, 1980]

NATIONAL GRAIN AND FEED ASSOCIATION URGES PASSAGE OF DOLE BILL AMENDING U.S. GRAIN STANDARDS ACT

WASHINGTON.—The National Grain and Feed Association today urged prompt passage of a bill that would amend the U.S. Grain Standards Act to correct a "serious flaw" that now results in the often unnecessary expenditure of upwards of $9 million a year by the industry for official weighing of grain transported into export elevators.

The amendment would "reduce the unnecessary costs that now exist for a weighing service that in many cases is duplicative and unneeded," the NGFA's Grain Grades and Weights Committee chairman, Harley J. Donnell, said in testimony before two Senate Agriculture subcommittees. "This amendment would give individual shippers and receivers of truck and rail grain the right to decide what's best for their own businesses."

The amendment is contained in a bill (S. 2886), introduced by Sen. Robert Dole, R-Kan., that would revise the act by removing the current requirement that all inbound grain at export port elevators receive "official" weights issued by the U.S. Department of Agriculture's Federal Grain Inspection Service or its delegated state agency.

Under the amendment, the current official inbound weighing requirement would be waived on all intracompany grain shipments transported into an export elevator. The exemption also would be granted—unless requested otherwise by the shipper or receiver—to all intercompany truck and rail grain shipments to an export port elevator, as well as to grain shipped from an export elevator to a U.S. destination. The bill would continue to require official weights on all grain transported by barge to an export port location unless the shipment is an intracompany transfer.

The Senate bill is a companion to one (H.R. 5546) already passed by the House Agriculture Committee. The House bill was introduced by Rep. Thomas L. Ashley, D-Ohio.

In his testimony on behalf of the 1,250-member trade association, Donnell, vice president of grain for the Central Soya Co., Fort Wayne, Ind., cited USDA estimates that the national average cost for monitoring inbound grain weighing at export port locations equals one-fifth of one cent per bushel, while some export elevators may have costs as high as 2 to 3 cents a bushel. Based upon the conservative figure, USDA's own estimate is that export elevators paid more than $9.1 million in 1979 for inbound official weights, Donnell noted.

Donnell said there are numerous cases when requiring official inbound weights is unnecessary. As examples, he cited the common industry practice of selling truck and rail grain based upon origin weights determined at the time of original loading—as well as intracompany shipments—in which grain is shipped from one company-owned facility to another elevator owned by the same firm. "This amendment to the act recognizes that there is no need to protect these companies from themselves," he said, referring to the latter case.

A May 1979 report by USDA's Office of the Inspector General found in a survey that 25 percent of all grain received by the export elevators that responded comprised intracompany shipments, while almost 15 percent was contracted for based upon origin weights, Donnell said.

"In addition, as the industry moves toward increased automation and high-speed operation, delays that can result during inbound weighing become increasingly costly," he said. "The increased paperwork that results from mandatory official inbound weighing can be eliminated when official weights are not used."

NATIONAL GRAIN AND FEED ASSOCIATION,
August 6, 1980.

Hon. WALTER D. HUDDLESTON,
Chairman, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices
and
Hon. RICHARD B. STONE,
Chairman, Subcommittee on Foreign Agricultural Policy, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MESSRS. CHAIRMEN: At the hearing on S. 2886 on July 29, 1980, we noted that Chairman Huddleston mentioned to Dr. Bartelt a rebuttal to the industry's statement. Pursuing that through the staff of the committee with a request made to Mr. Galliart we were provided on July 30 with an undated and unsigned report entitled: "FGIS response to June 30 National Grain and Feed Association Letter to House Agriculture Committee."

I have carefully reviewed my letter and FGIS' comments thereon and have concluded that further comment would be unseemly and unbefitting the continuation of such debate in the official records of the United States Senate. I hereby reaffirm and stand on the statements in my letter of June 30 and our statement of July 29.

The speculative issues propounded in the FGIS Legislative Report have beclouded the intent of S. 2886, to reduce the requirement in the Act that all grain transferred into and out of an export elevator at an export port location be officially weighed.

S. 2886 affects only the official weighing at export elevators at export port locations. Under the Act (Section 17A) such elevators must register with the Administrator of FGIS and receive a certificate of registration which must be renewed annually and is subject to suspension or revocation. Section 7B(a) requires the Administrator to test inspection and weighing equipment at least annually. Section 7A(f) sets forth the conditions under which official weighing may be obtained. Section 12(d) requires the export elevator among others, to maintain complete and accurate records, to permit FGIS personnel and others access to the records, to copy same and to have access to the facilities. The Act provides for refusal of inspection and weighing service, civil and criminal penalties and prohibited acts. Thus, every export elevator is under the jurisdiction and broad authority of the Administrator.

With the enactment of S. 2886 all grain going to any place outside the United States, unless waived by the Administrator, must be officially inspected and officially weighed. Some inbound grain at export elevators will still require official weighing. Under either circumstance the weighing equipment and installation must be approved by FGIS. In many cases the approve weighing equipment used for export shipments will be similarly used for inbound grain which would be exempt from mandatory weighing requirements under S. 2886. Enactment will reduce duplication of effort and save considerable funds.

We are firmly convinced that enactment of S. 2886 will in no way jeopardize the integrity of our efficient grain marketing system and is in consonance with the objectives of the Act: "that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated." We urge its speedy enactment.

It is requested that this letter be made part of the hearing record.

Sincerely yours,

ALVIN E. OLIVER,
Executive Vice President.

NATIONAL GRAIN AND FEED ASSOCIATION,
June 30, 1980.

Hon. THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are concerned that Secretary Bergland's letter of June 6, 1980 opposing enactment of H.R. 5546 may have misinformed your committee on the effect of its enactment and we would like to set the record straight.

Enactment of H.R. 5546 would leave the following procedures and regulations in full force and effect for export elevators at an export port location (export elevators):

1. The Administrator, Federal Grain Inspection service (FGIS) or delegated State agencies will cause official inspection and weighing to be performed on all grain going into export channels;

2. Except for inbound weighing of some grain and limited amounts of outbound grain going to domestic markets, 7 CFR 26 will remain in effect. This means that

FGIS will approve the installation of the grading and weighing equipment and will be on-site to supervise the procedures, both inbound and outbound;

3. FGIS will continue to register export elevators under Section 17A(a) of the Act. FGIS will have access to the export elevators and the inspection and weighing facilities under Section 800.25 and have access to the records required to be kept under Section 800.26;

4. In accordance with good business practices, all inbound grain will continue to be weighed using the FGIS approved equipment. FGIS acknowledges this fact; and

5. Require official weighing of intercompany inbound grain by barge.

H.R. 5546 as amended by the Bedell amendment would at export elevators:

1. Waive official weighing requirements on all intracompany inbound grain at export elevators;

2. Waive official weighing requirements on intercompany inbound grain by rail or truck, but either party may request official weighing;

3. Waive official weighing requirements on outbound grain to domestic markets, but either party may request official weighing; and

4. Consider shipments from a regional cooperative to an export elevator jointly owned by it and others as an intracompany shipment.

The Secretary's letter states that authorizing Class Y weights (less than 100 percent supervision) for intracompany shipments will do much of what H.R. 5546 seeks to do by legislation. It should be clear that this is just not so since Class Y weights are still official weights. Furthermore, the estimated savings of $4.8 million by enactment of H.R. 5546 is low since the Bedell amendment was not considered, and there is no valid reason to assume that private weighing agencies will replace FGIS. When other than company weighing are desired, FGIS will be at the export elevator to provide the service.

There is attached hereto our comments on FGIS' legislative report.

We urge that your committee approve H.R. 5546 as amended.

Sincerely yours,

ALVIN E. OLIVER,
Executive Vice President.

Enclosure.

COMMENTS OF THE NATIONAL GRAIN AND FEED ASSOCIATION ON FEDERAL GRAIN INSPECTION SERVICE LEGISLATIVE REPORT—H.R. 5546

There follows the 9 speculative issues and comments thereon.

"Enactment of H.R. 5546 would:

"1. Neither eliminate nor reduce the trade need, nor the trade practice, of weighing grain received and grain shipped by export elevators at export port locations."

Comment: We concur. What it would do is remove the burdensome requirement of having all of the grain officially weighed thus reducing costs and need for FGIS personnel.

"2. Probably result in an increase in the hourly fee assessed by the Department for official weighing services for inbound grain at export elevators at export port locations."

Comment: This is merely speculation with no analysis included. Excluded from their consideration is the fact that all outbound export grain must be officially weighed and the FGIS personnel providing that service would be available for official weighing of inbound grain when required. This may in fact cause a reduction in the non-productive time of FGIS personnel on-site. In any event, it will reduce the total FGIS cost.

"3. Apparently exempt much of the grain shipped to export elevators at export port locations from the weighing requirements of section 5(a)(2) of the Act."

Comment: Again, we concur. That is the purpose of H.R. 5546, to remove the requirement of total official weighing at export elevators to reduce costs to the benefit of the producers, the grain marketing industry and the consumers, and to facilitate the orderly marketing of grain.

"4. Nullify the Department's grain elevator inventory monitoring program."

Comment: As to the Department's program, this is probably so. The Department is laboring under the premise that "grain in minus grain out equals grain inventory." This premise is not correct as any knowledgeable grain man knows and FGIS would be well advised to disabuse itself of the fallacious premise. As stated in (1) above paraphrased, all grain in and all grain out of export elevators is weighed. Section 17A(a) of the Act requires exporters to register with the FGIS and the regulation's Sections 800.25 and 800.26 require certain records to be kept and permit FGIS access to the records and facilities. In addition, those elevators which are Federal

warehouses under the U.S. Warehouse Act receive an audit and inventory certification at least annually. To require official inbound and outbound weighing just to verify that official weighing has been properly performed and supervised is an undue burden on commerce requiring the U.S. taxpayers and elevator operators to expend needless funds.

"5. Discriminate in favor of grain handling facilities that are cooperatively owned."

Comment: FGIS completely missed the point on this and even more so when the Bedell amendment is considered. The same exemption is available to any non-cooperative except for intercompany shipments of grain by barge.

"6. Discriminate against grain shipped by barge to export port locations."

Comment: Again, FGIS missed the point. Only intercompany shipments by barge require official weights and that was purposely excluded from the operation of H.R. 5546. Knowledgeable grain merchandisers recognized that barge grain is handled differently than truck or rail grain shipments. After loading, barges are sold many times before they arrive and are unloaded by the final consignee. The capacity of barges is such that a cargo of $300–400 thousand is involved. Complete unloading of a barge is difficult. In view of these considerations, the barge shippers of grain insisted that no waiver or exemption from the official weight requirements of intercompany barge grain be sought in the legislation.

"7. Result in a duplication and proliferation of unofficial weighing agencies, and confusion and complaints in the weighing of grain."

