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DESCRIPTION

1286

2001 HOUSE AGRICULTURE

HB 1286

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1286

House Agriculture Committee

☐ Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
THREE	A		00 TO 3860
Committee Clerk Signature	Edward D Clayton		

Minutes:

1A: 00 CHAIRMAN NICHOLAS: We will open the hearing on HB 1286 AND HB1287. Representative Brandenburg I will call on you first please. You all know in the last session there was a number of Bills concerning chemical harmonization, trade issues, and the last session there was a lot of discussion in trying to learn about how can we resolve the issues about the NAFTA agreement how the free market works. HB 1286 is a Bill dealing with an inspection fee. Right now the Canadians are charging a tariff of a buck fifty eight a bushel. Why are the Canadians able to do that and we cannot. It just so happens that the Canadian Government is backing up there promises and are able to impose that tariff. I talked to farmers that last year hauled there corn up into Canada but this year they can't.. We try to operate in the spirit of free trade and I don't know if there is any spirit of free trade left. Certainly if you look at NAFTA the Agr. sector got left out of the NAFTA agreement. There is an imbalance there

and this Bill will allow an inspection fee to be charged on the grain that is coming out of Canada into the U.S. Those inspection fee's need to be determined and worked on right now and certainly those numbers are not available at this time but we need to do something to stop the grain that is coming out of Canada and is dumping on our markets. This is what this Bill is about.

1A: CHAIRMAN NICHOLAS: Any questions?

1A:224 REPRESENTATIVE ONSTAD: Note line six and seven we talk about the selling price. Is that the price that's at the elevator for example, elevator in the N.D. and the elevators in Canada.

REP. BRANDENBURG: This the point that we are trying to determine right now, trying to figure what is the price in Canada, what is the price in the United States. What dose the inspection fee have to be and I guarantee it would be in the order that would work. That is something that is be determined right now. The Canadians could go through Montana or Minnesota, in fact I have thought about it. It could hurt us but a message has to be sent to our Federal Government that, here you have the Canadian Government backing their Provinces. Allowing them to charge a buck fifty-eight tariff up there and here we are sitting with our Federal Government not backing us. To make this whole thing work we need Montana and Minnesota to come on board ; but what we need is for our Federal Government to address this issue.

1A: REPRESENTATIVE PIETSCH: Is an inspection fee ok to use rather then tariffs ?

1A: REPRESENTATIVE BRANDENBURG: We are able to charge inspection fees, I am not quite sure how we do it but we do it.

1A: JOHN BJORNSON: I am not testifying for or against the Bill. In response to the question. The United States Constitution provides that states cannot impose tariffs or taxes on commerce, there is a little provision in the Constitution that says the state may impose an inspection fee. There is a little catch there. The money is suppose to be deposited in the U.S. Treasury.

1A: CHAIRMAN NICHOLAS: Representative Lemieux.

1A:580 REPRESENTATIVE LEMIEUX: I thinks if we look at this rather then from the grain importing side of it, if we really look at the one of the products that is produced by our neighbors to the North; some of it dose filter down into our market. It has an effect.

In the diary industry the Canadians do have very strong controls and good price supports. Our producers in N.D. are producing milk for starvation prices. We are subsidizing the milk production, the dairy consumers in the U.S. substantially. We are allowing the importation of surplus Canadian products. This Bill addresses the issue. I you have surplus products and you are dumping it into our markets and thereby adding more surplus to our markets and driving our prices down. When you bring that product to our boarders we are going to inspect it and charge a fee. We are going to level the playing field a little bit. I do agree with the intentions of this Bill.

ROGER JOHNSON AGR COMMISSIONER: We don't know how to implement this Bill. The Bill would be expensive to implement. The total was eight hundred and fifty one thousand dollars estimated. Under the terms of the Bill we would have to have inspectors. Put ten inspectors at the ports. That is what the cost would projected to be. The income that we projected is zero. The income is zero because we could not determine what the prices would

be. If you can't find the income you can determine what the fees should be. We did not do an estimate.

REP. BRANDENBURG: We are trying to determine those prices right now. There would be income from the fees that we charge to possibly offset the fee's on the Fiscal Note that is attached.

Roger Johnson: The problem however is that the way the Bill was drafted. We don't see any provisions that would allow us to get those prices. We are not sure of any legal or constitutional way of doing it. I think if you had found one you would have probable put in your Bill. I would point out that there is another Bill that is much more targeted that we think is workable but we are not sure it is constitutional. At least we think that we can do the calculation that you want to calculate. The Bill that I am talking about is HB 1445. I think it is intended to do the same thing. Focused strictly on Agr. Chemicals. We will be prepared to testify on that also. We could probable do some price determinations on grain although Canadian Wheat Board is the one that sells most of the wheat into this country.

CHAIRMAN NICHOLAS: There are several mechanisms that we could use to come upwith with prices. It really is which one we will use.

ROGER JOHNSON: AS we read the Bill it should be made clear in the Bill what we are looking for. AS we read the Bill, it also deals with food stuff. There you run into a whole lot of different issues. We certainly are will to work with you to make this Bill workable.

CHAIRMAN NICHOLAS: Thank you Roger.

