

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1292

2005 HOUSE AGRICULTURE

HB 1292

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1292

House Agriculture Committee

☐ Conference Committee

Hearing Date 1---21---05

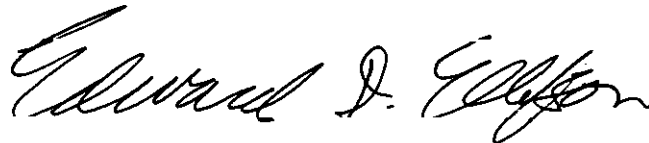
Tape Number
ONE

Side A
A

Side B

Meter #
00 TO 31.1

Committee Clerk Signature



Minutes:

MADAM CHAIR WOMAN KINGSBURY: Committee Members we will open on HB 1292.
BILL IS RELATING TO CREDIT SALE CONTRACT INDEMNITY FUND.

REPRESENTATIVE BRANDENBURG: DIST. 28. This bill dealing with the indemnity fund. What the bill talks about is taking it from ten million to five million dollars. My concern in looking at this bill talking about ten million dollars. And looking at this fund now has probably got a little over one point two million What ever it is. In another two years it will be two and a half million and in four years it will be proposed ten million dollars. My fear is the ten million will not stay in the fund. The next legislation and the next legislation and the next legislation will come up with some new uses for the money. If big companies go broke ten million will not cover the loss. Ten million is excessive to have in the fund. If big elevators go broke this is not going to cover it. Some elevators going broke could tap this fund for two to five million. I just look at this to be another tax for the farmer has to pay. As to allocated to

offset this bill from a ten million to a five million is an unallocated reserve portion financial balance sheet that an elevator would have. Before where a bank know what the business is doing and you have the unallocated rerserve they should be pulling the check book before the unallocated reserve is ate up. There should be a way for the bank not to use all of it. Maybe it should be fifty fifty. If they know the indemnity fund is here they are going to burn every dollar of that unallocated fund in the elevator. This fund is good. There is some merit to it. But I think that ten million is excessive and I think the unallocated reserve portion dealing with past years that the bank could only use fifty percent of it. The other fifty percent should go to people with the grain and the elevators. That's my idea of what I am talking about. Any questions.

MADAM CHAIRWOMAN: Any questions from Rep. Brandenburg.? Any other testimony.

ILLONA JEFFCOAT-SACCO: EXECUTIVE SECRETARY PUABLLC SERVICE

COMMISSION. Chairwoman and committee members, my name is Illona Jeffcoat-Ssacco. I am Executive Secretary of the Public Service Commission I am going to take the middle road. I am familiar of the situations that come up. {{there is printed testimony}} please read.

Amendments are suggested by the P.S.C. Commission is opposed to section one but amendments could help. A lot of complications with refunds.

REPRESENTATIVE MUELLER: Raid of indemnity fund, how dose it happen.

ILLONA: Only the legislature could raid the fund.

REPRESENTATIVE ONSTAD: Talk about funding. Years to get to cap. If we get in the negative. How do we get out.

REPRESENTATIVE BRANDENBURG: If fund dose not have sufficient money to pay claims,

It goes into the negative, the new money coming in will be used to pay off old claims.

.It goes on and on with taking new money to pay old claims. Again I can see some of this money being used for something else.

ILLONA: We are not going to reach the two and half million for a while.

REP. ONSTAD: My constituents like this bill. They look at it as term insurance.

ILLONA: We need a history to come up with facts.

CLYDE KREBS: N.D. GRAIN DEALERS ASSOCIATION: { PLEASE SEE PRINTED TESTIMONY} The testimony stated two years ago we supported the legislation creating the credit sale contract indemnity fund. We thought it was reasonable. We thought the \$10 million cap was reasonable and are OK with leaving it there. We should however, that there are individual elevators in the state writing credit sales contracts in excess of that amount. I will try to answer any questions you may have.

REP. MUELLER: It is important to know who you do business with.

ILLONA: Madam Chair. If the fund does not have enough money to pay claimants. The claimants are paid from the next collection and the next collection and the next collection. Until they get 80% of there claims paid so it is conceivable you don't build up a cushion That you will be constantly in the negative and you may never get to the cap.

