

January 2008

Introduced by

1 A BILL for an Act to provide for the control of noxious weeds; to amend sections 4-33-11 and  
2 57-15-06.10 of the North Dakota Century Code, relating to pest control and consolidated levies;  
3 to repeal chapter 63-01.1 of the North Dakota Century Code, relating to noxious weed control  
4 and pest control; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 4-33-11 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **4-33-11. Authority for financing local control programs - County pest coordinator.**

- 9 1. The governing body of any political subdivision may appropriate money for the  
10 control of pests under this chapter ~~or chapter 63-01.4~~. If state funds are involved,  
11 the money must be expended according to control plans approved by the  
12 commissioner. The governing body of a political subdivision shall determine the  
13 portion, if any, of control program costs ~~that should~~ to be paid by the political  
14 subdivision. Costs of the control program may be paid by moneys in the  
15 emergency fund. If the emergency fund is not sufficient to carry out the program,  
16 the governing body may expend money from the general fund and in this event the  
17 governing body, except the governing body of a park district, upon approval of sixty  
18 percent of those voting in any special election or the next regularly scheduled  
19 primary or general election, may levy a tax during the following year upon all  
20 taxable property in the political subdivision to fully reimburse the general fund for  
21 the amount expended except that the levy may not exceed the limitation in  
22 subsection 1 of section 57-15-28.1.
- 23 2. The board of county commissioners for any county shall designate ~~a person~~ an  
24 individual to serve as county pest coordinator. The county weed control officer

1           may serve in that capacity if approved by the board of county commissioners. The  
2           county pest coordinator shall administer local and private funds in cooperation with  
3           state and federal pest control programs. When state funds are involved, the  
4           county pest coordinator shall submit county and township control plans to the  
5           agriculture commissioner for approval.

6           **SECTION 2. Definitions.** As used in sections 2 through 31 of this Act:

- 7           1. "Board member area" means a geographical area within the county from which a  
8           member of the weed board is appointed.
- 9           2. "City weed control officer" means an individual designated by a city weed board to  
10           be responsible for the operation and enforcement of sections 2 through 31 of this  
11           Act within the city.
- 12           3. "Commissioner" means the agriculture commissioner or the commissioner's  
13           designee.
- 14           4. "Control" means to prevent a noxious weed from spreading by:  
15           a. Suppressing its seeds or propogating parts; or  
16           b. Destroying either the entire plant or its propagating parts.
- 17           5. "County weed control officer" means an individual designated by the county weed  
18           board to be responsible for the operation and enforcement of sections 2 through 31  
19           of this Act within each county.
- 20           6. "Noxious weed" means a plant propagated by either seed or vegetative parts and  
21           determined to be injurious to public health, crops, livestock, land, or other property  
22           by:  
23           a. The commissioner in accordance with section 6 of this Act;  
24           b. A county weed board in accordance with section 11 of this Act; or  
25           c. A city weed board in accordance with section 21 of this Act.
- 26           7. "Township road" means an improved public road that is:  
27           a. Located outside of an incorporated city;  
28           b. Not designated as part of a county, state, or federal-aid road system; and  
29           c. Constructed, maintained, graded, and drained by the township, or by the  
30           county if the township is unorganized.

**NOTE:** NDCC Section 63-01.1-02. As per committee direction, subsection 4  
incorporates "eradication" in the definition of control.

1           **SECTION 3. Control of noxious weeds - Responsibility.** Each person shall do all  
2 things necessary and proper to control the spread of noxious weeds.

**NOTE:** NDCC Section 63-01.1-01. As per committee direction, NDCC Section 63-01.1-01 was clarified to provide that every person has a duty to control the spread of noxious weeds.

3           **SECTION 4. Noxious weed control - Agriculture commissioner - Powers.** The  
4 commissioner may enter upon any land in the state to perform duties and to exercise powers  
5 under sections 2 through 31 of this Act, including taking specimens of weeds or other materials,  
6 without the consent of the landowner or other person responsible for the land and without being  
7 subject to any action for trespass or damages, provided reasonable care is exercised.

**NOTE:** NDCC Section 63-01.1-08.

8           **SECTION 5. Noxious weed control - Agriculture commissioner - Duties.** The  
9 commissioner shall:

- 10           1. Maintain a state noxious weed list;
- 11           2. Except as otherwise provided, forward all signed complaints to the proper weed  
12 control authority; and
- 13           3. Call an annual meeting of all weed control officers to review noxious weed control  
14 efforts in this state.

**NOTE:** NDCC Section 63-01.1-03. Rather than requiring that the commissioner determine which weeds are noxious and compile and keep a list of noxious weeds, the rewrite requires that the commissioner maintain a state noxious weed list. Section 6 of this Act contains the details regarding compilation of the list.

As per committee direction, subsection 3 was shortened to remove duplicative language regarding the purpose of the annual meeting.

15           **SECTION 6. State noxious weed list - Compilation.**

- 16           1. Before the commissioner may add a weed to or remove a weed from the state  
17 noxious weed list, the commissioner shall consult with the North Dakota state  
18 university extension service.
- 19           2. Before January 1, 2010, and at least every five years thereafter, the commissioner  
20 shall review the state noxious weed list. The commissioner shall provide each  
21 county and city weed board with at least fourteen days' notice of the time and place  
22 at which the list will be reviewed and, no later than fourteen days after conclusion  
23 of the review, shall provide each county and city weed board with written notice of  
24 any changes to the state noxious weed list.

**NOTE:** NDCC Section 63-01.1-03. As per committee direction, this section now contains a periodic review mechanism for the state noxious weed list.

1       **SECTION 7. County weed board - Members - Terms - Compensation.**

- 2       1. Each board of county commissioners shall:
- 3           a. Establish contiguous county weed board member areas; or
- 4           b. Determine that county weed board members must be appointed at large.
- 5       2. The board of county commissioners shall appoint a county weed board consisting
- 6           of three, five, or seven members. Members shall serve for a term of four years or
- 7           until their successors are appointed and qualified. The terms must be staggered
- 8           so that no more than two expire each year.
- 9       3. If the board of county commissioners has established county weed board member
- 10           areas as provided for in subsection 1, any qualified elector residing in the county
- 11           weed board member area is eligible to represent that area on the board. If the
- 12           board of county commissioners has determined that county weed board members
- 13           must be appointed at large as provided for in subsection 1, any qualified elector
- 14           residing in the county is eligible to serve on the county weed board.
- 15       4. A board member shall assume office at the first regular meeting of the county weed
- 16           board following that member's appointment.
- 17       5. The board of county commissioners shall remove a member of the county weed
- 18           board for repeated unexcused failures to attend meetings, for refusal to act as a
- 19           board member, or for incapacity. If a vacancy occurs on a county weed board, the
- 20           board of county commissioners, at its next regular meeting, shall appoint an
- 21           individual who possesses the necessary qualifications to fill the unexpired term.
- 22       6. a. The county weed board shall elect a chairman and a vice chairman from
- 23           among its members.
- 24           b. The county weed board shall appoint a secretary and a treasurer. The
- 25           secretary and treasurer need not be members of the board.
- 26       7. The board of county commissioners shall establish the rate of compensation for
- 27           county weed board members.

**NOTE:** NDCC Section 63-01.1-04. As per committee direction, the requirement that there be a board member from each city having a population in excess of 5,000 has been removed.

Subsection 7 clarifies that the board of county commissioners shall establish the compensation for weed board members. It removes the reference to reimbursement because that is addressed in Section 10 of this Act as a duty of a county weed board.

1       **SECTION 8. County weed board - Jurisdiction.** The jurisdiction of a county weed  
2 board extends to all land within the county but does not include any land within the corporate  
3 limits of a city if that city has its own noxious weed control program under sections 2 through 31  
4 of this Act.

**NOTE:** NDCC Section 63-01.1-03.1.

5       **SECTION 9. County weed board - Powers.** A county weed board may:  
6       1. Expend funds from all available sources if it determines that the extent of noxious  
7       weed infestation on certain land is so severe that control efforts would place an  
8       extreme financial burden on the landowner.  
9       2. Employ and compensate additional personnel to assist with noxious weed control  
10       efforts.

**NOTE:** NDCC Section 63-01.1-04.3. The rewrite clarifies that the county weed board has the power to employ and to compensate personnel.

11       **SECTION 10. County weed board - Duties.** Each county weed board shall:  
12       1. Implement a program for the control of noxious weeds;  
13       2. Provide for the control of noxious weeds along county and township roads and  
14       along county highways;  
15       3. Establish the time and place of regular board meetings;  
16       4. Meet at least once each year;  
17       5. Keep minutes of its board meetings and a complete record of all official acts;  
18       6. Control and disburse all moneys received by the county from any source for  
19       noxious weed control;  
20       7. a. Provide for the compensation of its members and its secretary and treasurer;  
21        b. Reimburse its members and its secretary and treasurer for actual and  
22        necessary expenses; and  
23        c. Provide a mileage allowance at the same rate as that established for state  
24        employees; and  
25       8. a. Employ and provide for the compensation of a weed control officer;  
26        b. Reimburse the weed control officer for actual and necessary expenses; and

- 1           c. Provide a mileage allowance at the same rate as that established for state  
2           employees.

