

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1157

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis G. Baller
Operator's Signature

10/2/03
Date

2003 HOUSE AGRICULTURE

HB 1157

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

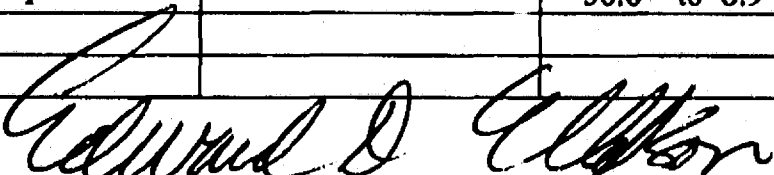
2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

House Agriculture Committee

☐ Conference Committee

Hearing Date 1--17--03

Tape Number	Side A	Side B	Meter #
A	1		30.0 to 6.9
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS : Committee Members, we will open on HB 1157. Who would Like to be first to testify in favor of HB 1157.

JON MIELKE: Good morning Chairman Nicholas and Committee Members. My name is Jon Mielke. I am the Executive Secretary of the Public Service Commission. I work with the Licensing division. Also I have with me Bill Benick. He's our council. And Commissioner Wefald. HB 1157 was introduced at the request of the commission. It addresses a wide variety of issues related to the agency's of grain warehouses and grain buyers. {{{{PLEASE SEE PRINTED TESTIMONY AS TO JON MIELKE TESTIMONY.}}}}

JON MIELKE: Mr. Chairman, I would like to point out that we have shared all of these proposals with Grain Dealers association and I am not aware of any opposition from them. I just want to let you know that we have made the industry aware. That concludes our testimony. I will answer any questions you might have.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.


Operator's Signature

10/2/03
Date

Page 2
House Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 1--17--03

CHAIRMAN NICHOLAS : Representative Mueller.

REP. MUELLER : Jon, I am not sure I'm totally understanding what you are doing with "Section 4" The Condominium Storage. I am taking that to mean should a farmer come in lease four bins at the end of the driveway. Is your intent that that will come under the Licensing process and protection. Is that what it is saying?

JON MIELKE: The way it works presently. We tell someone that they cannot lease or sell Ben space on their complex to someone else for nonpublic use unless it is physically disconnected. So if they had some tanks on the other side of their complex. They could sell or lease those just by deleting from their physical capacity. We just adjust our insurance and they no longer show up. They are controlled by someone else. But the elevator would not have the ability to do that if those bins could not be physically disconnected. If there was a row of tanks that can't disconnect. And the Mandan situation was a perfect example of that. They had a row of tanks that they just could not disconnect. Or if they have some bins right in their tower that they wanted to lease out. You can't physically disconnect those if you got into a solvency situation, we would have a real mess. So you can't lease that out or sell it. Now with this change you would be able to do that. But if it was not physically disconnected. They would still have to license and bond. We would still be in the same situation if we got into a solvency situation. How do you discern one from the other with grains moving back and forth. So if you have condominium storage, it's in your main complex. It has to be licensed and bonded. Treated just as if it's company owned or elevator grain if we do get into one of those insolvency situations. So, it is going to create some opportunities for warehouse men that they don't have

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

Page 3
House Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 1--17--03

today. We also want to make sure that we maintain those protections so that the people dealing with the elevator or publicae warehouse space.

REP. MUELLER : If I may continue. Mr. Chairman. The meaning with that circumstance You are talking potentially of commingling of grains. So if I have grain in a bin and there is an insolvency issue can I go in and take my grain out.

JON. MIELKE: Mr. Chairman and Rep. Mueller. That is correct. If there is an insolvency or a proceeding underway. If you had condominium storage in that main complex or one of the bins in the tower or one of the connected bins or tanks and there was an insolvency you could not go in and take your grain out. There is a chance that your grain was commingled with company grain. But, even though you did not have that ability you are going to have protection. And you are going to be entitled to any other protection would have. We are kind of trying to have it both ways. You will have the same protection as any other patron of the elevator.

Again, if you can't disconnect the bins you can't lease them. If you have fifteen producers out there and they have an elevator, they don't need a license from us because it is not by definition a public warehouse. Some of those facilities are not licensed and we don't think that is a problem. The Condominium storage facilities can go either way. The can license and bond or they don't have to. If they license and bond they put restrictions on themselves.

