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2003 HOUSE AGRICULTURE

HB 1406

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2003 HOUSE AGRICULTURE

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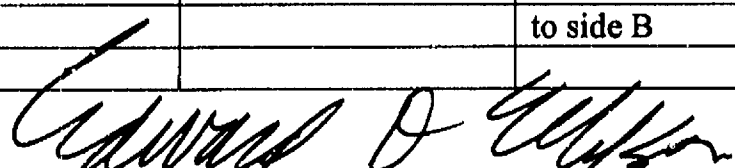
2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1406

House Agriculture Committee

☐ Conference Committee

Hearing Date January 30, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.1
			to side B
Committee Clerk Signature 			

Minutes:

**REP. EUGENE NICHOLAS, CHAIRMAN** Called the hearing to order.

**REP. KENTON ONSTAD, DIST. 4** Introduced the bill. Testified in support of the bill. See attached written testimony.

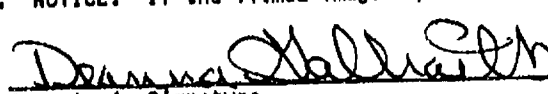
**REP. KREIDT** Asked who sits on the present board, and how is that handled at this time?

**REP. ONSTAD** I am not sure of the exact makeup, but the Ag Commissioner sits on that and I believe a representative from the Governor's office, there is one representative from the chemical industry, there are a couple of individuals that represent the Wheat Commission.

**ROGER JOHNSON, NORTH DAKOTA DEPARTMENT OF AGRICULTURE,**

Testified in support of the bill. See attached written testimony. Also submitted information relating to minor use projects by biennium, and information relating to examples of pesticides that are substantially more expensive in North Dakota than in Canada based on 2001 retail prices.

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**REP. NICHOLAS** Referred to pages 13, 14 and 15, stating we start with 1999, 2000, 2001, he stated he noticed in 1999 the difference in cost to North Dakota producers was \$42,271,000 more in cost, in table 14, in 2000, the cost is \$32,628,000 more, which was a drop of about \$9,000,000, then we take 2001, and we drop from \$32,000,000 to \$23,000,000, we have moved \$20,000,000 in the right direction, can you give us any idea what you think 2002 will be?

**ROGER JOHNSON** I can't, although the grain growers, as part of one of the projects we funded this past year, did a recent study, and they may have some figures, and they may want to talk about that with you. Your observation is very astute. My gut feeling, my guess, is there are only two ways to solve this problem, one is the industry fixes it themselves, the other is you change off. I think the industry is getting a little tired of the beating they have taken on this issue. They are bound to rein in some of those price differences, that is just my personal opinion.

**REP. NICHOLAS** I think, if you recall in 1999, when we first started mucking around in this, and obviously, that's what you think we have been doing, obviously, it has moved \$20,000,000 in the right direction, so we have done some good along the line here, would you agree with that assessment?

**ROGER JOHNSON** I won't disagree.

**REP. NICHOLAS** Somebody out there is listening, and I know the Harmonization Board and Committee has been to Washington, we went in in the 1999 interium with a good cross-section of legislators, we had Jim with us at that time, we went in and did what we were supposed to do. Our congressional people supported us and introduced legislation, I think we have the industry's attention. Would you agree that some good has been done?

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**ROGER JOHNSON** I would agree that some progress has been made. I would also argue, however, that the way you seal this progress, is to pass the law.

**REP. NICHOLAS** We know Rome wasn't built in a day.

**REP. ONSTAD** When you compare the situations now, is there anything that your office cannot do that this particular board is able to do, or vice versa. Currently, in the law, you are one of the representatives on this board?

**ROGER JOHNSON** As I read the law and the responsibilities of the board, I don't think there is a single responsibility that I don't already have authority to deal with, or have authority in conjunction with NDSU and the Pesticide Control Board to deal with. Pesticide laws are administered through the Pesticide Control Board, which is sort of between our office and NDSU.

**REP. POLLERT** Would the Pesticide Control Board be going in to Washington, D.C. and try to lobby for price discrepancies, did they do that in 1997, when the bill was created?

**ROGER JOHNSON** No, I don't believe the Pesticide Control Board would do that. I would say that as a member of the Pesticide Control Board, I would do that. I would argue that the only way to change this law on the federal level, is for people in the Governor's office and myself, to sit down and talk about a strategy outside of an open meeting, and talk about a strategy for changing the federal law. That is the way you do that, then you make those contacts. I know the Governor's office has worked hard to try to line up support from other governor's. For a number of years, they have had on-going resolutions of support from all of the Ag Commissioners, supporting changing this law. We need to understand, that changing this law, will happen over

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the objection of the chemical industry. When we accept that fact, many of you legislators have those same contacts with other legislators in other states.

**REP. BELTER** Approximately, how long have these differential prices existed between Canada and the United States?

**ROGER JOHNSON** I don't know that I can give you a good answer for that. I know that when I first ran for Commissioner of Agriculture, some six years ago, and any time you got along the northern border you heard about from farmers. I have no doubt that it was in existence for a long time, but nobody has really done a comprehensive study as to what those differences were, until we did these three tables which I talked about. That is only for North Dakota, we have not done that nationwide. There was a USDA study in conjunction with USDR and a couple of universities, even that, was in the same time period.

**REP. BELTER** Commented that he came to the legislature in 1985 and these price differentials have always been a point of contention, and until we developed this harmonization committee, nothing ever seemed to happen, and once it was brought before the legislature, all of a sudden, we have chemical companies from all over the United States coming to find out what is happening in North Dakota, and since we made that move, it appears to me that we have made some progress in bringing the issue to the forefront. Prior to that, it was kind of a dead issue, so I guess I question your comment here that the record shows that the board has done little to enable, I don't think that has been the case, because we do see things happening, that weren't happening for many years.

**ROGER JOHNSON** Let me make it clear, that what I am talking about is just the Harmonization Board that we are dealing with. It has only been in existence for less than two

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years. There were other efforts, there was a Harmonization Committee, that the chairman referred to earlier, that did some studying of the issue. I think I testified at just about everyone of those meetings and presented information. Our office has been raising this issue, pretty much from the very beginning, since I was first elected, and brought it to other Ag Commissioners, before the committee was even established by the legislature. I am not saying the legislature has never done anything, what I am saying is the issue before us today, is not whether we ought to support harmonization, the issue before us, we need a state agency to do it.

**REP. BELTER** I think the record will show that we do have an agency.

**REP. MUELLER** On page 7, what have we spent on pesticide harmonization efforts?

**ROGER JOHNSON** On page 7, the detail I provide, is all summarized on page 6. What the board spent is in table 2 on page 6. You have three different kind of funding pots. One of them is empty, it is the spending authority only. The other two were the minor use fund and the EARP fund. The use fund is sort of a sub fund of the EARP fund. The last legislature gave appropriations from the minor use fund to oversee minor use fund activities of a half a million dollars and from the EARP fund a quarter million dollars. What was spent by the board was one hundred thirty three thousand of minor use fund projects. Those projects are detailed on page 12, under the 2001-2003 minor use fund, if you add up those numbers you should come to that hundred and thirty three thousand dollars. The EARP fund, there was just twenty four thousand dollars that was spent, and those dollars were spent in the fashion described on page 7. None of those dollars that were spent, have been reimbursed. The top part of page 7, gives you the breakdown of where that twenty four thousand dollars was actually spent.

