

2017 HOUSE AGRICULTURE

HB 1124

2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1124
1/5/2017
Job #26597

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Attachment #1

Illona A. Jeffcoat-Sacco, General Counsel, Public Service Commission:
(See Attached #1)

Representative Headland: What is a written demand? Where does it come from? Who initiates it?

Illona Jeffcoat-Sacco: The word "demand" is open to interpretation. The court is going to interpret demand today and after this statute, if it passes. It depends on the agreement that the producer has with the elevator. When you have a verbal demand, you open it up to ten times the variations and interpretation.

Representative Headland: Doesn't a farmer need a contract? Is there another document that is needed?

Illona Jeffcoat-Sacco: This is not the paper that will result from conversion. A scale tag has to be converted within 45 days. If it is converted to a warehouse receipt for storage or sold and paid for with a check or a credit sale contract or a noncredit sale contract. If it is converted to cash and the check bounces, the farmer calls the elevator and then they call the PSC. Those phone calls are just in the recollection of the elevator and farmer. One of those phone calls is the trigger for the insolvency date. The date is so important when pricing the grain in the warehouse and if interest is paid on any claims. We always used the date that the first written filing came into us. That is the date we would pay interest from. In the Grand Forks incident, we had farmers that had continuing contracts. They were delivering grain and getting paid for it and then testifying that their demand was two years earlier. That is why we need to word "written" in here.

Representative Headland: You are asking that the farmer has the obligation to put in writing a document for whom?

Illona Jeffcoat-Sacco: The document is from the farmer to the elevator. It is a way of saying, "I want my grain back."

Chairman Dennis Johnson: You have the written document to the elevator, do you need a stamp that it was received by the elevator.

Illona Jeffcoat-Sacco: Those are all possibilities. Farmers can't find contracts. They would be handled the same way any disputed evidence is handled in court.

Chairman Dennis Johnson: Is a text used as evidence?

Illona Jeffcoat-Sacco: Under the law, text or email is considered written.

Representative Headland: If we pass this legislation, what happens to the farmer that doesn't have his written demand? Is he out in the cold?

Illona Jeffcoat-Sacco: Not if an insolvency is started. This is the trigger for the insolvency. In an insolvency proceeding, notice is given to everyone.

Vice Chair Trottier: The edible bean business is different than the grain business. Is there a period of time that a check has to be given after a demand? In the bean business, the buyer may be in Minneapolis.

Illona Jeffcoat-Sacco: Was it a reasonable length of time?

Chairman Dennis Johnson: A farmer gives written demand to the elevator. Now the farmer no longer has it.

Illona Jeffcoat-Sacco: We do have access to records of the elevator.

Representative Magrum: Aren't these buyers bonded?

Illona Jeffcoat-Sacco: Today there is a bond requirement for grain warehouses and for grain buyers. The bond is based on capacity. The bond only covers a portion of the claims. The bond is part of the trust fund used to pay cash sale claimants. The other part of the trust fund are the assets and accounts receivable. The credit sale claimants would be paid from the indemnity fund.

Representative Magrum: So the grain buyer is bankrupt--so the bond will pay out what is available. The Public Service Commission has a fund to pay out. Will the people that have written demand get paid first?

Illona Jeffcoat-Sacco: Not exactly. This bill is about an insolvency trigger. After insolvency is started we are appointed as trustee. Then we determine what is available to pay cash claimants. If there is enough grain in the elevator, that would pay first. A notice is published twice in the county. After a pool of claimants is collected, we pay first from the assets and second from the bond. Credit sale claimants get paid 80% up to \$280,000 from the indemnity fund.

Vice Chair Trottier: Do you feel that there needs to be amendments to this. Also the length of time should be added.

Illona Jeffcoat-Sacco: Yes.

Representative Headland: What if a farmer is not paying attention?

Illona Jeffcoat-Sacco: It doesn't matter. We need a more specific trigger for when the elevator becomes insolvent. Once they are insolvent, it is the commission's grain.

Representative Headland: You would only need one written demand from one farmer?

Illona Jeffcoat-Sacco: That is correct.

Representative Headland: You don't get anything in writing today?

Illona Jeffcoat-Sacco: We ask for a written filing. It would be like the scale tickets or the contracts. We don't get the demand in writing. We get the supporting documentation in writing.

Representative Headland: Can't you just put it in writing now instead of putting the burden on the farmer?

Illona Jeffcoat-Sacco: The farmer would need to talk to their lawyer.

Representative McWilliams: This bill introduces an interim step before insolvency?

