

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2103

2001 SENATE AGRICULTURE

SB 2103

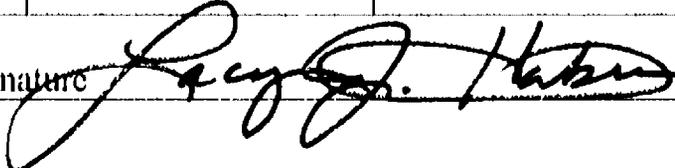
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2103

Senate Agriculture Committee

Conference Committee

Hearing Date January 11, 2001

Tape Number	Side A	Side B	Meter #
I	X	X	
Committee Clerk Signature 			

Minutes:

The committee was called to order.

The hearing was opened on SB 2103 relating to elimination of administrative rulemaking proceedings in establishing fees for commodity grade inspections.

Ken Bertsch: North Dakota State Seed Commissioner came to testify on this bill, see attached testimony.

Senator Klein: Is this going to be the beginning of the Seed Department having their own department and not have the oversight of an administrative rules committee?

Ken Bertsch: This is if not the only, but one of the very few state agencies that is completely self funded and who has a board of directors. This suggests that it was intended or set up so that the commission can make these decisions in regard to the financial health of the operation. By having the administrative rules process in place in regard to fees, you are neutralizing the aspect of having a commission in place.

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Senate Agriculture Committee
Bill/Resolution Number SB 2103
Hearing Date January 11, 2001

Senator Wanzek: We are trying to make this consistent with other language, am I wrong in that assessment?

Ken Bertsch: One of the thing that we need to accomplish as a commission is the inconsistency in the language in our Century Code.

Senator Urlacher: Is this just moving the authority from administrative rule to a board within this department?

Ken Bertsch: Yes, because some of the fees are not spelled out as being under administrative rule some are just simple the decision of the commission, some of the are and some of them are not. The objective is to move it under the control of the seed commission.

Senator Wanzek: These are people who are helping set the fee structure and who are also paying the fee, do you think this would be a good check and balance?

Ken Bertsch: Every single one of our commission members except one does have the benefit of having to pay those fees, so they understand the impact on there own operation and also understand the impact on the department and the things that we need to do.

Hearing was closed.

Committee began discussion on the testimony.

Senator Kroepflin: Where would be the legislative oversight be in this, any at all?

Ken Bertsch: The legislative oversight is every two years, the best decisions that can be made on our behalf are by our board of directors. We suggest the things that need to be done, management wise and administratively, but the board of directors has the final say. The commission that is set up in Century Code really are the ones that provide some of the oversight.

Senator Klein moves to **DO PASS**. **Senator Fischer** second it. Roll call vote carried 6-0-0.

Senator Nichols will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: SB 2103

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	\$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.*

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

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

This is a housekeeping and policy bill and has no fiscal effect on the Agency or the State.

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.*

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.*

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.*

Name:	Ken Bertsch	Agency:	State Seed Department
Phone Number:	701-239-7210	Date Prepared:	01/02/2001

REPORT OF STANDING COMMITTEE (410)
January 11, 2001 12:44 p.m.

Module No: SR-03-0892
Carrier: Nichols
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2103: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the
Eleventh order on the calendar.

2001 HOUSE AGRICULTURE

SB 2103

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2103

House Agriculture Committee

Conference Committee

Hearing Date 3--8--01

Tape Number	Side A	Side B	Meter #
ONE	A		2390 TO 4601
Committee Clerk Signature <i>Edward J. Nelson</i>			

Minutes:

CHAIRMAN NICHOLAS: We will open the hearing on SB 2103 We are ready to go.

KEN BIRCH: State Seed Commission: Please see printed testimony. This Bill duck tails with the next bill you are going to hear 2104. The total objective of this bill is to provide some consistency. I would point out that one section of the ND CENTURY CODE that we are relying on very heavily to make these changes is one that says the commissioner with the approval of the seed commission shall establish and charge fees for lavatory services. We assume that that means much the same thing in regard to the other fee schedules that we "can's understand testimony". We are a self funded agency. All of our income, all of our revenue is from fees for services and therefore we are operating like a business. Much as the same way that any other business operates. We are subject to market fluctuations of a business. We are trying to standardize.. The board will make the decisions for us. Again please see printed testimony.

