

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1067

2001 HOUSE AGRICULTURE

HB 1067

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1067

House Agriculture Committee

☐ Conference Committee

Hearing Date 1-19-2001

Tape Number	Side A	Side B	Meter #
ONE	A		00 TO 3105
Committee Clerk Signature <i>Edward D. Ellison</i>			

Minutes:

A Bill for an Act to amend and reenact section 51-05.1-01.1 of the North Dakota Century Code relating to auctioneer's and auction clerk's license renewals and fees; and to repeal section 51-05.1-06 of the North Dakota Century Code, relating to auctioneer and auction clerk license renewal requirements.

1A:590 VICE CHAIRMAN DENNIS E. JOHNSON: We will open the hearing on HB 1067.

1A:598: Mr. Chairman and committee members: My name is Jon Mielke. I'm the Executive Secretary of the Public Service Commission. The testimony that Jon Mielke gave was read from printed testimony which is attached to the back of these minutes.

Vice chairman Dennis Johnson: Are there any questions. Representative Froelich.

Representative Froelich: Chairman Johnson and Jon, how many auctioneers are there presently licensed in the state?

1A:287: Jon Mielke: As of the close of last year that we are currently in the license renewal period. As of the end of last year we had 388 (three hundred and eighty eight) auctioneers and 282 (two hundred and eight two) auction clerks. For a total of 670 licensee's.

Representative Froehlich: Jon would it be a problem if we changed the license fee's from annual to biannual. My point being it would cut down on the paper work, cut down some of the costs in the department.

1A:337: Jon Mielke: Mr. Chairman and Representative Froelich. I can't think of any administrative problems with do it. In fact we would send out renewals half as often. Excuse me I should have mentioned that I have Sue Richter here; she is the licensing person that deals with day to day operations and divisions especially for concerning auctioneers and elevators. Sue is there any problems you see with that? Sue stated none at all. Certainly could be done. I guess the people know now that every year come December they have to renew there licenses. and if we go to a biannual process they won't know automatically and hopefully they would pay attention to the billing when it came out from our office.

1A:398: Vice Chairman Johnson: Are there any other questions?

Representative Brandenburg: Ya Jon and Mr. Chairman. The question I have is compared to other states around the area; what do other states charge. Do you have any idea what Minnesota charges....South Dakota charges?

Mr. Jon Mielke: Mr Chairman, I was just visiting with Sue concerning that and it is really different. Some states charge what we do. Others are significantly more. Probably less then half the states right now actually regulate auctioneers and clerks in terms of requirng a license. In some states, they have to get a license on a per sale basis. In other states they have to get a

license from the county where the sale is taking place. It's real different. I would think that we closer to the lower end. Mr. Chairman, if I could jump back into the earlier question concerning the biannual license. One negative to that approach as far as the licensee's were concerned was that right now license fees are prorated so if someone is going to come in in November from out of state to and cry a sale, they have to get an out of state license. The fee is \$35.00. Not prorated. If they would come in at the end of the two year cycle and want to do a sale when already two months of the bi-annum has already passed, if these were not prorated they would have to pay seventy dollars to do that under the current structure unless there was some way to set up a prorated structure. This could increase the administrative work associated with the program rather than reducing it.

1A:523: Representative Lemieux: Exactly, why do we have to license our auctioneers?

JON MIELKE: There is some degree of protection that goes along with having a license in place because to get a license the licensee also has have a bond so there is some degree of protection there for people that are selling their merchandise through auctions. Also, handling the proceeds. Also, if there is a complaint filed now rather than having to go into the civil court system, they can come to the commission to get those matters resolved through the administrative process rather than through the courts. There was a question asked as to whether there are more or less auctioneers in North Dakota presently than what there were in previous years. There are less auctioneers presently than what there were in previous years. There are licensed auctioneers that hang on to there license even though they cry few sales. Other auctioneers sell millions of dollars of merchandise every year. One hundred and thirty auctioneers have a license for both auctioneer and clerk. The auctioneer's bond is \$5000.00

