

**Testimony
House Bill 1329****House Agriculture Committee
January 28, 2021**

Good morning Mr. Chairman and members of the House Agriculture Committee. For the record, my name is Ken Bertsch and I serve as State Seed Commissioner and administrator of the ND State Seed Department. I appreciate the opportunity to speak to you today regarding HB 1329, which is a measure drafted by the Seed Department, approved by the State Seed Commission and introduced by Representative Hagert on our behalf. Our thanks to Representative Hagert and the other sponsors of the bill.

The Department is asking for your consideration on minor amendments to state seed laws that parallel revisions to the Federal Seed Act. We are also seeking to combine two sections of code that provides for licensure of seed sale activity.

Section 1 (page 1)

The Federal Seed Act was revised in 2020 with numerous amendments that regulate the interstate commerce of seeds.

The most important of these revisions affects ND state seed labeling laws, which are found in Chapter 4.1-53-13 and include these requirements:

- The lot number or other lot identification;
- The percentage by weight of all weed seed;
- The percentage by weight of any other agricultural seeds present;
- The percentage by weight of inert matter;
- The percentage of germination, exclusive of hard seed;
- The percentage of hard seed, if applicable; and
- The full name and address of the labeler.

The amendment in Section 1, lines 9 and 10, of the bill speaks directly to the addition of dormant seed to labeling requirements. Both "hard" and "dormant" refer to a seed that may germinate, but not in the prescribed time period for that particular crop. By definition, a dormant seed is one that is found to be viable by a seed analyst upon further testing (often a tetrazolium test).

The amendment will most often affect labeling of crops like native grasses that often contain a higher percentage of viable but hard and/or dormant seeds.

Section 2, page 1

The Seed Department commonly updates references to federal statute and/or rules whenever our state code is open for legislative action. The amendment on line 18 updates state seed law to the most current version of the Federal Seed Act.

"To assure integrity of the seed industry through a commitment to client service and product quality."

Section 3, page 1-2

The amendments in this section combine Seed Department licensing programs for resident and non-resident seed labelers and retailers. First, the title of the section is changed to reference seed sales, which more accurately represents the function of the program. The remainder of the section includes:

Page 1, line 23 indicates that chapter will now apply to both residents and non-residents who sell agricultural seeds.

Page 2, line 3 incorporates language from the now repealed section related to non-residents, and places responsibility for actions of the licensee on the employees and agents of the licensee.

Page 2, lines 14-15 removes references to a specific fine amount, thus allowing the Seed Commission to set enforcement provisions for the license/permitting program as they do for all other Seed Department programs.

Section 4, page 2

The amendment in line 21 is another Federal Seed Act revision. The term “reproductive stabilization” is a catch-all term intended to capture breeding techniques that are new and/or innovative and may not fall into more traditional methods of plant breeding.

The Seed Department, through a standard variety release and acceptance process, uses all of the standards in part 2, a-i to accept seed varieties into the certification programs operated by the agency. A description of the variety’s breeding procedure is an important part of identifying whether the characteristics of a variety will remain stable upon multiple years of field production. The amendment will capture new breeding techniques like gene editing, but will still require that seed varieties remain uniform, distinct and stable to be accepted into certification.

Sections 5 and 6, page 3

The amendments on line 5 and line 14 update our century code chapters to the most current version of the Plant Variety Protection Act (PVPA), and is similar to the amendment in section 2 related to the Federal Seed Act. The Seed Department, as the seed regulatory authority for the State, enforces the provisions of PVPA in collaboration with variety owners. References to the most current version of the PVPA are also updated whenever we ask the legislature to amend Seed Department chapters.

Section 7, page 3

The section simply repeals the Non-resident Seed Dealer’s License chapter (4.1-53-41) and allows the Seed Department to regulate both parties in the same manner, thus simplifying the administration of seed regulatory programs.

I ask for your support of HB 1329, and will be happy to answer any questions you may have.

“To assure integrity of the seed industry through a commitment to client service and product quality.”