REP: BRANDENBERG: I can see the one or two million thing is not going to work. Looking at the fund the banker could only use 50% of that unallocated reserve. I hope no elevators go broke. I'm think some will but I think if that fund gets to \$5 million dollars And we have elevators that don't use the fund and say we don't use the fund that the future legislators and appropriations are trying to find money could very well use the money..

MADAM CHAIRMAN: We have an amendment. We are opposed to section of the bill
And opposed to section two in it's current form but willing to talk about numbers.

REP. ONSTAD: Would we not be better off if we reviewed it once it reaches that initial \$5
million dollars and do that rather then stipulate this right now and make that a change on a two
or four year basis but just bring it back and review it and look at the current cases. What is
coming on board.

ILLONA: Rep. Onstad that is exactly what I would prefer. I really think you need a history
here.

VICE CHAIR WOMAN:

KREBS: TESTIMONY.

REP. MUELLER: How is it going in Glen Ullin.

KREBS: I own the elevator in Glen Ullin. We have about a half million dollars worth of
delayed deferred payment contracts. That I paid after the first of the year. We have not had
one negative comment. Maybe we did a good job of selling it to them. It is insurance just in
case something happened. This is telling people to know who you are doing business with.
I am on the Grain Dealers Board and I have heard no negative comets. We all when we pay
insurance premiums hope that we will never have to use it.

CHAIR WOMAN KINGSBURY:

MIKE CLEMENS: PRESIDENT OF NORTH DAKOTA CORN GROWERS ASSOCIATION
AND PRODUCER. We are opposed to HB1292. Since 1975 there have been 23 elevator
insolvency's in North Dakota. Private and cooperative. PLEASE SEE PRINTED TESTIMONY

WOODY BARTH: Representing the 35,000 members of the FARMERS UNION. We support the bill. We support the indemnity fund. We agree with the PSC that the bill may be to cumbersome to implement the way the proposed bill is written. The 10 million cap we would be willing to talk about. We would be willing to work with the PSC. We need to get there first. I hope the fund dose get up to 10 million. The unallocated fund is working capitol. Elevators have to look at the balances sheet.

MADAM CHAIRWOMAN:

REP. MUELLER: What do we hear from the elevators, the operators the producers etc. What do they think about bill.

ILLONA: PSC. Both comments implementing is positive as far as we are concerned. We Receive good comments. Very positive. Nothing bad to say about the fund.

VICE CHAIRWOMAN KINGSBURY Any additional testimony of HB 1292 in favor of or against bill

WE WILL CLOSE THE HEARING ON HB 1292.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1292

House Agriculture Committee

☐ Conference Committee

Hearing Date 2---11---05

Tape Number
ONE

Side A
A

Side B

Meter #
6.1 TO 15.7

Committee Clerk Signature



Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will reopen the hearing on HB1292

REPRESENTATIVE MUELLER: I resist the bill. Make changes later. See what happens.

Leave law in place.

REPRESENTATIVE BRANDENBURG: Indemnity fund is there to stay. Some like it some don't. It is subsidizing poor management. The amendment was looked at.

REPRESENTATIVE KREIDT: I go along with Mueller. Don't mess with bill now.

CHAIRMAN NICHOLAS asked for any other additional discussion.

REPRESENTATIVE KREIDT: MADE A MOTION FOR A DO NOT PASS.

REPRESENTATIVE ONSTAD SECONDED THE MOTION

THE CHAIR ASKED FOR THE ROLL TO BE TAKEN ON HB 1292.

THERE WERE 12 YES 1 NO 0 ABSENT

REPRESENTATIVE MUELLER WILL CARRY THE BILL.

Page 2

House Agriculture Committee

Bill/Resolution Number HB 1292

Hearing Date 2---11---05

CHAIRMAN NICHOLAS CLOSED ON HB 1292

FISCAL NOTE

Requested by Legislative Council
01/18/2005

REVISION

Bill/Resolution No.: HB 1292

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	(\$624,328)	\$0	(\$937,164)
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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

The fiscal impact of HB 1292 is that it caps the credit sale indemnity fund at a lower amount (capped by HB 1292 at 5 million rather than the current 10 million). Also, HB 1292 lowers the assessment by one-half when the fund is equal to \$2,500,000 but less than \$5,000,000. This means that revenue received after the \$2,500,000 threshold kicks in will be one-half that which would have been received under current law. We do not believe this threshold will be reached until later in the 2005-2007 biennium.

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 first revenue number is zero--for the current biennium. This is based on estimated revenue for the same two quarters of 2004 actual revenue (the first quarter and the second quarter). For 2004, the actual revenue for these two quarters was \$811,263, so that is the amount estimated for the first two quarters of 2005 until the end of the biennium. However, because that amount is estimated to be the same under current law and under HB 1292, the fiscal note indicates a zero impact for the 2003-2005 biennium. The second revenue estimate--for the 2005-2007 biennium--is also based on actual revenues received (and estimated for the last two quarters) during the biennium. This 2005-2007 revenue number will be lower under HB 1292 than it would be under existing law by \$624,328 because during the biennium, we expect the fund to reach the \$2,500,000 threshold at which assessments are cut by one-half. We have based our estimates for the 2007-2009 biennium on the same 2003-2005 actuals and estimates. However, all of the assessment during the 2007-2009 biennium will be at the lower assessment, so the estimated revenue for the 2007-2009 biennium is half of what it would have been under existing law, or \$937,164. Revenue shown above is \$937,164 (one half) lower than it would be under existing law. We do not estimate that the \$5,000,000 cap would be reached until some time after the 2007-2009 biennium. Of course, assessment totals depend completely on the commodity price, which cannot be estimated with any accuracy.

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 expenditures are expected. However, should an insolvency occur, expenditures would occur in order to pay valid claims. These cannot be estimated.

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 appropriation is necessary because the law currently contains a continuing appropriation to the PSC to carry out the law and pay valid claims against the fund.

Name: Illona Jeffcoat-Sacco
Phone Number: 701-328-2400

Agency: PSC
Date Prepared: 01/18/2005

FISCAL NOTE

Requested by Legislative Council
01/12/2005

Bill/Resolution No.: HB 1292

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$811,263	\$0	(\$624,328)	\$0	(\$937,164)
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Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

The fiscal impact of HB 1292 is that it caps the credit sale indemnity fund at a lower amount (capped by HB 1292 at 5 million rather than the current 10 million). Also, HB 1292 lowers the assessment by one-half when the fund is equal to \$2,500,000 but less than \$5,000,000. This means that revenue received after the \$2,500,000 threshold kicks in will be one-half that which would have been received under current law.

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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 expenditures are expected. However, should an insolvency occur, expenditures would occur in order to pay valid claims. These cannot be estimated.

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 appropriation is necessary because the law currently contains a continuing appropriation to the PSC to carry out the law and pay valid claims against the fund.

Name: Illona Jeffcoat-Sacco
Phone Number: 701-328-2400

Agency: PSC
Date Prepared: 01/14/2005

1292

2-11-05

Date:
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House **HOUSE AGRICULTURE COMMITTEE**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO NOT PASS

Motion Made By

KREIDT

Seconded By

ONSTAD

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER	✓		REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG		✓	REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes)

12

No

1

Absent

0

Floor Assignment

Mueller

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

REPORT OF STANDING COMMITTEE (410)
February 11, 2005 12:57 p.m.

Module No: HR-28-2558
Carrier: Mueller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1292: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO NOT PASS
(12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1292 was placed on the
Eleventh order on the calendar.

2005 TESTIMONY

HB 1292



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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TESTIMONY OF NORTH DAKOTA GRAIN DEALERS ASSOCIATION HOUSE AG COMMITTEE – REP. GENE NICHOLAS, CHAIRMAN RE HB 1292 -- FRIDAY JANUARY 21, 2005

Good morning Mr. Chairman and members of the committee. My name is Clyde Krebs. I am the First Vice President of the North Dakota Grain Dealers Association. I own and operate Circle K Feed and Grain at Glen Ullin, ND. I appear here today on behalf of the Grain Dealers Association.

Two years ago we supported the legislation creating the credit sale contract indemnity fund. We thought it was a reasonable way of addressing a risk for which the major farm organization in the state felt they should have some protection. It turned out to be a bit more complicated to implement than we had envisioned, but we are past that initial phase.

We thought the \$10 million cap was reasonable and are OK with leaving it there. If farmers are comfortable with it being at a lower level, the \$5 million as suggested in this bill, we won't argue with them. We should point out however, that there are individual elevators in the state writing credit sale contracts in excess of that amount.