and the clerks bond is \$10,000.00. I don't know if a bond has ever been called on. A stock yard's bond is half a million. It take's fifteen to twenty minutes to renew a license. To get original license, it take longer because there is an investigation of the individual seeking the license but even that does not take long. We do occasionally get a complaint and we do investigate. Formal hearing. Representative Berg: I guess my question is obviously you are asking for a fee increase. Why do you need the extra money? Is your cost exceeding the \$46,000.00 are they less? Rep Berg J. MIELKE It's important to recognize that these fees do not come back to the commission. They go into the general fund. We don't do a separate cost allocation. The administrative cost is not high. If we have to get an attorney involved in a complaint, that increases the cost. In terms of increases in the fees. It was not the commissions idea. It was the state auditors office. We felt obligated to move that forward. A late filing fee is a good idea. We would support a higher initial fee when a auctioneer is first applying for a license. 1A:1172; Vice Chairman Johnson: Is there any opposition to the Bill. Representative Smith.

Representative Schmidt: Good morning Chairman and Committee members. The auctioneers want you to know that we have had a good working relationship with the commission for years. We want to continue that and we will. We want to continue that. We have worked with Jon for many years. I have been president of the auctioneers association. We do agree with the renewal penalty. One hundred and thirty of the licensed auctioneers in North Dakota are doing the majority of the sales. There is a lot of young auctioneers out there that are trying to get sales but it is not easy. Most of the young auctioneers are sons of the older auctioneers. Needless to say auctioneers sell large estates and the administrators are not going to turn these sales over

to someone without experience. We get three percent of the gross sales and the clerk get three percent of the gross sales. I have been an auctioneer for forty eight years. The commission has been the same since I started. Auctioneers have to eat N.S.F. check. We have to pay the people that owned the merchandise that we sold. Basically the opposition states that even a fifteen dollar fee would stop some auctioneers from renewing there license. We do a lot of free auctions for fund raisers. We are an important part of the community. We contribute a lot to the economy. Auctioneers do a lot of good. We state that no problem exists. We will go along with the late fees but not just an across the board raise for auctioneers licenses. I think we would rather have an annual fee rather then a bi-annual. The bonding fee cost one hundred dollars. We send our bond fee to an insurance company in South Dakota. I only know of one person that has ever called on the bonding company. I think that all of our bonding fee should go to the North Dakota State Bank and let them handle the bonding. We would have a fund that you would not believe. Representative Berg stated that maybe it would be a good idea for the auctioneers to look at a different form of security rather then carry a bond. 1A:3111

Vice Chairman Johnson: Is there any further testimony on Bill 1067? If not we will close the hearing on 1067.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1067

House Agriculture Committee

☐ Conference Committee

Hearing Date 1-19-2001

Tape Number	Side A	Side B	Meter #
ONE	A		593 TO 1465
Committee Clerk Signature <i>Edward D. Wilson</i>			

Minutes:

1A:596: VICE CHAIRMAN DENNIS JOHNSON: Lets go back to HB 1067. What do you committee members want to do with this BILL? There was some discussion and it was decided to pass the amendment with an amendment.

1A:1278: Representative Lemieux: Move to amend. To strike the fifty on line thirteen, leave the thirty five and leave the rest of it alone.

The motion was seconded. A motion was made by Rep. Pietsch that we do pass as amended.

There was a second. Vote was taken. THE BILL WAS PASSED AS AMENDED. The vote was 10 yes.....0 no.....5 absent.. The hearing was closed on Bill

FISCAL NOTE
Requested by Legislative Council
01/24/2001

REVISION

Bill/Resolution No.:

Amendment to: HB 1067

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$3,750	\$0	\$3,750	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill, as amended, would establish a late filing penalty for auctioneers and auction clerks who fail to renew their licenses in a timely manner. Collections from the \$25 penalty fee would be deposited in the general fund.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is anticipated that approximately 75 licensees will be assessed the late-filing fee each year and that total collections will equal approximately \$3,750 per biennium (75 late filings per year X \$25 late filing fee X 2 years per biennium = \$3,750).

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No impact.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and*

appropriations.