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**REP. MUELLER** Can I assume then, from what you are saying by use fund of one hundred thirty three thousand dollars was used the way the old minor use fund would have been used, in essence, we have twenty four thousand dollars spent on pesticide harmonization issues and a lot of what has been done in the name of that, hasn't been billed, so the twenty four thousand dollars may or may not come in from bills which may be have been incurred, from the second paragraph of page 7?

**ROGER JOHNSON** Yes

**REP. MUELLER** Why did we need a half a million dollars to do what now seems to have been done with twenty four thousand?

How did we appropriate as much money as we did, when we put a million dollars on the table and use twenty four thousand of it, somehow the connections were not being made or the objective

**ROGER JOHNSON** Commented, that he didn't know what response was needed.

**REP. NICHOLAS** Stated the only comment he could make is that we have moved another ten million dollars in the right direction.

**REP. UGLEM** Stated, just as a point of interest, when we have used a ten million dollar change set down each year, where did that come from, did the Canadians pay a higher price or did we pay a lower price?

**ROGER JOHNSON** Stated, he thought there was a little bit of both, if you want to take the time to go through the tables on 13, 14 and 15, a number of those same products, each year, you can track the price.

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**RICHARD SCHLOSSER, VICE-PRESIDENT OF THE NORTH DAKOTA FARMERS**

**UNION** Testified in support of the bill. Gave a background back to the 1999 session, when the committee was created. During the interim, there was a group that went to Washington, D.C. and met with the congressional delegation, met with Senator Luger's office and Representative Goodlott, department officials at EPA, and I think we sent a message. We do agree that something needs to be done with this disparity. In 2001, we as a farm organization, sat by and monitored the pesticide crop protection and production and harmonization committee, that went into statute, so we would see as a move from a committee, and again through the whole legislative process which evolved into an agency. He stated they had some concerns and they thought they would monitor this and had some concerns about the makeup of the board. They had concerns about the funds which were shifted about. He stated the members cornered them and asked why they didn't oppose this, we gave the explanation that on the federal level, we saw legislation that the commissioner alluded to that was coming about that would rectify and address that issue. We thought this working group would have some sort of influence to move that along. But as mentioned in previous testimony, sometimes when you have the fox carry the hen house, you may endanger the whole process, in this case, we felt not only was the fox carrying the hen house, the fox may have been in the hen house. We think having industry reps involved in the whole process of lobbying those changes on the federal level, may have jeopardized the passage of that legislation. This brings us to 2002, and we feel that maybe the board has done what they can do, we have sent the message, we have seen some of these prices affected, we don't know what they are a result of. I understand from the Commission's testimony, these are adjusted for U S dollars, because of some of the patents that went on, I know at Roundup they

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have come down a little in price. Maybe that reflects some of the prices. We feel this is something that needs to be done on the congressional level, it is a federal issue. We support the minor use fund to be returned to the control of the Pesticide Control Board, who has essentially served the original purpose and intent of that legislation.

**REP. POLLERT** You were alluding to, it should be a federal issue, I think I am correct in saying, in 1999 when this chemical harmonization thing started, no one in Washington was looking at this particular issue, until after we started doing something, then our congressmen got on board at that time, I would disagree with you as far as saying we should leave it to the federal level, when the state people started this process.

**RICHARD SCHLOSSER** As was referenced before, I think this has always been an issue with farmers, probably in the northern tier of counties more of an issue then in my area. In year 2000 when the farm groups went to visit with the ag aids and congressional delegation, we were handed a stack of papers which essentially dealt with the background of this, going back to the trade agreement signed with Canada, affecting working groups and attempting to somehow justify the research where the discrepancies would be. I think there was an awareness of the differences prior to this.

**REP. NICHOLAS** Would you agree that Congress works very slow and would you agree, looking at these numbers, that the trips to Washington, have obviously done some good, when you look at the Commissioner's handout and see that we moved twenty million, and if we can get a twenty million dollar movement here in the next biennium, we have theoretically accomplished harmonization without Congress doing anything.

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**RICHARD SCHLOSSER** I don't know what it was a result of, and I don't know that anybody here can say directly, basically, it is a supposition, with a little evidence when we went in.

**MARVIN NELSON, ROLLA, NORTH DAKOTA,** Testified in support of the bill. Stated he wished harmonization would go away. He stated in comparing the pesticide board with the harmonization board there are two issues in the whole thing. One is the minor use registration fund, for whatever reason we took the fund away from the pesticide board, there was a lot of connection to the researchers and such. One of the things that used to happen under the pesticide board, sometimes these registrations come up, literally, almost in season. Here is a minor crop, this is the weed problem of the year, is there anything we can do, our researchers show that this one would be helpful, gee this would be a good year to do a bunch of research, the pesticide board was quite small, and with the staff members that they have and stuff, they really have the ability to have more meaning. That has been one of the problems, I hear, the harmonization board, just doesn't meet often enough. It would be nice, if we knew now, everything will come up this summer, but it seems like everything from state labels, etc., are being issued weekly, all summer long, and so they are kind of operating in a constant state of typing. Way back when, I was one of the people who originally put together some of the pricing sheets which used to come to the Canadians, the Department of Agriculture and the Grain Growers kind of took that over. Harmonization has always been something that was important to me. I am not testifying against the harmonization board, the idea is good, sometimes a paid staff member in the Department of Agriculture, who, if that was their specific job, would maybe be more capable of doing the job. The problem with the pesticide board is, it is composed of a bunch of very busy people. Gave a little dissertation on June berries and chokecherries.

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Also related to problems with the pricing differentials. Talked about rebates in pesticides.

**REP. ONSTAD** Related to chemical prices and what they were ten years ago.

**MARVIN NELSON** Ten years ago, we still had Carbine, we had Avange and

**REP. ONSTAD** And the last couple years, more chemicals were introduced, and as that competition goes, what prices will it drive it to

**MARVIN NELSON** I would say the competition has reduced our wild oats price, it has not taken us down to where Canada's is, but it helps. Part of why Canada had so many more registrations then we did, is they changed the registration process. At one point it was almost fee free, and then they went to a cost recovery registration, where the companies had to pay the cost of the registration. At that point, the companies took everything they had in the pipeline and shoved it in before the deadline, so they got their stuff registered without having to pay the cost of the registration. That was when we saw this proliferation of product. Long term, this may take care of itself, from the standpoint of Canada just passed a new pesticide act. They liked our pesticide law.

**JACK DALRYMPLE, LT. GOVERNOR** Testified in opposition to the bill. He stated he is the Governor's designee to serve on the Crop Harmonization Board. He felt the Crop Harmonization and Registration Board is doing a lot of good. It is doing a tremendous amount of good for the money that is being expended on it, which is quite minimal. Submitted a handout and explained the duties the board did, budgets and the cash flow of the EARP fund and minor use fund. See attached copy. He stated, at this time, there will not be enough funds, and that will have to be addressed. He stated it may involve an additional transfer from the EARP fund or reprioritization of funds, whatever needs to be done.

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He stated the comments were made that the harmonization board should transfer its policy making responsibilities back to the Pesticide Control Board. I think I would have to strongly disagree with that. The Pesticide Control Board is made up of three individuals, the Commissioner of Agriculture, the head of the Experiment Station and the head of Extension. Those three people have the statutory responsibility to regulate pesticide registrations. The Harmonization Board, on the other hand, has a completely different purpose which is to promote the availability of product for farmers. What you have here, is an inherent contradiction. You cannot have the promotion group in charge of regulation and you cannot the regulation in charge of promotion. We have not had any disagreements, or dissenting votes that I know of, in how to expend our minor use funds.

The Commissioner made the comment that somehow the Harmonization Board has stifled the interest in and or use of minor use funds, that is absolutely not true. The process of bringing applicants forward is done through the Ag Department in exactly the same way it has always been done.

He referred to page 47 of testimony which he made before the United States Senate Agriculture Committee. See attached copy.

He questioned why this bill was introduced. He wondered what the problem is with the way this board has been functioning.

**REP. MUELLER** What the Governor's budget now is providing for, is fifty thousand dollars for the pesticide harmonization group, is that correct?

**JACK DALRYMPLE** That is the recommendation, which by the way, is going to be included as a line item in the Ag Commissioner's budget.

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**REP. MUELLER** Then the balance of those funds we looked at last year, that came to 750 with 250 additional potential spending, is now moved back into the minor use fund?

**JACK DALRYMPLE** The appropriation for this past biennium is \$450,000. \$200,000 of that was envisioned as income from outside sources. Those funds were really never solicited and were never received. The remaining amount \$250,000, was really a large over estimate of what was needed to carry on the activities we have carried on for the last couple of years. The difference between \$250,000 and \$200,000, those dollars were never drawn from the EARP fund, and they remain in the EARP fund for use. It gives us justification for asking for more support for the minor use fund.

**TERRY WANZEK, JAMESTOWN** Testified on behalf of himself and the North Dakota Grain Growers, was a member of the Crop Harmonization Board. Testified in opposition of the bill. Talked about the function and the role of this board. He felt the board had some merit.

**LANCE HAGEN, EXECUTIVE DIRECTOR OF THE US GRAIN GROWERS,** Testified in opposition of the bill. Concerned about the \$250,000 left in the Ag budget, hoped that goes toward research and not toward salaries. Stated they have utilized the board to do, what they call the E tour, which is where they bring four people out from Washington with EPA, and take them around the valley, show them places like AGSCO in Grand Forks, so they see a state-of-the-art facility for handling chemicals in North Dakota. We have brought them out the last couple years and let them ride in patriot sprayers, etc., so they see what we have got going here when it comes to pesticides. We are opposed to the bill because we do see the benefits this has done on some things, but we also realize that there are a few things that need to be reworked.

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**REP. NICHOLAS** Asked if Mr. Hagen had the information for 2002, which the Lieutenant Governor alluded that he thought the Grain Growers had the number and movement

**LANCE HAGEN** Yes, the way that worked, we had actual producers living along the Canadian border that got those prices. We got prices in North Dakota, and did an actual retail comparison. We don't have the knowledge Jim does, and the chemical compositions and that, but we seen a reduction in the price, and in all honesty, I think that the fact that you do have some politicians who are sitting on this board, does keep our friends in the chemical industry wary of what we are doing because of the fact they have bureaucrats looking over them.

**REP. NICHOLAS** From 2001 to 2002, what kind of percentage reduction, it looks like we moved from \$42,000,000 to \$23,000,000,?

**LANCE HAGEN** Our study shows a little more reduction then what the Ag Department did. They have access to records that we don't, number of acres sprayed on and that. Hopefully, we will go before the board and submit our study. As far as the money that is there for the lobbying, the amendment for that bill was withdrawn or defeated in the appropriations bill, it will come back again. I don't think, the fact that there was one person from the chemical company sitting on the board, had anything to do with that. I think the doubts in Montana, had more to do with that then anything. I think Senator Burns, who was going to be a supporter of that bill, pulled his support because he was afraid he was going to alienate some of the people in the urban areas as far as meeting the disaster bill in the drought last year.

**REP. MUELLER** We talked about the environmental tour, a couple trips to Washington on the part of the grain growers and the durum producers, are those all to come in yet?

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**LANCE HAGEN** We haven't done it yet, obviously, the amendment was withdrawn, and I do believe it is coming forward before too long. When that happens, we will be in Washington, that's what those funds are there for. It was a large concern with the grain growers that the durum growers were going to come in and raid this fund and take a whole bunch of money, and that's not true. That was never the intent.

**BRIAN KRAMER, REPRESENTING THE NORTH DAKOTA FARM BUREAU**

Testified in opposition of the bill. Read from their policy book, stating they want continued harmonization. They do have concern with the minor use funds, and want to see that there are sufficient funds for the minor use program.

**LOWEL BERNTSEN farmer, CHAIRMAN OF THE AG COALITION** Testified in opposition of the bill. Commented on the federal legislation and leverage to accomplish the final goal of harmonization between Canada and the United States. The trend is going the right way, I wouldn't want to abandon the ship right now.

With no further testimony, the hearing was closed.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1406

House Agriculture Committee

☐ Conference Committee

Hearing Date 1--30--03

Tape Number	Side A	Side B	Meter #
THREE	A		18 TO 29
Committee Clerk Signature <i>Edward D. Upson</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on HB 1406.

What is the committees wishes on HB 1406? This is the Onstad Bill.

REP. KELSCH: With all do respect to the sponsor, I'd vote a do not pass.

REP. ONSTAD: Just to throw in a comment. The whole point to know where it is going there is more of a working point between the Ag. Commissioner offices. I think we have a better understanding. This is a promotion, regulatory, the people that were at the last session asking for so much more. My point bring it forward so that we understand it. It is not bad but we do have work to do on it.

CHAIRMAN NICHOLAS: It is getting it done and I know Marv Nelson talked the shift in production. I think if you look the pricing mechanism and I'd like to see the Department of Agriculture 2001 for comparison. If you look at where we were in 2000 and where we are at

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House Agriculture Committee

Bill/Resolution Number HB 1406

Hearing Date 1--30--03

today. A lot of what we do here is symbolic. It sends a message and I think we are moving  
ion the right direction. I'd like to see what 2002 is. If it is another ten million dollars  
Less that would be extremely significant. Then we would be within ten million of  
harmonization. That is a giant step.

CHAIRMAN NICHOLAS: It is good that we have these discussions.

REPRESENTATIVE KELSCH MOVES FOR DO NOT PASS, SECONDED BY

REPRESENTATIVE BELTER. THERE WERE 11 YES 2 NO 0 ABSENT

VOTES. REPRESENTATIVE BELTER CARRIED THE BILL.

CLOSED ON HB 1406

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Donna Hall  
Operator's Signature

10/3/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/21/2003

Bill/Resolution No.: HB 1406

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill will not generate any additional revenue or result in expenditures for the state. It will save approximately \$50,000 of special fund dollars.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

No additional revenue expected.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

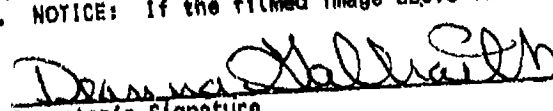
No additional expenditures expected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

No additional appropriations expected.

Name:	Jeff K. Welspfenning	Agency:	Agriculture Department
Phone Number:	328-4758	Date Prepared:	01/23/2003

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10/3/03  
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HB 1406  
1-30-03

Date:  
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO NOT PASS

Motion Made By KELSCH Seconded By BELTER

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	✓				
VICE CHAIRMAN POLLERT	✓				
REPRESENTATIVE BELTER	✓				
REPRESENTATIVE BOEHNING	✓				
REPRESENTATIVE KELSCH	✓				
REPRESENTATIVE KINGSBURY	✓				
REPRESENTATIVE KREIDT	✓				
REPRESENTATIVE UGLEM	✓				
REPRESENTATIVE WRANGHAM	✓				
REPRESENTATIVE BOE	✓				
REPRESENTATIVE FROELICH	✓				
REPRESENTATIVE MELLER		✓			
REPRESENTATIVE ONSTAD					

Total (Yes) 11 No 2

Absent 0

Floor Assignment REP BELTER

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10/3/03  
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**REPORT OF STANDING COMMITTEE (410)**  
January 31, 2003 2:11 p.m.

Module No: HR-19-1472  
Carrier: Belter  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1406: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO NOT PASS**  
(11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1406 was placed on the  
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-19-1472

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*Dennis Hall*  
Operator's Signature

*10/3/03*  
Date

2003 TESTIMONY

HB 1406

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Deanna Halliwell  
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10/3/03  
Date

HB 1406

Thank you Chairman Nicholas and members of the House Agricultural Committee;

My name is Representative Kenton Onstad District 4. I am here to testify on behalf of HB 1406.

Our previous session, we adopted the Crop Protection Product Harmonization and Registration Board. IT is now 2 years later and I am now before you asking is it necessary and requesting we return the responsibility to the Pesticide Control Board, as it has been in the past.

It is a common practice before this committee we ask for progress reports from various groups outlining their activity and a continual justification of their purpose. I believe now is the time and should convince you it isn't needed.

This Board had 7 basic objectives to establish. They dealt with pesticide registration and pursuing opportunities to create more product options available to producers of this state. As I have followed this board over the last 2 years, although the board was well intended, I believe very little has been accomplished.

The Crop Protection Product Harmonization and Registration Board is a duplication of services that is currently being provided by the Pesticide Control Board and the Agricultural Commissioner. Product harmonization between North Dakota and Canada is a federal issue and is best served at the federal level.

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I ask members of this committee, with the current budget restraints the State of North Dakota is facing, I think it is time to say we can't afford the duplication and the luxury. I am recommending we repeal this legislation and put back as it was -- Pesticide Control Board.

I urge this committee to accept HB 1406 and give it a DO PASS . Thank you I will be happy to answer any questions you may have.

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Deanna Hallmark  
Operator's Signature

10/3/03  
Date

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com



Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
LEGISLATIVE TESTIMONY**

Testimony of Roger Johnson,  
Agriculture Commissioner  
House Bill 1406  
January 30, 2003  
9:00 a.m.  
House Agriculture Committee  
Peace Garden Room

Chairman Nicholas and members of the committee, I am North Dakota Agriculture Commissioner Roger Johnson. I am here to testify in support of HB 1406 and to provide the committee with information relating to activities of the Crop Protection Product Harmonization and Registration Board over the last biennium.

I was not a supporter of establishing this Board during the last legislative session. Nonetheless, I have worked cooperatively with Board members to fulfill the Board's legislative mandates and either I or my designee has attended every meeting, providing me with a good grasp of the Board's activities over the last biennium. The record shows that the Board has done little to enable new pesticide registrations and advance the issue of pesticide harmonization. Therefore, I believe that the Crop Protection Product Harmonization and Registration Board should be disbanded, and the Minor-Use Fund should be returned to the Pesticide Control Board for more effective and efficient oversight.

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*Deanna Hall*  
Operator's Signature

10/3/03  
Date

### Failure to Fulfill Legislative Mandate

The Crop Protection Product Harmonization and Registration Board was created during the 57<sup>th</sup> Legislative Assembly with specific legislative mandates. These obligations are captured in statute. N.D.C.C. 4-35-30 subsection 3 states that the Board shall:

- a. Identify and prioritize crop protection product labeling needs
- b. Explore the extent of authority given to this state under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136a]
- c. Identify the data necessary to enable registration of a use to occur in a timely manner
- d. Determine what research, if any, is necessary to fulfill data requirements for activities listed in this section
- e. Request the agriculture commissioner to pursue specific research funding options from public and private sources
- f. Request the North Dakota state university agricultural experiment station to pursue specific research to coordinate registration efforts
- g. Pursue any opportunities to make more crop protection product options available to agricultural producers in this state through any means the board determines advisable

It is my opinion that the Board has done little to fulfill these seven duties. I would like to provide a summary of the Board's activities in each of these seven work areas to support this opinion:

Identify and prioritize crop protection product labeling needs. The Board did conduct a survey of pesticide dealers to determine producers' pest management needs. The intent of this survey was to identify those unregistered pesticide uses that North Dakota farmers most wanted the EPA to register. Unfortunately, response to the survey was limited, and a list of prioritized pesticide use needs was never developed. My staff holds an annual meeting with participants from commodity organizations, NDSU, NDDA, industry and U.S. EPA to determine grower pesticide needs.

Explore the extent of authority given to this state under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136a]. The Board has not explored the authority of the state under FIFRA. My staff administers and enforces FIFRA in cooperation with the U.S. EPA based on a cooperative agreement between EPA and NDDA.

Identify the data necessary to enable registration of a use to occur in a timely manner. The Board has not explored data requirements for pesticide registrations at either the state or federal level. My staff does this, working with NDSU, the U.S. EPA, commodity groups, and pesticide manufacturers.

Determine what research, if any, is necessary to fulfill data requirements for activities listed in this section. The Board has not determined what research is necessary to generate data to support pesticide registrations or Board activities. However, as you know, my office is very active in assembling the necessary data to support registrations. (The Minor-Use Fund was created to fulfill this need - see later discussion in this testimony.)

Request the agriculture commissioner to pursue specific research funding options from public and private sources. As Agriculture Commissioner, I have never received any formal or informal request from the Board to pursue additional research funding. In fact, very few Minor-Use Fund dollars were spent during the current biennium.

Request the North Dakota State University Agricultural experiment station to pursue specific research to coordinate registration efforts. The Board has not requested the NDSU Experiment Station pursue research relating to pesticide registrations. In fact, the Board spent very few Minor-Use Fund dollars to support scientific research to gain pesticide registrations.

Pursue any opportunities to make more crop protection product options available to agricultural producers in this state through any means the board determines advisable. The Board did work toward fulfilling this mandate. However, unlike the Pesticide Control Board that adopted a strategy of using scientific data to support new pesticide registrations, the Crop Protection Product Harmonization and Registration Board focused largely on lobbying efforts.

#### **Administration of the Minor-Use and EARP Funds**

The Minor-Use Fund was created during the 56<sup>th</sup> Legislative Assembly with oversight given to the three-member Pesticide Control Board (Agriculture Commissioner, Director of NDSU Extension, Director of NDSU Research Station). The Minor-Use Fund was created by the legislature for the purpose of conducting or commissioning studies, investigations, and evaluations regarding the registration and use of pesticides for minor crops, minor uses, and other similar uses. While they administered the Minor-Use Fund, the Pesticide Control Board used this money to fund scientific research studies that generated data to support the registration of pesticide uses for minor crops and minor uses in major crops. As you will see from the figures in

Table 1, the Pesticide Control Board was appropriated \$599,723 from the Minor-Use Fund during the 1999-2001 biennium and spent all but \$10,000.

