

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Rea, on March 24, 1993, at 3:12 p.m.

ROLL CALL

Members Present:

Sen. Jack "Doc" Rea, Chair (D)
Sen. Francis Koehnke, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Tom Beck (R)
Sen. Jim Burnett (R)
Sen. Gerry Devlin (R)
Sen. Mike Halligan (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: Sen. Forrester and Sen. Bruski-Maus

Staff Present: Doug Sternberg, Legislative Council
David Martin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 564
Executive Action: HB 564

HEARING ON HB 564

Opening Statement by Sponsor:

Rep. Bergsagel, District 17, said HB 564 explains who owns the grain when it is "dumped" in the elevator. HB 564 would also address bonding and raises assessment fees.

Proponents' Testimony:

Leo Giacometto, Department of Agriculture, supported HB 564 (Exhibit #1). He added the Grain Elevator Association had voluntarily tripled their fees to make up more than %50 of the funds for this program which would take pressure off the general fund.

Pam Langley, Montana Grain Elevators Association and Montana Seed Trade Association, supported HB 564. She said a lot of negotiation had occurred to form the language in HB 564. She said the lien language was borrowed from North Dakota. This would address the question of who owned the grain in an elevator in the case of a bankruptcy. The Montana Grain Elevator Association was in strong support of the single piece structure.

Ms. Langley then spoke as a representative of the Montana Seed Dealers Association who also supported HB 564. She said the seed dealers fall under the commodity dealer's license because they purchase some grain from farmers. The seed dealers purchase a much smaller quantity than elevators. Earlier in the session fees for seed dealers increased from a maximum of \$50 to \$300 because they wanted to fund the seed program under the Department of Agriculture. The Seed Association, which is a small association, was not aware at the time of legislation concerning a commodity dealer's license. She handed out information (Exhibit #2). She said the current fee was \$85; with HB 564 and SB 98 this would increase to \$532. The Seed Trader's Association asked the fee be set at \$100 which would match the amount of their other fees. The level of services provided would be the same under both bills.

Randy Johnson, Montana Grain Growers Association, supported HB 564. He said HB 564 clarifies the title for grain transfers. Additional protection would be provided in the case of grain elevator bankruptcies. He said the Grain Growers support the amendment to assess seed dealer's at a lower rate.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

Sen. Koehnke asked if HB 564 would have prevented the Coast Trading fiasco. Leo Giacometto said it might not have prevented that situation. He said HB 564 would give the department more authority to get money back. Mr. Giacometto said the producer would have a priority lien on grain stocks which are still held. In the past this situation was not clear since the grain had already changed hands, and HB 564 would provide authority to get the money for that grain.

Sen. Beck asked if the department could get grain back out of an elevator. Mr. Giacometto said, under present law, once the grain is dumped, the grain had changed hands regardless of whether the producer had received money or not because of the commercial code. He said there was no lien because the lending institution, or bank, had a lien on all chattel and property, and the producer did not have a priority lien on the grain. Mr. Giacometto said when the bond became effective the producer received 20 cents on the dollar. She said HB 564 would provide for a priority lien on the grain for the producers. The bank has the priority lien on

the loan for the property, machinery, etc. The producer would keep the priority lien on the grain or commodities held.

Sen. Aklestad asked, under HB 564, if a scale ticket would qualify the same as a warehouse receipt used to under previous law. Will Kissinger, Department of Agriculture, said the provisions clarifying this was on page 14 and 15, explaining what a scale ticket would do.

Sen. Aklestad asked what would happen when defaults occurred between warehouses, especially small warehouses, and would HB 564 addresses that situation. Mr. Kissinger said no, HB 564 dealt with transactions between the producer and the warehouse. Sen. Aklestad asked if it was possible to address the issue of transactions between warehouses in HB 564. Mr. Kissinger said it would be a major change in concept, and he would not recommend making changes at this particular time. Leo Giacometto said he did not think it was wise to include the small elevator issue in HB 564 either.

Sen. Halligan asked why the private right of action for a person, farmer, or rancher was removed and placed with the department. Mr. Kissinger said previously the producer could go directly to the bonding company. A conflict existed with another provision where the department had the responsibility to prorate any losses on a claim against a bond. If a producer claimed against the bond independently, it could take the whole bond amount when hundreds of other claims might still exist. He said a producer could file a claim with the department, and if a producer felt they were not fairly treated, they could revert to the natural procedure.

Sen. Rea said the Committee should address the set of amendments proposed by Pam Langley and the Montana Grain Growers. Ms. Langley presented the amendments (Exhibit #3) and explained that some elevators also have seed dealer licenses, but the majority of their business involves grain. This amendment would address only seed dealers and would prohibit large elevators from getting a license under the guise of being a seed dealer.

Sen. Aklestad asked if Rep. Bergsagel approved of the amendments. Rep. Bergsagel replied affirmatively.

Closing by Sponsor:

Rep. Bergsagel said HB 564 would provide protection for the farmers who are selling grain to the elevators. He said HB 564 would not address concerns such as Sen. Aklestad's but is a step in the right direction.

Sen. Aklestad said he would carry HB 564.

EXECUTIVE ACTION ON HB 564

Motion/Vote: Sen. Halligan MOVE THE AMENDMENTS (Exhibit #3) TO HB 564. The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Sen. Aklestad MOVED HB 564 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: Meeting adjourned at 3:37 p.m.


