

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1034

2001 HOUSE AGRICULTURE

HB 1034

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1034

House Agriculture Committee

Conference Committee

Hearing Date 1-18-2001

Tape Number	Side A	Side B	Meter #
1	A		840 TO 2140
Committee Clerk Signature <i>Edward A. Ellyson</i>			

Minutes:

1A:840 VICE CHAIRMAN JOHNSON: We will now open the hearing on HB 1034.

Representative John Warner: Again, it is wonderful to be back here. I am not going to spend very much time with you. Mr Chairman and members of the committee. The testimony that follows is a prepared text which is attached to the Bill. Following the reading of the text, John Warner stated. I would respectfully ask the committee for a favorable recommendation which will allow it to go forward to appropriations.

1A:1214: Tim Dawson: Chairman Johnson and committee members. HB 1034 creates a revolving fund for the investigation of antitrust violations.

1A:1442 Mark Sitz: Chairman Johnson and committee members. I represent members of the N.D. Farmers Union. I would strongly support HB 1034. We urge you to give it a do pass recommendation.

Page 2

House Agriculture Committee

Bill/Resolution Number HB 1034

Hearing Date 1-18-2001

1A:1550: Jeff Weispening: I am here to present written testimony from Commissioner of Agriculture Roger Johnson. This pool of money would put us in harmony with other states.

1A:1871 John Crabtree: Rep. Johnson and committee members. I just wanted to quickly comment. Just as I think it is important to give the Attorney General the ability to send a letter to the court first and to give the resources to do this. We will have legal resources available and will make it easier for us to address out of state situations, corporations.

1A:2140 VICE CHAIRMAN JOHNSON: Is there any more testimony?

If not we will close the hearing on HB 1034.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1033 AND HB 1034

House Agriculture Committee

Conference Committee

Hearing Date 1-25-2001

Tape Number	Side A	Side B	Meter #
ONE	A		3830 TO 5148
TWO	A		00 TO 1503
Committee Clerk Signature <i>Edward Ellyson</i>			

Minutes:

1A:3830 REPRESENTATIVE NICHOLAS: We will open the hearing on HB 1033 AND HB1034.

1A:3840: ATTORNEY FOR THE ATTORNEY GENERALS OFFICE: DARREL GROSSMAN.

1A:3901: REPRESENTATIVE BERG: If HB1033 passes, were saying the Attorney General could go ahead and go directly if they see an anti trust violation to a business organization and request records etc. The current statue without 1033 says, the attorney general must go to a district court and get authorization to proceed. Is that right so far? So the question I have is the comparison was kind of made of made with a search warrant. We do not allow someone to go out and search someone's house without first getting some judge to sign off and say you have reasonable cause to go search. More specifically has the Attorney Generals office in recent year seen a antitrust issue gone to a District Court and not been given the authorization to

Page 2

House Agriculture Committee

Bill/Resolution Number HB 1033 AND 1034

Hearing Date 1-25-2001

proceed with its investigation.

1A:4084 MR. GROSSMAN: Mr Chairman and members of the committee. No we have not.

While I certainly don't have any concerns about the proposed amendment, I want to make it clear to the committee that if there were no change in the law, I do not believe it would impede any of the investigations or legal responsibilities or enforcement abilities that the antitrust would have.

We are confident that if a situation would arise that we could intact go to a District Court and that Judge if we are doing our job properly would infact give us the permission that is requested under the current statue.

1A:4195 REPRESENTATIVE BERG: HBO 1034 provides an appropriation to do this so the questions really relate to HB 1033. Is there anything that you can not do now under current statues that you could do with this change.

1A:4240 MR. GROSSMAN: I can give one simple example of when it might arise and that might be in the case rather high profile visible militate national antitrust issue and that particular case that other states with sufficient bases could proceed with their investigation immediately where in that instance we would have to try and get in to see a District Court Judge to get approval. Again I am not suggesting Mr. Chairman that would impede us. There might be a minor delay of a day or two and that is the most prominent example I can give you. I believe that if we had an urgency and we went to the District Court we could get the approval.

I believe that would be quite promptly. I think it would be granted at the time we were there unless it was some extremely complicate if the court needed to further consider.

We would go to a judge and say here is the probable cause and that is why we need to do follow upon this. This is why we need to do an investigation. Most of the circumstances the courts

Page 3

House Agriculture Committee

Bill/Resolution Number HB 1033 AND (1034)

Hearing Date 1-25-2001

are it would be our area of expertise and if you are satisfied that you have a sufficient case that you need to proceed and if the only way you can proceed is with Courts approval we could get it. Again, it is going to have to be an antitrust issue and again it is only an authority to investigate. It is not an authority to take and sort of immediate action nor to issue any sort of injunctive relief. It is merely getting that first step of approval process. If you want to pass this legislation the money would be there. If we don't need the sums we won't use them but if they are there then we would get involved if it is significant to N.D. It won't hurt to have the resources available if we need them. For expert witness etc. costs.