There are concrete examples of pesticide registrations and pesticide uses being supported by scientific research supported by Minor-Use Fund grants from the Pesticide Control Board. For example, the Pesticide Control Board issued grants to study efficacy and residue levels of the herbicide Spartan™ (sulfentrazone) in a variety of crops. Data collected from these studies allowed use of this product under Section 18 emergency exemptions while we wait for a full registration. Full registrations for the use of Spartan in sunflower, chickpea, dry pea, flax, and dry beans are scheduled for 2003, and these registrations rely largely on scientific data from these studies funded by the Pesticide Control Board. Without the research that was funded by Minor-Use Fund dollars, these uses of Spartan would not have been available for many years, if at all.

The Crop Protection Product Harmonization and Registration Board was created during the 57<sup>th</sup> Legislative Assembly after HB 1328 was enacted to amend N.D.C.C. 4-35. Despite widespread support from commodity groups, and pesticide manufacturers for the Pesticide Control Board's administration of the Minor-Use Fund, this amendment to N.D.C.C. 4-35 also shifted administrative authority for the Minor-Use Fund from the three-member Pesticide Control Board to the ten-member Crop Protection Product Harmonization and Registration Board. This Board consists of the Governor's Office, Agriculture Commissioner, Chairmen of the Senate and House Agriculture Committees, Legislator, Director of NDSU Research, Grain Growers, Oil Seed Council, ND Ag Association, and the chemical industry.

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*Dorinda Hall*  
Operator's Signature

10/3/03  
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The 57<sup>th</sup> Legislative Assembly appropriated \$500,000 from the Environment and Rangeland Protection (EARP) Fund into the Minor-Use Fund. In addition to this \$500,000 Minor-Use Fund appropriation, the Crop Protection Product Harmonization and Registration Board was allocated \$250,000 from the EARP Fund and another \$250,000 of spending authority. In total, the Board was authorized one million dollars for the 2001-2003 biennium to address harmonization issues and advance pesticide registrations (Table 2).

*Table 1. Description of Pesticide Control Board appropriations and expenditures for the 1999-2001 biennium.*

Source of Funds	Amount Appropriated for 1999-2001 Biennium	Amount Spent for 1999-2001 Biennium
Minor-Use Fund	\$599,723	\$589,723
EARP Fund	\$0	\$0
Additional Spending Authority	\$0	\$0
Total	\$599,723	\$589,723

*Table 2. Description of Crop Protection Product Harmonization and Registration Board appropriations and expenditures for the 2001-2003 biennium.*

Source of Funds	Amount Appropriated for 2001-2003 Biennium	Amount Spent for 2001-2003 Biennium*
Minor-Use Fund	\$500,000	\$133,275
EARP Fund	\$250,000	\$24,686
Additional Spending Authority	\$250,000	\$0
Total	\$1,000,000	\$157,961

\*Through December 31, 2002

To date, the Crop Protection Product Harmonization and Registration Board has spent only \$133,275 from the Minor-Use Fund for research. This is in stark contrast to the level of funding provided by the Pesticide Control Board when they administered the Minor-Use Fund. Of the remaining funds, the Governor's budget proposes to transfer \$250,000 to the NDSU research

budget, leaving a balance of approximately \$90,000 for the 2003-2005 biennium. Table 3 shows the projects funded by the Minor Use Fund since its inception.

The Crop Protection Product Harmonization and Registration Board also spent little of its appropriation from the EARP Fund. The Agriculture Department received \$8,713 from the Harmonization Board for administrative expenses through a management agreement with the Board, and \$13,305 was spent on pesticide harmonization activities (described below). The Harmonization Board spent \$766 from the EARP Fund to reimburse Board members for travel to Board meetings. The Board also spent \$1,902 to reimburse travel expenses for Lt. Governor Dalrymple and me to travel to Washington D.C. and testify in front of a Senate subcommittee in support of S.532, federal legislation aimed at eliminating pesticide price disparities between the U.S. and Canada. After expenditures to date, the Board has \$225,314 remaining from their original EARP allocation of \$250,000.

As stated previously, the Crop Protection Product Harmonization and Registration Board obligated only \$13,305 from the EARP Fund. This sum was split among four projects: 1) an Environmental Tour conducted by the ND Grain Growers to expose U.S. EPA staff to North Dakota farming practices, 2) a U.S. Durum Growers "Pesticide Pricing Survey" comparing Canadian and US pesticide prices, 3) travel by the ND Grain Growers to Washington, D.C. to lobby for federal legislation on pesticide harmonization issues, and 4) a similar lobbying trip to Washington, D.C. by the U.S. Durum Growers. To date, none of these entities has filed a final report nor asked for reimbursement. Whether or not any of these efforts will result in new pesticide registrations remains to be seen.



### **The Pesticide Harmonization Act**

It is estimated that North Dakota farmers have paid from \$23 million to \$42 million more per year for identical or substantially similar pesticides than our Canadian friends (see Tables 4-6). This puts our farmers at an immediate disadvantage when their grain competes with Canadian grain on the open market. The problem of pesticide price disparities between the U.S. and Canada can be solved in only one of two ways: either pesticide companies discontinue the practice on their own, or federal legislation needs to be adopted and become law. Senator Dorgan introduced federal legislation during the 107<sup>th</sup> Congress that deals specifically with the issue of disparate pesticide prices between the U.S. and Canada. This bill, S.532, is commonly called the Pesticide Harmonization Act, and it would allow U.S. farmers to access Canadian pesticides.

The Crop Protection Product Harmonization and Registration Board strongly supports S.532, and both the Lt. Governor and I testified before a Senate committee last summer expressing a need for the bill to be enacted. Unfortunately, the bill did not pass. In my judgment, having a pesticide industry representative on the Board and discussing lobbying strategies for passing a bill which the industry doesn't support was counter productive.

### **Summary**

With the state's current budget situation, we must all identify areas to gain efficiencies. We must also hold unproductive agencies and programs accountable. I see no reason to continue the Crop Protection Product Harmonization and Registration Board. It serves no purpose that is not already being addressed by some other government agency or entity. The Pesticide Control Board has shown that it can provide efficient and effective administration of the Minor-Use

Fund. Therefore, I fully support disbanding the Crop Protection Product Harmonization and Registration Board and returning Minor-Use Fund administrative authority to the Pesticide Control Board.

This concludes my testimony. I would be happy to answer any questions.

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Deanna Hall  
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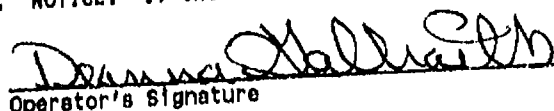
## Minor Use Project Proposal History

Table 3. Minor Use Projects by biennium

Researcher	Approved	Crop	Pest	Chemical	Product	Chemical Company	Type of Study	Grant To	Minor Use Fund	Commodity Group	Chemical Company	Available For Grower Use
<b>1997-1999 Biennium</b>												
Zollinger	07-Apr-98	Sunflower		Sulfentrazone	Authority (Spartan)	FMC	Residue trials	Natl Sun Assn	\$75,700	\$18,000	\$150,000	*
McKay, Lamey	07-Apr-98	Canola	Sclerotinia		Benlate & Quadris	Zeneca Agro	Efficacy	NDSU - Minot	\$15,000		\$5,000	*
Endres, Gardner	07-Apr-98	Borage & Camelina					Efficacy of products tested in Canada and U.K.	NDSU - Carrington	\$8,000			
	Denied Apr98	Sugarbeets	SBRM	Various insecticides			Basic screening					
	Denied Apr98	Sunflower					Efficacy for various products					
	Denied Apr98	Glufosinate tolerant Canola					Influence of timing, row spacing and plant population on weed control					
	Denied Apr98	Chickpeas & Lentils					Screening of 15 herbicides (tolerance & efficacy)					
	Denied Apr98	Crambe					Screening of 15 herbicides (tolerance & efficacy)					

