

**HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES**

March 20, 1997 Hearing Room D

08:30 AM Tape 45 - 46

**MEMBERS PRESENT: Rep. Charles Starr, Chair**

**Rep. Terry Thompson, Vice-Chair**

**Rep. Dennis Luke**

**Rep. Ken Messerle**

**Rep. Kurt Schrader**

**Rep. Judith Uherbelau**

**Rep. Larry Wells**

**MEMBER EXCUSED:**

**STAFF PRESENT: Judith Gruber, Administrator**

**Linda Kowal, Administrative Support**

**MEASURE/ISSUES HEARD: HB 2615 Work Session**

**HB 3055 Work Session**

**HB 3177 Public Hearing**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 45, A</b>		
<b>006</b>	<b>Chair Starr</b>	<b>Calls meeting to order at 08:33 am. Opens work session on HB 2615</b>
<b>010</b>	<b>Chair Starr</b>	<b>Comments on changes to agenda.</b>
<b><u>HB 2615</u> <u>WORK</u> <u>SESSION</u></b>		
<b>015</b>	<b>Chair Starr</b>	<b>Opens work session on HB 2615. Comments on agenda</b>

020	Judith Gruber	Policy Analyst, summarizes, HB 2615 and the -1 amendments. (EXHIBIT A)
036	Tim Josi	State Representative, District 2. Discusses intent of HB 2615.
063	Phil Ward	Deputy Director, Department of Agriculture. Supports HB 2615 with the -1 amendments.
066	Rep. Luke	Asks if Department of Agriculture would inspect facilities to ensure that there are no quarantined insects.
071	Ward	No, not unless there was concern about the notice given.
077	Rep. Schrader	Asks if there was any discussion about doing this in an enclosed building.
081	Rep. Josi	Yes, it would go under the conditional use provision.
088	Rep. Messerle	Asks if there are conditions where it could be justified using the farm use assessment.
096	Rep. Josi	Believe they have locked it out.
102	Rep. Luke	Comments that it is unlikely that if there is a current farm deferral, that it would be lost.
107	Rep. Luke	MOTION: Moves to ADOPT HB 2615-1 amendments dated 3/17/97.
	Chair	Hearing no objection, declares the motion CARRIED.
127	Rep. LUKE:	MOTION: Moves HB 2615 be sent to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0  AYE: 7 - Thompson, Luke, Messerle, Schrader, Wells, Uherbelau, Starr
	Chair	The motion CARRIES.  REP. JOSI will lead discussion on the floor.
137	Chair Starr	Closes work session on HB 2615.
<b><u>HB 3055</u></b> <b><u>WORK</u></b> <b><u>SESSION</u></b>		
138	Chair Starr	Opens work session on HB 3055.
139	Gruber	Summarizes HB 3055 and -2 amendments. (EXHIBIT B)
145	Rep. Wells	MOTION: Moves to ADOPT HB 3055-2 amendments dated 3/18/97.
148	Chair Starr	Asks if there is any discussion.

149	Rep. Messerle	Asks if the limit of companies is nine.
154	Gruber	There are only nine labs operating at this time in the state, therefore, this would allow them to contract with any of those labs.
164	Chair	Hearing no objection, declares the motion CARRIED.
166	Rep. WELLS:	MOTION: Moves HB 3055 be sent to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0  AYE: 7 - Thompson, Luke, Messerle, Schrader, Wells, Uherbelau, Starr
	Chair	The motion CARRIES.  REP. VANLEEUVEN will lead discussion on the floor.
176	Chair Starr	Closes work session on HB 3055.
<b><u>HB 3177</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
177	Chair Starr	Opens public hearing on HB 3177.
179	Mike Dewey	Representing Oregon Wheat Growers League, introduces Larry Price.
194	Larry Price	Vice President of Price and Sons Seeds, Incorporated. Serve as President of Malheur County Wheat Growers, and board member of Oregon Wheat Growers League. Discusses need to examine Chapter 586 of the Statute. There has been no examination of this law since 1955 and 1961. Last June, there were several losses which have brought this to the attention of the Oregon Wheat Growers League. There was \$1.2 million dollars of grain which was sold, or sold without permission, and not paid for.
234	Price	Presently, Idaho growers have received 90% of their money. The bond in Oregon only allows, in this situation, about \$55,000 to be paid to those people who had grain in storage. As this process proceeded, the Wheat Growers League looked for laws that could be used to provide assistance for the growers or to bring criminal charges against Bert and Christie Bruins. Local District Attorney, Pat Sullivan, was asked to pursue this issue. The current statute only allows a \$1,000 fine and one year of imprisonment.
265	Price	These laws are fairly archaic, and it was also revealed that the Department of Agriculture was only verifying insurance and bonding policies, instead of the actual books of the warehouses. Do not want to specifically blame the Department, but it is the feeling that if the