Illona Jeffcoat-Sacco: I wouldn't consider it an interim step. It is documentation of the same step.

Representative McWilliams: It is a more formal than what currently exists?

Illona Jeffcoat-Sacco: Correct

Opposition: None

Chairman Dennis Johnson: Closed the hearing.

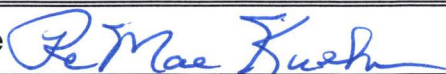
2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1124
1/13/2017
Job #26868

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Attachments #1 & 2

Committee Work

Ilona A. Jeffcoat-Sacco, General Counsel, North Dakota Public Service Commission:
(Attachment #1)

Legislative Intern: Handed out amendments (Attachment #2)

Ilona Jeffcoat-Sacco: The amendments look acceptable but I would have to ask to the commission. We have a weekly meeting every Friday at 11:00.

Representative Headland: I think we are going down the wrong road. We are putting the burden on the wrong people. If a farmer calls and asks for the sale of his product, the elevator needs to provide the farmer with a written notice that the phone call was received.

Representative Satrom: The person having financial difficulties wouldn't adhere and reply. On the record it shows that the farmer asked for it.

This amendment talks about "proper written demand." Does that mean a registered letter or is it email?

Chairman Dennis Johnson: I want something to show acknowledgment.

Representative Satrom: It requires the licensee's acknowledgment. If he doesn't receive the registered letter, do we have an issue also?

Chairman Dennis Johnson: This would be more than what they've got. They didn't have anything before. You need to know who you are doing business.

Representative Oliver: If they send an email, it is time stamped. That is the written notice. I like the written notice. This bill needs work.

Representative Headland: There are a lot of operators that are not using email.

Chairman Dennis Johnson: It doesn't specify in this amendment.

Representative Kiefert: It would be simpler to have the farmer file with the county court.

Chairman Dennis Johnson: Then it is back to the producer having to spend money to file with the county court. It would also be burdensome to the court if there are many producers filing.

Representative Skroch: Who are we trying to help? Are we trying to help the farmer to protect his interests? Is it a cumbersome duty to get something in writing? If you take notes that works in court.

Representative Headland: The protection is there for the farmer. This bill is trying to help the PSC determine a date of insolvency.

I don't think this is the solution. Most farmers trust the elevator they are doing business with.

Representative McWilliams: Could we require the farmer to send a certified letter after they couldn't get their money?

Representative Boschee: Is part of the concern that it is a variable commodity rate. Does a date need to be established to determine how much to get paid?

Chairman Dennis Johnson: Usually it is a sale that the price is agreed on by both already.

Representative Headland: It almost appears that the elevator that became insolvent was picking and choosing who they paid. How can the date of insolvency be determined? The current protection is a simple phone call to the Public Service Commission by the farmer when they don't receive a check.

Representative Schreiber-Beck: I would suggest the PSC look at this again and wait until next Friday.

Chairman Dennis Johnson: We will continue working on this bill Friday, January 20.

2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1124—Committee Work &
HB 1126—Committee Work
1/20/2017
Job #27185

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Chairman Dennis Johnson: I don't see what good a written notice does if it isn't acknowledged that the warehouse received written notice.

Representative Skroch: If we refer HB 1126 to a study, maybe we can include HB 1124 with it.

Representative Satrom: We shouldn't be so concerned about them receiving it as the fact that we sent it.

Should we suggest a duplicate copy? The product moves so fast so the date is very critical on whether or not they can seize those assets.

Chairman Dennis Johnson: The grain is moving but whether it is in the warehouse or on the unit train, it is still inventory.

Representative Skroch: Up to 45 days?

Chairman Dennis Johnson: You have so many days to enter in to what type of contract—storage contract or delayed pricing contract. In the old days you could dump a load of grain in August and they probably wouldn't call until November to find out what you wanted to do. Now a good elevator has the paper work ready almost immediately.

Representative Magrum: With the written demand, it should spell out what qualifies.

Chairman Dennis Johnson: They don't want to come with an amendment to address that.

Representative McWilliams: If it was a high importance to the PSC, they would have submitted an amendment. Why don't we make a Do Not Pass on the bill? If they want to resubmit next session with cleaned up language, then we can look at it.

Representative Satrom: Would the Attorney General's office have a better idea?

Chairman Dennis Johnson: This is their agency that requested it. They have lawyers that are dealing with it.

Representative Schreiber-Beck: Isn't the point to protect the producer? It is up to input from producers to have a date. It is for the producers.