**NOTE:** NDCC Sections 63-01.1-04.1 and 63-01.1-09. As per committee direction, the rewrite removes the requirement that each county weed board provide technical assistance to any city that establishes its own noxious weed control program under this chapter.

The rewrite removes the language providing that "[a]ll meetings are open to the public" because NDCC Section 44-04-19 states that "[e]xcept as otherwise specifically provided by law, all meetings of a public entity must be open to the public."

The rewrite also incorporates the directive in current NDCC Section 63-01.1-09 that the county weed board control noxious weeds along county and township roads and county highways.

3           **SECTION 11. County weed board - Development of county weed list.**

- 4           1. A county weed board may designate as noxious certain weeds that are not on the  
5           state noxious weed list, provided the county weed board consults with the North  
6           Dakota state university extension service and that the designation is approved by  
7           the commissioner.
- 8           2. Before January 1, 2010, and at least every five years thereafter, each county weed  
9           board shall review its noxious weed list and, by majority vote, may remove any  
10           weed from its list. The county weed board shall provide the commissioner with at  
11           least fourteen days' notice of the time and place at which its list will be reviewed  
12           and, no later than fourteen days after the review, shall provide the commissioner  
13           with written notice of any changes to the county list.

**NOTE:** NDCC Section 63-01.1-04.4. As per committee direction, this section now contains a periodic review mechanism for county noxious weed lists.

- 14           **SECTION 12. County weed control officer - Powers.** A county weed control officer  
15           may enter upon any land within the jurisdiction of the officer to perform duties and to exercise  
16           powers under sections 2 through 31 of this Act, including taking specimens of weeds or other  
17           materials, without the consent of the landowner or other person responsible for the land and  
18           without being subject to any action for trespass or damages, provided reasonable care is  
19           exercised.

**NOTE:** NDCC Section 63-01.1-08.

- 20           **SECTION 13. County weed control officer - Duties.** The county weed control officer  
21           shall:

- 1           1. Cooperate with the board and be responsible for the operation and enforcement of  
2           this chapter within the county;
- 3           2. Become acquainted with the location of noxious weeds within the county;
- 4           3. Meet the pesticide certification requirements set forth in chapter 4-35;
- 5           4. Encourage noxious weed control by all landowners and land occupants within the  
6           county;
- 7           5. Investigate all signed complaints received by the officer regarding noxious weeds;
- 8           6. Post or publish in the official newspaper of the county any notices the  
9           commissioner deems necessary to further noxious weed control under sections 2  
10           through 31 of this Act;
- 11          7. Prepare reports as requested by the commissioner; and
- 12          8. Attend meetings called by the commissioner to further noxious weed control under  
13           sections 2 through 31 of this Act.

**NOTE:** NDCC Sections 63-01.1-04.1, 63-01.1-05, and 63-01.1-05.1.

14           **SECTION 14. County noxious weed control program - Payment of expenses - Mill**  
15 **levy authorization.**

- 16          1. The board of county commissioners may pay the expenses of a county noxious  
17           weed control program authorized under sections 2 through 31 of this Act from the  
18           county general fund, the noxious weed control fund, or both.
- 19          2. a. The county weed board may annually certify to the board of county  
20           commissioners a tax, not to exceed two mills on the taxable valuation of all  
21           property in the county, other than that which lies within the boundaries of a  
22           city having a noxious weed control program under sections 2 through 31 of  
23           this Act.
- 24           b. In addition to the levy authorized in subdivision a, the board of county  
25           commissioners may levy an amount not to exceed two mills per dollar on the  
26           taxable valuation of all property in the county, other than that which lies within  
27           the boundaries of a city having a noxious weed control program under  
28           sections 2 through 31 of this Act.
- 29           c. The board of county commissioners shall levy the taxes authorized by this  
30           subsection and shall place those moneys in a separate fund designated as

1                   the noxious weed control fund, which is used to pay the expenses of a county  
2                   noxious weed control program.

3                   d. The tax may be levied in excess of the mill levy limit prescribed by law for  
4                   general purposes.

5                   3. For purposes of this section, the expenses of a county noxious weed control  
6                   program include compensation for and the reimbursement of expenses incurred by  
7                   the county weed board, the county weed control officer, and other employees of  
8                   the board, and expenses incurred in the provision of noxious weed control, as  
9                   authorized by sections 2 through 31 of this Act.

**NOTE:** NDCC Section 63-01.1-06.

10                   **SECTION 15. State appropriations for noxious weed control - County share -**  
11 **Determination.**

12                   1. The commissioner shall consult with the county weed boards and develop a  
13                   method for the distribution to county weed boards of all moneys appropriated by  
14                   the state for noxious weed control, other than the landowner assistance grants  
15                   provided for in section 16 of this Act.