Comment: There is no justification for this statement. Upon enactment of H.R. 5546, the export elevator would be relieved of the burden of having official weights on a majority of inbound grain and some outbound grain to domestic consignees. The same FGIS-approved weighing equipment and procedures will be used by export elevator personnel. There will be no need for unofficial weighing agencies since the grain industry is looking for ways to reduce costs by doing away with unnecessary duplication of effort. FGIS should realize by now that the grain merchandising system is self-policing in a highly competitive market. Merchandisers dissatisfied with weights and grades of a buyer or seller go to other markets.

"8. Result in significant implementation, supervision, circumvention and interpretation problems."

Comment: FGIS apparently overlooks the fact that it is a Service and was established to provide a service to facilitate the marketing of grain. Instead, it would prefer to take the bureaucratic approach to rigidly enforce in a uniform manner operations which are dissimilar. The ease of circumvention of the intent of section 5(a)(2) in weighing at export elevators is more imagined than real. FGIS personnel will still be at export elevators, will continue to supervise weighing of export grain and will continue to supervise weighing of some inbound grain. Their comment on the definition of an "export elevator at an export location" can be rectified easily by a simple amendment to H.R. 5546.

"9. Provide an opportunity for large merchants to apply pressure to small shippers to waive official weights."

Comment: Failing to recognize the Bedell amendment to H.R. 5546 is a fatal error by FGIS. But even without the Bedell amendment the statement is inane since, together with FGIS explanation of the statement, it sets forth a clear violation of the antitrust laws of the United States for which there are adequate remedies.

STATEMENT OF WILLIAM F. BROOKS, PRESIDENT AND GENERAL COUNSEL, NATIONAL GRAIN TRADE COUNCIL

The National Grain Trade Council, a voluntary unincorporated organization whose policy making members are Grain Exchanges or Boards of Trade and National Grain Marketing Organizations, appreciates this opportunity to submit our views in favor of the pending bill.

The Council recommends that the Committee approve S. 2886.

The Grain Standards Act now requires that all grain delivered to or shipped from export elevators at an export port location must be officially weighed irrespective of the wishes of the owner or owners of the grain, irrespective of the fact that some grain is shipped from many export elevators for destination within the United States and not shipped to places outside the United States.

S. 2886 would eliminate mandatory official weighing requirements for inbound intra-company shipments of grain and would relax some of the Act's weighing requirements by providing that they be waived unless requested by the shipper or the receiver (1) when grain is transferred into an export elevator (except barge shipments) or (2) when grain is transferred out of an export elevator to destinations within the United States.

S. 2886 does not relax or in any way change the Act's mandatory requirement that in general shipments of grain to any place outside the United States shall be officially weighed and officially inspected.

The provisions of S. 2886 are identical with those of H.R. 5546. On July 1, the House Committee on Agriculture, by a vote of 34 to 3 favorably reported that bill with a recommendation that the bill do pass.

This House Committee action came after a morning-long mark-up session where Dr. Leland Bartelt, FGIS Administrator, discussed the bill, answered questions about the bill and attempted to explain what appeared to some members of the Committee to be changes or reversals in the positions of FGIS on the bill.

The House Committee's consideration of the bill was based on three days of hearings at two Sub-committees of the House Committee and mark-up session at one Sub-committee.

In April last year, the Sub-committee on Departmental Investigation, Oversight, and Research, with its Chairman, Congressman De la Garza presiding, held field hearings at Houston, Texas, to look into the FGIS activities. There the mandatory weighing requirements of the U.S. Grain Standards Act were considered and discussed.

In October last year, the Sub-committee on Livestock and Grains held two days of hearings on H.R. 5546.

In May, this year, that Sub-committee, following a mark-up session, voted unanimously to report H.R. 5546 with an amendment.

We believe that the enactment of S. 2886 will facilitate trading in grain. We believe that the amendments to the U.S. Grain Standards Act provided by S. 2886 are consistent with the Act's stated objective that grain be marketed in an orerly and timely manner.

At this time, with about three years of experience in the weighing of grain and with weighing equipment at export elevators, it is inaccurate and an admission of weakness on the part of FGIS to state, (A) that the enactment of S. 2886 would invite elevators (1) to "adopt inadequate performance standards" for any weighing equipment; (2) "adopt questionable procedures and practices for weighing grain: and (B) that the enactment of S. 2886 would result in the failure of export elevators (1) to have "grain weighing equipment tested in a timely manner and to execute corrections in a timely manner" and (2) to "adeqately monitor and supervise the weighing" of all grain loaded into and out of an export elevator.

S. 2886 will not change the Registration and Reporting Requirements of the U.S. Grain Standards Act. S. 2886 will not change in any way the criminal penalties and civil forfeiture provisions of the Act.

As you deliberate and debate the merits of S. 2886, you should be reminded that the 1976 amendments to the Grain Standards Act required *for the first time* that grain exporters register with the Federal Grain Inspection Service; that an exporter's registration is renewable annually; and "No person shall engage in the business of buying grain for sale in foreign commerce and in the business of handling, weighing, or transporting of grain in foreign commerce unless he has registered with the Administrator as required by the Act and has an unsuspended and *unrevoked certificate of registration*".

The statute provides that an exporter's registration may be suspended or revoked, if after hearing, "the Administrator shall determine that such person" (an exporter) "has violated any provision of this Act or of the regulations promulgated thereunder, or has been convicted of any violations involving the handling, weighing, or inspection of grain under Title 18 of the United States Code."

S. 2886 in no way diminishes the Administrator's broad authority to suspend or revoke an exporter's registration. Nor does the pending proposal limit or vary the Administrator's broad authority to refuse to provide official weighing or inspection service. Nor does the proposal limit or vary the Administrator's authority to impose a civil penalty not to exceed $75,000 for each violation of the Act, including violation of Section 13.

Section 13 is entitled "prohibited Acts".

Section 13(a)(12) provides that no person shall "knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment".

Section 13 enumerates the severe additional criminal penalties on a finding of guilty that registrant or others have engaged in the acts prohibited by Section 13.

This quoted "prohibited act", Section 13(a)(12) is not limited to falsifying or to attempting to falsify official certificates or official forms and includes knowingly using anywhere inaccurate, faulty or defective weighing equipment.

In view of the new registration requirements, the new severe penalties for violations of the Act, and the new civil forfeiture provisions, FGIS should not argue that official inbound weights or outbound weights of shipments within the United States are required to prevent "improprieties" similar to those found in the weighing program prior to 1976. And only an incomplete or distorted analysis of S. 2886 coupled with an unwarranted distrust of operators of export elevators could lead FGIS to conclude that the enactment of S. 2886 would nullify its inventory monitoring program.

In view of the foregoing, no one should be concerned that registered exporters would be other than eternally vigilant in receiving and handling at export houses grain that is not properly and accurately weighed or in loading out from export houses, for the domestic shipment, grain that is not properly and accurately weighed.

STATEMENT OF GLEN D. HOFER, VICE PRESIDENT, GRAIN DIVISION, NATIONAL COUNCIL OF FARMER COOPERATIVES

Mr. Chairman, I am Glen Hofer, Vice President, Grain Division, of the National Council of Farmer Cooperatives. We appreciate the opportunity to express our views concerning S. 2886, a legislative proposal to amend the grain inspection sections of the U.S. Grain Standards Act.

The National Council of Farmer Cooperatives is a nationwide association of cooperative businesses which are owned and controlled by farmers. Its membership includes 121 regional marketing and farm supply cooperatives, the 37 banks of the cooperative Farm Credit System, and 31 state councils of farmer cooperatives. National Council members handle practically every type of agricultural commodity produced in the U.S., market these commodities domestically and around the world, and furnish production supplies and credit to their farmer members and patrons. Five out of six U.S. farmers are members of one or more cooperatives. The National Council represents about 90 percent of the more than 7,500 local farmer cooperatives in the nation, with a combined membership of some 2.5 million farmers.

The Grain Division of the Council, which I represent today, consists of 23 regional and interregional cooperatives, whose primary activities involve the storage, conditioning, processing and marketing, both in domestic and foreign markets, of all grains and oilseeds. In the 1978–79 marketing year their network of local and regional facilities handled 3.6 billion bushels of grain or approximately 40 percent of the total U.S. off-farm grain sales.

The cooperatives control a large segment of the off-farm grain storage at inland points and operate a number of export facilities at port locations. They take delivery of grain from farmer members through their local elevators, and merchandise grain to domestic processors, overseas customers, and to the larger internationals. They are vitally concerned with grain inspection and weighing as shippers, as receivers, and as exporters. In those respects they are not different from any commercial grain company. They respond to the same market stimuli and face the same competitive business conditions. They are part of the "grain trade".

In a very important way, however, the cooperatives are different. They are owned and controlled by the farmers. In fact, they are the farmers. For that reason their perception of the role which should be played by a federal grain inspection system should be considered by the committee as the expression of a producer group as well as a trade entity.

Following disclosure of fradulent activity at certain grain export elevators in the early 1970's, legislation was passed establishing a Federal Grain Inspection Service (FGIS) with authority to rigorously supervise the official weighing and grading of U.S. grain and oilseed shipments overseas. The FGIS has been operational for several years now, and most observers agree that it has effectively controlled the incidence of wrongdoing at the export elevators. In fact, I would like to emphasize here our support for FGIS programs for supervising outbound weights and grades from U.S. grain export elevators. They have done much to restore the creditability damaged by the earlier scandals.

However, as is often the case when government is given carte blanche in a regulatory area, excesses have become apparent—excesses which are superfluous to adequate supervision of exports, but which are adding significantly to the cost of marketing commodities. This cost, we contend, is always eventually borne by the farmer.

Specifically, I refer to mandatory official government supervision of weighing of all grain inbound to an export elevator at a port location. Such supervision is expensive, and, in most cases, redundant, with neither shipper nor receiver considering it necessary to settlement of the contract between them.

Accordingly, legislative relief has been proposed in the form of S. 2886 and its companion bill H.R. 5546, which has been passed by the House Committee on Agriculture. These bills would amend the FGIS sections of the Grain Standards Act in the following manner:

1. Provide that intracompany shipments of grain into an export elevator by any mode of transportation need not be officially weighed. This would cover, for instance, shipments of corn from a regional cooperative in Iowa to its export elevator on the Gulf.

2. Provide that official weighing requirements on inbound shipments to an export elevator by rail or truck shall be waived unless requested by shipper or receiver. This would give small independent elevators or farmers who ship directly to export elevators by truck or rail the option of requesting government supervision if they so desire.

3. Provide the waiver, unless requested by shipper or receiver, of supervision on outbound shipments from an export elevator if the grain is not going overseas. Such shipments are somewhat unusual, but some export elevators do make domestic shipments to feedyards or processing plants in their immediate vicinity.