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10/3/03

Date

1/29/03

# Minor Use Project Proposal History

Researcher	Approved	Crop	Pest	Chemical	Product	Chemical Company	Type of Study	Grant To	Minor Use Fund	Commodity Group	Chemical Company	
<b>1999-2001 Biennium</b>												
Zollinger	21-Apr-99	Sunflower			Valor		Residue	Natl Sun Assn	\$62,000	\$18,000	\$150,000	
Jenkins, McKay, Riveland, Endres	21-Apr-99	Dry peas, lentils, chickpeas		Sulfentrazone	Spartan		Tolerance and Efficacy	NDSU-Minot	\$15,750	\$0	\$0	*
Richard Zollinger	31-Aug-99	ND Weed Survey					State-Wide Weed Distribution	NDSU-Fargo	\$75,000	\$0	\$0	
Brian Jenkins	11-Apr-00	as, chickpeas		Sulfentrazone	Spartan		Tolerance and Efficacy	NDSU-Minot	\$19,700	\$3,000	\$0	*
Larry Klengartner, Tom Gulya	11-Apr-00	Sunflowers	Downey Mildew	Zoxamide			Efficacy	USDA/Sunflower Assoc	\$ 63,500	\$ 59,000	\$ 150,000	
Larry Klengartner	11-Apr-00	Sunflowers		IMI Herbicide	Clearfield			Sunflower Association	\$ 60,400	\$ 40,000	\$ 295,000	*
Dakota Pasta Growers	03-May-00	Durum Wheat	Fusarium Head Blight	Biological			Efficacy	Dakota Growers Pasta Co.	\$ 13,950	\$ 20,000	\$ 44,000	* Pending for 2003
Brian Jenkins	03-May-00	Chickpeas		Isoxaflicole		Aventis	Tolerance and Efficacy	NDSU-Minot	\$ 7,075	\$ -	\$ -	
Green to Gold Corp	03-May-00	Various	Fungus Diseases	Chlorine Dioxide	Zydox	Green to Gold	Efficacy	Green to Gold Corp.	\$ 18,000	\$ -	\$ 16,000	
APHIS	03-May-00	Sunflowers	Black Birds	DRC-1339		APHIS	Toxicity	NSA, Wildlife Services	\$ 30,000	\$ 13,000	\$ 15,000	
Brian Jenkins Northern Crops Institute	03-May-00	Flax, dry bean, cramble		Sulfentrazone	Spartan		Tolerance, Efficacy	NDSU-Minot	\$ 19,240	\$ -	\$ -	*
Phil Glogozza	13-Nov-00	State-Wide Survey					Harmonization Pesticide Use and Mgmt Practices	NDSU-Fargo	\$ 37,318	\$ -	\$ -	
Wildlife Services	13-Nov-00	Sunflowers	Black Birds	DRC-1339		APHIS	Efficacy	NSA, Wildlife Services	\$ 83,250	\$ 10,000	\$ 194,800	
Dense Olson Year 1	28-Nov-00	Canola	Crucifer Flea Beetle	Biological			Efficacy	NDSU-Fargo, Northern Canola Association	\$ 23,703	\$ -	\$ -	
Brian Jenkins/Kent McKay	27-Apr-01	Dry Pea/ Chickpea	Weed	sulfentrazone/soxaflicole	Spartan	FMC	Tolerance	NDSU-Minot	\$ 17,100	\$ 3,000	\$ 2,000	

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*Dennis H. Smith*  
Operator's Signature

10/3/03  
Date

1/29/03

## Minor Use Project Proposal History

Kent McKay	27-Apr-01	Crambe	Sclerotinia	Vindoxolin	Ronilan/B AS 510	BASF	Efficacy	NDSU-Minot	\$ 6,000	\$ 3,000			
Richard Zollinger	27-Apr-01	Sunflowers	Weed	Sulfonyleurea	Express	Dupont	Residue	NSA	\$ 31,800	\$ 50,000	\$ 220,000		
Richard Zollinger	27-Apr-01		Weed				Weed Survey		\$ 20,000				
<b>2001-2003 Biennium</b>													
Wildlife Services Year 1	3-Jul-01	Sunflowers	Black Birds	DRC-1339		USDA	Study	NSA	\$ 83,250	\$ 10,000	\$ 195,800		
Wildlife Services Year 2 & 3	19-Sep-01	Sunflowers	Black Birds	DRC-1339		USDA	Study	NSA	\$ 49,100	\$ 15,000	\$ 289,600		
National Sunflower Association	25-Mar-02	Sunflowers	Phostoxin	Pirimiphos- Methyl	Actellic 5E	Agrilance	Tolerance	NSA	\$ 51,000	\$ 5,000	\$ 57,000		
Denise Olson Year 2	3-Jul-02	Canola	Crucifer Flea Beetle	Biological			Efficacy	NDSU- Fargo, Northern Canola Association	\$ 23,703				
National Sunflower Association	30-Aug-02	Sunflowers	IMI		Express	Dupont	Tolerance	NDSU	\$ 30,000				
Denise Olson Year 1	20-Nov-02	Canola	Crucifer Flea Beetle	Biological			Efficacy	NDSU- Fargo, Northern Canola Association	\$ 30,900		\$ 13,350		

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*Denise Olson*  
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10/3/03  
Date

Table 4. Examples of pesticides that are substantially more expensive in North Dakota than in Canada based on 2001 retail prices.

Product	Active Ingredient	Price Difference per Acre (\$) <sup>a</sup>	ND Acres (000) <sup>b</sup>	Increased Cost to ND Producers (\$)
Achieve	tralkoxydim	4.02	280.4	1,127,529
Assert	imamethabenz	3.74	323.8	1,212,609
Avenge	difenzoquat	1.75	30.6	53,688
Basagran	bentazon	2.03	403.2	817,493
Bromac	bromoxynil + MCPA	1.34	1757.6	2,261,737
Buctril	bromoxynil	1.90	139.2	264,696
Curtail M	clopyralid + MCPA	1.68	70.8	119,098
Discover	clodinafop	4.68	72.3	338,503
Dual	metolachlor	2.74	14.5	39,699
Eptam	EPTC	1.68	16.5	27,638
Far-Go	triallate	4.05	281.2	482,760
Liberty	glufosinate	11.46	111.6	1,021,361
Puma	fenoxaprop-p-ethyl	4.06	3641.6	11,376,416
Stinger	clopyralid	9.15	63.2	612,650
several	glyphosate	1.76	2255.3	3,963,690
Total				23,719,567

<sup>a</sup>Reflects the increased cost per acre in U.S. dollars in North Dakota vs Canada. These figures are based on 2001 retail prices. North Dakota retail prices were derived from the publication "2002 North Dakota Weed Control Guide" prepared by NDSU Extension Service. Canadian prices were derived from the publication "Guide to Crop Protection 2002" prepared by Saskatchewan Agriculture and Food. Price differences are based on the same rate of active ingredient per acre after converting all prices to U.S. dollars.