SENATOR REA, Chair


DAVID MARTIN, Secretary

JR/dm

ROLL CALL

SENATE COMMITTEE AGRICULTURE

DATE 3-24-93

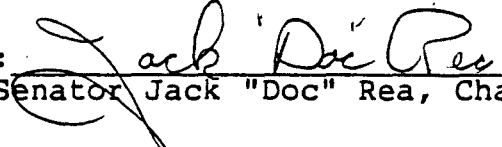
NAME	PRESENT	ABSENT	EXCUSED
REA	✓		
KOEHNKE	✓		
AKLESTAD	✓		
BECK	✓		
DEVLIN	✓		
BURNETT	✓		
HALLIGAN	✓		
PIPINICH	✓		
FORRESTER		✓	
BRUSKI-MAUS		✓	

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 25, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 564 (first reading copy -- blue), respectfully report that House Bill No. 564 be amended as follows and as so amended be concurred in.

Signed: 
Senator Jack "Doc" Rea, Chair

That such amendments read:

1. Page 23, line 6.

Strike: "The"

Insert: "Except as provided in subsection (3), the"


2. Page 23.

Following: line 25

Insert: "(3) The license fee for a commodity dealer who is licensed as a seed dealer under 80-5-202(4) is \$100 a year if the majority of the dealer's annual expenditures for agricultural commodities is for agricultural seed intended for resale as agricultural seed."

Renumber: subsequent subsection

-END-

 Amd. Coord.
Sec. of Senate


Senator Carrying Bill

670915SC.San



MARC RACICOT
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.
PO BOX 200201
HELENA, MONTANA 59620-0201

SENATE AGRICULTURE

EXHIBIT NO. #1

DATE 3-24-93

BILL # HB 564

LEO A. GIACOMETTO
DIRECTOR
(406) 444-3144

FAX (406) 444-5409

FEBRUARY 16, 1993

HOUSE BILL 564

SENATE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE
MONTANA DEPARTMENT OF AGRICULTURE
LEO A. GIACOMETTO, DIRECTOR

Chairman Rae and members of the Committee. For the record, I am Leo Giacometto, Director of the Montana Department of Agriculture.

Senate Bill 564 makes needed changes to the grain law resulting from grain company closures, liquidations, and bankruptcies.

The bill substantively:

- 1) Clarifies the liability of bonding companies when issuing grain dealer and warehouse bonds;
- 2) Clarifies that only grain grown in Montana is covered by grain dealer bonds;
- 3) Clarifies the transfer of title to grain when sold to grain dealers and elevators; and
- 4) Establishes a "Producers lien" on grain sold to grain dealers until such time as the grain has been paid for.

The bill also establishes a special revenue account in which the program license fees will be deposited. The special revenue account will save the General Fund \$66,000 each fiscal year.

Will Kissinger, Administrator of the Department's Plant Industry Division is here to answer any technical questions you may have.

Mr. Chairman and members of the Committee, we request that you support and vote for the passage of House Bill 564.

Seed Dealer Fees to Montana Dept. of Agriculture

	<u>Current</u>	<u>1993 Legislation</u>	<u>Bill</u>
Seed Dealer	15	100	SB98
Seed Conditioner	35	100	SB98
Seed Labeler	[35]	100	SB98
	\$50 maximum	\$300* (\$250 increase)	

* Provides for full funding of seed program in Montana Department of Agriculture -- no more general fund. Is a 500% increase which Montana Seed Trade Association agreed to along with other provisions in SB 98.

	<u>Current</u>	<u>1993 Legislation</u>	<u>Bill</u>
Commodity Dealer	35	\$232	HB564
TOTAL	\$85	\$532	\$447 increase

Seed dealers were unaware commodity dealer fee also was going to increase. Don't buy a lot of grain from farmers -- just enough to come under commodity dealer provisions. Dept. of Agriculture had contacted Montana Grain Elevator Assn. about commodity and warehouse fees, not Montana Seed Trade Assn. About 20 seed dealers purchase enough seed to come under commodity law.

Montana Seed Trade Assn. is asking -- because already regulated under Seed Law -- that fee be lower -- set at \$100. Dept. of Agriculture inspects seed dealers under seed law but only incidentally under commodity law.

With amendment, fee increase for seed dealers, would be from \$85 currently to \$400 with SB98 and HB564 a \$315 increase for the same level of services as currently.

SENATE AGRICULTURE

EXHIBIT NO. # 3

DATE 3-24-93

BILL NO. HB 564

Amendments to House Bill No. 564
Yellow Reading Copy

Requested by Senator Rea
For the Committee on Agriculture

Prepared by Doug Sternberg, Council Staff
March 23, 1993

1. Page 23, line 6.

Strike: "The"

Insert: "Except as provided in subsection (3), the"

2. Page 23.

Following: line 25

Insert: "(3) The license fee for a commodity dealer who is
licensed as a seed dealer under 80-5-202(4) is \$100 a year
if the majority of the dealer's annual expenditures for
agricultural commodities is for agricultural seed intended
for resale as agricultural seed."

Renumber: subsequent subsection

DATE 3-24-93

SENATE COMMITTEE ON AGRICULTURE

BILLS BEING HEARD TODAY: HB 564

Name PLEASE PRINT

Representing

Bill No.

Check One
Support Oppose

← PLEASE

PRINT

Name	Representing	Bill No.	Support	Oppose
Randy Johnson	M66A		<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY