

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2114

2005 SENATE AGRICULTURE

SB 2114

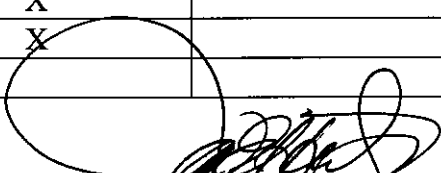
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2114

Senate Agriculture Committee

☐ Conference Committee

Hearing Date January 6, 2005

Tape Number	Side A	Side B	Meter #
1	X		34 - 1247
1	X		3573 - 4118
Committee Clerk Signature 			

Minutes:

**Chairman Flakoll** opened the hearing on SB2114, a bill relating to dairy regulations, reinspection fees, and references to current food and drug administration records. All members were present.

**Wayne Carlson**, Livestock Service Coordinator, North Dakota Department of Agriculture, testified in favor of the bill. (written testimony) (meter 380)

**Senator Klein** asked if the amendment meant the reinspection fee would be paid by the producer, not the plant.

**Mr. Carlson** said yes. When he drafted the bill, he copied the South Dakota regulations and did not have an attorney available. The Attorney General recommended the amendment after reviewing the bill. The plants will assess the fine through the milk check. (meter 609)

**Senator Flakoll** asked if there is a fine for the first warning.

**Mr. Carlson** said no, not for the first violation. In the case of continued violations, the producer's milk could be taken off the market until he comes into compliance so while a fee is not assessed, it is a punishment.

**Senator Flakoll** asked if the reinspection fee was a penalty.

Mr. Carlson said yes. (meter 699)

**Senator Urlacher** asked what period of time a producer has to be in compliance?

**Mr. Carlson** said reinspection would occur within 21 days.

**Senator Urlacher** asked what the reinspection fee is in South Dakota.

**Mr. Carlson** said it is \$75. In Montana, the fee is assessed per hundredweight. (meter 778)

**Senator Klein** asked how many inspectors we have in North Dakota.

**Mr. Carlson** said we have 3 inspectors, 380 dairies and 1 ratings officer.

**Senator Klein** asked if the reinspection fee has helped in South Dakota.

**Mr. Carlson** said it has been tremendously helpful. He contacted the directors in South Dakota and Minnesota (where it has also been a helpful tool). Mr. Carlson said the reinspections in North Dakota are often at the same places, some up to 3 or 4 times each year. One inspector drove 200 miles to reinspect a facility for dirty equipment, discovered the problem had not been corrected and had to return again to do another reinspection.

**Senator Klein** asked if under that scenario, the producer would have had to pay \$75 or \$150?

**Mr. Carlson** said \$150.00 (meter 1020)

**Senator Urlacher** asked how often dairy facilities are inspected.

**Mr. Carlson** said grade B producers are inspected twice per year, grade A producers up to 4 times per year, plants are inspected quarterly.

**Senator Urlacher** asked if trucks are inspected.

**Mr. Carlson** said trucks that transport milk are inspected for sanitation. This bill would only affect producers.

**Chairman Flakoll** closed the hearing on SB2114. (meter 1157)

**Senator Klein** said his concern with the original bill was with the milk plants paying the fee.

The amendment provided by Mr. Carlson addresses that concern. (meter 3573)

**Senator Klein** moved a do pass for the amendment as proposed by Wayne Carlson.(written copy attached.)

**Senator Taylor** seconded the motion.

**Senator Urlacher** said he thinks this is going in the right direction.

The motion passed on a roll call vote 6-0-0. (meter 3910)

**Senator Klein** moved a do pass for SB2114 as amended and rerefer to Appropriations.

**Senator Taylor** seconded the motion.

The motion passed on a roll call vote 6-0-0. Senator Klein will carry the bill (meter 4118).

**Chairman Flakoll** adjourned the meeting of the Senate Agriculture Committee.

# FISCAL NOTE

Requested by Legislative Council  
01/10/2005

Amendment to: SB 2114

**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
<b>Revenues</b>	\$0	\$0	\$7,500	\$0	\$7,500	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$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.*

Section 2 of the bill adds a reinspection fee of \$75 for each farm facility inspection conducted beyond the normal inspections for Grade A and Manufacturing Grade facilities. Such reinspections result from adverse actions such as a farm permit suspension, the downgrade from Grade A to Manufacturing Grade, or unsanitary conditions that require correction within a specified period of time.

**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 estimate that about 100 such re inspections are conducted per biennium. The seventy-five dollar fee would increase general fund revenues \$7,500 per biennium.