The National Council of Farmer Cooperatives actively supports these proposed amendments. It is our conviction that S. 2886 would save U.S. farmers millions of dollars annually in marketing costs without posing any threat to the authority or ability of FGIS to effectively monitor the export of U.S. grains and oilseeds.

Mr. Chairman, attached to this short statement are several pages of documented cost figures from two of our prominent grain export cooperatives, Union Equity Cooperative Exchange of Enid, Oklahoma, which operates an export facility on the Houston Ship Channel; and Producers Grain Corporation of Amarillo, Texas, which owns a similar operation at Corpus Christi, Texas. Please remember that these costs do reflect back to the farm gate as part of marketing costs.

Again, we appreciate the opportunity to appear before the Committee and we urge your favorable consideration of S. 2886.

ATTACHMENT TO TESTIMONY

Union Equity Exchange

A. *Inbound rail shipments.*—In 1979, 70 percent or 33,622 rail cars unloaded at the export elevator were intra-company transfer.

1. On these cars weight supervision was paid for when the cars were loaded. The cost at the Enid, Oklahoma location is $2.25 per car and at the Fort Worth location it is $2.50 per car.

2. At the export elevator, the cost of inbound weight supervision is $12.80 to $16.00 per hour—or an average of $3.40 per car.

3. In 1979, 48,032 cars were unloaded at Union Equity Houston for a total cost of $163,310.00 for three FGIS weight supervisors to observe the unloading of these cars.

4. Rail cars that are shipped direct and unloaded at the export elevator by the local cooperatives that own the export elevator are also supervised by FGIS—this is grain very similar to intra-company transfer. The manager of these local cooperatives have confidence and trust in the export elevator and do not feel the inbound cost of FGIS weight supervision is necessary.

B. *Inbound truck shipments.*—The 25,959 grain trucks unloaded at the export elevator during 1979 received an extra cost of $66,230.00 to cover the $12.80 to $16.00 per hour cost of two (2) FGIS weight supervisors observing the weighing of each truck unloaded.

1. Approximately 90 percent of these grain trucks come from Union Equity's local cooperative elevators and Union Equity's own terminals at Enid and Fort Worth. So this, to us, is the same as intra-company transfer.

2. The managers of these local cooperatives (shippers) do not feel the burden of additional cost for FGIS employees to observe the unloading of their trucks is necessary.

C. *Total costs.*—Total cost for the inbound weight supervision on rail cars and trucks for 1979 was $229,540.00.

Producers Grain Corporation

For the period covering 10/1/77 (when FGIS inbound weight supervision was imposed at Corpus Christi) through July 5, 1980—approximately 33 months.

Trucks unloaded	55,301
Cars unloaded	42,981
Cost for FGIS weight supervision (trucks)	$79,233.20
Cost for FGIS weight supervision (cars)	$50,463.20
Total cost—trucks and cars	$629,696.40
Average annual cost	$228,980.00

STATEMENT OF JOHN P. CASE, PRESIDENT, MINNEAPOLIS GRAIN EXCHANGE, MINNEAPOLIS, MINN.

My name is John P. Case. I am President of the Minneapolis Grain Exchange and the President of the Kellogg Commission Company in Minneapolis. With me is W. Dustin Mirick, Assistant Secretary of the Exchange. We appreciate appearing before the Committee to testify on S. 2886, a bill to amend the Grain Standards Act.

S. 2886 will waive mandatory Federal Grain Inspection Service (FGIS) inbound weights at export elevators by all modes of transportation, except barges, unless the shipper or the receiver requests that such grain be officially weighed. Also, all domestic shipments from export elevators, regardless of modes of transportation, will be exempt unless offical weights are requested. The bill will also eliminate inbound or outbound FGIS weights on any intra-company domestic shipments involving export elevators. This will permit a company to ship from one of its domestic elevators to another of its domestic elevators by any mode of transportation without either FGIS inbound or outbound weights.

Members of the Minneapolis Grain Exchange strongly urge that the United States Grain Standards Act be amended as proposed in S. 2886. We favor the legislation because it will reduce costs to farmers, country shippers, and consumers, as well as improve the efficiency of grain weighing.

If S. 2886 is enacted, the savings to farmers and country shippers will be substantial. The Minnesota State Grain Inspection Department, the agency designated by FGIS to weigh grain at the Port of Duluth, charges $4.50 per truck and $7.25 per rail car. At the Port of Superior, fees are $4.00 per truck and $7.25 per rail car. During the calendar year 1979, we recorded that 186,015 trucks and 63,888 rail cars unloaded at these Ports. Using the current fee schedules at Duluth/Superior, the weighing bill paid by the country shipper exceeded $1,245,450. Had the same grain unloaded in the Minneapolis market under the supervision of the Minneapolis Grain Exchange Weighing Department, the cost to the country shipper would have been only $525,274. This is a savings of $720,176 or more than half the fees charged by FGIS in Duluth/Superior. This savings is for the Duluth/Superior market only, but savings to the country shipper will accrue in every other export market, by eliminating costly, unwanted and unneeded mandatory weighing. I know from personal experience that the 250 country elevators in Minnesota, North Dakota, South Dakota and Montana, served by the Kellogg Commission Company, see little need for this costly weighing service that does nothing except drive up their cost of marketing which they pass back to the producer. Nearly all the country elevators in our area are owned by farmers so the farmer would benefit most from S. 2886. These FGIS fees are charged directly back to the country elevator and the farmers.

Consumers will also benefit from S. 2886. In 1979, approximately 8,300 rail cars and 47,727,000 bushels of grain in lake vesels moved out of the Duluth/Superior export elevators into the domestic market. The FGIS weighing charges were about $143,697. Had the same amount of grain moved out of the Minneapolis Market, the total weighing cost would have been approximately ⅓ of the FGIS fees—about $54,989—a savings to the consumer of approximately $88,708. Similar savings will occur at all other export markets where grain also moves into the domestic market. We see no reason to burden the consumers of America with this unnecessary cost.

Why is weighing in the Minneapolis market so much less costly than in the Duluth/Superior market under FGIS? Grain in Minneapolis is weighed under a Class II system of weighing supervised by the Minneapolis Grain Exchange. Under Class II weighing, there is partial supervision of all inbound and outbound weights while under FGIS there is 100 percent supervision. FGIS officials may argue that 100 percent supervision of weighing is necessary for a good weighing program; but we, who operate in both the Minneapolis and Duluth/Superior markets do not agree. Not only is our Minneapolis system less costly, it is more efficient. Before 1967, practically all terminal elevators in both Duluth/Superior and Minneapolis/St. Paul were licensed by the State of Minnesota. Minnesota had a law requiring 100 percent supervision of weights by State of Minnesota employees. With 100 percent supervision, there were still many complaints by shippers about Minnesota

weights. In 1967, all the elevators, except two, gave up their State license and became licensed as Federal warehouses under the U.S. Warehouse Act which allows for partial supervision. The number of complaints about weights at Minnesota terminals dropped dramatically. Furthermore, weights are more accurate under partial supervision. The reason for this is simple. Under partial supervision, the weighers at each elevator are licensed and bonded and are responsible for the weights. Inaccurate weights can cost them their jobs. The result is that weights are better and complaints are rare.

The 420 members of the Minneapolis Grain Exchange represent a cross section of the trade, including commission firms, country and terminal elevators, processors, exporters and farmers. There is unanimous agreement among these diverse interests that this legislation to amend the Grain Standards Act is badly needed and long overdue. We do not believe that the proposed amendment will prevent FGIS in any way from carrying out the original intentions of the law. The purpose is to insure the overseas buyer that he will receive the quality and quantity of the grain purchased. Eliminating mandatory weights on inbound grain, except barge; mandatory weights on intra-company domestic shipments and mandatory weights on outbound domestic shipments will not prevent FGIS from doing its job. The amendment is a step toward reducing government regulations that inflate costs and interfere with competition. There will be direct savings to farmers and consumers, and grain weighing will be more efficient.

NORTH DAKOTA GRAIN DEALERS ASSOCIATION,
Fargo, N. Dak., July 23, 1980.

Hon. WALTER D. HUDDLESTON,
Chairman, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Senate Agriculture Committee, Washington, D.C.

DEAR SENATOR: We understand your Subcommittee will hold hearings on S. 2886, amendment to the Grain Standards Act, next Tuesday July 29. The 600 licensed and bonded country elevators of North Dakota, whose interests are represented by this Association, would like you and your fellow committee members to consider the following.

We support S. 2886 on the grounds it will eliminate costly and unnecessary duplicate services. Why should shippers and/or receivers be required to pay for mandatory inbound weights if they prefer not to? It seems the sections of S. 2886 which provide either shipper or receiver the option of mandatory weights on demand is sufficient protection.

It was our understanding that the creation of the Federal Grain Inspection Service in 1976 was for purposes of policing the *export* of grain. Why then do we need this meddling in what is in reality an interior transaction?

Fees charged for the mandatory inbound weighing weigh heavily on the shippers and farmer's pocketbooks. We need no further incumberances in these days of grain embargo, rising energy costs, high interest rates and a generally tight farm economy. North Dakota farmers are presently suffering one of the worst droughts since the 1930's. Every effort must be made to reduce the marketing bill, not add to it by requiring extra weighing services.

FGIS itself will be streamlined with the adoption of S. 2886. Why should we keep or add unnecessary employees to this agency in a time of monetary restraint?

Fifty five percent of North Dakota grain moves through the Duluth/Superior port. To our knowledge no cases of weighing scandal or abuse were documented at that port during the massive investigations of the mid-70's. It is thus doubly unfair to penalize the shippers and farmers of this region by mandatory inbound weights.

By copy of this letter we are expressing our views to Senators Young and Burdick also.

Thank you for your time and consideration.

Sincerely,

STEVEN D. STREGE,
Executive Vice President.

FARMERS ELEVATOR ASSOCIATION OF MINNESOTA,
Minneapolis, Minn., July 25, 1980.

Hon. WALTER D. HUDDLESTON,
Chairman, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Senate Agriculture Committee, Washington, D.C.

DEAR SENATOR: We are a trade association of country grain elevators. Our 216 cooperative members and our 110 independent elevators market a high percentage of Minnesota grown grain and soybeans. Over 100,000 of Minnesota's 114,000 farmers are patrons of our member elevators.

We would like to make known our support of S. 2886 amending the Grain Standards Act. It would be redundant for me to point out to you what our galloping inflation has done to the cost of operating country elevators as well as all other business operations including farming.

S. 2886 will eliminate expensive, unnecessary and duplicate services, the costs of which is ultimately borne by the producer. I am certain that you are quite aware that the increased input costs such as fuel and fertilizer have done to the farmer. While the costs of S. 2886 are hidden as far as the farmer in concerned, nevertheless they come right back on his shoulders.