We have a fund like this in consumer protection funds like this one. The antitrust fund could build up because multi state cases do involve large sums. There are significant amounts in antitrust situations. In our current situation we would let other states take the lead roll.

1A:1190:CHAIRMAN NICHOLAS: Any other questions. Thank you for coming down.

We will close on HB 1033 AND HB1034

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1034 A

House Agriculture Committee

Conference Committee

Hearing Date 2--01--01

Tape Number	Side A	Side B	Meter #
TWO	A		5000 TO 5400
Committee Clerk Signature <i>Edward D. Ellerton</i>			

Minutes:

CHAIRMAN NICHOLAS Committee Members I'd like to get HB 1034 out of the committee and it get it down to appropriations and they can put in the hopper with all of the rest of the Bill they have.

Representative Berg: Mr Chairman, I would move a DO PASS and re-referral to appropriations on HB 1034.

Representative Johnson: I second the motion for a DO PASS.

CHAIRMAN JOHNSON: The motion has been made by Rep. Berg and seconded by Rep. Johnson.

Any discussion Committee Members? O.K. The clerk will take the roll on HB 1034.

THERE WERE''''''''14 YES''''''''0 NO''''''''1 ABSENT''''''''

CHAIRMAN NICHOLAS CARRIED THE BILL

CLOSED ON HB 1034

FISCAL NOTE
 Requested by Legislative Council
 12/14/2000

Bill/Resolution No.: HB 1034

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared 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				\$150,000		\$150,000
Expenditures			\$500,000		\$366,750	\$150,000
Appropriations			\$500,000		\$366,750	\$150,000

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.*

The investigation and enforcement of antitrust violations would require three additional full-time positions: an attorney, legal assistant and investigator. In addition, the measure would require expert witness fees, travel expenses, investigation costs, equipment costs and some outside counsel costs. All of these costs are speculative because many of the expenses will be directly related to the actual number of investigations and/or legal actions. Actual investigation costs and expert witness fees will proportionately increase with the number of investigations and actions. These projections are based on five or less investigations each 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.*

Other funds revenues of \$150,000 are projected for both the 2001-03 and 2003-05 bienniums. For projection purposes, the midpoint of the estimated range of \$0 - 300,000 is used for each biennium. These projected revenues represent civil penalties and reimbursement of investigation costs and attorney's fees in the event of a successful legal action, when appropriate. The amount of revenue may vary substantially based upon the number of and the success with such cases. Any revenues will likely be realized near the end of the biennium (and could even be received in the next biennium as a result of enforcement efforts in the previous biennium). The 2001-03 biennium revenues are anticipated to be available for the 2003-2005 biennium, which would reduce General Fund expenditures and appropriations and increase other funds expenditures and appropriations by the same amounts.

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.*

1. Salaries and Wages-General Fund- three fte positions (attorney, legal assistant and investigator):

- \$286,000 for the 2001-03 biennium
- \$297,000 in the 2003-05 biennium

2. Operating Expenses -

- Professional Services- \$170,000 from the General Fund for the 2001-03 biennium; \$183,750 for the 2003-05 biennium - Expert witness fees and expenses reimbursement are critical in these types of investigations and enforcement actions.
- Travel - \$15,000 General Fund for the 2001-03 biennium; \$15,750 for the 2003-05 biennium - these cases and investigations would involve a substantial amount of travel for the positions.
- Professional Supplies - \$15,000 from the General Fund for the 2001-03 biennium; \$15,750 for the 2003-05 biennium - This includes office supplies, specialized software to manipulate a very high volume of documents, postage, telephone, copying, and resource materials expenses.
- Dues and Professional Development - \$4,000 from the General Fund for the 2001-03 biennium; \$2,000 for the 2003-05 biennium. Antitrust is a highly technical and complex area and initially would require substantial training for all three fte positions.

3. Equipment - \$10,000- from the General Fund for the 2001-03 biennium; \$2,500 for the 2003-05 biennium - Computer and printer equipment, as well as office furniture, would be needed for these positions. Computer storage and processing would be needed to store, retrieve, and manipulate hundreds of thousands of documents.

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 the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill contains a \$500,000 General Fund appropriation to the Office of Attorney General. This appropriation was **excluded** from the executive budget. For the 2003-05 biennium appropriation, the General Fund amount could be reduced by the other funds revenues. Again, the midpoint of the projected range of \$0 - \$300,000 in estimated revenues is used for this purpose. The amounts shown below are for the 2001-03 and 2003-05 bienniums respectively.

Salaries - \$286,000/\$297,000 Salaries - see the detail provided in the expenditures section of this fiscal note.

Operating Expenses - \$204,000/\$219,750 - see the detail provided in the expenditures section of this fiscal note.

Equipment - \$10,000/\$2,500 - see the detail provided in the expenditures section of this fiscal note.

Name:	Parrell D. Grossman/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-2811	Date Prepared:	01/05/2001

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

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HR 136

House AGRICULTURE Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number Referenced

Action Taken DO PASS

Motion Made By Reed Seconded By Johnson

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) 14 No 0

Absent 1

Floor Assignment _____

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