No impact.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/24/2001

FISCAL NOTE

Requested by Legislative Council

01/23/2001

Bill/Resolution No.:

Amendment to: HB 1067

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$3,750	\$0	\$3,750	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/23/2001

FISCAL NOTE

Requested by Legislative Council

12/14/2000

Bill/Resolution No.: HB 1067

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$19,000	\$0	\$19,000	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill proposes to increase the annual license fee for auctioneers and auction clerks from \$35 to \$50. This fee was last increased in 1987. Increasing this fee to \$50 and imposing a \$25 surcharge for renewals that are submitted in an untimely manner would generate additional general fund income of approximately \$19,000 per biennium. The increase was recommended by the State Auditor in a March 2000 audit report.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The \$19,000 projected revenue increase is based on the current number of licensees (approx. 600) times the proposed \$15 increase.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No significant incremental costs will be incurred if this proposal is enacted.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive*

budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The proposal will not require additional appropriations.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/15/2000

18111.0101
Title.0200

Adopted by the Agriculture Committee
January 19, 2001

VR
1/19/01

HOUSE AMENDMENTS TO HB 1067 HOUSE AGR. 1-22-01

Page 1, line 13, remove the overstrike over "~~thirty-five~~" and remove "fifty"

Renumber accordingly

Date: 1-1-77
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1267

House AGRICULTURE Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken 1. 4/20/77

Motion Made By 1. 1/1/77 Seconded By 2. 1/1/77

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman			Rod Froelich	1	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux		
Rick Berg			Philip Mueller		
Michael Brandenburg	1		Kenton Onstad		
Joyce Kingsbury	1		Sally M. Slandvig	1	
Myron Koppang	1		Dennis J. Renner	1	
Edward H. Lloyd			Dwight Wrangham		
Bill Pietsch	1				

Total (Yes) 17 No 0

Absent 5

Floor Assignment Rep FROELICH

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

REPORT OF STANDING COMMITTEE (410)
January 22, 2001 8:20 a.m.

Module No: HR-10-1349
Carrier: Froelich
Insert LC: 18111.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1067, as amended, Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). placed on the Sixth order on the calendar.

Page 1, line 13, remove the overstrike over "~~thirty-five~~" and remove "fifty"

Renumber accordingly

2001 SENATE AGRICULTURE

HB 1067

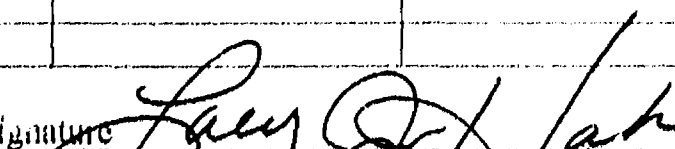
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1067

Senate Agriculture Committee

☐ Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
Feb. 9 1		X	0,0 - 10,1
Committee Clerk Signature 			

Minutes:

JOHN MIELKE; Executive Secretary Public Service Commission, introduced the bill to the committee. See attached testimony.

REP. SCHMIDT; testified in support of this bill as amended. Auctioneers donate a lot of their time to charity.

BERDEL JOHNSON; testified in support of this bill.

SENATOR KLEIN; What is reason for the notarization?

JOHN MIELKE; We are going to look into that. I am not sure why it is required.

The hearing was closed.

SENATOR KLEIN moved for a DO PASS.

SENATOR URLACHER seconded the motion.

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

SENATOR URLACHER will carry the bill.

Date: 2-4-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1067

Senate Agriculture Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By Sen. Klein Seconded By Sen. Wolachek

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Sen Urelacher

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

REPORT OF STANDING COMMITTEE (410)
February 9, 2001 1:16 p.m.

Module No: SR-24-2873
Carrier: Urlacher
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1067, as engrossed: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1067 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1067

H.B. 1067

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: House Committee on Agriculture
Representative Eugene Nicholas, Chairman

Date: January 19, 2001

Testimony

Mr. Chairman and committee members, my name is Jon Mielke. I am the executive secretary of the Public Service Commission. I also serve as the director of the Commission's Licensing Division. The Licensing Division is responsible for licensing and regulating auctioneers and auction clerks in North Dakota. This testimony is presented on behalf of the Commission.

Section 1 of this bill proposes to increase the cost of annual auctioneer and auction clerk licenses from \$35 to \$50. These fees were last increased in 1987. The bill also proposes to establish a \$25 surcharge for renewals that are not submitted within one month after the renewal deadline. Auctioneer and auction clerk license fees currently generate about \$46,000 per biennium for the state's general fund. The proposed increases would generate an additional \$19,000 per biennium.