REP. MUELLER : If I am renting a bin why would I not make sure my grain is no commingled?

JOH MIELKE: When you are unloading the grain, you are trusting that the grain handler is Putting the grain in the right bin. What if, by mistake, he put your grain in bin 10 instead of 8.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda Hall
Operator's Signature

10/2/03
Date

Page 4
House Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 1--17--03

Now there is an insolvency situation and you come in and say all of the grain in that bin is mine

Now you have a problem. This bill would make sure you have protections for those kind of mistakes.

CHAIRMAN NICHOLAS: Any further discussion.. The Chair will entertain a motion.

REP. MUELLER: MADE MOTION FOR DO PASS

REP. KREIDT: SECONDED THE MOTION.

ROLL CALL VOTE WAS TAKEN.

13 YES 0 NO 0 ABSENT

BILL WAS CARRIED BY VICE CHAIRMAN POLLERT.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for archiving and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dan Pollert
Operator's Signature

10/2/03
Date

FISCAL NOTE
Requested by Legislative Council
01/02/2003

Bill/Resolution No.: HB 1157

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$6,000)	\$0	(\$6,000)	\$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.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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.*

Grain warehouse and grain buyer licenses run from August 1st through July 31st. Statutory license fees are not prorated for licenses that obtain part way through the year. To eliminate related business start-up problems and expenses, this bill proposes to grant licensees a first year license of up to 14 months if they commence operations in June or July. It is expected that this change will positively impact up to six licensees per year. It will also eliminate timing problems for licensees and the Commission's staff since it would not longer be advantageous to time the start-up of new business to exactly coincide with the start of a new license year.

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 estimated that the change proposed by this statute would reduce general fund income by about \$6,000 per biennium. Conversely, it would positively impact about six new licensees per year

(\$500 per licensee x 6 licensees per year = \$3,000 per year or \$6,000 per biennium).

This revenue loss may be partially offset by the late filing fee proposed by this bill (\$100). It is expected, however, that this disincentive penalty will result in more prompt compliance filings and few penalty payments.

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.*

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

None.

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.

None.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/06/2003

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna G. Galt
Operator's Signature

10/2/03
Date

HB 1157

Date: 1-17-03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

DO PASS

Motion Made By

Mueller

Seconded By

Kreidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	✓				
VICE CHAIRMAN POLLERT	✓				
REPRESENTATIVE BELTER	✓				
REPRESENTATIVE BOEHNING	✓				
REPRESENTATIVE KELSCH	✓				
REPRESENTATIVE KINGSBURY	✓				
REPRESENTATIVE KREIDT	✓				
REPRESENTATIVE UGLEM	✓				
REPRESENTATIVE WRANGHAM	✓				
REPRESENTATIVE BOE	✓				
REPRESENTATIVE FROELICH	✓				
REPRESENTATIVE MUELLER	✓				
REPRESENTATIVE ONSTAD	✓				

Total (Yes)

13

No

0

Absent

0

Floor Assignment

POLLERT

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Donna Hall

Date

1/21/03

REPORT OF STANDING COMMITTEE (410)
January 17, 2003 12:29 p.m.

Module No: HR-09-0725
Carrier: Pollert
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1157: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING) HB 1157 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-09-0725

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dannan Ballach
Operator's Signature

10/2/03
Date

2003 SENATE AGRICULTURE

HB 1157

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date


2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 02/28/03

Tape Number	Side A	Side B	Meter #
1	x		2080 - 4770
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on HB 1157. All members were present.

John Milke, Executive Secretary of the Public Service Commission and director of the commission's licensing division, testified in favor of the bill. (written testimony) He also noted Mr. Clark was also present to answer questions.

Senator Urlacher asked what is a roving grain buyer?

Mr. Milke said they are licensed to purchase grain but have no facility.

Senator Urlacher asked if this grain goes out of state?

Mr. Milke said sometimes. Often, they are looking for a back haul.

Senator Klein asked if it is up to the producers to know if a roving grain buyer has coverage through the Public Service Commission?

Mr. Milke said yes and that is also the case with a warehouseman. There was an insolvency with a business near Hillsboro, a feed mill that did not get licensed. The producers must be sure those

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.


