

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1460

Introduced by

Representative Brandenburg

Senator Erbele

1 A BILL for an Act to amend and reenact section 23-35-09 of the North Dakota Century Code,
2 relating to the combination of animal remains and waste for fertilizer use as a nuisance.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 23-35-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-35-09. Abatement and removal of nuisance, source of filth, and cause of sickness.**

7 1. If necessary for the protection of public health to abate or remove any nuisance,
8 source of filth, or cause of sickness, the board of health shall serve notice on the
9 owner or occupant of the property requiring the owner or occupant, at the owner's or
10 occupant's expense, to remove or abate the nuisance, source of filth, or cause of
11 sickness within a time specified by the board, not exceeding thirty days. If the owner or
12 occupant fails to comply with the notice to remove or abate or if the nuisance, source
13 of filth, or cause of sickness exists on property of nonresident owners or on property
14 the owners of which cannot be found, the board of health may remove or destroy the
15 nuisance, source of filth, or cause of sickness at the expense of the appropriate city or
16 county, which shall charge the expense against the lot, piece, or parcel of land on
17 which the work is done. For purposes of this subsection, a nuisance, source of filth, or
18 cause of sickness may include the use of a combination of animal remains and animal
19 waste for use as a fertilizer.

20 2. The governing body of the city or county may levy and assess against the property the
21 cost of the removal or destruction of a nuisance, source of filth, or cause of sickness,
22 and the member of the governing body who is responsible for streets shall return and
23 file the assessment in the office of the auditor of the city or county. The auditor shall
24 publish, in the same manner as provided under section 40-22-06, the amount of the

assessment together with a notice of the time and location the governing body will meet to consider the approval of the assessment. Each assessment must be recorded, collected, and paid as other taxes are recorded, collected, and paid.

3. If a board of health determines it necessary for the preservation of public health to enter any building within the board's jurisdiction to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness and is refused entrance into the building, the local health officer, or a designated agent of the local health officer, may make a complaint under oath to a district judge within the jurisdiction of the board of health stating the facts in the case which the local health officer, or a designated agent of the local health officer, has knowledge. If a warrant is issued and if requested by a board of health, a county sheriff or city police department shall provide assistance to that public health unit in any action to search or seize material in or on any private property to destroy, remove, or prevent the nuisance, source of filth, or cause of sickness, if there is probable cause to believe a public health hazard or public health nuisance exists on or in that property, and shall carry out any other preventive measures the public health unit requests. For purposes of this subsection, a request from a public health unit means a request for assistance which is specific to a public health nuisance and is not a continuous request for assistance.