16                   2. The method must:

17                   a. Limit the amount that any county weed board is entitled to receive under this  
18                   section to fifty percent of the board's actual expenditures under this section;  
19                   and

20                   b. Allow the commissioner to waive the limit provided for in this subsection if the  
21                   commissioner determines that a noxious weed is seriously endangering areas  
22                   of the county or the state.

**NOTE:** NDCC Section 63-01.1-06.

23                   **SECTION 16. State appropriations for noxious weed control - Landowner**  
24 **assistance program.**

25                   1. The commissioner shall consult with the county weed boards and develop a  
26                   formula for the distribution to county weed boards of all moneys appropriated by  
27                   the state for the landowner assistance program.

28                   2. The formula must require that a county budget, from county sources, an amount  
29                   equal to the revenue that could be raised by a levy of at least three mills for



1           noxious weed control; provided, however, that this amount does not apply to  
2           property that lies within the boundaries of a city having a noxious weed control  
3           program under sections 2 through 31 of this Act.

4           3. The formula must require that the landowner contribute an amount equal to at least  
5           twenty percent of the cost to be expended on behalf of the landowner. The formula  
6           may include payment-in-kind criteria by which the landowner's contribution may be  
7           realized.

**NOTE:** NDCC Section 63-01.1-06.

8           **SECTION 17. Control of noxious weeds within cities.** The governing body of any  
9           city having a population of three thousand or more may establish a program for the control of  
10           noxious weeds within the jurisdictional limits of the city. If a program is not established, the  
11           county weed board shall administer a program for the city.

**NOTE:** NDCC Section 63-01.1-10.1.

12           **SECTION 18. City weed board members - Terms - Compensation.**

13           1. If the governing body of a city elects to establish a noxious weed control program,  
14           as authorized by section 17 of this Act, the governing body shall appoint a weed  
15           board consisting of three, five, or seven members.

16           2. The term of office for a board member is four years or until a successor is  
17           appointed and qualified. The terms must be staggered so that no more than two  
18           expire each year.

19           3. Any qualified elector residing within the city is eligible to serve on the board.

20           4. A board member shall assume office at the first regular meeting of the city weed  
21           board following the member's appointment.

22           5. The governing body of the city shall remove a member of the city weed board for  
23           repeated unexcused failures to attend meetings, for refusal to act as a board  
24           member, or for incapacity. If a vacancy occurs on a city weed board, the governing  
25           body of the city, at its next regular meeting, shall appoint an individual who  
26           possesses the necessary qualifications to fill the unexpired term.

27           6. The city weed board shall elect a chairman and a vice chairman from among its  
28           members.

1           7.   The city weed board shall appoint a secretary and a treasurer. The secretary and  
2                   treasurer need not be members of the board.

3           8.   The governing body of the city shall establish the rate of compensation for city  
4                   weed board members.

**NOTE:** NDCC Section 63-01.1-07.1. Subsection 7 clarifies that the governing body of the city shall establish the rate of compensation for city weed board members. The reference to reimbursement is removed because that is addressed in Section 20 of this Act as a duty of the city weed board.

5           **SECTION 19. City weed board - Powers.** A city weed board may:

6           1.   Expend funds from all available sources if it determines that the extent of noxious  
7                   weed infestation on certain land is so severe that undertaking control efforts would  
8                   place an extreme financial burden on the landowner.

9           2.   Employ and compensate additional personnel to assist with noxious weed control  
10                  efforts.

**NOTE:** NDCC Section 63-01.1-07.3. The rewrite clarifies that the city weed board has the power to both employ and compensate personnel.

11          **SECTION 20. City weed board - Duties.** Each city weed board shall:

12          1.   Implement a program for the control of noxious weeds;

13          2.   Establish the time and place of regular board meetings;

14          3.   Meet at least once each year;

15          4.   Keep minutes of its meetings and a complete record of all official acts;

16          5.   Control and disburse all moneys received by the city from any source for noxious  
17                  weed control;

18          6.   a.   Provide for the compensation of its members and its secretary and treasurer;

19                  b.   Reimburse its members and its secretary and treasurer for actual and  
20                  necessary expenses; and

21                  c.   Provide a mileage allowance at the same rate as that established for state  
22                  employees; and

23          7.   a.   Employ and provide for the compensation of a weed control officer;

24                  b.   Reimburse the weed control officer for actual and necessary expenses; and

25                  c.   Provide a mileage allowance at the same rate as that established for state  
26                  employees.