		Department had been doing more, this would have been stopped sooner. A task force consisting of growers and warehousemen was formed to find solutions to this problem. Request that the law be fully examined over the next two years.
301	Dewey	Discusses the ideas that the task force came up with. There will be additional amendments requested from Legislative Counsel. This is not a panacea, but it is a proper approach for the short term. Discusses suggested amendments.
351	Dewey	Continues discussion of amendments.
393	Dewey	Continues discussion of amendments.
TAPE 46, A		
011	Rep. Luke	Asks how many grain elevator operators go bankrupt.
013	Price	Presently 25 warehouses are in the program, and there has been three bankruptcies since 1980.
015	Rep. Luke	Refers to page 2, line 21, asks what the penalty would be.
018	Dewey	Under the present statute, the penalty is not more than \$1,000, or not more than one year in jail.
027	Rep. Luke	Asks if the wheat growers' co-ops have their own storage areas.
032	Price	There are several along the Columbia Gorge which participate in the federal program.
037	Rep. Luke	Asks if those co-ops would be covered under this measure.
039	Dewey	Presently, the law allows the choice to be either under the state or federal program. Trying to bring the Oregon numbers in line with the federal program.
042	Rep. Luke	Asks if wheat growers' co-ops' warehouses would be exempt under this law.
045	Dewey	No, the federal program is more stringent than the state program, and most of the co-ops are in the federal program by choice. During the 1980's, growers were given the option to put federal stored grain under loan, and in order to do so, those warehouses had to be federally inspected.
055	Price	There are co-ops which are owned by those who store grain, and then there are private businesses. A co-op can go bankrupt through mismanagement. The state law needs to be brought up to the standards of where the federally inspected standards are today.
061	Rep. Luke	Comments that there is one co-operative which participates in the state programs.
066	Rep. Schrader	Comments on concerns that the provision for the annual inspections being funded out of the \$44,000 which may be found in the budget. Other agencies have come to the table with voluntary fee increases.

		Asks if the Oregon Wheat Growers would consider self imposing additional fees if the budget couldn't cover this request.
075	Price	One of the long-term solutions was to increase the fees on the warehouses and to increase it realistically to the federal level would only provide half the funds needed. To stay competitive with the federal program, the increase could only be doubled. However, the federal government is also undergoing a fee structure change. The other concept which has been implemented in other states is an indemnity fund. This is a grower funded and grower owned insurance policy. Idaho has a fund to which growers put in 2/10 of 1% of their gross dollars. That fund was established at \$5 million and is self operating.
093	Dewey	Any fee increase would have to be substantial, and doesn't not believe that the Oregon inspector licensed warehouses would agree to an increase. In discussions with Department, their concerns are recognized. Believe that there will be money in this budget to line item this inspection program
103	Rep. Schrader	Comments that this fee increase would be too much to ask for all at once. Suggests a phased-in approach which could include both the warehouses and growers paying an increase. There would be less of an impact on either group.
106	Dewey	Either direction, whether through fee or growers assessment, the grower is going to pay for it.
108	Rep. Schrader	Agrees.
109	Rep. Wells	Asks if any of the language in Section 3 will be changed, other than deleting "annually." Comments that there seems not to be enough authorization for the Department to inspect the financial records.
118	Dewey	It would be best to ask the Department what would be done if there were financial troubles or if there were deficiencies in the stated inventories. There has to be some sort of mechanism for either requiring compliance or closing the warehouse.
131	Rep. Wells	Asks what role the Department of Agriculture is going to be able to have in auditing financial records and making determinations regarding the stability of the financial position.
140	Price	Presently, this is being done on the federal level. One of the concerns brought up by the Commodities Division was that if they have to hire someone to perform these duties, they want to be able to hire someone with an accounting background. Presently the "net worth concept" in the statute would allow the Department of Agriculture to close down a warehouse which is defunct.
159	Rep. Uherbelau	Asks how often these facilities are licensed.
164	Dewey	Annually. It is difficult to persuade others to have their fees increased. It is necessary that these inspections be performed.
176		

	Rep. Uherbelau	Comments on the need for inspections, however, this inspection seems more like an audit. Concerned about having a state agency make business decisions for a private business. Asks if there has been discussion with the business owners.
196	Dewey	There were no problems with a net worth requirement, or inspections. The 25 warehouses want to stay with the state program so that they will have some input in the operations.
204	Price	They thought there were supposed to be inspections.
206	Dewey	There was a perception that there were inspections happening haphazardly. The warehouses want to show the growers that they are as sound as warehouses in the federal system.
213	Rep. Uherbelau	Asks if the federal system performs inspections of financial records.
217	Price	Yes, a federal inspection takes about three days and is a thorough audit.
221	Rep. Uherbelau	Discusses unclear reference to statute on page 2, line 21.
233	Rep. Messerle	Comments that \$44,000 seems to be a low number. Asks if perhaps all warehouses should be under the federal system.
246	Dewey	The \$44,000 is based on the additional dollars coming from the annual fee plus some reserves in the program. Because the federal program is in flux, requiring the warehouses to join the federal program may cause more harm than good.
266	Rep. Messerle	Comments on the preparation of financial statements. Asks if this could be solved by increasing the bonding to the point where the bonding company will perform the auditing.
285	Dewey	The bonding companies may be more concerned about the history of the financial status of the warehouses, and may ultimately be a long term solution.
300	Rep. Messerle	Comments that the dollar volumes can change drastically and with no notice.
309	Rep. Luke	Asks who the wheat in the warehouses belongs to.
313	Price	It belongs to the growers and is in the care, custody and control of that warehouseman who ensures that it is there in possession and does not get damaged.
323	Rep. Luke	Asks if the grain can be sold to someone who can then remove it from the warehouse.
325	Price	Yes.
326	Rep. Luke	Suggests that the Department of Agriculture could supply a list of Certified Public Accountants (CPA) who understand the process and the grain business. The warehouseman pays for the audit which is then made available to the people storing grain.
353	Price	