We are unaware of any pressing demand for these mandatory weights and seriously question as to whether they fall under the jurisdiction of the Federal Grain Inspection Service. It would appear that they are seeking to acquire some turf that has no bearing on grain export. Bureaucracy has a tendency to expand and we feel that this is a classic example which will do nothing but add to the already exhorbitant cost of government.

We respectfully request your support of S. 2886.

Sincerely,

ROBERT F. ADAMEK, *Executive Secretary.*

NORTHWEST COUNTRY ELEVATOR ASSOCIATION,
Minneapolis, Minn., July 25, 1980.

SENATE SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES,
Washington, D.C.

DEAR MEMBERS OF THE SUBCOMMITTEE: The Northwest Country Elevator Association represents 325 country elevators operating in Montana, Minnesota, North and South Dakota. We buy grain from farmers and then resell and ship it to various terminals including the export elevators in the Pacific Northwest and the Duluth/Superior area.

We have reviewed the testimony of John Case, Minneapolis Grain Exchange, and Pete Stallcop, Northwest Terminal Elevator Association. We wholeheartedly endorse, and join with them in requesting that S. 2886 be approved.

Passage of S. 2886 would eliminate mandatory FGIS inbound weights. This would result in a significant reduction of our costs when we ship to these export elevators. However, this legislation would still permit us to request these FGIS official weights if we believe it to be necessary.

Passage of this bill would also promote competiveness within the grain marketing system, the final benefactor being the producer.

We stand in support of and request your passage of S. 2886.

Sincerely yours,

JOHN HEALY, *Executive Director.*

STATEMENT OF THOMAS L. IRMEN, GENERAL MANAGER, GRAIN GROUP AND GENERAL PARTNER, THE ANDERSONS, MAUMEE, OHIO, ALSO REPRESENTING THE OHIO GRAIN, FEED & FERTILIZER ASSOCIATION

I am Thomas L. Irmen, a General Partner and Manager of the Grain Group of The Andersons which owns and operates grain terminal warehouses in Maumee, Ohio; Delphi, Indiana and Champaign, Illinois and a marine terminal facility at Toledo, Ohio, with combined storage capacity of slightly less than 40 million bushels. I am here today to speak in support of Senate Bill 2886, a bill to amend the U.S. Grain Standards Act to permit grain delivered to export elevators by means of conveyance other than barge to be transferred into such export elevators without official weighing, among other purposes. In this regard, I am addressing you on behalf of The Andersons and also in my capacity as an officer of the Ohio Grain,

Feed and Fertilizer Association which represents over 800 country elevators and grain terminal warehouses throughout Ohio.

If I were to take you all back to our Toledo, Ohio marine facility today, I would show you a modern, high-speed facility which can receive up to one thousand trucks per day, loads ships at 60,000 bushels per hour and which, in the nine-month navigation season of 1979, loaded out 89 million bushels of export grain and soybeans. As we toured the facility, I would show you our Company's dedication to efficient, high-speed, low-cost service to its customers, the farmers and grain dealers in our marketing area. You would see many examples of the emphasis we place on creating an atmosphere for our employees which recognizes the dignity of hard work; the duty, and privilege, we have in serving agriculture and the fundamental fairness of rewarding excellence above mediocrity.

As we moved through the plant, I'd share with you our challenges and difficulties. Foul weather, interruptions in transportation, and mechanical breakdowns would all be discussed. Some of our problems are Acts of God and are humbling. Some are human error which are to be expected and can be solved. However, there'd be one very serious problem which is deeply frustrating and completely beyond our control. I'm referring to the current program of compulsory inbound weighing supervision at export facilities conducted by the Federal Grain Inspection Service, better known as "FGIS".

As mentioned earlier, in 1979 The Andersons loaded 89 million bushels out of its Toledo marine facility. Of this total volume, 31% or 27.8 million bushels, was grain owned by The Andersons and transferred by rail from its Maumee facility 9 miles away to the marine terminal. FGIS charged The Andersons for weighing its own grain, in its own rail cars, being transferred into its own facility. We realize the current statute is unequivocal in this regard; but, gentleman, is this what was intended? The intent of Congress was apparently to protect shippers against unscrupulous weighing practices. What purpose is served by official weights on our own transferred grain? FGIS tells us Congress also wanted FGIS to be able to compare inbound weights with outbound weights as a double-check on outbound weights. This is an unreasonable and costly redundancy which Senate Bill 2886 would eliminate.

For the 1979 nine-month navigation season, the Andersons paid $377,000 in FGIS charges. By way of contrast, The Andersons' Total labor costs at the marine facility for the entire year of 1979, including all operations, supervision and administration, were $525,000. Of the total FGIS charges, a full $88,000 was attributable to inbound weighing supervision.

A May 21, 1979 report of the Office of the Inspector General of the Department of Agriculture dealt quite properly with the issue of official weighing of inbound company-owned grain when it concluded at page 25:

"The requirement for official weighing of company-owned grain can only be justified if one takes the position that FGIS cannot adequately supervise outbound weighing to ensure accurate weights."

At this point, the report refers the reader to its comments on Inventory Monitoring. Again I quote the Inspector General's report, at page 52:

"We believe that such monitoring of inventory records at export elevators is a wasteful practice. Inventory recordkeeping is not an exact science. The actual beginning and ending inventories used may be in error and the drying and cleaning losses along with the mixing of grains are variables that are very difficult to control. In this regard, we have noted that even though inventories at certain elevators have been monitored, questions still remain concerning what really happened when an overage or shortage was noted."

Compulsory official inbound weighing of the tens of thousands of truckloads which arrive at The Andersons' marine terminal is equally unnecessary. Our customers realize that they must bear the cost of compulsory inbound weights. They often have their own weights at point of origin and they do not dump their loads unless they are satisfied with the weight indicated. Even more compelling is the fact that there is still great mutual trust in the grain marketplace, despite what you hear from those outside the industry whose purposes are best served by denying this fact. If a shipper wants official weights, he's more than welcome to them and Senate Bill 2886 would guarantee this right; but compulsory inbound weighing is neither fair nor necessary.

A November 30, 1979 report of the General Accounting Office concluded, at page 41, that:

"Grain transported by truck has the highest weight monitoring cost per unit. The primary reason is that, individually, trucks haul a much smaller quantity of grain than railcars and barges and have the least efficient unloading operation. A truckload of grain is only about 750 bushels, compared with 3,000 bushels for hopper

railcars and 50,000 bushels for barges. * * * Truck shipments also differ from the rail and barge shipments in that the truck driver is available as a representative of the shipper to observe weighing operations. With appropriate revision to weighing program provisions, the truck driver could perform some of the weight monitors' functions by observing grain unloading, observing weighing to prevent scale manipulation, and possibly validating the weight record. It would be practical for the truck driver to do this however, only when the scale is located at the truck dump. (Which, by the way, is the case at our elevators and almost all other export elevators.) We believe that such an arrangement would provide reasonable assurance of weight accuracy and could hold weight monitoring costs to a minimum."

Just as disturbing, in the long run possibly more costly, is the dampening effect the daily presence of the FGIS "sit-and-watch-someone-else-work" personnel has on the morale of not only our employees, but, indeed, our customers. It's a simple reaction—people don't like to pay for services they don't want or need and on top of that see their tax dollars wasted. It's also pretty clear to me that no matter how high the calibre of FGIS personnel, they will never have, nor can they have, the same concern for our customers as we do. To have these people virtually control what happens to our customer delivering grain goes against every sound principle of good customer relations, especially when that same customer would quickly do without the inbound weight inspection.

I have described our situation because it's the one I know best. However, from my many visits and meetings with others in the industry, I can assure you that a similar situation exists at most other export elevators. In fact, the costs and inconveniences described by others are in many cases far in excess of those experienced by The Andersons.

The Ohio Grain, Feed and Fertilizer Association supports the position of grain export elevators in this matter because a large percentage of its members' grain flows through the Port of Toledo. They share in these unnecessary costs. Remember, gentlemen, these are the very same people that FGIS purports to "protect".

Gentlemen, Senate Bill 2886 is a fair and reasonable way to remedy these most costly and wasteful problems without prejudice to the true purposes of the current Grain Standards Act. Intra-company shipments are relieved of needless official weighing supervision, needless because the FGIS inventory monitoring theory has been proved a "myth". Other inbound shipments, except for barge movements, are also freed of compulsory weighing *unless* requested by the parties involved, the very best people to make those judgments. Compulsory official inbound weighing is retained for barge movements solely because this mode of transportation differs significantly from other modes in that title to a barge shipment often changes hands frequently enroute making owner surveillance of the final disposition of his property almost impossible. Finally, Senate Bill 2886 accords domestic shipments from export elevators their proper status under the law.

Gentlemen, we at The Andersons are very pleased and proud that our Congressmen Thomas L. Ashley and Floyd Fithian and Senators John Glenn and Richard Lugar have chosen to support this legislation in their respective Houses. They have become convinced of its merits after careful review. I'm sure you, too, will arrive at the same conclusion when you've been fully briefed. We'll be most happy to give any of you whatever additional information you may require.

STATEMENT OF REUBEN L. JOHNSON, DIRECTOR OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

I am Reuben L. Johnson, Director of Legislative Services, National Farmers Union, 1012 Fourteenth Street, N.W., Washington, D.C.

On October 18, 1979, Farmers Union presented testimony before the House Agriculture Subcommittee on Livestock and Grains in opposition to bills which would relax provisions of the United States Grain Inspection Act concerning official weight inspection. The testimony which we presented at the hearing was in opposition to both H.R. 5546 and H.R. 5110.

H.R. 5546 has subsequently been approved by the Subcommittee and reported by the full Committee.

On June 27, a bill (S. 2886) was introduced with co-sponsors (Senators Helms, Young, Dole, Lugar, Boschwitz, Jepsen, Zorinsky, Boren, and Glenn).

At the time that our testimony was presented to the House Agriculture Subcommitee on Livestock and Grains on October 18, we witnessed testimony by Administrator L. E. Bartelt that legislation introduced in the House, H.R. 5446, "strikes at the heart of the nationally uniform official weighing program that FGIS has developed from zero over the past three years."

In spite of the strong opposition of the Administrator to the bill at that time, Farmers Union sought to suggest an area of compromise. While opposing the legislation, our Board of Directors meeting here in Washington, D.C., on September 10, 1979, took action to oppose legislative changes in the present system of weight inspection concerning inland and export shipments of grain unless the legislation provides for a system of spot-checks to operate in conjunction with and as an alternative at the discretion of the Administrator of the Federal Grain Inspection Service, to the full-time weight inspection requirements of existing law.