**NOTE:** NDCC Section 63-01.1-07.2. The rewrite removes the language providing that "[a]ll meetings are open to the public" because NDCC Section 44-04-19 states that "[e]xcept as otherwise specifically provided by law, all meetings of a public entity must be open to the public."

1       **SECTION 21. City weed board - Development of city weed list - Review - Removal.**

- 2       1. A city weed board may designate as noxious certain weeds that are not on the  
3       state or county noxious weed list, provided the city weed board first consults with  
4       the North Dakota state university extension service and that the designation is  
5       approved by the commissioner.
- 6       2. Before January 1, 2010, and at least every five years thereafter, each city weed  
7       board shall review its noxious weed list and, by majority vote, may remove any  
8       weed from its list. The city weed board shall provide the commissioner with at  
9       least fourteen days' notice of the time and place at which its list will be reviewed  
10       and, within fourteen days of the review, shall provide the commissioner with written  
11       notice of any changes to the city list.

**NOTE:** NDCC Section 63-01.1-07.1. As per committee direction, this section now contains a periodic review mechanism for city noxious weed lists.

12       **SECTION 22. City weed control officer - Powers.** A city weed control officer may  
13       enter upon any land within the jurisdiction of the officer to perform duties and to exercise  
14       powers under sections 2 through 31 of this Act, including taking specimens of weeds or other  
15       materials, without the consent of the landowner or other person responsible for the land and  
16       without being subject to any action for trespass or damages, provided reasonable care is  
17       exercised.

**NOTE:** NDCC Sections 63-01.1-07.5 and 63-01.1-08.

18       **SECTION 23. City weed control officer - Duties.** The city weed control officer shall:

- 19       1. Cooperate with the board and be responsible for the operation and enforcement of  
20       sections 2 through 31 of this Act within the city;
- 21       2. Become acquainted with the location of noxious weeds within the city;
- 22       3. Meet the pesticide certification requirements set forth in chapter 4-35;
- 23       4. Encourage noxious weed control by all landowners and land occupants within the  
24       city;
- 25       5. Investigate all signed complaints received by the officer regarding noxious weeds  
26       within the city;

- 1           6.   Post or publish in the official newspaper of the city any notices the commissioner  
2                   deems necessary to further noxious weed control under sections 2 through 31 of  
3                   this Act;
- 4           7.   Prepare reports as requested by the commissioner; and
- 5           8.   Attend meetings called by the commissioner to further noxious weed control under  
6                   sections 2 through 31 of this Act.

**NOTE:** NDCC Sections 63-01.1-05.1 and 63-01.1-07.2.

7           **SECTION 24. City noxious weed control program - Payment of expenses - Mill**  
8 **levy authorization.**

- 9           1.   The governing body of a city may pay the expenses of a city noxious weed control  
10                   program authorized under sections 2 through 31 of this Act from the city general  
11                   fund, the noxious weed control fund, or both.
- 12           2.   a.   The city weed board may annually certify to the governing body of a city a tax,  
13                   not to exceed two mills on the taxable valuation of all property in the city.  
14                   b.   In addition to the levy authorized in subdivision a, the governing body of a city  
15                   may levy an amount not to exceed two mills per dollar on the taxable  
16                   valuation of all property in the city.  
17                   c.   The governing body of a city shall levy the taxes authorized by this subsection  
18                   and shall place those moneys in a separate fund designated as the noxious  
19                   weed control fund, which is used to pay the expenses of a city noxious weed  
20                   control program.  
21                   d.   The tax may be levied in excess of the mill levy limit prescribed by law for  
22                   general purposes.
- 23           3.   For purposes of this section, the expenses of a city noxious weed control program  
24                   include compensation for and the reimbursement of expenses incurred by the city  
25                   weed board, the city weed control officer, and other employees of the board, and  
26                   expenses incurred in the provision of noxious weed control, as authorized by  
27                   sections 2 through 31 of this Act.

**NOTE:** NDCC Section 63-01.1-07.6.

28           **SECTION 25. Publicly owned land - Noxious weed control.** Each state agency shall  
29 provide for the control of noxious weeds on land within its jurisdiction. If a state agency fails to

1 control noxious weeds on land under its jurisdiction, the county weed board, upon approval of  
2 the commissioner, may enter upon the land to control the noxious weeds. The state agency  
3 shall reimburse the county weed board for expenses incurred in controlling the noxious weeds,  
4 within thirty days after the agency receives the bill.

**NOTE:** NDCC Section 63-01.1-13.

5 **SECTION 26. Noxious weed control - Enforcement responsibilities of other**  
6 **agencies.** Law enforcement agents shall cooperate with the commissioner, a weed control  
7 board, and a weed control officer for the purpose of enforcing sections 2 through 31 of this Act.