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House Agriculture Committee

Bill/Resolution Number SB 2103

Hearing Date 3--8--01

REPRESENTATIVE LEMIEUX: How will you inform the public as the changes. Or the potential changes for your fee schedule. What will be the procedure?

KEN: What we intend to do is make a fee schedule change in regard to our lavatory services that goes into effect July 1 01. What we intend to do and by the way we had to do that because of the administrative rules process which is not only time consuming. It took us approximately a year to do it. By the time we made two different changes was well in excess of a couple of thousand dollars each time around. None the less, we made our change. We are going to put an adjusted fee schedule in place for lavatory service fees. We will send out those new fee schedules to our customers that we are dealing with on a consistent basis. We don't have a WEB PAGE. We do intend to put a WEB PAGE IN PLACE. WE will put all of our administrative rules, fee schedules our century code our information on programs.

REPRESENTATIVE MUELLER: The citizen oversight you have in Bold. What currently is your oversight mechanism with the state seed department.

KEN: We have the same type of oversight as another state agency. WE have great constancy.

REPRESENTATIVE SANDVIG: Do any other agencies or omissions have the right to set their own feed and bypass the administrative rules process?

KEN: I don't know if I can answer that question with any certainty. Fish and Game maybe.

SANDVIG: I sat on the administrative rules committee, we have several agencies that come to us with there rules. There is a reason for that, it is so that they can gone over and make sure they don't by pass the legislature process. It is a very important procure. All these agencies come to us. Just comment.

KEN: The state seed commission is made up of 8 or 9 members. All but two of them being purchasers of the services that they are providing oversight for. One of the things that we feel again how to handle this situation. I will give you an example. About Sept of '99, we ran a fee schedule up the flag pole if you will through the commission based on the fact that internally I am supposto do is make sure that we are operating at an add cost basis and that language is also in the century code. Our fees are support to be as close to add cost or near as possible. It is written right in the law. It takes two years to implement. If we have to go through a long drawn out situation is is administratively expensive. The board is aware of cost. It operates like a business. We are putting in new services all the time. This put pressure on our budget. All the folks that set the rules use the services. If we are talking about administrative rules the process is different.

Representative Lloyd: Will this put you at a more competitive position? With the private inspectors.

KEN: No that dose not help us from being undercut if you will by another company. If we can't do job like Simplot-Avko, for less then what completion can do it. This really dose not effect our process to much. If we wanted to raise our current inspection fee. We could not do it by not going through the administrative rules process. Or lower the fee.

CHAIRMAN NICHOLAS: Any other questions?

KEN: I CAN GET A LISTING OF THE FEES FOR YOU.

CHAIRMAN NICHOLAS: ANY OTHER QUESTION OF KEN: ANYONE WISHING TO APPEAR IN SUPPORT OF 2103. ANYONE WISHING TO APPEAR IN OPPOSITION TO 2103. THE CHAIR WILL ENTERTAIN A MOTION ON 2103.

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House Agriculture Committee
Bill/Resolution Number SB 2103
Hearing Date 3--8--01

REPRESENTATIVE PIETSIC MADE A MOTION FOR A "DO PASS" AND
REPRESENTATIVE KOPPANG SECONDED..

CLERK TOOK THE ROLL. THERE WERE *****10 YES*****1 NO***** 4 ABSENT**.

REPRESENTATIVE LLOYD WILL CARRY THE BILL..

WE WILL CLOSE ON SB 2103

3-8-2001

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2103

House AGRICULTURE Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Pietsch Seconded By W. Lloyd

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

Total (Yes) 10 No 1

Absent 4

Floor Assignment REP LLOYD

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

REPORT OF STANDING COMMITTEE (410)
March 8, 2001 11:22 a.m.

Module No: HR-40-5109
Carrier: Lloyd
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2103: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(10 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). SB 2103 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2103



**NORTH DAKOTA
STATE SEED
DEPARTMENT**

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Testimony: SB 2103
Senate Agriculture Committee

Ken Bertsch
ND State Seed Commissioner
January 11, 2001

Mr. Chairman and members of the Committee, thank you for the opportunity to give a brief description of SB 2103 from the perspective of the State Seed Commission, who requested the bill. This legislation is "housekeeping" at its very best, as I will explain.

