

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

[Empty box for Roll Number]

DESCRIPTION

2112

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Yuberena, J. Lee  
Operator's Signature

10-16-03  
Date

2003 SENATE TRANSPORTATION

SB 2112

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10-16-03  
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2112

Senate Transportation Committee

Conference Committee

Hearing Date 1-16-03

Tape Number	Side A	Side B	Meter #
1	X		25-2940

Committee Clerk Signature

*Mary K Monson*

Minutes:

The hearing on SB 2112 was opened by **Chairman Senator Thomas Trenbeath**.

**Senator Trenbeath:** SB 2112 does bear a fiscal note which indicates revenues to the general fund of \$127,000.

**Jon Mielke:** (Executive Secretary, Public Service Commission) Testimony attached in support of SB 2112.

**Senator Mutch:** (Meter 355) If you inspect equipment that needs some adjusting and a private repair service does the adjusting do you recognize the repair?

**Jon Mielke:** (Meter 460) Yes, if the operator has to hire a registered service provider to make a repair, once that registered service person makes the repair they are authorized by the commission to put that device back into service.

**Senator Espgaard:** (Meter 540) Questioned whether going entirely with private service providers was possible.

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**Jon Mielke:** (Meter 570) There are at least two reasons why you wouldn't want to do that.

1. The fees charged by the public service providers.
2. Private service companies primary reason for being in business is sales and service, so they have a vested interest in finding something wrong with the equipment and to make the repair or sell a new piece of equipment. The state has no vested interest in finding something wrong.

**Senator Espgaard:** (Meter 645) Questioned the cost of operating this department.

**Jon Mielke:** We are looking at out of pocket costs associated with it.

**Senator Mutch:** Could a dealer be exempt from having the state inspect if they choose to have a private inspector.

**Jon Mielke:** (Meter 830) Any commercial operator can apply to be recognized as a registered service provider and once they meet certain criteria they become certified to provide that service. If a registered provider is contracted, the state would not also need to inspect. The commission does a follow-up, like a quality control, on about 1% of the services the registered providers provide.

**Senator Mutch:** How does a dealer know he is exempt?

**Al Moch:** (Director of Testing and Safety Division, Public Service Commission) (Meter 998)  
Devices must be checked once a year not to exceed 15 months. All service companies are required to submit a copy of their test report within seven working days. The Public Service Commission keeps track of when a dealer is due for testing and if the record shows he hasn't been tested for 15 months the commission does the testing.

**Senator Mutch:** Does the commission do the testing and certification of these companies.

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Senate Transportation Committee  
Bill/Resolution Number SB 2112  
Hearing Date 1-16-03

**Al Moch:** (Meter 1095) Yes. We license the companies and the technicians.

**Senator Bercier:** How many registered services providers?

**Al Moch:** There are about 45 service providers.

**Senator Trenbeath:** Why are we taking out sub 14. test truck tank on line 12 pg. 2?

**Al Moch:** (Meter 1580) There is a discrepancy with the way we apply this law.

**Senator Trenbeath:** Asked for explanation of line 18 pg. 2.

**Al Moch:** (Meter 1680) This pertains to areas where self certification is allowed such as loading rack meters. When we don't have the standards available to us to check them and a company that we certify does, we watch their technicians use that standard to check those meters.

**Senator Nething:** (Meter 1780) How long does it take to test a livestock and vehicle scale?

**Al Moch:** (Meter 1795) With the perfect scenario we should be able to check a livestock scale or a vehicle in about an hour to an hour and a half.

**Senator Nething:** Do you have a witness to the testing?

**Al Moch:** The owner/operator can assign a witness if they desire. The tester probably wouldn't have a witness.

**Jon Mielke:** (Meter 1915) Elaborated on the time involved in testing and explained some of the expenses that they are building into the fees.

(Meter 2045) Discussion on the problem of gas pump calibration in rural areas. The commission does acknowledge the work of registered service providers.

**Senator Bercier:** (Meter 2669) Questioned how the differences between tolerances for a public job and a federal or state highway job could be different.

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Senate Transportation Committee  
Bill/Resolution Number SB 2112  
Hearing Date 1-16-03

**Al Moch:** The ND State Highway Dept. has their own rules on tolerances for the portable scales that are used for road construction. Those scales are not under our jurisdiction. If those scales are also used to sell to the public then they have to meet all of the requirements of any other scale.

**Russ Hanson:** (ND Petroleum Marketers Association) (Meter 2835) Neutral. A number of the concerns were forwarded to our office. As the new rules are put into place on behalf of the marketer, we'll be very involved in the process to hopefully ease concerns and answer questions.