**NOTE:** NDCC Section 63-01.1-14.

8 **SECTION 27. Entry upon land for noxious weed control purposes - Notices -**  
9 **Landowner rights - Remedial requirements - Liens.**

- 10 1. a. If a county weed officer determines that any land other than that referenced in  
11 subsection 2 contains noxious weeds, the county weed control officer may  
12 serve upon the landowner written notice, either personally or by certified mail,  
13 requiring the landowner to control the noxious weeds within the time period  
14 prescribed by the county weed control officer.
- 15 b. The notice must:
- 16 (1) Specify the minimal remedial requirements;
- 17 (2) Specify the time within which the landowner must meet the minimum  
18 remedial requirements;
- 19 (3) Specify that the landowner may be subject to penalties provided under  
20 sections 2 through 31 of this Act if the landowner fails to comply with  
21 the remedial requirements;
- 22 (4) Include a statement of costs if the landowner fails to control the noxious  
23 weeds and the county weed officer must provide for control of the  
24 weeds; and
- 25 (5) Provide that the landowner may stay any efforts by the county weed  
26 officer to control noxious weeds on the land by requesting in writing that  
27 the county weed board hold a hearing on the matter.

- 1           c. The county weed officer shall deliver a copy of the notice personally or  
2           forward a copy of the notice by certified mail to any tenant, lessee, or operator  
3           of the land on which the noxious weeds are located.
- 4           d. If the landowner does not meet the minimum remedial requirements within the  
5           time specified in the notice and does not request a hearing on the matter by  
6           the county weed board, the county weed control officer may cause the  
7           noxious weeds to be controlled and the expenses charged against the land of  
8           the landowner. These expenses are part of the taxes to be levied against the  
9           land for the ensuing year and must be collected in the same manner as other  
10          real estate taxes.
- 11          e. If after holding a hearing on the matter, the county weed board directs that the  
12          noxious weeds be controlled by the county weed officer, the landowner may  
13          appeal the decision to the board of county commissioners. A decision by the  
14          board of county commissioners is final.
- 15          f. If the landowner does not appeal the decision to the board of county  
16          commissioners, or if the board of county commissioners upholds the decision  
17          of the county weed board, the county weed control officer may cause the  
18          noxious weeds to be controlled and any expenses incurred by the county  
19          weed officer in controlling the weeds must be charged against the land of the  
20          landowner. These expenses are part of the taxes to be levied against the  
21          land for the ensuing year and must be collected in the same manner as other  
22          real estate taxes.
- 23          2. a. If a city weed control officer determines that land within the officer's  
24          jurisdiction contains noxious weeds, the officer may serve upon the landowner  
25          written notice either personally or by certified mail, requiring the landowner to  
26          control the noxious weeds within the time period prescribed by the city weed  
27          control officer.
- 28          b. The notice must:
- 29               (1) Specify the minimal remedial requirements;
- 30               (2) Specify the time within which the landowner must meet the minimum  
31               remedial requirements;

- 1                   (3) Specify that the landowner may be subject to penalties provided under  
2                                   sections 2 through 31 of this Act if the landowner fails to comply with  
3                                   the remedial requirement;
- 4                   (4) Include a statement of costs if the landowner fails to control the noxious  
5                                   weeds and the city weed officer must provide for control of the weeds;  
6                                   and
- 7                   (5) Provide that the landowner may stay any efforts by the city weed officer  
8                                   to control noxious weeds on the land, by requesting in writing that the  
9                                   city weed board hold a hearing on the matter.
- 10                  c. The city weed officer shall deliver a copy of the notice personally or forward a  
11                                   copy of the notice by certified mail to any tenant, lessee, or operator of the  
12                                   land on which the noxious weeds are located.
- 13                  d. If the landowner does not meet the minimum remedial requirements within the  
14                                   time specified in the notice and does not request a hearing on the matter by  
15                                   the city weed board, the city weed control officer may cause the noxious  
16                                   weeds to be controlled and the expenses charged against the land of the  
17                                   landowner. These expenses are part of the taxes to be levied against the  
18                                   land for the ensuing year and must be collected in the same manner as other  
19                                   real estate taxes.
- 20                  e. If after holding a hearing on the matter the city weed board directs that the  
21                                   noxious weeds be controlled by the city weed officer, the landowner may  
22                                   appeal the decision to the governing body of the city. A decision by the  
23                                   governing body is final.
- 24                  f. If the landowner does not appeal the decision to the governing body of the  
25                                   city, or if the governing body of the city upholds the decision of the city weed  
26                                   board, the city weed control officer may cause the noxious weeds to be  
27                                   controlled and any expenses incurred by the city weed officer in controlling  
28                                   the weeds must be charged against the land of the landowner. These  
29                                   expenses are part of the taxes to be levied against the land for the ensuing  
30                                   year and must be collected in the same manner as other real estate taxes.