Apparently, the proponents of H.R. 5546 are not willing to accept any compromise since they have continued to support legislation here in the Senate, S. 2886, which basically would accomplish the same results as H.R. 5546.

As we have continued to attempt to assess the effects of these bills, we have become convinced that additional study is needed to assess the effects on what we consider to be a successful program to assure honest weight in our grain trade, both domestically and overseas. We do not believe that sufficient attention has been given to weighing the effect of any cost-cutting against changes in the program which could result in the same kind of violations and abuses which resulted in Congress enacting the legislation in the first place.

In this connection, we believe a brief review of some of the history which led to the enactment of the United States Grain Inspection agency would prove to be helpful in the record that this Subcommittee is making today as a result of these hearings.

BACKGROUND INFORMATION

In 1976, Congress amended the United States Grain Standards Act as a result of investigation of grain trading abuses which resulted in revealing grain scandals, including widespread mis-weighing, conspiracy, fraud, bribery, and grain theft which resulted in the indictment of 111 individuals and 16 grain firms. The 1976 amendments came primarily through leadership from Senators Humphrey and Clark and the Senate Agriculture Committee.

The 1976 amendments tightened up grain inspection procedures, but were most notable for requiring a program of official weighing as a means to correct the widespread abuses in the grain trade.

The new weighing requirements mandated that the Federal Grain Inspection Service supervise 100 percent of the time all grain going through an export point and all grain shipped out of an export facility. No longer would export elevators be allowed to hire private agencies to supervise the weighing of grain. At the interior, official weighing would be on a request basis. FGIS was directed by the Act to charge a fee for official weighing. The past two-and-one-half years of FGIS experience with official weighing has resulted in reliable weights at export as indicated by fewer foreign complaints about U.S. weights. A growing number of interior elevators are requesting official weights at origin, largely because the FGIS reputation for accurate weights has proved to be effective, and support for the services of FGIS is growing.

Despite the success of the grain weighing system, a number of export grain elevators and some grain terminals resent the presence of federal inspectors in spite of the fact that FGIS has been successful in carrying out the Congressional mandate and has made every effort to see that its services have been extended in full conformity with provisions of the Federal Grain Inspection Act.

In 1978, the so-called Ashley bill was first introduced into the House of Representatives. The bill seeks to exempt some official inbound weighing requirements at export. The exemptions are:

(1) Intracompany shipments of grain received by export elevators would be exempt;

(2) Intercompany shipments of grain received by export elevators by modes other than barge would be waived unless the shipper or the receiver requests official weighing; and

(3) Domestic outbound shipments at export elevators would be waived unless requested by either the shipper or the receiver.

The bill by Senator Dole, S. 2886, has similar provisions.

The grain trade's public reasons for seeking diminution of official inbound weighing at export is to cut elevator costs. FGIS estimates the cost to an elevator for official inbound weighing is around one-fifth of a cent per bushel. Such costs are not burdensome, and producers are willing to share in the cost to maintain the high standards which have resulted from the weight inspection program.

Elevators could cut their weighing costs if they would allow an FGIS employee to do the actual weighing, rather than over-the-shoulder supervision of elevator employees doing the weighing. Very few export elevators have chosen to do so.

Given the low costs of weighing, the reliability of the FGIS-supervised weighing system and the buccaneer history of the grain trade, the Dole-Ashley bill can then be more accurately viewed as the nose of the camel under the tent rather than a cost-saving device for a "besieged business." Some elevators resent the weighing procedures because of inventory information obtained by federal inspectors. If FGIS cannot get reliable inbound and outbound weights, then an essential portion of the weighing system has been removed and the system badly ruptured. Indeed, the Dole-Ashley bill would make weighing as a system unreliable, and FGIS would be unable to carry out the Congressional objectives Congress deemed necessary when it passed the Act.

The Dole-Ashley bill is simply not necessary. FGIS, for example, has the authority to waive portions of the inbound weighing requirements provided the objectives of the Act are not impaired. The USDA has indicated a willingness to provide regulations through rulemaking which would result in less than 100 percent supervision of weighing at export on the inbound weight. The Department feels that such an exemption should be on a spot-check or trail basis and not locked in by legislation. If FGIS can exercise its authority, the opportunity is then present to correct errors through administrative action rather than the necessity of Congress to take further action.

In summary, FGIS is put in the position, on the one hand, of Congressionally-mandated responsibility for executing a reliable weighing system at export. The Dole-Ashley bill, on the other hand, forces it to discard a vital part of its weighing system and leaves it without the tools to carry out the Congressional mandate spelled out in the Act.

Such a situation is simply untenable and made the more so because legislative change is being thrust upon the system when the option of regulatory change is present. Regulatory change is more appropriate and, therefore, legislative action is without any foundation whatsoever.

STATEMENT OF VERNIE R. GLASSON, DIRECTOR, NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FEDERATION

The American Farm Bureau Federation appreciates the opportunity to comment on S. 2886, a bill by Senator Dole and others to amend the United States Grain Standards Act to provide for the waiving of mandatory FGIS weighing requirements on certain types of grain shipments which are transferred into or out of an export elevator by any mode other than barge.

Farm Bureau has been concerned with the matter of grain inspection and weight supervision for several years. Farm Bureau grain advisory committees met on a number of occasions in 1976 to address concerns with respect to grain inspection from the farmers' viewpoint as irregularities came to the attention of the public and Congress. However, most of these concerns and discussions centered around the issue of inspection rather than weight supervision.

We closely followed the legislative proceedings that resulted in the creation of the Federal Grain Inspection Service. At that time, Farm Bureau policy strongly supported changes in the system to improve the integrity, and to assure the quality of U.S. grain exports. Our policy, however, stopped short of supporting a completely federalized system of grain inspection.

Lengthy Congressional consideration led to enactment of the new law which created the FGIS. Farm Bureau policy for 1977 reflected a general acceptance of this Act and, in particular, stressed support for the strict enforcement of the criminal penalties.

Following enactment of the Act, farmers' concerns shifted to the cost of the program and, in particular, to the user fees that came about as a result of the Act. Farm Bureau continues to be concerned with the cost of the program, and has encouraged FGIS to reduce costs in any way that does not impact on the quality assurance feature of the program.

Although Farm Bureau policy in 1978 was not significantly different from that in 1977, a major change occurred in our 1979 policy, and was again adopted this year. That policy, stated in part, reads:

"Farm Bureau should vigorously pursue a simplification of the inspection and regulation of grain export facilities. These facilities are overburdened with inspectors, handling is slowed and costs are increased by regulations of the federal grain inspection service."

This policy change reflected an increased frustration with the new grain inspection system, not only with the additional costs involved, but also with the problems encountered in transferring grain to export elevators and slowdowns in the overall grain movement system. Farm Bureau testified last year in support of legislation

similar to S. 2886, which is pending before the House of Representatives. Farm Bureau continues to support this measure, and we believe that S. 2886 will provide for a significant improvement over the existing inbound weight supervision system at export elevators.

Farm Bureau policy for 1980 states in this regard:

"We support legislation which will permit export terminals to waive inbound weights of intra-company shipments and accept contractual agreements for weighing in lieu of the federal inspector weighing now required."

In general, Farm Bureau has supported a system of "spot-checking" by FGIS as the most acceptable method for supervising inbound weighing at export elevators. However, we feel that the provisions in S. 2886 allowing for shippers and/or receivers to request official FGIS supervision will adequately serve shipper-receiver interests.

In conclusion, Farm Bureau urges a thorough review of the present system of grain inspection and weight supervision. We strongly believe that there is the need to relieve the system from overregulation that has created, and will continue to create, bottlenecks and delays in the movement of U.S. grain. Enactment of S. 2886 is one step toward accomplishing this objective.

STATEMENT OF JOSEPH HALOW, EXECUTIVE DIRECTOR, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, INC.

My name is Joseph Halow, and I am Executive Director of the North American Export Grain Association. Ours is an association whose membership includes 28 of the leading exporters of grain from the United States, both private stock companies and cooperatives. It is obvious that we have a very deep interest in this legislation, and we very much appreciate the opportunity to express our views. We appreciate even more the fact that this Committee is considering a measure which would provide the grain industry some relief from what has become a burden of overregulation.

Under current regulations—which may or may not have been foreseen by the Grain Standards Act Amendment which brought the Federal Grain Inspection Service into existence—elevators are required to have official weighing and official supervision of weighing of grain which comes in and goes out of the export elevators. In many instances this covers grain which is being transferred from one elevator to another within the same firm. It covers on other occasions grain which is not even moving into export but which is ultimately fed back into the domestic market. It means, in any event, that grain is frequently weighed by FGIS officials several times, at a cost which is many times that of weighing by agencies other than those connected with FGIS. It serves no useful purpose but to increase the cost of handling the grain. This will obviously serve to make U.S. grain non-competitive in instances when trade is being conducted in a buyer's market or under circumstances when U.S. exporters must bid more aggressively.

In other instances, when the additional cost cannot be passed on to the customer, it then must be passed back to the farmer who, in a buyer's market, is already receiving too little for his grain.

We urge strongly that the official inbound weighing requirement for export elevators be lifted and that instead inbound weighing be permissive; that is, available at the request of buyer and/or seller. Under such circumstances the firm which requests it knows that there is an additional cost involved and is obviously prepared to pay it. This then does not become an additional burden for the farmer or the industry.

We understand the Federal Grain Inspection Service officials are strongly opposed to this Bill and have been actively lobbying in an effort to have it defeated. We understand, however, that their objections are based not so much on the need or lack of need for inbound weighing—which they themselves apparently concede is not of particular importance—but because they fear this may be but the beginning of the erosion of some of their regulatory control over the export industry. Their own statements indicate that all of the regulation is not necessary, for they have attempted to justify some regulation by statements such as "We don't think anyone is doing anything wrong, but it is possible someone could take advantage of a lack of control in some area." Another argument it that "We are afraid that if the General Accounting Office again investigates the inspection service, we may be criticized if we are not doing it."

A great deal of the regulations which govern the activities of the Federal Grain Inspection Service were in response to what the FGIS referred to as "widely disclosed irregularities in inspection and weighing in 1974 and 1975." Actually the irregularities in which they referred were more widely disclosed than they were

prevalent in the grains industry, for they involved an extremely small percentage of the total transaction.

It is, in any event, now 1980, and those who have been charged with crimes and found guilty have long since paid for them. There are, furthermore, many exporting firms and individuals whose business practices have always been impeccable, and whose integrity is beyond reproach. It is unfair and certainly highly inefficient to continue to extend what appears to be unnecessary regulation because of some isolated irregularities which have long since been corrected.

It is, furthermore, hardly progressive for the FGIS to suggest that any decisions taken in the past never be reexamined; but the FGIS has continued to express the fear that Congress might reconsider the Grain Standards Act legislation which it approved in 1976.