**Senator Trenbeath** closed testimony on SB 2112 at this time. Testimony will resume at a later date.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2112

Senate Transportation Committee

Conference Committee

Hearing Date 2-13-03

Tape Number	Side A	Side B	Meter #
2		X	0-240

Committee Clerk Signature *Mary K Monson*

Minutes:

**Chairman Senator Thomas Trenbeath** opened SB 2112 for discussion.

Discussion indicated that the increases would bring them closer to their expenses.

**Senator Mutch** moved a **Do Pass** on SB 2112. Rerefer to appropriations.

Seconded by **Senator Taylor**. Roll call vote 6-0-0. **Passed**. Floor carrier is **Senator Mutch**.

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*10-16-03*  
Date

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/03/2003

Bill/Resolution No.: SB 2112

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
<b>Revenues</b>	\$0	\$0	\$127,000	\$0	\$127,000	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$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.

This bill proposes to increase the statutory fees charged to test and certify weights and measures equipment that is used in commercial service in North Dakota. Fees for "light duty" equipment such as gas pumps and grocery scales would increase by approximately 10% and "heavy duty" fees for equipment such as truck and livestock scales would increase by approximately 60%. Related income would allow the state to recover the direct costs associated with providing services. Device operators would still have the option of utilizing state-provided services or those provided by private sector service companies. State fees would still be well below those charged by the private sector.

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 fee increases proposed in this bill would increase general fund revenues by approximately \$127,000 per biennium. Approximately \$29,000 of this amount would come from "light duty" inspections and \$98,000 would come from "heavy duty" inspections.

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.

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.

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10-16-03  
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None.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/07/2003

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Date

Date: 2-13-03  
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2112

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass and Refer to Appropriations

Motion Made By Sen. Mutch Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier	✓	
Senator Duaine Espegard, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nething	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Mutch

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

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Yvonnea J. Lee 10-16-03  
Operator's Signature Date

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2003 4:06 p.m.

**Module No: SR-28-2648**  
**Carrier: Mutoh**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2112: Transportation Committee (Sen. Trenbeath, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was rereferred to the Appropriations Committee.**

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2003 SENATE APPROPRIATIONS

SB 2112

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2112

Senate Appropriations Committee

Conference Committee

Hearing Date Feb. 17, 2003

Tape Number	Side A	Side B	Meter #
#2	x		0-266 0
Committee Clerk Signature <i>Jan Kendrickson</i>			

Minutes:

Hearing was opened on **SB 2112** (Tape #2 Side A)

**John Milke**, PSC commissioner presented testimony on SB 2112. No written testimony. Bill is relating to fees for testing and calibrating weighing and measuring devices. He stated that the PSC had a fee increase bill last session, to increase those fees by 10%, and we received some direction from the committee that perhaps they should be looking at more of an increase to try to cover the full costs associated with providing those services. We have come back this session after studying those costs and the bill proposes to increase the fees associated with light duty services by 10% approximately, and the fees for the heavy duty services by about 60%. That will generate money for the general fund. It does not go directly back to the PSC. The resulting fees will still be less than those charged by the private sector service providers.

Questions: (#130)

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*10-16-03*  
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2112

Hearing Date Feb. 17, 2003

**Senator Tallackson:** He noticed the increase in the testing propane and liquid fertilizer (#13 - Line 10 in SB 2112). He wondered if the Ag. Dept. did this? **John** replied: It depends on, as he understood it, how the commodities is being sold. For anything that is sold over a scale or a pump, some that are specific to anhydrous, then they have to test that, but only if it is someone registered with the Ag. Dept. They have to be licensed through the Ag. Dept. before PSC can go in and test there equipment.

**Senator Holmberg** stated that the Transportation committee passed this bill out on Friday by a vote of 6 to 0.

**Senator Mathern:** He wondered if this increase was figured into the PSC budget. **Senator Holmberg** replied that it was not figured into the PSC budget. It is an addition to the general fund of \$127,000. **Senator Christmann:** When were these last changed? **Senator Holmberg** stated that John stated they were last changed recently, but they were told they should have gone for more in the last session.

With no other testimony before the committee on this bill, the hearing on SB 2112 was closed.

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10-16-03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 211 <sup>2</sup>votes

Senate Appropriations Committee

Conference Committee

Hearing Date Feb. 17, 2003

Tape Number	Side A	Side B	Meter #
#2	x		267 - 327

Committee Clerk Signature *Jan Hendrickson*

Minutes:

Motion by **Senator Andrist**, seconded by **Senator Thane** for a **DO PASS**.