Operator's Signature

10/2/03
Date

Page 2
Senate Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 02/28/03

they do business with are licensed and bonded. Also, if the grain is going out of state, North Dakota law does not protect them.

Senator Urlacher asked about hay haulers.

Mr. Milke said they have had more dealings with hay haulers this year. If a hay hauler is hauling hay for a farmer or rancher, they do not need to be licensed. If they are buying they hay then selling it, they need a license.

Senator Klein asked about condominium storage. Is this used if an elevator has excess storage or an abandoned facility?

Mr. Milke said it can occur in lots of situations. Sometimes an entire complex is leased out to individual farmers so it isn't a public warehouse so they don't need a license. Some get licensed voluntarily because they want the peace of mind of a license and bond. The Mandan Elevator leased out their bins to the west and delete them from their licensed capacity. They were required to physically disconnect the bins from their licensed facility. This bill will offer them some options so they wouldn't have to disconnect and could lease them out or sell them off. The industry is down sizing and this will offer some business opportunities. (meter # 3336)

Senator Klein confirmed that if this bill passed, in the example discussed, the Mandan Elevator would not have to physically disconnect their bins they wanted to use for condominium storage?

Mr. Milke said that is correct but they would have to maintain their bond.

Senator Flakoll asked how many licenses are issued?

Mr. Milke said the have 425 licensed grain warehouses, 325 with state licenses, 100 have federal licenses with a state grain buying license, and 50 licensed roving grain buyers. The license must

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

Page 3
Senate Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 02/28/03

be posted in a licensed facility. The roving grain buyers get a pocket sized license that is supposed to be carried at all times.

Senator Flakoll asked if the law applied to straw?

Mr. Milke said no.

Senator Urlacher asked how many licensed hay buyers?

Mr. Milke said one.

Senator Urlacher asked if there is a bonding requirement for hay buyers?

Mr. Milke said yes.

Senator Urlacher asked where notices of insolvency of a grain warehouse are published? (meter # 3748)

Mr. Milke said with an insolvency, notices are placed in the newspapers in the county where the elevator is located and the surrounding counties at a minimum. They are able to examine the business records of the elevator and determine where their customers are located. They also send notices by mail to the customers of the elevator.

Senator Klein asked regarding the license renewal and application, when would the late fee apply?

Mr. Milke said renewal notices are sent in early June with a July 15 due date. There will be a late fee if the renewal is received after July 15. They would still get 6 weeks notice for their renewal.

Steve Strege, North Dakota Grain Dealers Association, testified in favor of the bill. (meter #4125) He said the condominium storage saves investment in on farm storage.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis H. H. H.
Operator's Signature

10/2/03
Date

Page 4

Senate Agriculture Committee

Bill/Resolution Number HB 1157

Hearing Date 02/28/03

Senator Urlacher said he is concerned about hay jockeys. He is concerned a producer might not be paid. He doesn't know how to correct it.

Senator Klein asked if an emergency clause would help the Public Service Commission better regulate the roving hay buyers?

Mr. Milke said it would only define the word hay. There is already a requirement for a roving hay buyers license.

Senator Urlacher said it must be difficult to be sure everyone is licensed.

Mr. Milke said it is.

Senator Nichols asked if there have been more calls and problems this year?

Mr. Milke said yes. They have been able to help get people paid and have educated people regarding who needs to be licensed.

Senator Flakoll asked what is the minimum bond for a roving hay buyer?

Mr. Milke said \$25,000.

Chairman Flakoll closed the hearing on HB 1157. (meter # 4770)

Senator Flakoll said there is still the possibility of some amendment to the bill, they are waiting for a Supreme Court ruling and will have their recommendations to the Senate Agriculture Committee by next Wednesday.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

10/2/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 03/06/03

Tape Number	Side A	Side B	Meter #
1		x	5059 - 5440
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened discussion on HB 1157.

Senator Flakoll said the parties involved had asked him to hold the bill while they were waiting for findings from a supreme court decision. Because the bill has a fiscal impact and needs to go to appropriations, the parties have decided to proceed with the bill.

It was moved by Senator Klein, seconded by Senator Erbele and passed on a roll call vote that the Senate Agriculture Committee take a Do Pass and Re-Refer to Appropriations action on HB 1157. Voting yes were Senator Flakoll, Senator Erbele, Senator Klein, Senator Urlacher, Senator Nichols, and Senator Seymour. There were no negative votes cast. Senator Klein will carry the bill to the floor.