**NOTE:** NDCC Section 63-01.1-08.

1           **SECTION 28. Quarantine - Declaration - Hearing - Penalty.**

- 2           1. If the commissioner determines that a quarantine of this state or any portion  
3           thereof may be necessary to prevent the spread of noxious weeds, the  
4           commissioner shall schedule a public hearing on the matter and provide notice of  
5           the hearing by publishing its time, place, and date in the official newspaper of each  
6           county having land within the area of the proposed quarantine. If after the hearing  
7           the commissioner orders the imposition of a quarantine, the order must include the  
8           date by which or the circumstances under which the commissioner shall lift the  
9           quarantine order.
- 10          2. If the commissioner determines that the imposition of an emergency quarantine is  
11          necessary to prevent the spread of noxious weeds, the commissioner may impose  
12          such an order for a period not to exceed fourteen days. Within the fourteen-day  
13          period, the commissioner shall hold a public hearing as provided for in  
14          subsection 1 and determine whether a quarantine order under subsection 1 should  
15          be imposed.
- 16          3. Following the establishment of a quarantine, the movement of any product or  
17          material described in the quarantine order is subject to the order.
- 18          4. Any person who violates a quarantine order issued under this section is guilty of a  
19          class B misdemeanor.

**NOTE:** NDCC Section 63-01.1-12.1. Because the imposition of a quarantine is a serious act, it is recommended that a penalty be imposed for violation of a quarantine.

20           **SECTION 29. Preventing the dissemination of noxious weeds - Penalty.**

- 21          1.   a. A person may not transport any material that contains noxious weed seeds or  
22           propagating parts, on a public road, in a manner that allows for the  
23           dissemination of noxious weeds.
- 24           b. A person may not drive or transport any equipment, on a public road, in a  
25           manner that allows for the dissemination of noxious weeds.
- 26           c. A person may not dispose of any material that contains noxious weed seeds  
27           or propagating parts in a manner that allows for the dissemination of noxious  
28           weeds.
- 29          2. Any person who violates this section is guilty of a class B misdemeanor.



**NOTE:** NDCC Sections 63-01.1-12 and 63-01.1-15. As per committee direction, this section was broadened to prohibit the transportation of "any" material in a manner that disseminates noxious weeds. It also prohibits the movement of equipment, and the disposition of any material containing noxious weeds, in a manner that allows for the dissemination of noxious weeds.

As per committee direction, the penalty provision was extended to all persons, not just custom operators.

1       **SECTION 30. Civil penalty.**

- 2       1.   a. In addition to any other penalties provided for in sections 2 through 31 of this  
3           Act, a person who violates sections 2 through 31 of this Act or any rules  
4           adopted under this chapter is subject to a civil penalty in an amount not to  
5           exceed eighty dollars per day for each day of violation, subject to a maximum  
6           penalty of four thousand dollars per year.
- 7        b.   Penalties imposed upon a landowner for failing to comply with the remedial  
8           requirements, as set forth in section 26 of this Act, are a lien against the  
9           property of the landowner from the day the notice is delivered to the  
10          landowner under section 26 of this Act.
- 11       2.   All penalties collected under this section must be credited to the noxious weed  
12          control fund of:
- 13          a.   The city in which the violation occurred if the city has a noxious weed control  
14             program under sections 2 through 31 of this Act; or
- 15          b.   The county in which the violation occurred.
- 16        3.   Any penalties provided for under this section may be adjudicated by a court, a  
17          county weed board, or a city weed board after a hearing.
- 18        4.   An aggrieved person may appeal the imposition of a penalty by a county weed  
19          board to the board of county commissioners. An aggrieved person may appeal the  
20          imposition of a penalty by a city weed board to the governing body of the city.

21       **SECTION 31. Action on complaint - Request for hearing.**

- 22       1.   a. If an individual filed a signed complaint with a county weed board or the  
23           county weed control officer and if the individual believes that the complaint  
24           has not been addressed satisfactorily within twenty-one days from the date of  
25           the complaint, the individual may file a written request for a hearing with the  
26           board of county commissioners.