No discussion

Roll call vote, which is attached.

**Total: 11 yes, 2 no, 1 absent and not voting**

Transportation will carry the bill: **Senator Mutch**.

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*10-16-03*  
Date

Date:  
Roll Call Vote #:

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

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass

Motion Made By Andrist Seconded By Thane

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair					
Senator Andrist	✓				
Senator Christmann		✓			
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger		✓			
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Transpota. Mutch

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

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REPORT OF STANDING COMMITTEE (410)  
February 17, 2003 9:48 a.m.

Module No: SR-17-2874  
Carrier: Mutoh  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**SB 2112: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
**(11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2112 was placed on the**  
**Eleventh order on the calendar.**

(2) DESK, (3) COMM

Page No. 1

SR-17-2874

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10-16-03  
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2003 HOUSE TRANSPORTATION  
SB 2112

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10-16-03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2112

House Transportation Committee

Conference Committee

Hearing Date March 7, 2003

Tape Number	Side A	Side B	Meter #
1	x		24.2 to 35.3
	x		38.3 to 45.8
Committee Clerk Signature <i>Laura L. Zumb</i>			

Minutes:

Rep. Hawken, Vice Chairman opened the hearing on SB 2112, a bill for an Act to amend and reenact section 64-02-10 of the North Dakota Century Code, relating to fees for testing and calibrating weighing and measuring devices.

Jon Mielke, Executive Director and director of Licensing Division of the ND PSC and with him was Al Moch, director of the PSC Testing and Safety Division. A copy of his prepared remarks is attached.

Rep. Weller Yu said that in the last session you increased the fees -- what were the fees two years ago and what was the increase?

Jon Mielke the fees were increased approximately 10% two years ago. That is what was proposed and the fact that we got some legislative direction at that time for us come back and when we had a better handle what the cost were and make a proposal that would help us cover those rates.

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10-16-03  
Date

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House Transportation Committee  
Bill/Resolution Number SB 2112  
Hearing Date March 7, 2112

Rep. Weisz -- Jon you should have listened to us last time -- it appears that we had proposed more of an increase than what appears here.

Rep. Dosch You have indicated the operators still have the option of using State inspection service or outside individuals -- is the state in anyway competing with the private sector?

Jon Mielke: We have a number of private sector providers -- their primary business is in sales and service of equipment. So if there is an operator that has a piece of equipment that is out of tolerance and needs service work or they are replacing it or putting in a new piece of equipment -- these operators would go to those people and have the work done. What we have done with those folks -- rather than having them install a piece of equipment and then making it necessary for the state to come out and certify it -- we have allowed those people to certify and place the equipment in service. Once they are done with the service work or the installation they can do the testing on the equipment and contact our office and say this piece of equipment has been tested -- and we will stand behind it. We enter that into the our records just as if our people had been out there. so that eliminates the time lag for us having to send somebody out there. and also the extra cost of having us to come out there when they are already there. So that's their primary line of business -- some companies may have a service contract where they just have those people come out on a regular basis and if that's the case -- then we will never go to that location unless it happens to pop up where we are doing a quality control type of inspection -- just to double check that those people are doing a good job.

Rep. Hawken: I remember this bill very well from last time --- it drove me nuts that we might be providing a service that we were not recovering the costs for. -- This is your job to do this so

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Page 3  
House Transportation Committee  
Bill/Resolution Number SB 2112  
Hearing Date March 7, 2112

you are not in competition with private business except allowing them to do it while they are there and pay for it then.

Rep. Schmidt: That \$171 would be grain elevators -- scale testing?

Jon Mielke: That is correct.

Rep. Schmidt: Does that inspector have to go down in the pit --

Al Mock: There was a time in the past when we did go down into the pits --- because any kind of lack of maintenance in the pit -- especially on the older lever system scales would cause the device to -- sometime in the past - risk management came into being and -- it is definitely a hard hat area -- so the extent of our visibility is to open the pit door and flash a light in and look around.

Rep. Schmidt: I remember being in the elevator business and you wouldn't get me to go down into that pit for a \$1000. This is as bad as it is.

Rep. Hawken: I have notice here that we are taking out test truck tanks -- why are we taking that out?

Jon Mielke: They looked at that on the Senate side -- and we did too and we do know what it is and we have never charged for that.

Rep. Weiler: Reading at the bottom of the bill -- it is not actually a part of the senate amendment -- but it say here that where a test has been requested and the person requesting it fails to appear -- there is a charge of \$10 per quarter hour for the arranged time and the time when the test can begin. Is that pretty common?

