

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

20724

2001 SENATE AGRICULTURE

SB 2074

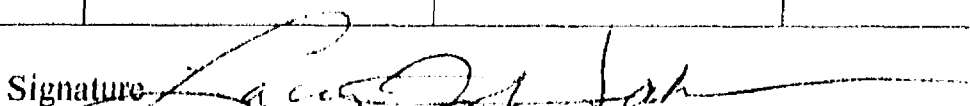
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2074

Senate Agriculture Committee

☐ Conference Committee

Hearing Date January 18, 2001

Tape Number	Side A	Side B	Meter #
January 18 1	X		0.0 - 46.0
January 25 3	X		10.9 - 21.2
Committee Clerk Signature 			

Minutes:

JON MIELKE, Executive Secretary of Public Service Commission testified in favor of this bill, see attached testimony.

SENATOR WANZEL; Where is the money to meet your cost of the licensing division?

Subsidize from another area or making cut to make revenues match costs?

JON MIELKE; In the licensing division as well as any other division in the commission none of the fees that we collect go to support our operation, they go directly in to the general funds.

SENATOR WANZEL; The subsidize change in this bill is to give you the right to accounts receivable from the sale?

JON MIELKE; Exactly

SENATOR KLEIN; Have there been a lot of insolvency in the last two years?

JON MIELKE; We have lost a lot of elevators in a ten year period and in that ten years there has only been two insolvencies. We are in the middle of two insolvencies right now, so we have had as many in 1999 - 2000 as we did the preceding ten years.

SENATOR URLACHER; In regard to licensing, does fifty dollars per year increase mean fifty dollars per year in each category or total

JON MIELKE; The increase is per category.

SENATOR WANZEK; Are there any cases that are going to put great financial strain on farmers?

JON WIELKE; There are some claimant that are owed \$25,000 to \$45,000 and they are going to be getting eight and a half cents on the dollar.

SENATOR KROEPLIN; With or without this bill does your commission still have the right to audit an elevator's books?

JON WIELKE; We have the right to go into any elevator at any time and review their books. We do not do financial audits, we will look at grain on hand and whether they are paying farmers for that grain, and spot check on whether scale tickets are being converted as required by the state law.

CLYDE KREBS; North Dakota Grain Dealers Association, testified in favor of the bill, see attached testimony.

Regarding audits, the bonding companies require semi-annual audits of most elevators, if they see financial problems they will go in quarterly to monitor the financial situation.

Hearing was closed.

January 25, 2001

Discussion was held.

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Senate Agriculture Committee
Bill/Resolution Number SB 2074
Hearing Date January 18, 2001

An amendment was proposed.

SENATOR KLEIN, moved DO PASS on amendment 18115.0101.

SENATOR ERBELE, seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR KLEIN, moved a DO PASS as amended on SB 2074.

SENATOR KROEPLIN, seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR WANZEK will carry the bill.

FISCAL NOTE

Requested by Legislative Council
12/26/2000

Bill/Resolution No.: SB 2074

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	\$48,000	\$0	\$48,000	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

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 proposes to increase the annual license fee for grain warehouses and grain buyers by \$50 per year. The annual license fee for grain warehouses ranges from \$250 to \$500 per yearer depending on the size of the facility. The fee for facility-based grain buyers is \$250. The fee for roving grain buyers is \$150. Increasing these fees by \$50 would generate approximately \$48,000 per biennium for the general fund. The increase was recommended by the State Auditor in a March 2000 audit report.

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 \$48,000 projected revenue increase is based on the current number of licensees times the proposed \$50 increase (480 licensees x \$50 x 2 years = \$48,000).

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 incremental costs will be incurred if this proposal is enacted.

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.

This proposal will not require additional appropriations.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/27/2000

Date: 1-25-01
Roll Call Vote #: 2)

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2074

Senate _____ Agriculture _____ Committee _____

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken AMENDMENT -> DO PASS

Motion Made By SEN. KLEIN Seconded By SEN. KROEPLIN

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 4 No 0

Absent 0

Floor Assignment _____

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

Date: 1-25-01
Roll Call Vote #: 42

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2074

Senate _____ Agriculture _____ Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By SENATOR KLEIN Seconded By SENATOR ERBELE

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment SENATOR WANZEK

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

REPORT OF STANDING COMMITTEE (410)
January 26, 2001 1:50 p.m.

Module No: SR-14-1750
Carrier: Wanzek
Insert LC: 18115.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2074: Agriculture Committee (Sen. Wanzek, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2074 was placed on the Sixth order on the calendar.

Page 2, line 11, remove "or is about to engage"

Page 3, line 5, remove "or is about to engage"

Renumber accordingly

2001 HOUSE AGRICULTURE

SB 2074

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2074

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--1-02

Tape Number	Side A	Side B	Meter //
TWO	A		00 TO 707
Committee Clerk Signature <i>Edward D. Elyson</i>			

Minutes:

1A:00 CHAIRMAN NICHOLAS: Committee Members, we will open the Hearing on SB 2074.