**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 additional expenditures are projected because we are currently conducting these re inspections.

**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 additional appropriation is required.

<b>Name:</b>	Jeff Weispfenning	<b>Agency:</b>	Agriculture
<b>Phone Number:</b>	328.4758	<b>Date Prepared:</b>	01/10/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/23/2004

Bill/Resolution No.: SB 2114

**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
<b>Revenues</b>	\$0	\$0	\$7,500	\$0	\$7,500	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$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.*

Section 2 of the bill adds a reinspection fee of \$75 for each farm facility inspection conducted beyond the normal inspections for Grade A and Manufacturing Grade facilities. Such reinspections result from adverse actions such as a farm permit suspension, the downgrade from Grade A to Manufacturing Grade, or unsanitary conditions that require correction within a specified period of time.

**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 estimate that about 100 such reinspections are conducted per biennium. The seventy-five dollar fee would increase general fund revenues \$7,500 per biennium.

**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 additional expenditures are projected because we are currently conducting these reinspections.

**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 additional appropriation is required.

<b>Name:</b>	Jeff K. Weispfenning	<b>Agency:</b>	Agriculture
<b>Phone Number:</b>	328-4758	<b>Date Prepared:</b>	12/23/2004

Date: 1/6/05  
Roll Call Vote # 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2114

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Amendment

Motion Made By Senator Klein Seconded By Senator Taylor

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

*reinspection fee to be paid by producer,  
not milk plant*

Date: 1/6/05  
Roll Call Vote # 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2114

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended and Refer to Appropriations

Motion Made By Senator Klein Seconded By Senator Taylor

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Klein

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

**REPORT OF STANDING COMMITTEE**

**SB 2114: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2114 was placed on the Sixth order on the calendar.**

Page 2, line 9, replace "shall" with "must" and remove "the"

Page 2, line 10, remove "milk plant or marketing organization for" and after "facility" insert "for which the commissioner has conducted a"

Renumber accordingly

2005 HOUSE AGRICULTURE

SB 2114

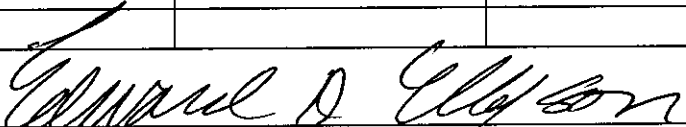
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2114

House Agriculture Committee

☐ Conference Committee

Hearing Date 2---24---05

Tape Number	Side A	Side B	Meter #
TWO	A		00 TO 5.4
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on SB 2114. Wayne, would you like to start off with your testimony?

WAYNE CARLSON: LIVESTOCK SERVICE COORDINATOR. I am here to day in support of SB 2114, which changes the state's dairy laws. This bill was introduced at the request of the Agriculture Commissioner. It would change three provisions of our current dairy laws in NDCC 4-30. [[WAYNE PASSED OUT PRINTED TESTIMONY WHICH IS ATTACHED. PLEASE READ]] Wayne Carlson urged a do pass on SB 2114. States he would be happy to answer any questions. Wayne also passed out testimony offered by TOM KLUDT, VICE PRESIDENT OF PROCUREMENT FOR CASS CLAY CREAMERY, INC.

CHAIRMAN NICHOLAS: Any questions for Wayne committee members.

REPRESENTATIVE KREIDT: The seventy five dollars. Is that going to be held out of the producers check? You asses a fee and it is up to the dairy to send you a check. As to Fee.

That may not happen. How is that going to work.

WAYNE CARLSON: One of the companies said they would collect the fee. If it doesn't work we will have to send them a bill. If they don't pay we will have to take action.

We would have them dump one load of milk. There are provisions if they don't meet the reinspection fee then we will go out and reinspect them again because it is kind of like a refusal to pay.

REPRESENTATIVE ONSTAD: Sometimes that reinspection is kind of frivolous. Is there going to be common sense in the inspections.

WAYNE CARLSON. We use common sense in the inspections.

REPRESENTATIVE MEELLER: Is the first inspection fee?

WAYNE CARSLON: All inspection fees are free. It is the re-inspection fee that the producer has to pay for. Under this proposal they will continue to be free. We inspect grade A dairy twice a year. We do inspect four time a year if there is a problem.

VICE CHAIRWOMAN KINDBURY: IS THERE ANY MORE TESTIMONY FOR OR AGAINST THIS BILL?