Chairman Dennis Johnson: Back to the insolvency in Grand Forks, some producers were paid and others were not paid. So the judge said it should be in writing.

Representative Headland: I don't care for either one of these bills. It is a suggestion coming from an agency. We are the policy makers. It is up to us to pass policy that they carry out. They are trying to address a problem that impacts a small percentage of farmers. But the impacts of what they are suggesting impacts all farmers.

(8:50)

Vice Chair Trottier: If you go in to sell a product, you have three choices. You can take a check that day. You have 45 days to make the decision. Or go with delayed pricing where you are putting a lot of trust into the organization you are dealing with. A good business person would ask for a letter of credit from the financial institution.

Representative Hogan: Should we just roll it into a comprehensive study resolution?

Vice Chair Trottier: This has been studied a lot.

Representative Representative Howe: The only one testifying in support is the PSC and one farmer who is mostly a corn farmer. We didn't have specialty crops come in for whom we are trying to fix the problem.

Representative Skroch: One of their primary concerns is they will be losing oversight due to loss of staff. How do we fix this so there is proper inspection? How do we guarantee that the grain buyers are inspected if we cut staff?

Chairman Dennis Johnson: They won't have the time to do it.

Representative Oliver: They can do them. It is just in an abbreviated version.

Representative McWilliams: With our commodity prices being down, is it a good time to put in a monkey wrench to a system that has been working for decades?

Representative Schreiber-Beck: Is the system working? If it is two or three years and they are still in court. If a license is required, there has to be a means of checking. Researching on a bond is needed which will be passed onto a grower.

Representative Headland: Those of us who are not raising specialty crops are not asking for this extra protection because we don't need it. It is the PSC's responsibility to follow through an insolvency. Don't put it on the backs of those not growing specialties. That is why I asked for a list of insolvencies.

Stu Letcher indicated there were four grain elevators that were insolvent in the last 40 years. The rest are specialty processors outside of the scope of what most farmers do.

Representative Magrum: We are working both bills. Why send a letter back? Usually they give a receipt at the elevator. If you are leery they should get a credit check. I am still suggesting a Do Not Pass on both 1124 & 1126.

Chairman Dennis Johnson: Beans don't have a tool to lock in the futures like other crops.

We will hold this bill until next Thursday.

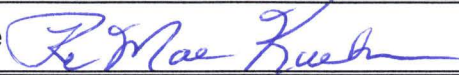
2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1124—Committee Work
2/16/2017
Job #28451

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Attachment #1

Chairman Dennis Johnson: We have amendments (Attachment 1)

Representative Headland: Moved the amendment.

Representative Howe: Seconded the motion

Representative Headland: This bill has the exact language that we put in HB 1126?

Chairman Dennis Johnson: Yes

Voice Vote on amendment. Motion passed.

Representative Schreiber-Beck: Moved Do Pass as amended

Representative Satrom: Seconded the motion

Representative Headland: Do we need this bill if it is in the other one?

Chairman Dennis Johnson: At this time it is a bill before us and it can be combined.

Representative Headland: My original objection to putting the burden on the seller is not the right way to go. The burden should be placed on the buyer.

Chairman Dennis Johnson: With the last case in the courts, they would have been in a better position if something would have been in writing.

Representative Headland: Who is going to tell every farmer that sells grain that they have to provide this written evidence?

Representative Schreiber-Beck: It is for the court cases. If it doesn't happen, we will be back in the same situation as now. I think it is to the grower's benefit if they have a record.

Chairman Dennis Johnson: You will hear it at the coffee shop if your local elevator is having problems. You need something in writing to request settlement.

Representative Skroch: There is no penalty if you don't get that documentation. Will you be less likely to succeed in a court case because it is in law?

Chairman Dennis Johnson: It is in the eyes of the judge that those without writing haven't been settled. This type of notification would put them in a better position of getting something.

Representative McWilliams: In my business when I sold products and they didn't pay, I'd would continue to communicate with them. The point is the court wants some documentation that you corresponded other than a handshake.

Chairman Dennis Johnson: This group has operated for years on a hand shake. We have come to the age where we do need something in writing.

A Roll Call vote was taken: Yes 12, No 2, Absent 0.

Do Pass as amended carries.

Representative McWilliams will carry the bill.

2/16/17 DA

17.8081.01001
Title.02000

Prepared by the Legislative Council staff for
House Agriculture Committee
January 31, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1124

Page 1, line 8, after "demand" insert ", including electronic communication."