JON MIELKE: Mr. Chairman and Committee Members. I am Executive Secretary Public Service Commission. Printed testimony follows. This is an agency Bill.

REPRESENTATIVE MUELLER: Jon, My question might have to do with the cease and desist. What kind of a criteria will you use in making determination like that.

JON: It really is a judgment call. We have had many discussions on this. How do you define IT. The committee would have to see a situation that would obviously contrary to the provision of the statues and also that are extreme to the point that the causing immediate harm to the patrons that the elevator or warehouseman's are doing business with. With this Bill we would be able to suspend there license and put an immediate halt to their business. We would have to have a hearing within 15 days

REPRESENTATIVE LEMIEUX: Had this been in effect. Would we have been able to help some farmers from being harmed. Recovering more assets. When we look at section five and we look at attaching more of the assets. Would the situation with Viking.

JOH: Representative Lemieux: To the best of my knowledge there were not any grain assets on hand in Vikings Feed. They had two very small warehouses in Cass County. The cease and desist being in effect would making more assets be available. The losses would have been less by as much as one hundred thousand dollars. By the time we filed a complaint they owed the farmers about \$450,000.00. By the time the complaint was filed, they had 30 days to respond to the complaint, Once they responded the commission had to give the 20 days for a hearing and 50 day. Down the road the farmers were owed \$600,000.00.

CHAIRMAN NICHOLAS: Any other testimony in support of the Bill.

CLYDE KREBS: Good Morning Mr. Chairman and members of the Hse. Agr. Committee. My name is Clyde Krebs. I represent the ND Grain Dealers Association, of which I am a Director and Legislative Committee Vice Chairman. I own and operate Circle K feed and Grain in Glen Ullin, ND which is a licensed public elevator under the ND PSC. Please see printed testimony as to Clyde.....

CHAIRMAN NICHOLAS: Anyone else wishing to appear in support of this legislation.

Anyone wishing to appear in opposition. WE WILL CLOSE THE HEARING ON SB2074.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2074

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--16--01

Tape Number	Side A	Side B	Meter #
TWO	A		2255 to 3291
Committee Clerk Signature <i>Edward E. Ellyson</i>			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON SB 2074.

RELATING TO THE LICENSING FEES FOR PUBLIC WAREHOUSES AND FOR GRAIN HOUSES AND FOR GRAIN BUYERS AND ASSETS OF THE TRUST FUND UPON THE INSOLVENCY OF A GRAIN WAREHOUSE OR GRAIN BUYER LICENSEE.

REPRESENTATIVE BERG MOVES FOR A DO PASS IS THERE A SECOND. SECONDED BY REPRESENTATIVE RENNER. THERE WAS SOME DISCUSSION AFTER THE DO PASS MOTION, AS TO MERGING COMPANIES, ACCUMULATING A LOT OF ELEVATORS, WAREHOUSE. ARE THEY LICENSED UNDER ONE ENTITY.

THE ANSWER IS THAT EACH ELEVATOR HAS TO HAVE A LICENSE. RIGHT NOW YOU HAVE THE STATE LICENSE AND THEN THE FEDERAL LICENSED AND THEY ALSO HAVE TO HAVE A STATE GRAIN BUYERS LICENSE SO THERE IS SOME STATE

Page 2

House Agriculture Committee

Bill/Resolution Number SB 2074

Hearing Date 3--16--01

CONTROL OF THE WHOLE THING. BUT THAT ONLY COVERS THEIR
MERCHANDISING ACTIVITIES AND THE STORAGE PART IS UNDER FEDERAL.
THE CLERK WILL TAKE THE ROLL.

THERE WERE 13 YES""""1 NO""""""1 ABSENT.

REPRESENTATIVE WRANGHAM WILL CARRY SB 2074

O.K. WE WILL CLOSE ON SB 2074

Date: _____
Roll Call Vote #: _____

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

House AGRICULTURE Committee _____

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By / Seconded By /

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. Slandvig		
Myron Koppang			Dennis J. Renner		
Edward H. Lloyd			Dwight Wrangham		
Bill Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE (410)
March 16, 2001 1:56 p.m.

Module No: HR-46-5893
Carrier: Wrangham
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2074: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2074 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2074

S.B. 2074

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Committee on Agriculture
Senator Wanzek, Chairman

Date: January 18, 2001

Testimony

Mr. Chairman and committee members, my name is Jon Mielke. I am the executive secretary of the Public Service Commission. I also serve as the director of the Commission's Licensing Division. The Licensing Division is responsible for licensing and regulation grain elevators and grain buyers in North Dakota. This testimony is presented on behalf of the Commission.

This is an agency bill. The PSC caused this bill to be introduced to address issues related to insolvencies in the grain trade. The bill also increases license fees.