		The only problem would be asking an auditor to measure a bin to determine if that grain was in storage. Potentially, they would have to make sure the grain was physically there, and be able to measure a bin and understand that concept.
371	Dewey	The Department of Agriculture would have to certify CPAs that could do this.
378	Price	There would need to be continuity.
383	Rep. Schrader	Asks what sort of liability would the Department of Agriculture incur that would be different than what they have now.
390	Dewey	The statute is clear that the Department will not be held responsible for any neglect of duty.
394	Rep. Schrader	Asks if this would still be the case even with the expanded program being proposed.
<b>TAPE 45, B</b>		
008	Lorna Youngs	Assistant Director, Department of Agriculture, submits and reviews written testimony in regards to HB 3177. (EXHIBIT C)
052	Chair Starr	Asks if industry and the Department could work together to submit amendments which would allow this discussion to move along.
060	Dewey	Agrees that this would be a good idea.
072	Rep. Luke	Comments that the state doesn't need to be in the position of guaranteeing business stability. Also comments that this same sort of auditing does not occur in other commodities businesses.
085	Dewey	Understand Rep. Luke's concerns, but the difference is one of availability of warehouses. There are many factors in the storage of grain, and it is not a competitive business.
102	Rep. Messerle	Asks for additional discussion on self insuring such as in Idaho.
109	Price	Growers who have experienced loss and who have seen neighbors in Idaho be paid for loss, see this as a necessary program. The indemnity fund in Idaho covers most stored commodities such as corn, beans, seed and all types of wheat. It is a matter of educating growers as to why they would want to tax themselves. The Idaho growers were paid 90% of their losses within 60 days.
150	Rep. Messerle	Asks if Mr. Price is representing the wheat growers or the warehousemen.
152	Price	Representing the wheat growers.
153	Rep. Messerle	Comments that he would be interested in hearing from the warehousemen.
156	Price	The warehousemen agreed to the items discussed in January.
161	Rep. Messerle	Asks if this agreement was unanimous or was it made by a representative of an association. Asks if there was a representative, did that person represent all of the warehousemen.
165	Price	

		The representative was the president of the Pacific Northwest Feed and Grain Association. About 20% of the warehouses were represented at those meetings.
175	Rep. Messerle	Comments that the bond increase is long overdue. Concerned about what kind of administrative rules or regulations would be needed by the Department.
182	Rep. Schrader	Asks for more information on the reserve account.
185	Youngs	Does not know amount, but can get this information. \$12,000 to \$13,000 are brought in per year. Part goes to cost of licensing, part goes to what is going on, and part is going to the Attorney General in the course of dealing with the Bruins case.
192	Price	Asked for an audit of where the money has been spent since 1993. The warehouses want to know where their money has been spent. Was told that there was \$16,000 left in the fund and that that money was not being used to do court proceedings on Bruins.
204	Rep. Schrader	Comments that the bond requirement could be made significant enough to cover any problems.
211	Dewey	The bond is not always going to suffice. Tried to get in line with what other states and the federal program have done. Inspections ceased in 1993, and the restated process would be the same inspection.
227	Rep. Schrader	Comments that warehousemen may be agreeable to a higher bond if they did not have to go through government inspections.
232	Dewey	The warehousemen appear to want the inspections.
235	Rep. Messerle	Asks what type of range should the bonding be for the warehousemen. Suggests a sliding scale being added to the measure.
242	Price	It is on a sliding scale, the \$0.20 per bushel figure represents that. Growers want 50% bonding, but to be realistic, the \$0.20 per bushel figure was agreed upon. It is not adequate in the case of a full bankruptcy. To ask more than a federal system would be unrealistic.
261	Rep. Messerle	Asks if there could be something included in the wording that would indicate that this amount matches the federal amount. Comments that in the cattle business, their bonding is so low that it doesn't protect like it should.
266	Dewey	That is something that could be considered.
267	Rep. Luke	Asks how many warehouses will be lost with every bond increase.
271	Dewey	Will provide that information.
274	Chair Starr	Closes public hearing on HB 3177.
275	Chair Starr	Adjourns meeting at 9:50 a.m.



**Transcribed By, Reviewed By,**

**Rebecca M. Scott Judith Gruber,**

**Administrative Support Administrator**

**EXHIBIT SUMMARY**

**A - HB 2615, -1 Amendments dated 3/17/97, Staff, 15 pp.**

**B - HB 3055, -2 Amendments dated 3/18/97, Staff, 1 p.**

**C - HB 3177, Written Testimony, Lorna Youngs, 1 p.**