Chairman Flakoll moved on to other business of the committee.

Note: When the standing committee report was submitted, the front desk said the bill did not need to be re-referred to Appropriations. The members of the committee were polled on March

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

10/2/03

Page 2
Senate Agriculture Committee
Bill/Resolution Number HB 1157
Hearing Date 03/06/03

10 by the clerk at the instruction of Chairman Flakoll and all agreed to remove the Re-Refer to Appropriations action from the roll call vote.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorena Ballantyne
Operator's Signature

10/2/03
Date

Date: 3/6/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1157

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number revenue refund Amm 3/0/03

Action Taken Do Pass + Re Ref to Appropriations

Motion Made By Sen Klein Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Flakoll, Chairman	✓		Senator Nichols	✓	
Senator Erbele, Vice Chairman	✓		Senator Seymour	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen Klein

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

The micrograph images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 10, 2003 9:40 a.m.

Module No: SR-42-4306
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1157: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1157 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-42-4306

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna G. Ballantyne
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1157

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Doreen Hall
Operator's Signature

10/2/03
Date

H.B. 1157

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: House Agriculture Committee
Eugene Nicholas, Chairman

Date: January 17, 2003

TESTIMONY

Chairman Nicholas and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's Licensing Division.

This bill was introduced at the request of the Commission. It addresses a wide variety of issues related to the agency's regulation of grain warehouses and grain buyers.

Section 1 of the bill involves the issuance of grain warehouse licenses. The bill proposes to make new licenses that are issued immediately prior to the start of a new license year valid for up to 14 months. This change will make it easier for new businesses to get started.

At the present time, new businesses often try to time their start-up with the start of a new license year on August 1st. By doing so, they can avoid the need of having to pay for a license and then having to renew it in just a month or two.

Enactment of this section will allow them to get started in June or July without the need to renew their license as of August 1st. This

Donna Hall
Operator's Signature

1/21/03
Date

change will also make it easier for the Commission's staff to work with these new licensees outside the rush period that is associated with getting hundreds of other licenses renewed in late July.

Section 1 also proposes to create a \$100 late filing penalty for grain warehouses that do not file their renewal applications in a timely manner. Licensees are routinely advised to have their renewal applications submitted by July 15th but many do not heed this request. Doing so creates significant problems as the renewal deadline approaches. The 2001 Legislature created a similar type disincentive relative to auctioneer licenses. That mechanism has worked well and we expect the same results here.

Section 2 involves the protection of grain assets in cases where a grain warehouse license has been suspended and may be revoked. Existing law requires that suspended licensees get Commission approval to purchase additional grain or to redeliver grain to patrons. The law does not, however, prohibit the sale of grain that is already on hand.

The change proposed in this section would make it necessary for the suspended licensee to get Commission permission before selling any grain. It would help protect farmer interests by ensuring that grain is sold in a responsible manner and that related proceeds will be available to the trust fund should the licensee eventually become insolvent.

Section 3 also relates to suspension situations. It provides that a warehouseman cannot charge a farmer redelivery fees if the farmer is being forced to take redelivery of grain because the warehouseman is unable to pay for it. It is not fair to make a farmer pay these fees if

the farmer had no intention of taking redelivery. It is the warehouseman's actions that are necessitating this transaction so the farmer should not be penalized by having to pay related redelivery charges.

Section 4 of this bill proposed to create a new law related to condominium storage. Condominium storage exists when several individuals own or lease various storage compartments in a warehouse, each of which is used by its owner or lessee.

The Commission's intent is to help create alternative uses for grain warehouse facilities in cases where the elevator has closed or in situations where a public warehouse would like to sell or lease portions of its facilities.

If an entire facility is to be used for non-public purposes, no license will be required. If, however, a portion of the facility is to be used as a public warehouse, all connected space must be licensed and bonded, even if some of it is to be used on a condominium basis.

The Commission believes that this approach will create additional business options for some facilities while providing adequate protection for farmers who are dealing with public warehouses that have some condominium storage on site.