As indicated earlier, FGIS officials have also tended to base their need for greater regulation of the industry on their concern over possible criticism in the event of future audits or investigations.

We feel the FGIS should base its case for continuation of this regulation on the merits of whatever it may feel are its efficiencies and not on fear of the loss of some of its regulatory control over the industry. This the FGIS has failed to do.

It was, in fact, the finding of the USDA's Office of the Inspector General, as contained in a report which they released in May 1979, that mandatory inbound weighing at export elevators is questionable, particularly since about 40 percent of the grain weighed is company-owned grain; that is, grain which is being moved from one location to another within the same firm; or bought on origin weights. The OIG is, of course, part of the USDA, of which the FGIS is also a part.

Another reason given for FGIS opposition to this Bill is that elimination of the inbound weighing requirement would make it impossible for the FGIS to exercise a daily inventory control of those in the grain industry. We feel, however, that in attempting to exercise such a control the FGIS is stepping way beyond the intent of the Congress. Such a specific control is not foreseen in the Grain Standards Act which created the Federal Grain Inspection Service, and this is merely an assumption of control by the Federal Grain Inspection Service.

In its report the USDA's Office of Inspector General finds that efforts to monitor daily inventory records are "impractical," and they suggest spot-checking as an alternative and more practical method. The OIG also indicates the FGIS contention that they need inbound weighing at export elevators to effectively monitor inventories suggests inadequate supervision of outbound weighing.

Regulations should not be an end in itself but a service to the farmer, the grain industry and the nation. It ceases to be a service when it becomes an unnecessary and undesired assumption of control of a business function. If buyer and/or seller should wish to have official inbound weighing, we feel it should be available to them. It should, however, not be forced on them to become an additional cost of doing business. Ultimately increasing the cost of doing business rebounds in additional cost to the nation, for the nation must pay inflated costs or suffer when business is lost because U.S. goods and services become too expensive in the world markets.

We strongly urge passage of S. 2886 and again thank the Committee for considering this important piece of legislation.

STATEMENT OF WILLIAM E. LANE, CHIEF, GRAIN AND TRANSPORTATION SECTION, DIVISION OF MARKETING, NORTH CAROLINA DEPARTMENT OF AGRICULTURE, RALEIGH, N.C.

My name is William E. Lane, I am Chief of the Grain & Transportation Section of the North Carolina Department of Agriculture and make this statement at the request and in behalf of James A. Graham, the duly elected Commissioner of Agriculture of the State of North Carolina. I am charged by the state with the supervision of matters relating to grain and agricultural transportation within the state. This Statement is in support of Senate Bill 2569.

The North Carolina Department of Agriculture has a long and excellent history as the grain inspection agency for the entire State of North Carolina. This includes domestic as well as export inspections. Most of our export inspection work took place during the fifties and sixties and very little export business has been done since the company shipping grain into export markets closed during the sixties.

However, that does not mean that the North Carolina Department of Agriculture's grain inspection program was not ready, willing and able to inspect grain for export and we still are in that position today.

We now have a company who is very interested in building an export facility at one of our ports and is interested in the North Carolina Department of Agriculture handling the inspection.

Of course we are interested in both having a new exporter of grain at one of our ports as well as handling the inspection of grain at the port. Also one other company does some bagged grain export business each year from North Carolina.

It must be noted that the ports at Norfolk, Virginia and Charleston, South Carolina have inspection performed by the Departments of Agriculture in their inspection stations, using the fees and charges as set forth by those departments. Under these situations it becomes even more imperative that the North Carolina Department of Agriculture be delegated as the export inspection agency in North Carolina so that an export firm would have competitive inspection rates with the two competing ports of Norfolk and Charleston.

The rates charged by both of these ports and the current fees and charges of the North Carolina Department of Agriculture are substantially lower than those charged by the Federal Grain Inspection Service who would become the inspection agency.

This would allow the competition for grain at Norfolk and Charleston to have an inspection fee price advantage over a firm located at a North Carolina port that would be unfair and detrimental to its development.

We are asking that Senate bill 2569 be passed so that the North Carolina Department of Agriculture can be delegated as the Export inspection agency in North Carolina and help our state more fully develop its agricultural resources.

STATEMENT OF GRANVILLE TILGHMAN, PRESIDENT, CAROLINA-VIRGINIA GRAIN AND FEED ASSOCIATION, DUNN, N.C.

I am Granville Tilghman, President of The Carolinas-Virginia Grain and Feed Association. This is an Association of Country Elevators, Soy Processors, Commercial Feed Mills, Livestock Integrators and Exporters active in the states of Virginia, North and South Carolina and Georgia.

Throughout this four state area, the North Carolina State Grain Inspection service of the North Carolina Department of Agriculture enjoys an excellent reputation both from the high level of technical expertise of its personnel and the unimpeachable integrity of its administration. This high regard is shared by both buyers and sellers alike. The North Carolina Grain Inspection Service is held in high esteem by farmers and farm organizations.

The North Carolina Department of Agriculture is the official domestic grain inspection agency for the State and handled all of the export inspections for cargos shipped from the port of Morehead City in the 1950's and 1960's when that port had an active export facility.

The cost of inspection is an important point on the selection by a shipper of his port of origin. The neighboring States of Virginia and South Carolina have high volume bulk grain export facilities at Norfolk and at Charleston. The inspections of grain are administered by the Federal Grain Inspection Service.

The cost of maintaining the Federal Grain Inspection Service at a port is considerable, of course, at the large bulk handling ports this cost can be spread over many shipments.

Export grain originating from North Carolina at this time are fewer, smaller shipments of, primarily, bagged grain going to lesser developed countries which do not have good mechanical grain handling equipment. Having to maintain a Federal Grain Inspection Service at the North Carolina ports would be cost prohibitive as the already high cost of maintaining such an officer could not be averaged over as many shipments and those shipments that were inspected would probably be smaller. This would put the North Carolina ports at a definite competitive disadvantage in purchasing grain for export shipment as the inspection fees are charged back on the shipper. The fees presently in effect for the Grain Inspection Service of the North Carolina Department of Agriculture are substantially lower than those in effect for the Federal Grain Inspection Service.

If disputes arose, as they inevitably do between buyer and seller, there would be an avenue of appeal available if the inspection were performed by the North Carolina Department of Agriculture in that the inspection could be appealed to Federal Grain Inspection Service. This avenue of appeal could be lost if the inspection were performed by the Federal Grain Inspection Service in that any agency inspecting itself does not necessarily provide good protection when an appeal requires it to be critical of itself.

The reasons for discussing export inspections to be performed by the North Carolina Department of Agriculture are few, but they are basic.

The Carolina Department of Agriculture enjoys the confidence of buyers and sellers—of farmers and commercial grain merchandisers. As a shipper myself, I know that in the last few years I have had much less reason to be critical of the North Carolina Department of Agriculture than I have of the Federal Grain Inspection Service. There has never been any hint of corruption in North Carolina as there was in other states that brought about the inception of the Federal Grain Inspection Service.

The use of the North Carolina Department of Agriculture at North Carolina export points would be more important competitively and therefore more valuable economically to North Carolina producers of grain.

There would be a more viable avenue of appeal for inspections performed by the North Carolina Department of Agriculture.

There is no reason why export inspections originating at North Carolina points should not be performed by the North Carolina Department of Agriculture.

That is my opinion and the opinion of the Carolinas-Virginia Grain and Feed Association.

STATEMENT OF JAMES E. FINLEY, CRESWELL GRAIN CO. INC., CRESWELL, N.C.

My name is James Eugene Finley, generally known in the trade as Gene Finley.

My place of business is located in Creswell, N.C., about 125 miles east of Raleigh, N.C.

I have been active in the grain trade for over 28 years. I am a former director of the Carolinas-Virginia Feed and Grain Dealers' Association.

At the present time, I am the president and major stockholder of Creswell Grain Co., Inc.

My presence before this committee is to point out why I firmly believe that the weighing and inspecting of grain at Morehead City, N.C., could be done just as efficiently and more economically by the N.C. Department of Agriculture Inspection Service than by the Federal Grain Inspection Service.

I am familiar with the service of both organizations and I believe they both do a conscientious job. However, as a shipper of grain, I do have a preference as to the way inspections should be handled.

Let us assume for a moment that FGIS is doing all the inspecting at Morehead City, N.C. As a shipper, I have the right to appeal a grade which I feel was in error. This is usually called a "Federal Appeal" and, ordinarily, it's findings are the final grade. If FGIS is doing the original grading at Morehead City, then this "Federal Appeal" or second grade will also be done by a FGIS inspector. This often leaves a doubt in some minds as to the thoroughness of the second inspection.

The better method, and this is done in many states, is to have the local State Inspection Service, under the supervision of the FGIS, make the original inspection. Then, if there is an appeal, let the FGIS make the second inspection.

Many people in the trade feel that this latter method gives the shipper a better feeling about the fairness of inspections even though the last inspection might not be to his benefit.

I am also convinced that the cost of weighing and grading by FGIS personnel would be considerably higher than by N.C. Department of Agriculture employees.

Our company buys all the grain that it handles directly from the farmer. Our employees do our weighing and grading and we make no charge for this service to the farmer.

Most of our grain moves to interior terminal elevators or to export elevators in North Carolina or Virgina by truck. A tractor-trailer load is approximately 800 bushels and we are charged at a rate of from $4.10 to $4.50 per truck load for inspection and weighing. This is about ½¢ per bushel or $5,000.00 on a million bushels of grain. At the present time, we are absorbing this cost.

I have been advised that under the FGIS method of operation, the cost of inspection and weighing per truck load will be considerably higher. This would, in most cases, cause a reduction in price that could be paid to the farmer for his grain. I believe that this decrease in price could be avoided if the Morehead City facility used the N.C. Department of Agriculture as the authorized weighing and inspection service.

Many of our farmers are having a difficult time and the grain trade, as well as the inspection service, needs to keep our farmers in business.

Finally, I feel that when there is a qualified local or state service that can perform a service, they should be allowed to do so and, in this case, we do have in the N.C. Department of Agriculture Inspection Service. One of the major problems in our country today is the fact that too many segments of our economy request and expect federal assistance on many problems that could be handled locally if they

put their minds to it. I believe this is one of the programs in that category and the N.C. Department of Agriculture is capable and willing to handle the program.

Therefore, it is my opinion that, both from an economic standpoint and to insure the integrity of the weighing and inspection of the state and FGIS, the N.C. Department of Agriculture, under the supervision of FGIS, should be permitted to perform the functions of weighing and grading grain at the Morehead City facility at Morehead City, N.C.

That would be my recommendation to this committee.

I thank the committee for allowing me the opportunity to appear and express my views.