<sup>b</sup>Product use numbers were obtained from a year 2000 pesticide use survey conducted by the North Dakota State University Extension Service.

Table 5. Cost summary of pesticides that are substantially more expensive in North Dakota than in Canada based on 2000 retail prices.

Product	Active Ingredient	Price Difference per Acre (\$) <sup>a</sup>	ND Acres (000) <sup>b</sup>	Increased Cost to ND Producers (\$)
Achieve	tralkoxydim	6.34	280.4	1,776,334
Assert	Imamethabenz	6.19	323.8	2,003,027
Avenge	difenzoquat	1.50	30.6	45,790
Bromac	bromoxynil + MCPA	1.54	1757.6	2,714,437
Curtail M	clopyralid + MCPA	1.87	70.8	132,296
Discover	clodinafop	2.70	72.3	195,196
Fargo	trilallate	4.17	281.2	1,172,182
Liberty	glufosinate	11.46	111.6	1,278,802
Stinger	clopyralid	9.74	378.1	3,681,787
Puma	fenoxaprop	5.39	3641.6	19,628,224
Total				32,628,174

<sup>a</sup>Reflects the increased cost per acre in U.S. dollars in North Dakota vs Canada. These figures are based on 2000 retail prices. North Dakota retail prices were derived from the publication "2001 North Dakota Weed Control Guide" prepared by NDSU Extension Service. Canadian prices were derived from the publication "Guide to Crop Protection 2001" prepared by Saskatchewan Agriculture and Food. Price differences are based on the same rate of active ingredient per acre.

<sup>b</sup>Product use numbers were obtained from the 2000 pesticide use survey conducted by the North Dakota State University Extension Service.

Table 6. Cost summary of pesticides that are substantially more expensive in North Dakota than in Canada based on 1999 retail prices.

Product	Active Ingredient	Price Difference per Acre (\$) <sup>a</sup>	ND Acres (000) <sup>b</sup>	Increased Cost to ND Producers (\$)
Achieve	tralkoxydim	6.31	21.5	135,665
Amitrole	amitrole	59.36	1.5	89,040
Assert	imamethabenz	9.48	248.6	2,356,728
Avenge	difenzoquat	4.53	57.1	258,663
Fargo	trillate	4.53	442	2,002,260
Butyrac	2,4-DB	18.41	1.3	23,933
Bronate	bromoxynil	1.94	539.6	1,046,824
Hoelon	diclofop	4.55	308.7	1,404,585
Liberty	glufosinate	10.03	500	5,015,000
Lorox	linuron	2.29	0.5	1,145
Stinger	clopyralid	9.36	128.3	1,200,888
Poast	sethoxydim	9.48	410.7	3,893,436
Matrix	rimsulfuron	1.26	18.1	22,806
Puma	fenoxaprop	5.06	3670	18,570,200
Curtail M	clopyralid + MCPA	1.63	5.7	9,291
several	glyphosate	5.62	1110.5	6,241,010
Total				42,271,474

<sup>a</sup>Reflects the increased cost per acre in U.S. dollars in North Dakota vs Canada. These figures were derived from the 1999 retail pricing survey conducted by the Minnesota Association of Wheat Growers.

<sup>b</sup>Product use numbers were obtained from the 1996 pesticide use survey conducted by the North Dakota State University Extension Service.



Jack Dabrympe  
NB 1406 - 1-3 B

Crop Protection Product Harmonization and Registration Board

	2001-2003 Biennium to	2001-2003 Date	2001-2003 Estimated	2003-2005 Budget
Operations	\$	9,479	\$	12,500
Projects	\$	13,305	\$	20,000
Public Affairs and Education - Federal Legislation	\$	1,902	\$	2,500
Total	\$	24,686	\$	35,000
			\$	50,000

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SPECIAL FUND STATEMENT	376 EARP	260 Minor Use
Balance June 30, 2001	\$ 1,079,213	\$ 180,289
<b>Estimated Revenues, 01-03</b>		
Ag Med User Fees		
Ag Classrm Projects		
HB1349		
HB1249		
Ag Pace Funds		
Game and Fish Transfer		
Tonnage Fees		
Registrations	\$ 2,700,000	
EARP transfer		\$ 500,000
Interest		
Sales		
Grants		
Game and Fish Transfer		
TOTAL	\$ 2,700,000	\$ 680,289
<b>Estimated Expenditures, 01-03</b>		
Ag Mediation Services		
Ag Classrm Projects		
Wildlife Services		
Bd Animal Health Svcs.		
Anhydrous regulation		
Insurance Department		
Health Department	\$ 200,000	
Pesticide Programs	\$ 327,568	
Safesend	\$ 599,369	
Noxious Weeds	\$ 1,414,878	
Pesticide Pads		
Crop Harmonization Committee	\$ 35,000	
Minor Use Projects	\$ 500,000	
Lease Payments		\$ 340,000
TOTAL	\$ 3,076,815	\$ 340,000
Est. Balance, June 30, 2003	\$ 702,398	\$ 340,289

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**SPECIAL FUND STATEMENT**

260  
Minor Use  
\$ 340,289

376  
EARP  
\$ 702,398

Est. Balance June 30, 2003  
Estimated Revenues, 03-05

Ag Med User Fees  
Ag Classm Projects  
Ag Pace Funds

Game and Fish Transfer

Tonnage Fees

Registrations

Interest

Seed Arbitration Fees

Sales

Grants

Game and Fish Transfer

TOTAL

\$ 2,250,000

\$ 2,250,000

Estimated Expenditures, 03-05

Ag Mediation Services

Ag Classm Projects

Wildlife Services

Meat Inspection

Bd Animal Health Svcs.

Anhydrous regulation

Health Department

Pesticide Programs

Safesend

Noxious Weeds

Ag Dept. raises

Crop Harmonization Board

Insurance Department

Seed Arbitration

NDSU

Minor Use Projects

Lease Payments

TOTAL

Est. Balance, June 30, 2003

\$ 200,000  
\$ 387,732  
\$ 617,198  
\$ 1,494,285  
\$ 16,470  
\$ 50,000

\$ 250,000

\$ 2,885,685  
\$ 66,713

\$ 250,000  
\$ 90,289

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## NORTH DAKOTA CROP PROTECTION PRODUCT HARMONIZATION AND REGISTRATION BOARD

600 E. Boulevard Ave. Department 602 Bismarck, ND 58505-0020  
Phone: (701) 328-2231 Fax (701) 328-4567

Jack Dalrymple, Chairman  
Lieutenant Governor  
Bismarck

Roger Johnson  
Agriculture Commissioner  
Bismarck

Terry Wanzek  
State Senator  
Jamestown

Ron Nichols  
State Senator  
Palermo

Mike Brandenburg  
State Representative  
Edgeley

Greg Daws  
Consumer  
Michigan

Mark Dooley  
Industry Representative  
Durbin

Jeff Teubner  
Consumer  
Cando

Brett Oemichen  
Dow Agro-Sciences  
West Fargo

Jim Venette  
NDSU Experiment Station  
Fargo

### Minor Use Fund Activity

The Crop Protection Product Harmonization and Registration Board was given the oversight of the Minor Use Fund during the 57<sup>th</sup> Legislative Assembly. This fund was previously under the jurisdiction of the Pesticide Control Board. The Minor Use Fund is used for research towards a registration of a pesticide for a minor crop or a minor use on a major crop. The fund began the present biennium with a carry-over of \$180,289. Of these funds, all but approximately \$10,000 had been obligated toward research projects. The 57<sup>th</sup> Legislative Assembly allocated \$500,000 to the fund for the 2001-2003 biennium. During the biennium, \$340,000 has been projected to be spent or obligated and a balance of \$90,289 is projected to be remaining after this biennium. Participants this biennium were the National Sunflower Association, North Dakota State University, and USDA Wildlife Services.