- 1            b. Upon receiving a request for a hearing, the board of county commissioners  
2            shall schedule a public hearing within twenty-one days and shall provide  
3            notice of the hearing by publishing its time, place, and date in the official  
4            newspaper of the county.
- 5            c. Within fourteen days after the hearing, the board of county commissioners  
6            shall issue a determination regarding the matter and shall issue appropriate  
7            directives to the county weed board.
- 8            d. A decision by the board of county commissioners under this section is final.
- 9            2. a. If an individual filed a signed complaint with a city weed board or the city weed  
10           control officer and if the individual believes that the complaint has not been  
11           addressed satisfactorily within twenty-one days from the date of the  
12           complaint, the individual may file a written request for a hearing with the  
13           governing body of the city.
- 14           b. Upon receiving a request for a hearing, the governing body of the city shall  
15           schedule a public hearing and shall provide notice of the hearing by  
16           publishing its time, place, and date in the official newspaper of the county.
- 17           c. Within fourteen days after the hearing, the governing body of the city shall  
18           issue a determination regarding the matter and shall issue appropriate  
19           directives to the city weed board.
- 20           d. A decision by the governing body of the city under this section is final.

**NOTE:** NDCC Section 63-01.1-18.

21           **SECTION 32. AMENDMENT.** Section 57-15-06.10 of the North Dakota Century Code  
22 is amended and reenacted as follows:

23           **57-15-06.10. Optional consolidation of county mill levies.**

- 24           1. In lieu of determining its general fund levy limitation under section 57-15-01.1 or  
25           57-15-06, a county may determine its general fund levy authority as provided in  
26           this section. A county may consolidate the levies provided for under sections  
27           4-02-26, 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-37, 4-08-15, 4-08-15.1, 4-16-02,  
28           4-33-11, 11-11-24, 11-11-53, 11-11-60, 11-11-65, 11-11.1-06, 11-28-06, 18-07-01,  
29           24-05-01, 32-12.1-08, 40-38-02, 40-57.2-04, 49-17.2-21, 52-09-08, 57-15-06.4,  
30           57-15-06.5, 57-15-06.6, 57-15-06.9, 57-15-10.1, 57-15-27.2, 57-15-54, 57-15-59,

1           57-47-04, and 61-04.1-26; and ~~63-04.1-06~~ section 14 of this Act, with its general  
2           fund levy under section 57-15-06 to provide for a county general fund levy which  
3           may not exceed one hundred thirty-four mills on the dollar of taxable valuation of  
4           the county. A county that elects to determine its general fund levy authority under  
5           this section may not impose separate levies under the sections listed in this  
6           subsection and may not increase the number of mills levied in any one year over  
7           the number levied in the previous year by more than the increase in the consumer  
8           price index for all urban consumers, all items, United States city average, as  
9           completed by the United States department of labor, bureau of labor statistics.

10          2. The consolidation of mill levies under subsection 1 may be accomplished by  
11          resolution of the board of county commissioners, subject to the right of referendum  
12          by the county electors. The board of county commissioners may by majority vote  
13          adopt a preliminary resolution providing for the consolidated levy. The board shall  
14          publish the preliminary resolution in the official newspaper of the county, at least  
15          once during two different weeks within the thirty-day period immediately following  
16          the adoption of the preliminary resolution. The board of county commissioners  
17          shall hold at least one public hearing and receive comments regarding the  
18          consolidation of mill levies. The preliminary resolution may be referred to the  
19          qualified electors of the county by a petition protesting the consolidation. The  
20          petition must be signed by ten percent or more of the total number of qualified  
21          electors of the county voting for governor at the most recent gubernatorial election,  
22          and filed with the county auditor before four p.m. on the ninetieth day after the  
23          preliminary resolution is adopted. If the petition contains the signatures of a  
24          sufficient number of qualified electors, the board of county commissioners shall  
25          rescind the preliminary resolution or submit the resolution to a vote of the qualified  
26          electors of the county at the next regular election or at a special election called by  
27          the board of county commissioners to address the question. If a majority of the  
28          qualified electors voting on the question approve the resolution, the consolidation  
29          becomes effective for the next tax year and subsequent tax years. If a petition  
30          protesting the consolidation is not submitted within ninety days, the board of county  
31          commissioners shall consider the comments received regarding the consolidation

1                   and either adopt a final resolution implementing the consolidation or rescind the  
2                   preliminary resolution. The consolidation of mill levies may be reversed by  
3                   resolution of the board of county commissioners following the same procedure  
4                   provided for implementation of the consolidation or by a majority vote of the  
5                   qualified electors of the county voting on the question pursuant to submission of a  
6                   petition to reverse the consolidation signed by ten percent or more of the total  
7                   number of qualified electors of the county voting for governor at the most recent  
8                   gubernatorial election.

9                   3. A contractual obligation entered by a county with respect to a dedicated mill levy  
10                  may not be impaired as a result of consolidation of levies under this section.

11                 **SECTION 33.** Chapter 63-01.1 of the North Dakota Century Code is repealed.