REP. KEPNICK: I do support the Bill.

LOUIS CUSTOR: I am a durum producer from Stanley, ND. I would like to support this legislation. We have a problem with the Trade Agreements that we have entered into. AS far a evaluating prices. The Canadian Wheat Board has a monopoly status so it is hard to come up with a price. A price could be established on there acquation price or there initial payment to their producers. That is what the Canadian farmer get paid for his grain is the initial payment.

CURT: WE can establish a price if they are not willing to play ball with us. This is a dumping Bill and if you don't want to play Ball with us we will establish the price.

REP BERG: Representative Bjornson, How can we accomplish this with NAFTA?

Rep. Bjornson: WE would have to draft a Bill that would not interfere with world trade agreements. But, yes somehow make things equal. Maybe the states can put on an inspection fee. The Canadian tariff fee Bill was in excess of one hundred pages. It took months to determine what tariff fees would be as to Canada. What the Canadians did with Corn. They imposed a tariff to essentially cut that trade. WE would be testing here for residue etc. What happens in Canada is that the Canadian Producer to buy membership in the Pasta Plants in the US and then they deliver their durum to the pasta plant. There is another issue as to canola. We simply have to set the right inspection fees. We can do something similar to what the Canadians have done as to U.S. corn.

JIM DIEPOLDER: I am a farmer from the Botineau area. You asked the question,how were the Canadians able to put the tariff at a dollar fifty eight. It is under the GAP agreement. There are three trades provisions. One of them is that there is an antidumping that no country can sell into another country at below their cost of production. The Canadians are claiming that we are selling subsidized corn into the Canadian Market equal to a dollar fifty eight per bushel

selling into the Canadian Market causing injury to the Canadian production. That is the anti dumping. That is why there is a tariff on Corn. Basically it protects the industry in Canada. There will be a hearing this month. It will go through the internal trade commission and it will be determined at that time if it is a legal claim. We will be having hearing here next month. That was imposed early fall of 2000. You may ask the question on the durum. They have been selling durum in the last two or three years at below there cost of production. They have hurt our industry. They gained market share. So pretty soon we don't produce enough durum to meet our domestic needs so then we are forced to go into Canada to get durum. It is a very circular approach to getting market share. You drive out the compassion by dumping it below cost of production and pretty soon you are the main provider.

REPRESENTATIVE BERG: So the wheat board published price. Is that price a high price or a low price.

JIM: Typically a low price.

SEN. WANZAK: Testified on both HB 1286 AND HB1287. It is my intent to show concern for the farmers where there is dumping. I trust that with the wisdom of this committee and it's chairman that there will eventually be turned over to us on our side something that we can work with and with that I would like to be excused.

1A:3860 CHAIRMAN NICHOLAS CLOSED THE HEARING ON HB 1286

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1286

House Agriculture Committee

☐ Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		2709 to 2882

Committee Clerk Signature Edward D Ellison

Minutes:

Chairman Nicholas: Okay, HB 1286. Rep. Brandenburg's bill for ag products.

Rep. Brandenburg: HB 1286 puts a fee on there, this bill is not needed and it's time to get rid of it.

Rep. Berg: I move a Do Not Pass.

Rep. Brandenburg: I second that.

Chairman Nicholas: I have a motion for a Do Not Pass. Any discussion? The clerk will take the roll.

MOTION FOR A DO NOT PASS

YES, 14 NO, 0

1 ABSENT AND NOT VOTING

CARRIED BY REP. BRANDONBURG

FISCAL NOTE

Requested by Legislative Council
01/17/2001

Bill/Resolution No.: HB 1286

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0		$0	
Expenditures	$0	$0	$0	$851,000	$0	$851,000
Appropriations	$0	$0	$0	$0	$0	$0

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

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

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

This bill requires inspection of foreign agricultural products, if the products are sold in North Dakota for a lower price than the products are sold for in the foreign country. The inspection fee is to be equal to the price difference between the two countries. We assume that 99% of such products will come from Canada. Prices received for Canadian agricultural products are not available. Therefore, we are unable to determine which products are to be inspected nor are we able to determine an inspection fee. We have estimated the cost of inspections, should price information become available.

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.*

We are unable to project revenues for these inspections because Canadian agricultural product price information is not available.

   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.*

We estimate that the inspections will require staff or contracted inspection services equivalent to ten FTE's to cover eighteen points of entry in ND (three at twenty-four hours per day and fifteen at thirteen hours per day). Salaries and operating expenses were calculated as follows:

Salaries and benefits: $600,000

Operating: $223,000

Equipment $28,000

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 of the revenues, expenditures or appropriations are included in the commissioner of agriculture appropriation bill, HB1009.

Name:	Jeff Welspfenning	**Agency:**	Dept of Ag
Phone Number:	328-4758	**Date Prepared:**	01/25/2001

2-15-01

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1256

House AGRICULTURE Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Berg Seconded By Brandenburg

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

Total (Yes) 14 No

Absent 1

Floor Assignment Brandenburg

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

REPORT OF STANDING COMMITTEE

HB 1286: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1286 was placed on the Eleventh order on the calendar.