

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

14445

2001 HOUSE AGRICULTURE

HB 1445

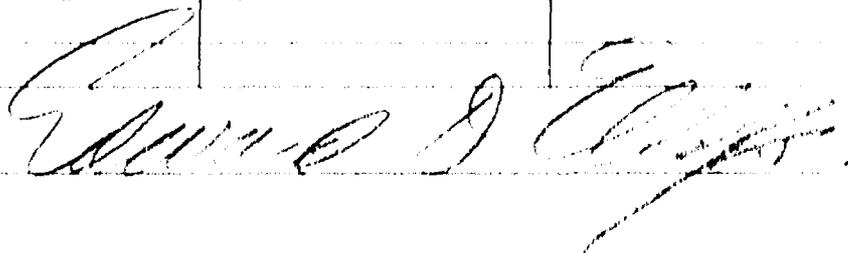
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1445

House Agriculture Committee

Conference Committee

Hearing Date 2--9--01

Tape Number	Side A	Side B	Meter #
TWO	A		1680 TO 4129
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: COMMITTEE MEMBERS, WE WILL OPEN THE HEARING ON HB 1145.

REPRESENTATIVE LEMIEUX: Thank you Chairman Nicholas: I live near Canada and I have a lot of friends in Canada. This bill is about a situation where you farm on one side of the boarder and you have friends on the other side of the boarder, that also farm and there is substantial differential between what it cost you to run your farm and buy chemicals and what it cost your friends in Manitoba to buy chemicals land run their farms. In this world of free trade some of us were brought into kicking a screaming I don't know if I am going to like this. It has been here since the US CANADIAN trade agreement. North American Free Trade Agreement. When I go to purchase products, the companies that sell me Agr. chemicals have a few advantage and one of them being is is only that company that can register their products. It is only that company and they can set the price and HB 1445 would like to address that. HB1145

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is the care Bill because we care about what the farmers in ND pay. We are willing to step up to the plate as a legislative assembly and address some of those issues. We have been told by the chemical companies in the US market that they price their chemicals the way they do because they can. You need those products to produce your crops or you want those products so that you can be competitive and so you pay the price. The care bill goes through a number of steps. First we change the board that is presently a six member advisory board and we create a board of six members of four representative from ND farm organizations, two from Agra. Business. That is the make up of the board. PLEASE SEE BILL AS TO TESTIMONY THAT REP. LEMIEUX IS GIVING. ND is not participating in a Free Market. We are just asking for some fairness and equity here. Please pass HB 1445. This bill will actually cost the state of ND nothing to administer because the CARE BOARD would retain from the rebates a portion of the moneys that would it would take to administer the rebates and administer the funds. The companies that are selling the product pay the registration fee for the chemicals. There is no more paper work for the dealer. The registrant pay the money up front. If there is a substantial price differential then the farmers will have to ask for rebate.

CHAIRMAN NICHOLAS: Any one else offering testimony in support of HB 1445?

Anyone in opposition to 1445?

CAL ROLFSON: I am here in opposition to the Bill. I'd like to highlight if I could I can very briefly some of the legal issues that I see. Article One, Section 803 of the United States Constitution is called the commerce clause. That gives congress the exclusive authority to regulate commerce among the states and with foreign nations. That congressional power prohibits an individual state from curtailing interstate or foreign commerce that is in that states

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interest. As much as this may be in ND's interest if it affects foreign trade issues, it may violate that commerce clause. When a state discriminates against interstate commerce or when it affects favor in-state economic interest over out of state interests, the courts generally strike down those laws. Another article of the US CONSTITUTION is the export import clause in article one section [????????] and that says briefly that no state shall without the consent of congress lay any imports or duties on unless it is for inspection laws.

The legal issues I see are six or seven. The affect of the bill would be to favor ND rather than out of state interests.

CHAIRMAN NICHOLAS: WHO ELSE IN OPPOSITION TO THIS BILL.

JERRY KNUTSON: Our dealers would be affected in terms of product availability. It would also affect the availability of products to the farmers.

CHAIRMAN NICHOLAS: ANYONE ELSE WISHING TO OFFER TESTIMONY IN OPPOSITION TO THE BILL.

MERLIN LEFHOLD: Printed testimony. Please read. WE OPPOSE THE BILL.

CHAIRMAN NICHOLAS: THANK YOU FOR YOUR TESTIMONY. ANYONE ELSE IN OPPOSITION?

STEVE STRAGIE: WE OPPOSE THE BILL.

CHAIRMAN NICHOLAS: O.K. WE WILL CLOSE THE HEARING ON HB 1445.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1445

House Agriculture Committee

Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
2	x		1200 to 3022
Committee Clerk Signature <i>Edward O. Wilson</i>			

Minutes:

Chairman Nicholas: What are the committee wishes on HB 1445?

Rep. Brandenburg: I move a Do Not Pass.

Rep. Renner: I second.

Chairman Nicholas: Is there any further discussion?