Sections 6 and 7 of this bill are identical to Sections 1 and 2 except for the fact that they deal with grain buyers rather than grain warehouses. We are proposing the same changes to both Chapters 60-02 and 60-02.1 in order to treat both types of licensees the same.

Section 8 is a housekeeping section. When Chapter 60-02.1 was enacted four years ago to regulate grain buyers, much of what

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Hall
Operator's Signature

10/2/03
Date

was in Chapter 60-02 to regulate grain warehouses was built into the new chapter.

We have since noticed an error in 60-02.1-14 in that its bond-related provisions incorrectly refer to Section 60-02.1-15. It should refer to 60-02.1-08. This section corrects that error.

Section 9 of this bill is similar to Section 3 which involves the sale of grain during a period of license suspension. The only difference is that Section 9 relates to grain buyers while Section 3 relates to grain warehouses. We are attempting to keep Chapters 60-02 and 60-02.1 as similar as possible in order to treat all licensees the same and to ensure that farmers have similar levels of protection, regardless of whether they are selling grain to a licensed grain warehouse or a licensed grain buyer.

Section 10 involves steps that must be taken to process grain buyer insolvency cases. At the present time, when a grain buyer becomes insolvent, the Commission must apply to district court in Burleigh County to be named trustee. The Commission's experience in the recent Wimbledon Grain insolvency case indicates that a better approach is to use a more local district court when the case involves a facility-based grain buyer that is based in a certain part of the state. This approach would make it easier for farmers to participate in any subsequent court hearings.

Section 11 also involves grain buyer insolvency cases but this section is specific to the notice that must be provided to call for the submittal of claims by farmers.

In grain elevator insolvency cases, the Commission has always been required to publish notices in the county where the elevator is

located. When 60-02.1 was enacted, the relevant section of this new chapter was erroneously patterned after roving grain buyer laws; it should have been patterned after the more applicable grain warehouse provisions. As it reads now, publication notices involving facility based grain buyers must be published statewide.

The Commission does not believe that this level of publicity is necessary when insolvencies involve facility-based grain buyers, as was the case with Wimbledon Grain. Publishing notices in affected counties should be sufficient. That is what this section proposes.

Section 12, the last section of this bill, proposes to define "hay" as it relates to hay buyers that are regulated by Chapter 60-03.

Until four years ago, this chapter governed both roving grain and roving hay buyers. The 1999 Legislature enacted Chapter 60-02.1 to govern grain buyers; thereby leaving hay buyers as the only entities governed by Chapter 60-03.

Unfortunately, the definition for "grain" was not deleted from Chapter 60-03 and, even more importantly, the chapter never did contain a definition for hay. This section proposes to correct these shortcomings by deleting the definition of grain and by creating a definition for hay.

Mr. Chairman, that concludes our testimony on this bill. I would be happy to respond to any questions that you or your committee may have.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Danina Baller
Operator's Signature

10/2/03
Date

H.B. 1157

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Agriculture Committee
Tim Flakoll, Chairman

Date: February 28, 2003

TESTIMONY

Mr. Chairman and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's Licensing Division.

This bill was introduced at the request of the Commission. It addresses a wide variety of issues related to the agency's regulation of grain warehouses and grain buyers.

Section 1 of the bill involves the issuance of grain warehouse licenses. The bill proposes to make new licenses that are issued immediately prior to the start of a new license year valid for up to 14 months. This change will make it easier for new businesses to get started.

At the present time, new businesses often try to time their start-up with the start of a new license year on August 1st. By doing so, they can avoid the need of having to pay for a license and then having to renew it in just a month or two.

Enactment of this section will allow them to get started in June or July without the need to renew their license as of August 1st. This

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Ball
Operator's Signature

10/2/03
Date

change will also make it easier for the Commission's staff to work with these new licensees outside the rush period that is associated with getting hundreds of other licenses renewed in late July.

Section 1 also proposes to create a \$100 late filing penalty for grain warehouses that do not file their renewal applications in a timely manner. Licensees are routinely advised to have their renewal applications submitted by July 15th but many do not heed this request. Doing so creates significant problems as the renewal deadline approaches. The 2001 Legislature created a similar type disincentive relative to auctioneer licenses. That mechanism has worked well and we expect the same results here.