STATEMENT OF PETE STALLCOP, EXECUTIVE VICE PRESIDENT, NORTHWEST TERMINAL ELEVATOR ASSOCIATION

My name is Pete Stallcop. I am Executive Vice-President of the Northwest Terminal Elevator Association whose members own and operate all eight export terminal elevators located in Duluth, Minnesota, and Superior, Wisconsin.

I am also Executive Vice-President of the Terminal Elevator Grain Merchants Association whose 65 members own and/or operate over 1 billion bushels of terminal elevator space in the United States, including almost all of the export elevators. The testimony I will give will be for both organizations.

The eight firms located at Duluth-Superior operate over 75,000,000 bushels of terminal grain elevator space. In 1978, they moved 334,570,000 bushels of grain and oilseeds, or about 9 percent of the nation's exports. They also shipped 1,168,330 metric tons of sunflower seeds which was 90 percent of the sunflowers exported from this country. During 1979, because of a prolonged strike, shipments of grain and oilseeds were only 279,690,000 bushels. However, sunflowers shipped totaled 1,217,400 metric tons.

The members of both organizations have a definite interest in the changes which S.2886 will make in the U.S. Grain Standards Act. We thank the Committee for holding this hearing to give us an opportunity to express our views.

We approve of the proposed changes because they will eliminate unnecessary services and lower our operating costs. Passage of this legislation will not hinder FGIS in carrying out Congressional intent that all grain moving into export be officially weighed.

Passage of this legislation will eliminate unneeded and unwanted services which are very costly. Those unnecessary costs must either be passed back to the producer in the form of lower prices or on to the buyer in the form of higher prices. Since competition for foreign sales is generally very keen, the American producer is the one usually saddled with these costs. The obvious solution is to eliminate unnecessary costs.

Specifically, on intracompany domestic shipments, these official weights are unnecessary because the company already owns the grain. They can use their own house weights for their records. Official weights on such shipments merely add a senseless and unnecessary cost to doing business. For example, three of our member firms have export elevators at Duluth-Superior that ship to their domestic mills along the Great Lakes and in Buffalo. During 1978, these three companies paid $55,785.00 for official FGIS weights on these intracompany shipments to their mills. Obviously, where such weights are unneeded, they serve no useful purpose and cannot be justified.

On grain received at export terminals by truck or rail and grain shipped from export terminals for domestic use, there is no logical reason to require official weights. In fact, requiring official FGIS weights puts such export elevators at a disadvantage on domestic business, as interior terminals, which compete for the business, do not have, and should not have, the requirement of FGIS official weights.

The members of this Committee know that the grain industry in this country includes thousands of businesses, large and small, cooperatives and stock companies, which handle billions of bushels of grain each year. The industry is flexible and operates like a fine-tuned watch, all the way from the producer to the miller, feeder or exporter.

In spite of the millions of transactions and the huge amounts of money involved it is very rare that the courts ever become involved. The reason is that the industry operates under trade rules that provide a basis for trading which is fair to both buyer and seller, and also has an arbitration system to settle disputes which cannot be settled by the parties to the contract. The point—the industry can only be hurt by rules and regulations imposed by law that increase our costs and accomplish nothing.

There is no logical reasons why export terminals should have to operate under different rules than interior terminals when competing for domestic business.

Grain from the Dakotas and Minnesota can go either to Duluth where weighing is supervised by the State of Minnesota under FGIS rules requiring 100 percent supervision or to Minneapolis where weighing on a partial supervision basis is supervised by the Minneapolis Grain Exchange. The grain industry is sure Minneapolis weights are as good as or better than Duluth weights and are a lot less expensive. Current fees for rail cars are $7.25 in Duluth and $4.00 in Minneapolis. For trucks the Duluth fee is $4.50 and the Minneapolis fee is only $1.45 per truck. During the first six months of 1980, there were over 24,000 rail cars and over 44,000 trucks received at Duluth-Superior. In other words, the industry paid over $200,000.00 more in weighing fees at Duluth-Superior than they would had the grain been delivered to Minneapolis—all because of FGIS rules which inflate weighing supervision costs.

The Congressional intent was to require FGIS supervised weights on grain exports. S.2886 does nothing to change that requirement. However, passage of S.2886 would put to rest, once and for all, the fallacious argument FGIS has used that it needs official inbound weights to establish an inventory monitoring system which is necessary to guarantee official outbound weights.

There is nothing in the Act nor in the legislative history of the Act that requires FGIS to establish a system of inventory monitoring. To state that the Act even suggests that such a system be established shows that FGIS is reaching for authority not specifically given by Congress. It is another example of power building by a bureaucracy.

The terminal elevators at Duluth-Superior are all licensed by the authority of the U.S. Warehouse Act as Federal Warehouses. Many other export terminals are also licensed as Federal Warehouses. Others are licensed by state authorities. It is the business of the licensing authority to require warehouse examinations and reconciliation of stocks and book figures. For FGIS to duplicate this effort is meaningless—and a waste of time and money by both the elevators involved and FGIS.

As you well know, the President has declared inflation to be our most pressing economic problem. One area that he has identified as essential to beating inflation is the reduction of government regulations and interventions that inflate costs and interfere with competiton. We maintain that mandatory official FGIS weighing, in the cases covered by S.2886, are graphic illustrations of just such unnecessary regulations and interventions and that is why we urge enactment of S.2886.

STATEMENT OF W. W. HART, EXECUTIVE DIRECTOR, SOUTH TEXAS COTTON AND GRAIN ASSOCIATION, INC., VICTORIA, TEX.

My name is Woodrow Hart. I am Executive Director of South Texas Cotton and Grain Association with offices in Victoria, Texas. The Association is a certified producer organization which represents an approximate membership of 7,500 cotton and grain sorghum producers in a 22 county area of South Texas. A large portion of the association area of representation lies within close proximity or is bound by the Gulf of Mexico. This sector of our state is most often referred to as the Coastal Bend region of Texas.

Historically, agriculture has played a significant role in the economy of South Texas. We, as producers, become greatly alarmed by any factor or factors which reflect upon our agricultural income. It is with this in mind that we have become fearful of increased federal intervention by the Federal Grain Inspection Service's weight supervision at terminal facilities along our various Gulf ports.

A great majority of the South Texas crop of sorghum is moved to the port terminals for export each year. Our membership, therefore, is very much affected and concerned by the weight supervision charges imposed at these export terminals by the F.G.I.S.

As sorghum harvest proceeds in South Texas, farmers move their harvested grain to small country elevators which may be found scattered in various and numerous areas of the region. The country elevator correspondingly ships the commodity by truck or rail to the nearest Gulf port terminal.

As sorghum is moved into the port facility, it is weighed, under F.G.I.S. supervision, before being forwarded for storage within the elevator. The charge incurred by the F.G.I.S. supervision is placed back upon the country elevator by the port facility. The small country elevator, unable to absorb the cost through near non-existent profits, is forced to pass the charge to the producer.

It is our understanding that F.G.I.S. employees are paid on an hourly basis for weight supervision. This cost is relayed to the country elevator by either a boxcar load or truckload charge. The amount of the weighing fee varies in a given month

at each terminal facility according to the volume of the commodity handled through the port elevator.

When the grain is delivered by the producer to the country elevator, it is weighed and analyzed as to the mositure content and bushel weight. Upon completion of the delivery process, the farmer is given a receipt indicating the amount of grain, by weight, delivered and the results of bushel weight and moisture content analysis. The country elevator retains a copy of the receipt for their books and inventory.

After grain has been blended or passed through the dryer complex at the country elevator, it is either stored or moved to the port terminal to sell, depending upon the discretion of the producer. Sorghum that is moved to the port terminal from the country elevator by truck is first weighed and analyzed, in much the same manner as it was delivered by the producer, before departure to the terminal facility. Record of this transfer is maintained by the elevator manager for inventory purposes. Railroad boxcars are not weighed at the country elevator. Truckloads vary in the amount of commodity hauled depending upon existing State regulations and laws governing such loads and are weighed before proceeding to port.

Once the commodity has reached the port terminal, it is again weighed and analyzed before delivery into the facility. Record is made of the amount of grain delivered to the terminal and a receipt is sent back to the country elevator for record, with another copy maintained at the terminal facility for their inventory record.

It becomes evident at this point that through a system of automatic checks and balances, the producer is assured of an accurate record of transaction involving the transfer of his commodity from the initial delivery point to final destination for sale. We feel, that based upon this system, Government weight supervision of inbound grain at the port elevator is unwarranted and unneeded. In fact, we can see no significant difference in the accuracy of inbound weighing at the export terminal at present compared to the time prior to F.G.I.S. supervision. We accept the fact that weighing errors will occur and recognize the truth that such error now occurs under present F.G.I.S. weight supervision. Differences in scales used to weigh the grain, the procedure in which the commodity is weighed and handled and personnel all attribute to weight discrepancies. A great majority of errors in weighing of sorghum, however, are well within tolerable levels. Again, we can find no evidence that the presence of F.G.I.S. personnel at terminal elevators guarantee against weighing errors.

In addition to feeling that F.G.I.S. weight supervision of inbound grain is an unnecessary pursuit, we feel that the charge for the service is excessive. Export elevators report that charges for F.G.I.S. weight supervision may exceed $200,000 a year. We feel that it is totally unjust for producers to absorb this cost for a service over which they have no control nor input. Producers have no direct way to object to F.G.I.S. supervision procedure or personnel.

We recognize the fact that various individual producers or farm corporations may desire F.G.I.S. supervision of the weighing of their inbound grain. We believe that these individuals should retain the right to request this service. The vast majority of producers not in desire of the service, however, should have the opportunity to decline the service.

It is our understanding that the USDA maintains that the supervision of weighing of inbound grain is necessary in order to monitor the stock inventory of the terminal elevator. We contend that the inventory records at the elevator provide adequate and accurate information regarding on-hand stocks. Furthermore, current penalties, enforceable by law, as well as the earlier discussed automatic system of checks and balances, significantly dissuades fraudulent activity on the part of the port elevator.

Understandably, outbound, or export grain to be transported to a foreign entity should continue to be monitored to insure the continued integrity of U.S. exports. Producers moving grain into the terminal elevator who wish to remove the commodity for personal or domestic uses, however, should retain the right to decide as to whether the weighing should be supervised.

In summary, we feel that F.G.I.S. weight supervision of inbound grain at terminal elevators is an un-needed and unwarranted task. In addition, producers wishing to remove grain for personal or domestic use should not be required to have F.G.I.S. weight supervision charges imposed upon the movement of their grain. Producers in each instance, however, should retain the right to have the service provided should they so desire.

Charges for F.G.I.S. weight supervision are excessive and add burden upon an already cost riddled industry. Our producers receive fair weights at the country elevators. Our elevators receive reasonably fair weights at the terminal point. We

do not represent any interest beyond that point, but we do expect the same integrity to be maintained until the grain reaches its destination.