Rep. Lemieux: If I may, HB 1445 is an attempt to facilitate the harmonization process and the crust of the bill is for the committee that the boards established by this, the CARE board to take a look at the price differentials actually supplied by the wholesalers of the product. When a company registers a chemical for sale in ND. Page 2, section 2 lays down some of the verbiage of what they must include with some of the registration. We talked about harmonization and how we can help the farmers of ND and this bill address directly that we as the farmers of ND have been brought forward into the world of free trade, and this says that we really need to look at how chemicals are priced differently in this country and around the world. Predominately our

number one competitor for products grown in ND are our friends in Canada. If they are buying the input at a lower cost than us, when we look at the list supplied by the Ag Commissioner, they only looked at 16 chemicals, and the farmers of ND would fork out on average in one years time close to 42 million dollars in extra chemical cost. That hits each and every one of us. And so this bill is an attempt to bring the harmonization process up one more step. If I recollect in the testimony on 1328, Rep. Lloyd said the harmonization process is not moving as rapidly when there's profitability to have non harmonized products. There are profits to be made. Millions upon millions of dollars by not having scientific harmonization. This bill is an instigator for the chemical industry. If you are going to price your product differently here than you do there, and we are going to compete in the world market, we are going to take some of this money from you and rebate it back to the farmers. That is what this bill does. Therefore I ask that you resist the Do Not Pass.

Chairman Nicholas: The same problem happened last spring, we kinda gave the commissioner some authority last spring and EPA shut the commissioner off in a weeks time. So what is going to be the difference this time?

Rep. Lemieux: The powers that were granted as far as registration...

Chairman Nicholas: The EPA will throw in the power we granted to the commissioners office.

Rep. Lemieux: This does not address a registration this addresses the fees that we charge as a state for the registration of a chemical in order to sell a chemical in the state, it must be registered and this provides a vehicle to establish a variable registration fee. So if your product is \$20 a gallon in Canada and \$30 a gallon in ND, the registration fee is an extra \$10 per gallon.

Rep. Renner: If we pass this legislation and it forces the chemical companies to pay these registration fees based on the inequity of pricing do you think that they may just say the heck with it and we probably won't have any chemicals.

Rep. Lemieux: The answer is no. There is profitability to sell the product in the world market. They told us the reason they price their chemicals the way they do, is because we can and you can't do anything about it. This is a way to address it.

Rep. Brandenburg: As I look at this bill trying to address the price difference between the two countries, this may be a way to look at balancing the price. But if we look at the overall picture of trying to work with harmonization, working together with EPA and industry, and other states and working toward that process. Before we started working on this there was very little movement towards any chemicals being harmonized. In the last two years there has been a process made working towards addressing the harmonization issue. The thing that we need to do is keep everybody faithful. I am afraid, as a farmer I would like to do this, but in reality if we pass this bill, the lines of communication stop and nothing will happen. My goal is to work together with everybody and that is the move you should support.

Rep. Lloyd: I am not quite sure that Rep. Lemieux spoke correctly, I don't remember uttering the phrase he alluded to. I did talk about harmonization with regard to the fact that I did a particular research project in 1981. My data was used in both US and Canada on a particular product. In 199 one of my projects did, where we provided the harmonization of the chemical was being tested. The research data was sent to the US, Mexico and Canada all at the same time. I also said that this year I am aware of at least 60 products from two chemical companies being tested in both Canada and the US for harmonization. With regard to pricing, I am not sure I am in favor of

attacking pricing, because I think fair trade with regard to pricing is something that occurs in the US. I am against trying to monitor pricing.

Rep. _____; I commend Rep. Lemieux in being extremely creative in this area. This is really a unique way to put this in statute. Certainly it would shake things up. I really want to support Rep. Lemieux in this, but I do have a fundamental problem and that is if we charge another 76 million in fees, these companies have to get it back. They will either increase the price of their products and then they will be even higher than Canada and then they will charge another fee because of the price disparity and then that fee have to go back on top. I just think the negatives of this is the chemical companies may pull their products off the shelves in ND or they would have to recoup their costs somehow. I don't see how it wouldn't do anything. They would have to charge an additional fee. From a legal standpoint would we also say if a price is lower in the US than in Canada would we not charge a registration fee? Or reimburse them for a lower price here than there. It is creative.

Rep. Pietsch; Having not been here before, I tend to believe this would derail the effort of chemical harmonization. The progress that has been made is worth not getting into price fixing.

Rep. Lemieux; I want to apologize to Rep. Lloyd if I hurt something. I had no intention of harming his reputation. Going back to the bill. There is an effort at the national level to allow people to purchase products in a foreign country that are registered such as Commissioner Johnson allowed us to do with the cheese last year. The problem with that, if we exclude in that equation the local suppliers. If we exclude them, we again take a chunk out of rural North Dakota. Those people are important. People will drive to Canada to save \$6 or \$8 and exclude their local supplier from the market. When we look at this, I really think that one of the things that has impeded harmonization is the word that Mr. B isn't allowed to use and that is price. The

P word. As long as we are going to be in the business of world trade and as long as the players that want us to be involved in world trade are not willing to come along with us. I again resist the Do Not Pass. This would be a vehicle to keep that harmonization committee in the headlights of the crop protection people. If you pass the bill now you can kill it in the Senate, but we are bringing issue to the legislative body which is propelling along and if we can enhance what the harmonization committee is doing by bringing them further along. I think this bill could be a vehicle to do that.

