MICROFILM DIVIDER

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10/21/03
Date

2003 SENATE AGRICULTURE

SB 2254

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2254

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 01/30/03

Tape Number	Side A	Side B	Meter #
1	x		4016 - end
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened the hearing on SB 2254. All members were present.

Senator Fischer introduced the bill.

Gary Ness, Director of the North Dakota Aeronautics Commission, testified in favor of the bill. (written testimony)

Senator Flakoll asked if the North Dakota Aeronautics Commission would be comfortable in the range of $35 to cover direct costs. (meter # 4349)

Mr. Ness said they haven't discussed it. They are performing many more services especially since 9/11 for aerial applicators. He has no problem with setting the fee at the legislative level but it seems easier to do it by administrative rule to avoid returning to the legislature at a later date.

Senator Flakoll said there is some reluctance to give free rein to non elected representatives in establishing fees.

Senator Nichols asked how many different applicators would be affected by this fee.

Mr. Ness said 166 aerial applicators applied last year. Of these, 12 were private applicators and the rest were commercial applicators.

Senator Nichols said with the limited number of involved parties, would the aerial applicators be comfortable with the authority for setting fees changing to administrative rule?

Mr. Ness said they discussed it with the aerial applicators at their annual meeting in December. Their executive director and board of directors were comfortable with the change.

Senator Erbele asked if the applicators have a grievance procedure if they feel the fees get too high and what is the make up of the commission?

Mr. Ness said the commission members are: Bob Miller from Casselton, retired Northwest pilot and airport manager; Jay B. Lindquist, Hettinger, aerial applicator and fixed base operator; Cindy Schreiber- Beck, executive director of the aerial applicators and with her husband ran an aerial application business and now restore aircraft; Maurey Cook, bond attorney in Bismarck and wing commander in the Civil Air Patrol; Dianne Herr, active general aviation aircraft owner and postmaster in Turtle Lake.

Senator Flakoll asked about the changes in the bill regarding private applicators.

Mr. Ness said the legislative council did some language clean up when drafting the bill. On line 7 the law states no one may engage in aerial spraying without a license. Legislative Council said this covers both commercial and private applicators and the specific reference to private applicators is not needed.

Senator Klein asked about renegade pilots and if this is still a problem.

Mr. Ness said they only had two violations last year, one from Montana and one from Minnesota. Both were reported within 24 hours of their arrival and the Agriculture Department had contacted them within 6 hours of hearing of the report. Self policing is working well. The license for the aerial applicators is an ugly color and is affixed to the aircraft. It is easy to see when one is not present.

Senator Klein said there are groups who do not like to see fees being set by a non elected body. Mr. Ness said if he had to set a fee level it would be in the $75 range. They have some businesses who have 6 airplanes who are now paying $15 per plane. With the change to a license for the business, they will pay one fee now. Last year there are 166 applicators in the state and 225 aircraft.

Chairman Flakoll closed the hearing on SB 2254. (meter # 5742)

Senator Flakoll said we have better luck up top if we put a number on the fee level.

Senator Nichols said with the limited number of affected people, he doesn't think its a problem in this case.

Senator Seymour agrees with Senator Nichols.

Senator Klein agrees with Senator Nichols and Senator Seymour. This allows the administrative rules committee to also listen to the hearing procedure. Fees are always talked about on that committee.

It was moved by Senator Nichols, seconded by Senator Klein and passed on a roll call vote that the Senate Agriculture Committee take a Do Pass action on SB 2254. Voting yes were Senator Flakoll, Senator Erbele, Senator Klein, Senator Urlacher, Senator Nichols, and Senator Seymour.

No negative votes were cast. Senator Nichols will carry the bill to the floor.

Chairman Flakoll moved on to other business of the Senate Agriculture Committee.

FISCAL NOTE

Requested by Legislative Council
03/26/2003

Amendment to: SB 2254

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
Revenues	$0	$0	$0	$0	$0	$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.*

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.*

There is no fiscal impact to the General Fund nor any Other Funds or budget, including Counties, Cities and School Districts in this 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.*

This amendment does set a ceiling to the license fee from the Aerial application business's, but that revenue figure has not been set because the fee has not been determined by the commission members at this point. The revenue will be deposited in the agency's special fund.

   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.*

When the revenue is determined (3-A) the expenditure will come from the "Operations" line and will be used for educational and support efforts to the industry it is derived from. No FTE change is planned.

   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.*

N/A

Name:	Gary R. Ness	**Agency:**	Aeronautics Commission
Phone Number:	328-9655	**Date Prepared:**	03/26/2003

FISCAL NOTE

Requested by Legislative Council
01/20/2003

Bill/Resolution No.: SB 2254

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
Revenues	$0	$0	$0	$0	$0	$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.*

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.*

There is **no** fiscal impact to the General Fund nor any Other Funds or budget, including Counties, Cities and School Districts in this 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.*

N/A

   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.*

N/A

   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.*

N/A

Name:	Gary R. Ness	**Agency:**	ND Aeronautics Commission
Phone Number:	328-9650	**Date Prepared:**	01/20/2003

Date: 1/30/03

Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2254

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Nichols Seconded By Sen. Klein

Senators	Yes	No	Senators	Yes	No
Senator Tim Flakoll, Chair	✓		Senator Ronald Nichols	✓	
Senator Robert S. Erbele, V. Chair	✓		Senator Tom Seymour	✓	
Senator Jerry Klein	✓				
Senator Herb Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Nichols

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

REPORT OF STANDING COMMITTEE (410)
January 30, 2003 11:42 a.m.