Based upon these facts and conclusions, South Texas Cotton and Grain Association fully supports the concept outlined in HR 5110 introduce by Mr. Ashley and its corresponding measure in the Senate, SB 2886. We feel that the proposal is a definite step in the direction of correcting a severe and costly problem. We, on behalf of our organization, respectfully ask for your support of this much needed legislation.

GURLEY'S
Selma, N.C., July 28, 1980.

Re proposed changes in grain inspection and weighing rules.

Mr. WILLIAM BAILEY,
Senate Agriculture Committee,
Russell Senate Office Building, Washington, D.C.

To Whom It May Concern:

In reference to the proposed changes in the U.S. Grain Standards Act that deal with grain inspection and weighing, we would like to make the following comments:

1. We are a small grain elevator which is doing limited exports due to the restrictions that we have—Federal-State regulations.

2. We are also restricted from doing business in exports due to the facilities being controlled by large firms, who are always loading their own merchandise and do not have time to unload from cars into vessels, except during off seasons.

3. We want to give you an example of the red tape that a small grain elevator inland U.S. experiences:

(a) We sold a container of oats to Arcala in Santa Domingo which we have done several times before in 1979.

(b) We called the North Carolina Department of Agriculture who usually does the grain inspection for our shipments. This in turn was turned over to the U.S.D.A. Federal Inspection System.

(c) We had numerous calls from the U.S.D.A Division out of Mobile, Alabama, and Atlanta, Georgia. There were several conversations between these two offices and myself as well as my son, Raymond.

(d) We were informed that this shipment could not be made, unless an inspector came in from the U.S.D.A. grain at our place of business, which was done by sending a man from Mobile, Alabama to Selma, North Carolina via Raleigh Durham Airport and a U-Drive-It car to Selma.

(e) The inspection was done by James Holmes, U.S.D.A. inspector and weigher from Mobile, Alabama.

(f) We informed Mr. James Holmes when he was here, that this matter was going to be taken up with the U.S.D.A. and all interested parties, concerning the expense to the U.S. Department of Agriculture and our U.S. Treasury.

(g) We talked with Mr. Warren Kettchum, U.S.D.A. Federal Inspection Service Atlanta, Georgia, and also with Mr. Jimmy Gibson, and also with Roger Sharman. All of this came about over one container of oats of 705–64 pound bags. I, after the load had been inspected and weighed here at Selma, was informed by the inspectors of the South Carolina Department of Agriculture, that we would have to unload in Charleston, South Carolina and have another inspection at the port and this would all be for the account of Gurley's, Inc.

(h) Through the persuasion of us and our forwarding agent, Hasman & Baxt, P.O. Box 94, Charleston, South Carolina, 29402, this was waived since the shipment had already been inspected for quality and grade, as well as official weight at Selma, North Carolina.

(i) Hasman & Baxt informed us that the inspector in Charleston, South Carolina wanted to charge us a lot of overtime, due to the fact that the vessel did not load at exactly the time that it was scheduled, and that we were going to be charged for additional time for this waiting period.

(j) We are asking for a simple way that our grain can be inspected in containers—bulk or bagged with official weights—bulk or bagged, for future shipments.

4. It cost the U.S. Department of Agriculture treasury account more money to do the job than they received in fees. Furthermore, we can not afford additional fees any more than our government can afford the expense and loss on this one shipment. Now this is what is the matter with our national debt and our unbalanced budget. Everything has been ballooned regardless of what it cost, the Federal Government will pay it, and the taxpayer will reimburse them in the generations to

come. We are asking that the proposed changes in the export grain inspections be made to benefit and simplify the small shipments of containers to the small consumers throughout the world. Surely a reasonable charge for an inspection that will hold up and weigh in and out for all parties concerned is not impossible. This shipment was so ridiculous compared to the ones to Santo Domingo before without all the red tape.

It is time for the small business man to stand up and be counted if they are going to survive. We do not have a lobby in Washington to do our undercover work. We fought for our freedom because of not being represented and we are just asking those that we have elected to see what they can do with "Taxation With Representation".

Finally, we would like to request that the North Carolina Department of Agriculture, Releigh, North Carolina, to be designated for the official inspection and weighing of grain for export in bulk and bagged for container shipments destined for export.

We would sincerely appreciate you giving this matter your careful consideration so that small grain firms can do business throughout the world.

Sincerely,

R. G. GURLEY, *President.*

SOUTH DAKOTA FARMERS UNION,
Huron, S. Dak., May 29, 1980.

Senator GEORGE MCGOVERN,
4239 Dirksen Senate Building, Washington, D.C.

DEAR GEORGE: You have asked me to review H.R. 5110 and give you my assessment of the effect its passage would have on the grain industry.

First, it seems to me we need to review the reasons that the present grain inspection program was imposed. Basically, the Congress instructed the Federal Grain Inspection Service to establish a national grain inspection and weighing system with such integrity that the grain scandals of the early 1970's would not occur again. As individual farmers and as an industry, we had suffered through loss of sales as well as prices and we needed to restore our reputation as dependable world grain suppliers. I believe that the new system of regulation has helped achieve that goal.

Now we are being asked to re-evaluate the Grain Standards Act and consider some modification that the export shippers say they need and that FGIS says will drastically weaken the effectiveness of the inspection program. The National Council of Farmer Cooperatives contends that the present weighing and inspection system is imposing an unnecessary annual cost of $250,000 per export elevator. The FGIS counters with the statement that the cost per bushel amounts to less than ½ cent per bushel which is a small price to pay for market integrity and increasing quality acceptance around the world for U.S. originating grain.

As grain producers. I don't believe we are willing to quibble over a half cent if the alternative might lead to reduced world markets and correspondingly lower prices.

I have carefully read the testimony submitted by the National Council of Farmers Cooperatives. I have also reviewed the statement supplied by Mr. Bartelt from the Federal Grain Inspection Service.

At this time, I can find no reason to recommend a change from the position taken by our National Farmers Union Board on September 10, 1979 in which we recommend no changes in the present system of weight inspection concerning inland and export shipments of grain unless the legislation provides for a system of spot-checks to operate in conjunction with and as an alternative at the discretion of the Administrator of the Federal Grain Inspection Service to the full-time weight inspection requirements of existing law.

As H.R. 5110 now stands, I would not recommend supporting it.

With best regards,

Sincerely,

BEN H. RADCLIFFE, *President.*

DES MOINES, IOWA, *August 1, 1980.*

Senator ROGER JEPSEN,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR JEPSEN: We understand that a major effort is being made in the Congress to gut the Federal Grain Inspection Service. We understand that you are a sponsor of a bill that would begin the process.

We are adamantly opposed to S. 2886 and any other legislation that would seek to weaken the act. We are just regaining the trust of our customers, and it would be premature and provocative to weaken the act at this time.

Iowa Farmers Union supports strong grain inspection standards, and we intend to make public issue out of any action that would cave in to the grain trade.

We hope that you will withdraw your support for such measures. Thanks for your consideration.

Sincerely,

LOWELL E. GOSE,
President, Iowa Farmers Union.

96TH CONGRESS
2D SESSION

S. 2569

To amend the United States Grain Standards Act to permit the Administrator of the Federal Grain Inspection Service to delegate authority, under certain circumstances, to a State agency to perform official inspection at export port locations within the State if such State agency performed official inspections under such Act at an export port location at any time before July 1, 1976, and such State agency is presently designated to perform official inspections at locations other than export port locations.

IN THE SENATE OF THE UNITED STATES

APRIL 16 (legislative day, JANUARY 3), 1980

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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A BILL

To amend the United States Grain Standards Act to permit the Administrator of the Federal Grain Inspection Service to delegate authority, under certain circumstances, to a State agency to perform official inspection at export port locations within the State if such State agency performed official inspections under such Act at an export port location at any time before July 1, 1976, and such State agency is presently designated to perform official inspections at locations other than export port locations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)) is amended by inserting "(A)" before "which was performing", and by inserting after "1976," the following: "or (B) performed official inspection at an export port location at any time prior to such date and was designated under subsection (f) of this section on the date of the enactment of this clause to perform official inspections at locations other than export port locations,".

II

96TH CONGRESS
2D SESSION

S. 2886

To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26 (legislative day, JUNE 12), 1980

Mr. DOLE (for himself, Mr. HELMS, Mr. BOREN, Mr. JEPSEN, Mr. GLENN, Mr. HAYAKAWA, Mr. ZORINSKY, Mr. YOUNG, Mr. LUGAR, and Mr. BOSCHWITZ) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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A BILL

To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3(aa) by striking out the period and by inserting in lieu thereof "; and", and

(2) in section 3 by adding at the end thereof the following new subsection:

"(bb) the term 'intracompany shipment' means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.".

SEC. 2. Section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)) is amended to read as follows:

"(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export location shall be officially weighed in accordance with such standards or procedure, except that—

"(A) intracompany shipments of grain into an export elevator by any mode of transportation need not be officially weighed;

"(B) all official weighing requirements on grain transferred into an export elevator by transportation modes other than barge shall be waived

unless the shipper or the receiver requests that such grain be officially weighed; and

"(C) all official weighing requirements on grain transferred out of an export elevator to destinations within the United States shall be waived unless the shipper or the receiver requests that such grain be officially weighed; and".

STAFF EXPLANATION OF S. 2569

S. 2569 amends section 7(a)(2) of the U.S. Grain Standards Act, which authorizes the Administrator of the Federal Grain Inspection Service to delegate his authority to perform official inspection of export grain shipments under the Act to State agencies that were performing official inspection at an export port location on July 1, 1976.

Under the amendment to section 7(a)(2), the Administrator would be given authority to delegate such authority to other State agencies that—

(1) Performed official inspection at export port locations at any time prior to July 1, 1976, and

(2) Were designated to perform official inspection at locations other than export port locations on the date of enactment of the U.S. Grain Standards Act of 1976 (October 21, 1976).

STAFF EXPLANATION OF S. 2886

S. 2886 amends section 5(a)(2) of the U.S. Grain Standards Act, which requires that all grain transferred into and out of an export elevator at an export port location be officially weighed (except that the Administrator may waive this requirement in emergency or other circumstances that do not impair the objectives of the Act).

Under the amendment to section 5(a)(2), the following types of shipments would be exempted from the official weighing requirements:

(1) Inbound shipments:

(a) All intracompany shipments (including any shipment of grain owned by a cooperative from the cooperative's facility to an export elevator that the cooperative jointly owns with other cooperatives);

(b) All intercompany shipments in carriers other than barges, unless the shipper or receiver requests official weighing; and

(2) Outbound shipments: All shipments to destinations within the United States, unless the shipper or receiver requests official weighing.

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