Page 1, line 9, after "demand" insert ", including electronic communication"

Page 1, line 16, after "demand" insert ", including electronic communication."

Re-number accordingly

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1124**

House **Agriculture** Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Headland Seconded By Rep. Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson			Rep. Joshua Boschee		
Vice Chairman Wayne Trottier			Rep. Kathy Hogan		
Rep. Jake Blum					
Rep. Craig Headland					
Rep. Michael Howe					
Rep. Dwight Kiefert					
Rep. Jeffery Magrum					
Rep. Aaron McWilliams					
Rep. Bill Oliver					
Rep. Bernie Satrom					
Rep. Cynthia Schreiber Beck					
Rep. Kathy Skroch					

*Voice Vote
Motion Passed*

Total **Yes** _____ **No** _____

Absent _____

Floor Assignment _____

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

Insert "including electronic communication"

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1124**

House **Agriculture** Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions:** Reconsider _____

Motion Made By Rep. Schreiber-Beck Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman Wayne Trottier	X		Rep. Kathy Hogan	X	
Rep. Jake Blum	X				
Rep. Craig Headland		X			
Rep. Michael Howe	X				
Rep. Dwight Kiefert	X				
Rep. Jeffery Magrum	X				
Rep. Aaron McWilliams	X				
Rep. Bill Oliver		X			
Rep. Bernie Satrom	X				
Rep. Cynthia Schreiber Beck	X				
Rep. Kathy Skroch	X				

Total **Yes** 12 **No** 2

Absent 0

Floor Assignment Rep. McWilliams

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

REPORT OF STANDING COMMITTEE

HB 1124: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1124 was placed on the Sixth order on the calendar.

Page 1, line 8, after "demand" insert ", including electronic communication,"

Page 1, line 9, after "demand" insert ", including electronic communication"

Page 1, line 16, after "demand" insert ", including electronic communication,"

Renumber accordingly

2017 SENATE AGRICULTURE

HB 1124

2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1124
3/16/2017
Job # 29308

- Subcommittee
 Conference Committee

Committee Clerk Signature *Emmey Prottorf*

Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Attachment: #1

Chairman Luick: Opened the hearing on HB 1124.

Konrad Crockford, Director of Compliance, the Public Service Commission: Introduced HB 1124 (See Attachment #1).

(1:27) **Chairman Luick:** If HB 1126 were to pass, would HB 1124 would be unnecessary?

Konrad Crockford: Speaking on the behalf of the commission, if HB 1126 passes in its current form, HB 1124 would not be required.

Senator Larsen: How much do the licenses cost for this?

Konrad Crockford: The grain warehouse license varies based on capacity and the previous legislative session agreed to have two-year license requirement. Depending on the capacity, you are ranging from \$600 to \$950 per facility. Roving grain buyer license is a \$200 annual fee so the fees will not change with any of this.

Chairman Luick: Closed the hearing on HB 1124.

Committee Discussion: The committee discussed when they would take action on HB 1126 and HB 1124.

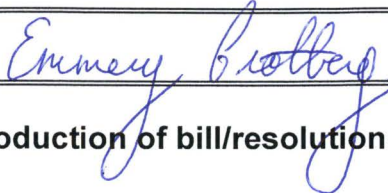
2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1124
3/24/2017
Job # 29666

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a public warehouse or grain buyer licensee insolvency

Minutes:

Chairman Luick: Opened the discussion on HB 1124. This is the second the two Public Service Commission bills. As I understand it, if we pass out HB 1126, HB 1124 is unnecessary.

Senator Klein: Moved Do Not Pass on Engrossed HB 1124

Senator Myrdal: Seconded the motion.

Senator Klein: The commissioner explained everything in HB 1126 and he said we do not need HB 1124 if we pass HB 1126.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carried

Senator Larsen will carry the bill.

Date: 3/24
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1124

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Klein Seconded By Sen. Myrdal

Senators	Yes	No	Senators	Yes	No
Senator Luick	<input checked="" type="checkbox"/>		Senator Piepkorn	<input checked="" type="checkbox"/>	
Senator Myrdal	<input checked="" type="checkbox"/>				
Senator Klein	<input checked="" type="checkbox"/>				
Senator Larsen	<input checked="" type="checkbox"/>				
Senator Osland	<input checked="" type="checkbox"/>				

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Larsen

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

REPORT OF STANDING COMMITTEE

**HB 1124, as engrossed: Agriculture Committee (Sen. Luick, Chairman) recommends
DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).**
Engrossed HB 1124 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1124

#1

House Bill 1124

Presented by: Illona A. Jeffcoat-Sacco, General Counsel
Public Service Commission

Before: Agriculture Committee
Honorable Dennis Johnson, Chairman

Date: January 5, 2017

TESTIMONY

Mister Chairman and committee members, I am Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The commission asked me to appear here today in support of House Bill 1124, introduced at our request.