Module No: SR-18-1344
Carrier: Nichols
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2254: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

SR-18-1344

2003 HOUSE AGRICULTURE

SB 2254

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2254

House Agriculture Committee

❑ Conference Committee

Hearing Date 3---07---03

Tape Number	Side A	Side B	Meter #
ONE	A		17 TO 28.4
Committee Clerk Signature	Edward D Olson		

Minutes:

CHAIRMAN NICHOLAS : Committee Members, we will open the hearing on SB 2254.

GARY NESS: Director, ND Aeronautics Commission.

Mr. Chairman, this proposed change to Section 2-05-18 has been a change that is long overdue..

[PLEASE SEE PRINTED THAT GARY NESS FURNISHED]

CHAIRMAN NICHOLAS: Gary, we will hold up on the questions, we will take Senators Fischer testimony. He is the prime sponsor of the bill.

SENATOR FISCHER: I am in support of the bill.

CHAIRMAN NICHOLAS: Any questions of Gary.

REP. ONSTAD : The number aerial applicators. Are we holding our own?

GARY NESS: We have 166 operators that we license. It had been at 201 when I came here When I came 15 years ago. We found that ten percent of the applicators do eighty percent of the business. The aircraft has gone from 275 to approximately 210. There are bigger aircraft.

It is a business in transition.

REPRESENTATIVE FROELICH: I see you have taken out the license fee of fifteen dollars and and put it in there to be determined by the commission by rule. We are not going to nd up with a hundred dollars are we.

GARY NESS: I have two members of my commission that are aerial applicators related business. I don't feel that we will have an excessive change. The change will be between Seventy five and one hundred dollars. We are providing them some continuing education That is a national program that is a National Program and we are looking at the methodology of being able to pay for that. They came to us and asked us if we could help them out. That is the direction that we are going.

REPRESENTATIVE FROELICH: Would it be applicable to put in that it would not exceed one hundred dollars.

GARY NESS: There was a discussion over on the Senate Side. On this same topic. The Senate thought they would leave it to the commission. They felt that the commission had the background to be able to set fees and adjust rates.

REP. FROELICH : How many commissioners are there.

GARY NESS: There are five.

CHAIRMAN NICHOLAS: Anyone else offering testimony in support of this bill?

Any opposition to the bill?

VICE CHAIRMAN POLLERT: The question I have if we go to the floor with this bill by administrative rule we will have a problem with this bill on the floor. That is just my guess.

{THERE WAS ADDITIONAL CONVERSATION BETWEEN THE REPRESENTATIVES AND CHAIRMAN NICHOLAS APPOINTED A SUB COMMITTEE CONSISTING OF REPRESENTATIVES, POLLERT, BOE AND KREIDT. THEY WILL GET TOGETHER WITH GARY NESS AND WORK SOMETHING UP THAT WILL BE EASIER TO PASS ON THE FLOOR} Gary Ness thanked the Chair and the Committee.

CHAIRMAN NICHOLAS: We will close the hearing on SB 2254.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2254

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--21--03

Tape Number	Side A	Side B	Meter #
ONE	A		13.2 TO 26.8
Committee Clerk Signature	Edward D Elkin		

Minutes:

CHAIRMAN NICHOLAS : Committee members, please turn to SB 2254.

Some amendments were presented and adopted after some discussion. Chairman Nicholas

Entertained a motion on the amendments.

REP. FROELICH : Made a motion to adopt the amendments.

REP KELSCH Seconded the motion.

A voice vote was taken and passed.

Chairman Nicholas entertained a motion for a do pass with amendments.

REPRESENTATIVE BELTER MADE A MOTION FOR A DO PASS

REPRESENTATIVE FROELICH SECONDED THE MOTION

THE ROLL WAS TAKEN. THERE WERE 9 YES 2 NO AND 2 ABSENT

REPRESENTATIVE POLLERT CARRIED THE BILL.

CHAIRMAN NICHOLAS CLOSE ON SB 2254

30580.0101
Title.0200

Adopted by the Agriculture Committee
March 21, 2003

House Amendments to SB 2254 - Agriculture Committee 03/21/2003

Page 1, line 12, remove the overstrike over the overstruck comma and replace "as determined by the commission by rule" with "not to exceed two hundred dollars."

Renumber accordingly

SB2254
3-21-03

Date:
Roll Call Vote #:

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

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number AS AMEND

Action Taken DO PASS

Motion Made By FROELICH Seconded By KELSCH

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS					
VICE CHAIRMAN POLLERT					
REPRESENTATIVE BELTER					
REPRESENTATIVE BOEHNING					
REPRESENTATIVE KELSCH					
REPRESENTATIVE KINGSBURY					
REPRESENTATIVE KREIDT					
REPRESENTATIVE UGLEM					
REPRESENTATIVE WRANGHAM					
REPRESENTATIVE BOE					
REPRESENTATIVE FROELICH					
REPRESENTATIVE MELLER					
REPRESENTATAIVE ONSTAD					

Total (Yes) No

Absent

Floor Assignment

SB 2254
3-21-03

Date:
Roll Call Vote #:

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

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number AS Amended

Action Taken DO PASS

Motion Made By BELTER Seconded By FROELICH

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	✓				
VICE CHAIRMAN POLLERT	✓				
REPRESENTATIVE BELTER		✓			
REPRESENTATIVE BOEHNING	✓				
REPRESENTATIVE KELSCH	✓				
REPRESENTATIVE KINGSBURY	✓				
REPRESENTATIVE KREIDT					
REPRESENTATIVE UGLEM	✓				
REPRESENTATIVE WRANGHAM		✓			
REPRESENTATIVE BOE					
REPRESENTATIVE FROELICH	✓				
REPRESENTATIVE MELLER	✓				
REPRESENTATAIVE ONSTAD	✓				

Total (Yes) 9 No 2

Absent 2

Floor Assignment POLLERT

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 8:24 a.m.

Module No: HR-52-5482
Carrier: Pollert
Insert LC: 30580.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2254: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2254 was placed on the Sixth order on the calendar.

Page 1, line 12, remove the overstrike over the overstruck comma and replace "as determined by the commission by rule" with "not to exceed two hundred dollars."

Renumber accordingly

2003 TESTIMONY

SB 2254

Testimony **SB-2254**

Gary R. Ness
Director, ND Aeronautics Commission
January 30, 2003 -- 10:00 am

Senate Agriculture Committee
Chairman Senator Tim Flakoll

Mr. Chairman I'm Gary Ness, Director of the ND Aeronautics Commission this proposed change to Section 2-05-18 has been a change that is long overdue.

The Commission has over at least the last two biennium contemplated this change for a very simple reason. The license for an Aerial Applicator is tied to the aircraft that the business registers to perform the agricultural spraying operation. The fee for this license is $15.00 @ aircraft. The Commission has studied and determined that the cost of this license procedure to be in excess of $28 to $35 @ license. OMB has asked the Commission to evaluate adjusting this revenue source. The Aerial Applicator fee collected, at this time, brings to the Commissions budget approximately $10,500.00 per biennium.

This bill effectively changes the setting of the fee from legislative action and puts the responsibility on the five member Commission to, by administrative rule, set the fee. The Commission has not had a conversion on the fee structure for the future. We have consulted with the industry and I have distributed the ND Agricultural Aviation Association letter of support.

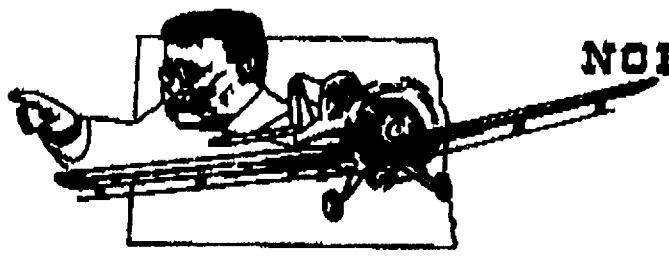
To summarize the changes to Section 2-05-18:

1. Changes the Aerial Applicator License registration from Aircraft to Business name.

2. Changes the setting of fees from Legislative Action to Commission Administrative Rule procedure.

3. It removes the reference to private applicator in this section. This a Legislative Council Bill Draft language clean up process. The change does not eliminate this Part of the industry because the Private Applicator is identified in the Commission Rules and Regs.

I thank the Committee for their time on this matter and hope that will support this effort. I stand ready to ask any question that may have come to mind.



NORTH DAKOTA AGRICULTURAL AVIATION ASSOCIATION

Letter in support of Senate Bill No. 2254

January 27, 2002

To Whom It May Concern:

The North Dakota Agricultural Aviation Association reviewed the proposed amendments to Senate Bill No. 2254 relating to a license for aerial spraying. The Association does not have any objections to the amendment and supports the changes to section 2-05-18.

Tim McPherson,
NDAAA President

P.O. Box 843 • Municipal Airport • Wahpeton, ND 58074 • Telephone (701) 642-5777 • Fax (701) 642-4204

Testimony **SB-2254**

Gary R. Ness
Director, ND Aeronautics Commission

House Agriculture Committee
Rep. Eugene Nicholas -- Chairman

Mr. Chairman I'm Gary Ness, Director of the ND Aeronautics Commission this proposed change to Section 2-05-18 has been a change that is long overdue.

The Commission has over at least the last two biennium contemplated this change for a very simple reason. The license for an Aerial Applicator is tied to the aircraft that the business registers to perform the agricultural spraying operation. The fee for this license is $15.00 @ aircraft. The Commission has studied and determined that the cost of this license procedure to be in excess of $28 to $35 @ license. OMB has asked the Commission to evaluate adjusting this revenue source. The Aerial Applicator fee collected, at this time, brings to the Commissions budget approximately $10,500.00 per biennium.

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