Rep. Brandenburg: As we look at NAFTA agreements, we look at the cost of what is happening to the price of chemicals, how they have went up in the last 10 years. Working with that agreement you have to find the pluses. Something that is good. The good part is that we can have a single registration process with Canada. I believe that we deal with a single registration process the cost of registering these products will be less. The price issue will resolve itself. We will eliminate the registration cost of producing chemicals. That is why we have to keep pursuing the NAFTA label. I believe what we are doing here has started that process. We believe harmonization is starting to happen and that price difference will resolve itself.

Rep _____: Knowing where I feel this bill is going, one of the seed treatments labeled for use on Canola. Our friends in the growers have worked diligently with crop harmonization. More so than any other group that I know of. Recently a chemical called Helix was approved with PMRI and right there after the US EPA approved the same product and our friends in the Canola Growers were suggesting back in December that Helix won't be available in ND this growing season or in a very limited supply. There will be a price differential between the Canadian growers and the American growers nearly \$3 an acre. \$3 an acre if there is a million acres of Canola is only \$3 million dollars. Only \$3 million dollars taken out of the growers hands in ND

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Hearing Date February 15, 2001

in the eyes of this legislative body is just a minor error in calculation. But to the farmers in ND is major money. If the Helix is going to be priced differently than the harmonization committee has done a good job. If we are going to bring world trade in, we need to have fair pricing.

Chairman Nicholas: Question has been called, the clerk will call the roll on HB 1445.

MOTION FOR A DO NOT PASS

YES, 11 NO, 4

CARRIED BY REP. LLOYD

FISCAL NOTE
 Requested by Legislative Council
 01/23/2001

Bill/Resolution No.: HB 1445

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	\$76,000,000	\$0	\$76,000,000
Expenditures	\$0	\$0	\$0	\$76,000,000	\$0	\$76,000,000
Appropriations	\$0	\$0	\$0	\$76,000,000	\$0	\$76,000,000

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.*

This bill increases pesticide registration fees for the same or substantially similar products to an amount determined by the price difference between what the product is sold for in Canada and what the product is sold for in North Dakota times the number of units marketed in North Dakota. The registration fee would be at least \$300 for any product. This bill also provides for rebates of these fees collected to the consumers of the products.

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 price difference for sixteen major agricultural pesticides was determined by using a 1999 Minnesota Wheat Growers study. This difference was multiplied by the number of acres on which each pesticide was used in North Dakota, based on a recent North Dakota Ag Statistics survey. The total cost to ND producers was calculated to be \$42,271,474 per year. From this total, we assumed a ten percent mark-up for retailers and subtracted this from the total to obtain revenues based upon wholesale prices of approximately \$38,000,000 per year or \$76,000,000 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.*

We estimated that it would require two additional FTE's and \$176,000 to administer the responsibilities of

this bill. The remaining \$75,824,000 would be used to provide rebates to consumers.

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.*

None of the revenues, expenditures, or appropriations are included in the Commissioner of Agriculture appropriation bill, HB 1009.

Name:	Jeff Welspenning	Agency:	ND Dept. of Ag
Phone Number:	328-4758	Date Prepared:	02/05/2001

2-15-01

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1445

House AGRICULTURE Committee

- Subcommittee on _____
- or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By BRANDENBURG Seconded By RENNER

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) 11 No 34

Absent _____

Floor Assignment Lloyd

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

REPORT OF STANDING COMMITTEE (410)
February 15, 2001 1:54 p.m.

Module No: HR-27-3536
Carrier: Lloyd
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1445: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO NOT PASS (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1445 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

HB 1445

HB 1445

**NORTH DAKOTA WEED CONTROL ASSOCIATION
TESTIMONY BY MERLIN LEITHOLD
LOBBYIST # 515
HB 1445
HOUSE AGRICULTURAL COMMITTEE
FEBRUARY 9, 2001**

Good Mr. Chairman, members of the House Agricultural Committee. My name is Merlin Leithold. I am here this morning representing the ND Weed Control Association.

HB1445 creates a chemical and rebate equity board. It would receive its appropriation from the environment and rangeland protection fund, EARP. **The noxious weed line in the Ag. Dept. budget, receives more than 75% of funding from EARP.** Through the Ag. Dept. budget, we have asked to raise the registration fee, as was done in the last biennium, to help fund state noxious weed programs, such as cost share for Canada thistle. According to **HB1445**, that extra fee would go to the newly created chemical and rebate equity board. Without that extra fee, cost share for Canada thistle would be lost. That would mean a severe economic loss to many landowners in the state.

The EARP fund was created to fund noxious weeds, test groundwater for chemical residue, and to dispose of unwanted chemicals. The ND Weed Control Assoc. was very instrumental in starting EARP. Over the years, others have been included in the fund.

But when will this stop? We need to sit back and take a look at the original intentions for the EARP fund.

The North Dakota Weed Control Association strongly opposes **HB 1445**. I urge you to **do not pass HB 1445.**

Thank-you