**REPRESENTATIVE KREIDT MADE A MOTION FOR A DO PASS ON SB 2114.**

**REPRESENTATIVE ONSTAD: SECONDED THE MOTION.**

**VICE CHAIRWOMAN KINGSBURY AS THAT THE ROLL BE TAKEN.**

**THERE WERE 10 YES 0 NO 3 ABSENT.**

**REPRESENTATIVE KREIDT CARRIED THE BILL.**

**VICE CHAIR WOMAN KINGSBURY CLOSED ON SB 2114**

Date:

Roll Call Vote #:

SB 2114  
2-24-052005 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 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) 10 No 0Absent 3Floor Assignment KREIDT

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

**REPORT OF STANDING COMMITTEE (410)**  
February 24, 2005 1:00 p.m.

**Module No: HR-34-3566**  
**Carrier: Kreidt**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2114, as engrossed: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2114 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2114

Roger Johnson  
Agriculture Commissioner  
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600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

Testimony of Wayne R. Carlson  
Livestock Service Coordinator  
Senate Bill 2114  
Senate Agriculture Committee  
Roosevelt Room  
January 6, 2005

*Same given to the House*

Chairman Flakoll and members of the Agriculture Committee, I am Wayne Carlson, Livestock Service Coordinator for the North Dakota Department of Agriculture. I am here today in support of SB2114 which changes the state's dairy laws.

This bill was introduced at the request of the Agriculture Commissioner. It would change three provisions of our current dairy laws in NDCC 4-30.

The first change is in regard to the definition of "Dairy Distributor". The current law reflects the current definition of the Pasteurized Milk Ordinance (PMO). This definition covers only those individuals who sell or offer for sale any milk or milk products. In today's system of dairy commerce, many distributors transport and storing milk products that should be considered distributors but they never sell or offer for sale milk products. Under the current law these companies and facilities are not specifically covered. Currently, we do inspect and license these

individuals using a broad interpretation of current law. This change would clearly and concisely define on what a milk distributor is.

The second change adds a reinspection fee to those facilities that must be reinspected for more than just a regular inspection. This would include inspections due to dirty equipment, drug violations, or major health issue violations. Currently the department does around 100 reinspections a year. In the past these reinspections did not cost the state much in labor or travel, because there were always other dairy farms in the area. However, in the last 10 years the number of dairy farms inspected has decreased dramatically and the number of dairy inspectors has decreased making reinspections difficult and costly under the required 21 day time frame for reinspections. This means that dairy inspectors have to make special trips to do many of the reinspections which increases the overall expenses to the department's budget. In addition, these fees act as a very good regulatory tool for those that are not following state and federal guidelines. If a producer knows that he is being charged to be reinspected, he will be more inclined to make sure his operation is in compliance. Presently South Dakota and Minnesota have reinspection fees and Montana charges for all inspections. At the last meeting of the state milk producers' board of directors meeting, a resolution of support was passed supporting the idea of a reinspection fee. In addition, I have a letter of support from the state's largest buyer of milk.

The next six amendments deal with the dairy laws that our state has adopted by reference. The Food and Drug Administration has published ordinances for all states to use. The 2003 Revision of the Pasteurized Milk Ordinance (PMO) was released for general publication in fall of 2004.

The current PMO also includes the Grade "A" Condensed and Dry Milk products and Condensed and Dry Whey Supplement which was a separate publication that was adopted by reference by our state. Since they are both in one document, the amendment proposed in this bill reflects just the one document instead of two. It is my recommendation that these sections of the dairy law be amended to reflect the most current publications.

Chairman Flakoll and committee members, I urge a do pass on SB2114, I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO SENATE BILL NO. <sup>2114</sup>~~2144~~

Page 2, line 9, remove "the"

Page 2, line 10, remove "milk plant or marketing organization for," and after "facility" insert "for which the commissioner has conducted a"

A reinspection fee of seventy-five dollars per inspection shall be paid by each dairy facility for which the commissioner has conducted a reinspection resulting from a suspension of a farm permit, degrading of a farm facility from Grade A to manufacturing grade, or unsanitary conditions that must be corrected within a specified period of time.

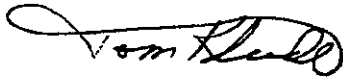
Mr Wayne Carlson  
Dairy Director  
State of ND.  
January 4, 2005

Dear Wayne,

Cass Clay Creamery, Inc. is in total support of your plan to implement a \$75.00 reinspection fee for dairy farms that have been degraded. Properly handled by all processors will put more responsibility on the producer. From past experience in South Dakota it went a long ways in helping to bring our farms into compliance.

Thanks for the efforts being made and we know that we are in total support of this plan.

Sincerely,



Tom Kludt  
V. P. of Procurement