This proposal was prepared based on a recommendation of the State Auditors Office. In its March 2000 audit report, the Auditors Office said, "The Public Service Commission incurs additional usage of time and other resources due to the number of

late filings by those requesting a renewal of an Auctioneer license. This arrears to be a prime candidate for a new look at the adequacy of the current fee charged and whether or not there should be a late fee established. Specifically, it was noted that several other states had much higher renewal fees and some form of late fee."

Section 2 of this bill proposes to repeal the section of state law that requires that the Commission send a list of licensed auctioneers and auction clerks to county register of deeds offices each year. The Commission views this task as unnecessary given today's technology and, in fact, any list that is sent out is almost certainly outdated within a few days.

If this section of law is repealed, the Commission will send out an advisory to advise counties that the lists are no longer being sent out and that a current list of licensees is available on the Commission's web-site. Lists will also be available upon request.

Mr. Chairman, that concludes our testimony. I would be happy to respond to any questions that you or members of your committee might have.

January 18, 2001

RE: House Bill 1067

I am writing in regards to House bill 1067 which pertains to an increase in auctioneers fees and clerks fees. The \$15.00 increase in fees from the current rate of \$35.00 per year to the proposed rate of \$50.00 per year, although not significant, is unwarranted. This amounts to a 43% increase in licensing fees.

There are currently 696 licensed auctioneers and over 500 licensed clerks in the state of North Dakota. Many of these licenses are issued to auctioneers and clerks who are not active in the auction profession. Current applicants generate approximately \$41,860.00 ($1196 \times \35.00) for the Public Service Commission. The \$15.00 increase would generate an additional \$17,940.00 of income.

The auctioneers and clerks of North Dakota are regulated by the Public Service Commission and other than the licensing process for auctioneers and clerks, I believe the Public Service Commission spends little time dealing with issues pertaining auctioneers. This is why I believe the increase in fees is questionable.

One part of House Bill 1067 I would be in support of is that part pertaining to late fees. I would be in support of such a fee because it encourages people to stay current on their licenses. I also believe it would make it easier for the Public Service Commission not only to budget for activities pertaining to the auction industry but also regulate that activity.

I apologize that I can't be there in person but I appreciate your time and consideration.

Sincerely;



Clifford Orr
Orr Auctioneers

H.B. 1067

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Committee on Agriculture
Senator Terry Wanzek, Chairman

Date: February 9, 2001

Testimony

Mr. Chairman and committee members, my name is Jon Mielke. I am the executive secretary of the Public Service Commission. I also serve as the director of the Commission's Licensing Division. The Licensing Division is responsible for licensing and regulating auctioneers and auction clerks in North Dakota. I am appearing on behalf of the Commission and in support of this bill.

This is an agency bill that was originally prepared by the Commission. It was amended by the House of Representatives.

Section 1 of this bill proposes to establish a \$25 surcharge for auctioneer and auction clerk license renewals that are not submitted within one month of the renewal deadline. This change is intended to encourage licensees to renew their licenses in a more timely manner and should make the license renewal process more efficient. The Commission supports this change.

This bill originally proposed to increase the cost of annual auctioneer and auction clerk licenses from \$35 to \$50. These fees

were last increased in 1987. The House amended this proposed increase out of the bill.

This fee increase was proposed based on a recommendation of the State Auditors Office. In its March 2000 audit report, the Auditors Office said, "The Public Service Commission incurs additional usage of time and other resources due to the number of late filings by those requesting a renewal of an Auctioneer license. This arrears to be a prime candidate for a new look at the adequacy of the current fee charged and whether or not there should be a late fee established. Specifically, it was noted that several other states had much higher renewal fees and some form of late fee."

This fee increase would have generated an additional \$19,000 per biennium for the general fund.

Section 2 of this bill proposes to repeal the section of state law that requires that the Commission send a list of licensed auctioneers and auction clerks to county register of deeds offices each year. The Commission views this task as unnecessary given today's technology and, in fact, any list that is sent out is almost certainly outdated within a few days.

If this section of law is repealed, the Commission will send out an advisory to tell counties that the lists are no longer being sent out and that a current list of licensees is available on the Commission's web-site. Lists will also be mailed out upon request.

Mr. Chairman, that concludes our testimony. I would be happy to respond to any questions that you or members of your committee might have.