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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

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**Testimony on HB 1099
Dutch Bialke
General Counsel & Senior Policy Advisor
North Dakota Department of Agriculture**

**House Agriculture Committee
Thursday, January 5, 2023, 9:00 a.m.
Room 327C, State Capitol**

Chairman Thomas and members of the House Agriculture Committee, I am Dutch Bialke. I will testify this morning on behalf of the North Dakota Department of Agriculture.

The Department supports House Bill 1099. House Bill 1099 contains proposed amendments to a statute regarding weed control complaints and a proposed partial repeal of a statute.

The Department also respectfully proposes an amendment removing Section I of House Bill 1099. Section I currently proposes that Forage Inspector Contracting not be subject to procurement rules.

After very positive inter-agency coordination with the Office of Management and Budget, OMB & the Department have jointly concurred that this proposed amendment to the Century Code, if enacted by the Legislature, would be much better placed within North Dakota Century Code Chapter 54-44.4, State Purchasing Practices.

Accordingly, Section 1 will be jointly proposed to be an amendment to OMB's current agency-filed bill, specifically SB 2042 that references North Dakota Code Chapter 54-44.4. This proposed bill amendment is strictly concerns where the bill is best placed in the Century Code.

Consequently, the Department respectfully requests House Bill 1099 be amended to delete Section I in its entirety.

Finally, the Department respectfully proposes a second amendment to House Bill 1099, specifically Section III, the proposed repeal of North Dakota Century Code 57-43.1-03. In making this proposed amendment, the Department would not request or propose that the first sentence of this statute be repealed, only that the second sentence in the statute be removed.

Weed Control Complaints

In Section II of House Bill 1099, the Department requests that weed control complaints not be statutorily required to be signed before they are forwarded to the proper weed authority. While the majority of noxious weed control is delegated to local county and city weed control officials, NDCC 4.1-47-04 identifies the Agriculture Commissioner's duties in relation to noxious weeds.

Subsection 3 of this weed control statute currently requires the Agriculture Commissioner to forward all signed complaints to the proper weed control authority.

However, as a practical matter, the Commissioner will treat every weed control complaint he receives seriously, regardless of the form of the complaint. As a result, the requirement that the complaint be "signed" before being forwarded is unnecessary.

This proposed amendment removes the unnecessary word "signed" and would in law treat all complaints the same whether made by info-line, phone, email, or letter.

Refund of Tax

Finally, the Department requests that North Dakota Century Code 57-43.1-03 be amended. Currently, according to this law, any consumer

who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the State Tax Commissioner for a refund.

Then, however, according to the second sentence of the statute, the amount of that tax refund must be reduced by one-half cent per gallon, except for aircraft fuel, and that one-half cent per gallon must be withheld from that refund and consequently deposited in the Agricultural Products Utilization Fund (APUC).

However, since the inception of the law, as a practical matter, the amount of money collected by the State Tax Commissioner under this law and subsequently deposited into APUC has been *de minimis*.

Given the extraordinarily low amounts historically that have been deposited into APUC, by removing the second sentence in this law, this would permit the Tax Department to not have to first calculate the *de minimis* reduction of one half of the refund by one-half cent per gallon, and then transfer those resulting minimal funds to APUC.

Chairman Thomas and committee members, thank you for your consideration of HB 1099. I will respectfully stand for any questions.