The objective of SB 2103 is to provide some consistency in Century Code language pertaining to the Seed Department, and to allow the Seed Commission to act as language in the Code intends. Chapter 4-09 reads; "The Commissioner, with approval of the Seed Commission, shall establish and charge fees for laboratory services". We believe that this language should serve as a model for operating the State Seed Department for a number of reasons:

1. The State Seed Department is a self-funded agency, subject to all of the requirements of government, yet operating as a business and subject to all of the competitive and market fluctuations of a business.
2. The Department is governed by the Commission, which is intended to operate like a board of directors on behalf of producers. The Commission by its nature as a producer/industry board is sensitive to the economic conditions of the industry. However, without the ability to make financial decisions on behalf of the agency, it is difficult for the Commission to carry out their obligations in regard to the fiscal health of the Department.
3. Part of SB 2104 performs a similar function in removing fee language from code, thereby allowing the Seed Commission to perform its duties in regard to financial oversight of the agency.

Senate Bill 2103 begins the process of clarifying and standardizing the language in Century Code regarding the Seed Commissions actions as a governing board for the Department. This bill deals solely with commodity grade inspections, while other sections deal with labeling fees, field inspection, or other fees for services performed by the Seed Department.

As additional types of programs and inspection services are developed at the Department, it will become even more important to have the flexibility to adjust fees to respond to competition and industry demand. The inevitable waiting period associated with the administrative rules process prohibits a quick response in this area, and neutralizes the objective of having a producer board in place to make these types of decisions.

Thank you for the opportunity to present our position on SB 2103, and I will be happy to answer any questions the Committee may have. I ask for the committee's support for this legislation.



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DEPARTMENT**

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Testimony: **SB 2103**
House Agriculture Committee

Ken Bertsch
ND State Seed Commissioner
March 8, 2001

Mr. Chairman and members of the Committee, thank you for the opportunity to give a brief description of SB 2103 on behalf of the State Seed Commission, who requested the bill.

The objective of SB 2103 is to provide some consistency in Century Code language pertaining to the Seed Department, and to allow the Seed Commission to act as language in the Code intends. Chapter 4-09 reads, in part;

"The Commissioner, with approval of the Seed Commission, shall establish and charge fees for laboratory services".

We believe that this language should serve as the basis for operation of the State Seed Department for a number of reasons:

1. The State Seed Department is a self-funded agency, subject to all of the requirements of government, yet operating as a business and subject to all of the competitive and market fluctuations of a business.
2. The Department is governed by the Commission, who operates a board of directors of the agency. The Commission, as a producer/industry board is sensitive to the economic conditions of the agriculture industry, and provides **citizen oversight** to all fiscal and operating policies. However, without the ability to make financial decisions on behalf of the agency, it is difficult for the Commission to carry out their obligations in regard to the fiscal policy (and viability) of the Department.
3. The current mix between fees designated in code and administrative rule, and some not referenced in either, creates a confusion for internal operations, and potential legal issues for the agency.

Part of **SB 2104** performs a similar function in removing fee language from code, thereby allowing the Seed Commission to perform its duties in regard to financial oversight of the agency.

We have recently removed all language associated with laboratory fees from administrative rules to bring the Department into compliance with state law. While this was a costly and time consuming process, it was also a necessary first step in gaining the compliance, consistency and flexibility needed to operate the State Seed Department in a competitive business environment.

Finally, **Chapter 28-32-01 (paragraph 11.c)** provides for exemptions to the rulemaking process for those agencies providing goods and services. The language in paragraph 11.c says specifically (in regard to exempt rulemaking processes):

"A rule establishing specific prices to be charged for particular goods or services sold by an agency."

Senate bill 2103 begins the process of **clarifying and standardizing** the language in Century code regarding the Seed Commission's actions as a governing board for the Department. This bill deals solely with commodity grade inspections, while SB 2104 deals with labeling fees.

As additional types of programs and inspection services are developed at the Department, it will become even more important to have the flexibility to adjust fees to respond to competition and industry demand. The inevitable waiting period associated with the administrative rules process prohibits a quick response in this area, and neutralizes the objective of having a producer board in place to make these types of decisions.

Thank you for the opportunity to present information, and our position on SB 2103. I ask for the committee's support for this legislation.