Existing law defines insolvency for grain warehouses and grain buyers. The definition is important because it determines the date when a licensee is insolvent, and this in turn determines the grain price, and interest on claims. Existing law does not specifically impose any requirement that this insolvency trigger be in writing. This bill adds a writing requirement.

In a recent warehouse insolvency proceeding, there was considerable debate about when the warehouse was first insolvent under the current statutory definition, and considerable testimony at the insolvency hearing from different claimants about the issue as it related to their specific claim. In order to clarify and simplify the definition of insolvency, the commission recommends adding a requirement that the demand referenced in each chapter be a written demand.

We respectfully request a do pass recommendation. This concludes my testimony. I would be happy to answer any questions you may have.



Public Service Commission
State of North Dakota

#1
1/13/17
Illona Jeffcoat-Sacco

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

12 January 2017

Honorable Dennis Johnson, Chairman
Agriculture Committee
North Dakota House of Representatives
600 East Boulevard Avenue
Bismarck, ND 58505

Re: House Bill 1124

Dear Chairman Johnson:

Thank you for the opportunity to discuss HB 1124 and the Public Service Commission's reason for proposing the bill.

At the hearing, members of the committee raised several questions and we discussed them. At the conclusion of the hearing, you asked if the Public Service Commission would want to propose amendments to address any of the questions, or have the committee address the bill as written.

I had an opportunity to discuss this with the commission at a recent legislative meeting. The commission asked me to let you know that it will not be proposing any amendments, but is willing to consider any amendments proposed by others, and work with the committee and stakeholders on amendments that others might propose.

Thank you again for the hearing and the opportunity to respond to your question.

Best regards,

Illona A. Jeffcoat-Sacco
Illona A. Jeffcoat-Sacco
General Counsel

c: Rep. Wayne Trottier,
Rep. Craig Headland,
Rep. Dwight Kiefert,
Rep. Bill Oliver,
Rep. Kathy Skroch

Rep. Jake Blum,
Rep. Kathy Hogan,
Rep. Jeffery Magrum,
Rep. Bernie Satrom,

Rep. Joshua Boschee
Rep. Michael Howe
Rep. Aaron McWilliams
Rep. Cynthia Schreiber-Beck

#2

17.8081.01000

Prepared by Legislative Intern 8
January 13, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1124

Option 1:

Page 1, line 9 after "demand." insert "Proper written demand requires a licensee's acknowledgement of receipt of written demand."

Page 1, line 17 after "stored." insert "Proper written demand requires a licensee's acknowledgement of receipt of written demand."

Renumber accordingly

#1
2/16/17

17.8081.01001
Title.

Prepared by the Legislative Council staff for
House Agriculture Committee
January 31, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1124

Page 1, line 8, after "demand" insert ", including electronic communication."

Page 1, line 9, after "demand" insert ", including electronic communication"

Page 1, line 16, after "demand" insert ", including electronic communication."

Renumber accordingly

House Bill 1124

Presented by: Konrad Crockford, Director of Compliance
Public Service Commission

Before: Senate Agriculture Committee
Honorable Larry Luick, Chairman

Date: March 16, 2017

TESTIMONY

Mister Chairman and committee members, I am Konrad Crockford, Director of Compliance with the Public Service Commission. The commission asked me to appear here today in support of House Bill 1124, introduced at our request.

Existing law defines insolvency for grain warehouses and grain buyers. The definition is important because it determines the date when a licensee is insolvent, and this in turn determines the grain price, and interest on claims. Existing law does not specifically impose any requirement that this insolvency trigger be in writing. This bill adds a writing requirement, and the engrossed bill confirms the inclusion of electronic communications.

In a recent warehouse insolvency proceeding, there was considerable debate about when the warehouse was first insolvent under the current statutory definition, and considerable testimony at the insolvency hearing from different claimants about the issue as it related to their specific claim. In order to clarify and simplify the definition of insolvency, the commission recommends adding a requirement that the demand referenced in each chapter be a written demand.

The same revised language concerning a written demand, including an electronic communication, is included in engrossed House Bill 1126.

We respectfully request a do pass recommendation. This concludes my testimony. I would be happy to answer any questions you may have.