We are opposed to the change in the assessment level when the accumulation in the fund reaches a certain point. Such a stepdown in the assessment rate delays the date when the fund reaches its cap and collections are suspended entirely. This stepdown will also be confusing to farmers and elevators. It could lead to the wrong amount being collected during the transition. And from a purely practical standpoint, it will require reprogramming of grain elevator computer systems when there is a change up or down. Leave the cap where it is or change it, but please leave the assessment level consistent.

I'll try to answer any questions you might have.

H. B. 1292

Presented by: Illona Jeffcoat-Sacco
Executive Secretary
Public Service Commission

Before: Agriculture Committee
Honorable Eugene Nicholas, Chairman

Date: 21 January 2005

TESTIMONY

Chairman and committee members, my name is Illona Jeffcoat-Sacco. I am Executive Secretary of the Public Service Commission. The Licensing Division administers the Commission's jurisdiction over grain warehouses and grain buyers in North Dakota. The Commission asked me to appear here today to testify on House Bill 1292. The Commission is opposed to section one of the bill. With regard to section two of the bill, we are currently opposed to the changes but we would be open to discussing any possible amendments that may be proposed.

In 2003, the Legislature enacted the credit-sale contract indemnity fund. This fund was designed to provide some protection for patrons who sell grain via some form of credit-sale contract, since credit sale patrons are not protected by the statutory bond required of all licensees.

Section 1 of HB 1292 changes the rate assessed on all credit-sale contracts. Today the assessment is 2/10 of 1% (.002) on the value of the grain. The bill lowers the assessment to 1/10 of 1% (.001) once the indemnity fund reaches \$2,500,000. We are opposed to a fluctuating assessment rate

for a number of reasons, but our greatest concern is that a fluctuating assessment rate would provide a great opportunity for error.

Prior to the effective date for the fund, our office spent a great deal of time preparing for implementation. Once assessments began we noticed numerous errors and we needed to do more education for industry and growers. We held five workshops at Bismarck, Minot, Carrington, Grand Forks, and Fargo and attendance was very good. Even after these workshops, however, we continued to receive phone calls with questions. Changing the assessment rate now to a fluctuating rate will compound the problem and result in more errors and the need for more education.

State law provides that the licensee purchasing grain must note the credit sale indemnity fund assessment on the contract and deduct the assessment from the purchase price payable to the seller. If the rate fluctuates based on the fund balance, the licensee may not know at any given time which assessment should be noted on the contract when it is issued. Also, many licensees have updated their credit-sale contract forms and now use forms that identify the .002 assessment rate on their preprinted forms. If the rate fluctuates, licensees would need to have two sets of all the credit sale contract forms they use, and really would not be sure which one to use at any given time.

Our office received many phone calls from licensees and programmers as changes were being made to software programs to accommodate the assessment when first enacted. Licensees using computer bookkeeping programs may be faced with changing their computer programs as the assessment rate is increased or decreased. Any costs associated with these changes would likely be passed on to patrons. In addition to the additional costs, we are concerned that even if we notify licensees as soon as we know

that the fund has moved into a different assessment bracket, programmers may still not have sufficient time to make necessary programming changes. This could mean that some licensees would be inadvertently collecting the wrong assessment.

Originally we estimated annual collections of approximately \$1.5 million. Under this assumption it would take seven years to reach the \$10 million fund cap. Our original estimates have been too high. To date, collections for a full year total less than \$1 million. Assuming there are no claims against the indemnity fund, we now estimate that the fund will reach \$2.5 million during the 2005-07 biennium and will not reach the \$5 million cap until after the 2007-2009 biennium, under either assessment proposal.

Section 2 decreases the indemnity fund cap from \$10 million to \$5 million, and provides collections be reinstated once the fund balance falls below \$2.5 million. We are concerned that \$2.5 million is too low because of the potential for significantly high indemnity fund claims given the length of time it takes to build the fund, especially at the 1/10 of 1 percent assessment rate. If the fund is too low and we experience insolvencies, we could be faced with a fund that is continually negative because collections would go to pay previous claimants, who might have to wait an unreasonable amount of time to receive their reimbursement. This would not be an appropriate or fiscally responsible way to administer the fund.

The Commission does not know what the perfect cap would be. However, if the legislature determines that the current cap is too high, it would appear that an \$8 million dollar fund cap with a \$4 million dollar minimum level is a better alternative than that proposed in the bill.

This completes my testimony. I would be happy to answer any questions you may have.