Sections 1 & 3 of the bill propose to increase grain warehouse and grain buyer license fees by \$50 per year. This action is proposed based on a recommendation of the State Auditors Office. During a recent audit, they observed that some of the fees charged for licenses issued by the Commission are well below those charged by other states and that they do not cover the costs associated with regulating the industry involved.

License fees for grain warehouses and grain buyers currently range from \$150 to \$500 per year. These license fees generate

about \$345,000 in biennial revenue for the general fund and cover about 86 percent of the direct costs associated with operating the Commission's Licensing Division. The proposed increase would generate an additional \$48,000 in biennial income for the state's general fund.

Sections 2 & 4 of the bill are identical except for the fact that one pertains to grain warehouses and one pertains to grain buyers. In both cases, the bill proposes to give the Commission the ability to issue cease and desist orders if a licensee's activities are considered extremely injurious to the public.

At the present time, the Commission cannot force a licensee to cease an activity until after a complaint has been filed and a hearing held. This is exactly what happened in the Viking Seed case that many of you may be familiar with. By the time the hearing was held in that case, the company owed farmers and other elevators over \$600,000.

This bill would allow the Commission to put a stop to such activities without a hearing. The bill would, however, require that a hearing be held within fifteen days of the issuance of a cease and desist order.

Sections 5 & 6 prescribe which assets are to be available to the Commission to help pay patrons who are owed money in grain insolvency cases. The primary change being proposed is to alter the point at which grain on hand is to be considered an asset to the trust account that is established to pay valid claims.

At the present time, the Commission gains control of the grain on hand once the court appoints the Commission trustee of the estate. Unfortunately, it may take several weeks from the time that a

claim is filed until the Commission is named trustee. During that time, it is quite possible that the warehouseman could ship out thousands of bushels of grain. The proceeds from these sales are not currently available to help pay claimants who are owed money. We think they should be.

Section 5 also proposes to add a few more items to the list of assets that might be available to the Commission in an insolvency proceeding that involves a grain buyer. With these additions, this section would be identical to the same section in Chapter 60-04 that governs grain warehouses. This change corrects an oversight that occurred when this statute was enacted during the last legislative session.

Mr. Chairman, that concludes our testimony. I would be happy to respond to any questions that you or members of your committee might have.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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TESTIMONY ON SB 2074 SENATE AG COMMITTEE SENATOR TERRY WANZEK, CHAIRMAN THURSDAY JANUARY 18, 2001 - 9:00 A.M.

Good morning Mr. Chairman and members of the Committee. My name is Clyde Krebs. I am here representing the North Dakota Grain Dealers Association, of which I am a Director and Legislative Committee Vice Chairman. I own and operate Circle K Feed & Grain in Gler Ullin, ND, which is a licensed public elevator under the North Dakota Public Service Commission.

There are basically three parts to this bill. The first is the increase in license fees. No industry likes to see its costs increase. In the 1997 session we supported a \$100 per location increase to fund an additional warehouse inspector, which we and the PSC thought was necessary to assist our industry in helping keep itself clean. Our Board has chosen not to comment on this proposed \$50 per location increase at this time.

A second part of the bill is giving the PSC the right to issue cease and desist orders. With some degree of reservation, we support this section. The reservation is that this power be used with much discretion. Grain warehouses and buyers who are headed for big trouble are best shut down before further damage is done. Distinguishing that kind of situation from one where there is a temporary cash flow problem may not always be easy. Making the wrong move there could force an insolvency that would otherwise not have occurred. We are aware that the commission and its staff have worked with grain elevators which are having problems which still can be solved, and are solved. We trust the Commission will use this new power judiciously. But we do support it.

The third item in this bill relates to how soon grain assets begin to accumulate in the trust fund to pay off receipt holders. We support the commission's position to start that when the claim is filed rather than when the commission is appointed by the district court.

Our industry strives to keep itself clean and continue to serve our farmer customers in the best and fairest way possible. We are happy to say we have a good working relationship with the Public Service Commission in working toward that end.

Before asking if you have any questions, I will take this opportunity to invite all of you to our convention legislators' luncheon next Monday, that's January 22, starting at noon and running to 1:00 p.m. in the Dakota Ballroom of the Radisson Inn here in Bismarck. Steve Strege said he had written a letter to you Mr. Chairman, but I will also extend a personal invitation to each of you committee members. There will be no speeches, just a chance to visit with your constituents who are there for the convention.

Now, I will try to respond to any questions you may have.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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TESTIMONY ON SB 2074
HOUSE AG COMMITTEE
REPRESENTATIVE GENE NICHOLAS, CHAIRMAN
THURSDAY MARCH 1, 2001 - 9:30 A.M.

Good morning Mr. Chairman and members of the Committee. My name is Clyde Krebs. I am here representing the North Dakota Grain Dealers Association, of which I am a Director and Legislative Committee Vice Chairman. I own and operate Circle K Feed & Grain in Glen Ullin, ND, which is a licensed public elevator under the ND PSC.

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