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Page 4  
House Transportation Committee  
Bill/Resolution Number SB 2112  
Hearing Date March 7, 2112

Jon Mielke: Yes sir that is the time when a grain elevator operator says to be there say at eleven to do my scale and he doesn't show up until noon -- so we are sitting around waiting.

Al Moch: Rep. Weiler, generally where this happens or where this applies -- it might be a livestock sales yard out in the middle of now where and it is controlled by the Association -- or a seed house -- the correct definition would be standby time. We are on a tight schedule and we have a lot devices to see in a day -- if our time is disrupted -- we need to be compensated for that.

Rep. Weiler: Then do you reciprocate that when you are late?

Al Moch: We are never late.

Vice Chairman Hawken : There being no other persons wishing to testify on SB 2112 either for against or for SB 2112, she closed the hearing.

End of hearing record. ( 35.3 )

**Action on SB 2112 Tape 1 Side A ( 38 .4 )**

Rep. Hawken opened the discussion for action on SB 2112 -- there was discussion on rates and different types of scales and services. Al Moch and Jon Mielke responded.

Rep. Zaiser moved a 'Do Pass' motion for SB 2112. Rep. Schmidt seconded the motion.

On a roll call vote the motion carried 9 Ayes 0 Nays 4 Absent and not voting.

Rep. Zaiser was designated to carry SB 2112 on the floor.

End of record. ( 45.7 )

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10-16-03  
Date

Date: 3/7/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2112

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number 38133.0100

Action Taken Do Pass

Motion Made By Rep. Zaiser Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	✓	
LeRoy G. Bernstein	<del>A</del>		Elwood Thorpe	<del>A</del>	
Mark A. Dosch	✓		Steven L. Zaiser	✓	
Pat Galvin	<del>A</del>				
Craig Headland	✓				
Clara Sue Price	<del>A</del>				
Dan J. Ruby	✓				
Dave Weiler	✓				

Total Yes 9 No 0

Absent 4

Floor Assignment Rep. Zaiser

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

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Yubereca d. Lee 10-16-03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
March 7, 2003 10:55 a.m.

Module No: HR-41-4209  
Carrier: Zaiser  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2112: Transportation Committee (Rep. Welz, Chairman) recommends DO PASS (9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2112 was placed on the Fourteenth order on the calendar.**

(2) DESK, (3) COMM

Page No. 1

HR-41-4209

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2003 TESTIMONY

SB 2112

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## S.B. 2112

**Presented by:** Jon Mielke, Executive Secretary  
Public Service Commission

**Before:** Senate Transportation Committee  
Thomas L. Trenbeath, Chairman

**Date:** January 16, 2003

*Same to House*

### 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.

Also with me this morning is Al Moch, the director of the Commission's Testing & Safety Division. We will be happy to respond to any questions that you might have.

This bill was introduced at the request of the Commission. It is strictly a fee-related bill that is intended to help the Commission generate income sufficient to cover direct costs related to providing weights and measures services.

The Commission's weights and measures services can be divided into three categories. The first of these categories is metrology services that are provided in the Commission's lab located immediately north of the Capitol. This lab is used to certify the accuracy of equipment that is used in the field to test scales and pumps. The lab is used to test both Commission equipment and the equipment used by commercial service providers.

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The other two categories of weights and measures services are "light duty" and "heavy duty" inspections. The Commission has three light duty inspectors. These individuals drive one-ton trucks and focus on relatively small equipment such as gas station pumps and grocery store scales.

The Commission's two heavy duty inspectors drive 2½ ton trucks and focus primarily on large scales such as those operated by grain warehouses and livestock auctions.

The fees for weights and measures services are set by statute. At the urging of the Commission, these fees were increased by the 2001 Legislature. It was made clear, however, that the Commission should revisit these fees and propose increases that would allow the state to recover more of the direct costs associated with providing related services.

The Commission has, therefore, studied the costs associated with its weights and measures services. This review shows that light duty inspection services are generating income that is fairly close to related costs. It appears that a 10 percent increase in these fees will make the service roughly self-supporting.

This is unfortunately not the case relative to heavy duty services. The equipment used to provide this service has become very expensive to operate and the relatively light density of equipment operators makes travel times considerably higher than those experienced by light duty inspectors. To cover related costs, the Commission estimates that a fee increase of 60 percent is necessary.

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It is important to recognize that even with the proposed increases, the fees charged for these services are still well below those charged by private sector service providers. Device operators also have the option of using either state inspection services or contracting with registered service providers to have their equipment certified.

The Commission estimates that the fee increases proposed by this bill will generate approximately \$127,000 per biennium in new income for the state general fund.

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

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