### EARP Fund Activity

The Crop Protection Product Harmonization and Registration Board was allocated \$250,000 for the 2001-2003 biennium. These funds were to be used for activities of the Board with no more than fifteen percent being used for administrative costs. Activities funded from this program included two trips to Washington D.C. to work on federal legislation, S.532 "Harmonization Act" that was submitted by Senator Dorgan. The ND Grain Growers were approved two grants, one for the Environmental Tour in which EPA personnel are invited and educated on farming practices in North Dakota. A second grant is to be used for educating national commodity organizations on the benefits of pesticide harmonization and supporting the federal legislation. The ND Durum Growers also received two grants from the Board. One grant was to do a price comparison study between the cost of pesticide in Canada and the United States. The second grant was also for educating national commodity organizations on the benefits of pesticide harmonization.

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1 Senator Conrad. We will now go to our second panel,  
2 led by Lieutenant Governor Dalrymple of North Dakota;  
3 Agriculture Commissioner Roger Johnson; Mr. Barry Bushue,  
4 the President of the Oregon Farm Bureau; Mr. David  
5 Frederickson, representing the National Farmers Union; and  
6 Mr. Jay Vroom, the President of CropLife America.

7 Thank you all for being here. Lieutenant Governor  
8 Dalrymple, why do you not proceed with your testimony. It  
9 would be the intention of the committee to hear from all of  
10 the witnesses and then open it up to questions, unless we do  
11 not follow that procedure.

12 [Laughter.]

13 Senator Conrad. Lieutenant Governor Dalrymple,  
14 welcome.

1 STATEMENT OF JACK DALRYMPLE, LIEUTENANT GOVERNOR,  
2 STATE OF NORTH DAKOTA, BISMARCK, NORTH DAKOTA

3 Mr. Dalrymple. Chairman Conrad, thank you for the  
4 opportunity to provide a statement in support of S. 532, the  
5 Pesticide Harmonization Act. I must say, as one interested  
6 in North Dakota agriculture, I am thoroughly enjoying this  
7 hearing and the broad range of topics that you are touching  
8 on here.

9 My name is Jack Dalrymple. I serve as Lieutenant  
10 Governor of the great State of North Dakota and I am here  
11 today in that capacity, as well as in my role as Chairman of  
12 the State's Crop Protection Product Harmonization and  
13 Registration Board. I also farm near Casselton, North  
14 Dakota, where my family raises wheat, soybeans, and barley.

15 The North Dakota Crop Protection Product Harmonization  
16 and Registration Board was created by the State legislature  
17 specifically to address and resolve pesticide availability  
18 and pricing fairness issues for the State's farmers. The  
19 bipartisan board consists of elected State officials and  
20 farmers who have a common mission of working with regulators  
21 and pesticide manufacturers to make effective products  
22 available at fair prices.

23 It seeks to promote the registration of new, safe crop  
24 protection products for farmers to use on the more than 70  
25 crops that are raised in North Dakota. The board is

1 conducting an ongoing survey of farmers and pesticide  
2 retailers in an effort to establish possible additional  
3 applications for the products that are already available.  
4 Primarily, the board is focused on efforts to harmonize the  
5 availability and pricing of herbicides, fungicides, and  
6 insecticides to match those of our world competitors, most  
7 notably in Canada, our immediate neighbor to the north.

8 The facts of North Dakota's agricultural economy and  
9 the variety of crops produced in the State will probably be  
10 addressed directly by Commissioner Roger Johnson. In  
11 summary, low-price commodities, higher input costs, and  
12 adverse long-term weather conditions leading to increased  
13 disease, weed, and insect pressure have challenged North  
14 Dakota farmers. These factors contribute to a poor profit  
15 outlook for producers. Costs are at a level where farmers  
16 simply cannot make a profit.

17 Because of increased pest problems, coupled with high  
18 pesticide costs, the North Dakota Crop Protection Product  
19 Harmonization and Registration Board supports this and other  
20 legislation that can help make more crop protection products  
21 available to farmers at costs that are comparable to those  
22 paid by their world competitors. It is simply unfair that  
23 farmers, especially in a border State like North Dakota, are  
24 placed at a competitive disadvantage to other countries'  
25 farmers, both in terms of availability and price of

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1 pesticide products.

2 Pesticide companies are able to charge higher prices in  
3 the United States because farmers are prohibited from  
4 purchasing the same products in Canada and importing those  
5 products to the United States. This bill seeks to provide  
6 the equivalent of joint labeling to effectively accomplish  
7 harmonization of pesticide products and their prices.

8 By the way, Mr. Chairman, Canada has adopted laws that  
9 allow farmers to import their own pesticides. Why would the  
10 USA not have a similar provision?

11 The Environmental Protection Agency here in the United  
12 States and its counterpart in Canada, the Pesticide  
13 Management Regulatory Agency, PMRA, have tried to address  
14 the issue of product availability in their respective  
15 countries. While the EPA and PMRA's progress regarding  
16 harmonization of new product registrations encourages us,  
17 the heart of the issue lies with existing product  
18 availability and pricing. While the pesticide companies  
19 often blame the regulatory agencies, it is often the  
20 manufacturers themselves who make registration timing  
21 decisions. The decision is impacted by expected return on  
22 investment and anticipated competition.

23 This bill will effectively give the States the ability  
24 to co-label those products for the company, under the strict  
25 supervision of the EPA, if they are found to be essentially

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1 the same product. This simple mechanism will bring those  
2 products to market more quickly, to the benefit of the  
3 farmers and the manufacturers.

4 North Dakota's legislature has worked to expedite the  
5 chemical harmonization process, including providing the  
6 Agriculture Commissioner with the authority to seek special  
7 emergency exemptions on products registered in both  
8 countries. The legislature has also shown how serious they  
9 feel this problem is by creating this special harmonization  
10 board and appropriating State funds for this purpose.

11 American and Canadian growers produce virtually  
12 identical crops and are forced to compete with one another  
13 in the global market. Therefore, it is imperative that  
14 product availability and price stand on equal footing across  
15 borders. After all, Canadian wheat is allowed to move  
16 freely into the United States without any inspection to  
17 determine if it has been produced with chemicals that are  
18 banned in the USA.

19 S. 532 will be an important step in eliminating the  
20 crop protection product trade disparities between our two  
21 countries. Free trade policies must be applied  
22 consistently. The legislation will prove to be a tremendous  
23 asset in the effort to standardize the prices paid for  
24 substantially identical pesticides on either side of our  
25 shared border.

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1 On behalf of the State of North Dakota and its Crop  
2 Protection Product Harmonization and Registration Board, I  
3 respectfully request your positive consideration of S. 532.  
4 It will provide the mechanism to level a competitive cost  
5 disadvantage facing American farmers. Thank you much for  
6 your attention.

7 Senator Conrad. Thank you, Lieutenant Governor  
8 Dalrymple. Thank you very much for being here. Thank you  
9 for that excellent testimony.

5 10 [The prepared statement of Mr. Dalrymple follows:]

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