Section 2 involves the protection of grain assets in cases where a grain warehouse license has been suspended and may be revoked. Existing law requires that suspended licensees get Commission approval to purchase additional grain or to redeliver grain to patrons. The law does not, however, prohibit the sale of grain that is already on hand.

The change proposed in this section would make it necessary for the suspended licensee to get Commission permission before selling any grain. It would help protect farmer interests by ensuring that grain is sold in a responsible manner and that related proceeds will be available to the trust fund should the licensee eventually become insolvent.

Section 3 also relates to suspension situations. It provides that a warehouseman cannot charge a farmer redelivery fees if the farmer is being forced to take redelivery of grain because the warehouseman is unable to pay for it. It is not fair to make a farmer pay these fees if

the farmer had no intention of taking redelivery. It is the warehouseman's actions that are necessitating this transaction so the farmer should not be penalized by having to pay related redelivery charges.

Section 4 of this bill proposed to create a new law related to condominium storage. Condominium storage exists when several individuals own or lease various storage compartments in a warehouse, each of which is used by its owner or lessee.

The Commission's intent is to help create alternative uses for grain warehouse facilities in cases where the elevator has closed or in situations where a public warehouse would like to sell or lease portions of its facilities.

If an entire facility is to be used for non-public purposes, no license will be required. If, however, a portion of the facility is to be used as a public warehouse, all connected space must be licensed and bonded, even if some of it is to be used on a condominium basis.

The Commission believes that this approach will create additional business options for some facilities while providing adequate protection for farmers who are dealing with public warehouses that have some condominium storage on site.

Sections 6 and 7 of this bill are identical to Sections 1 and 2 except for the fact that they deal with grain buyers rather than grain warehouses. We are proposing the same changes to both Chapters 60-02 and 60-02.1 in order to treat both types of licensees the same.

Section 8 is a housekeeping section. When Chapter 60-02.1 was enacted four years ago to regulate grain buyers, much of what

was in Chapter 60-02 to regulate grain warehouses was built into the new chapter.

We have since noticed an error in 60-02.1-14 in that its bond-related provisions incorrectly refer to Section 60-02.1-15. It should refer to 60-02.1-08. This section corrects that error.

Section 9 of this bill is similar to Section 3 which involves the sale of grain during a period of license suspension. The only difference is that Section 9 relates to grain buyers while Section 3 relates to grain warehouses. We are attempting to keep Chapters 60-02 and 60-02.1 as similar as possible in order to treat all licensees the same and to ensure that farmers have similar levels of protection, regardless of whether they are selling grain to a licensed grain warehouse or a licensed grain buyer.

Section 10 involves steps that must be taken to process grain buyer insolvency cases. At the present time, when a grain buyer becomes insolvent, the Commission must apply to district court in Burleigh County to be named trustee. The Commission's experience in the recent Wimbledon Grain insolvency case indicates that a better approach is to use a more local district court when the case involves a facility-based grain buyer that is based in a certain part of the state. This approach would make it easier for farmers to participate in any subsequent court hearings.

Section 11 also involves grain buyer insolvency cases but this section is specific to the notice that must be provided to call for the submittal of claims by farmers.

In grain elevator insolvency cases, the Commission has always been required to publish notices in the county where the elevator is

located. When 60-02.1 was enacted, the relevant section of this new chapter was erroneously patterned after roving grain buyer laws; it should have been patterned after the more applicable grain warehouse provisions. As it reads now, publication notices involving facility based grain buyers must be published statewide.

The Commission does not believe that this level of publicity is necessary when insolvencies involve facility-based grain buyers, as was the case with Wimbledon Grain. Publishing notices in affected counties should be sufficient. That is what this section proposes.

Section 12, the last section of this bill, proposes to define "hay" as it relates to hay buyers that are regulated by Chapter 60-03.

Until four years ago, this chapter governed both roving grain and roving hay buyers. The 1999 Legislature enacted Chapter 60-02.1 to govern grain buyers; thereby leaving hay buyers as the only entities governed by Chapter 60-03.

Unfortunately, the definition for "grain" was not deleted from Chapter 60-03 and, even more importantly, the chapter never did contain a definition for hay. This section proposes to correct these shortcomings by deleting the definition of grain and by creating a definition for hay.

Mr. Chairman, that concludes our testimony on this bill. I would be happy to respond to any questions that you or your committee may have.