MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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1331

2005 HOUSE AGRICULTURE

HB 1331

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1331

House Agriculture Committee

☐ Conference Committee

Hearing Date 1---27---05

Tape Number	Side A	Side B	Meter #
ONE	A		22.1 TO 42.8
TWO	A		00 TO 43.0

Committee Clerk Signature Edward D. Ellefson

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on HB 1331.

REPRESENTATIVE BRANDENBURG: This bill that is before you today talks about weeds or what I call offending plants that are out in the field. Most organic farmers are doing a good job but some aren't. I have to ago out a spray my fields and something that we should talk about What is the standard for weeds in organic fields. I did pass out some information. I'd like to address thistle. Several mowing a season are necessary because plans vary in maternity.

I have a guide to go by and it tells me when to address different weeds in the fields. What I need to do to control weeds. Many different weeds.

My question is I spend $20 to $40 dollars an acre. Sometime more to control the weeds I have in my field. I don't know how organic farmers control there offending plants. I do know that they must have a plan because some organic farmers have very clean fields. And they are doing a

very good job. Then I see some I can't tell. Those offending plants grow get seeded all over the country. My question is, who is responsible for these offending plants?

And spreading seeds. I would stand for any questions from the committee.

CHAIRMAN NICHOLAS: Yes Rep. Onstad.

REPRESENTATIVE ONSTAD: Have you filed a complaint. The weed officer says you can't spray. There could be a law suit. The weed officer does not do his job. If you file a complaint everyone is going to know who it is. These weed are growing around the country and no one wants to file a complaint. Just like today, I am coming out of the box.

Maybe you should start with a written complaint. These organic farmers are going to sue you. There are 145 thousand organic farmers in ND who are certified.

MUELLER: We have sort of singled out organize farming here and some of what you say is true. I don't hear you talking about conventional farming. In fairness would it not be Probably appropriate to subject conventional farming to the same rules as organic.

REPRESENTATIVE BRANDENBURG: If you want to put an amendment on that would be great. What is good for the conventional farmer is good for the organic farmer. Its all about spraying your fields and keeping them clean.

CHAIRMAN NICHOLAS: I would just like to make one comment Rep. Mueller in our county or county wheat officer does a pretty good job and they do move around the county and look for fields. If you have a CRP field you will be notified and they will go and spray it and you will get a bill. On conventional and CRP in our county they are making an attempt to do a darn good job. I have personally seen some organic fields that are not properly taken care of .

My son asked me what is the crop and I told him it is the surprise crop. You could not tell what it was. I can see where they don't want to spray because it devalues the crop.

CHAIR: Anyone else in support of HB 1331. OK, we will take testimony in opposition..

RODGER JOHNSON: N. D. AGRICULTURE COMMISSIONER. I am here to testify in opposition to HB 1331. The bill is unnecessary and discriminatory. County weed control boards already have the authority to what this bill proposes Most troubling , it appears that the intent of this bill is to single out one type of farming practice over another, making the bill discriminatory I urge a DO NOT PASS on it. {{please see and read RODGER JOHNSONS COMPLETE TESTIMONY.}} I would be glad to answer any questions.

CHAIRMAN NICHOLAS: Rep. Brandenburg.

REPRESENTATIVE BRANDENBURG: With the conventional farmer I have a good that tells me how to control certain weeds. Offending plants. Maybe there is a board like this for organic farmers. If I follow this it works. This is the discussion I would like to talk about.

RODGER JOHNSON: For the record there are lots of different ways we manage weeds. It's tillage, crop rotation, it si cultural, it is the type of crop that you are planting out there. It is rotating. It is a warm or cold season crop. It is grazing, it is bio-control. There are a lot of different tools that should be used. Government should not laminate a specific tool to control a problem. That is the difficulty I have with the bill. Local weed control boards have most authority in there counties. We have limited authority. We give one million dollars to local weed control boards.

REPRESENTATIVE BRANDENBURG: The more organic farmers I see getting into the business the more weeds I see. We have to find out a way to help them out.

RODGER JOHNSON: Maybe other testimony will let you know what action organic farmers are taking against weeds.

REPRESENTATIVE DAMSCHEN: Why is the Bill a threat?

ROGER JOHNSON: The word ""shall"" . The weed boards have the authority to go on to the property of all kinds to control weeds. What this bill does is that it requires them to go in and spray on organic fields but it dose not require spraying on CRP and any other crop. It is discriminatory. My spin is that the Bill is going to put farmer against farmer. The difference here is we don't single anyone out in our weed statues. Why is it that we want single type of farmer and tell them that we are going to apply to you a particular practice that is prohibited According to marketing protocol. The bill dose not do that much other then it highlights there is a problem. The weed boards have authority in extreme cases and those that aren't.

I have quarantine land and in fact I can think where there is a quarter section of wheat. Most of the crop was leafy spurge. We have laws prohibiting the transport of noxious weeds. The farmer was not allowed to go on to the field and remove any of it. We only do that in conjunction with the local weed board after they have gone out and certified this is the problem. I can not remember whether that was an organic farmer or not.

REPRESENTATIVE ONSTAD: Is organic farming increasing in the state or staying the same

RODGER JOHNSON: Organic farming has been growing in ND and across the country. The number I see is a 20% growth in organic farming. Which is significant. It is a small proportion compared to other production. We see a big percentage growth but yet it is small comparatively speaking. We are one or two in ND as to percentage of land used for organic farming. Depends on how you count.

Terms of acres we are number two.

REPRESENTATIVE BRANDENBURG: As to the bill being offensive. Right now we area going out and spraying CRP fields, Fining them and penalizing them as well as conventional farmers. Why is this bill so offensive. They get paid more for there crop and then don't spray.

RODGER JOHNSON: The fact that you are going to use this bill on a specific group of frames. We are already do what this bill does.

CHAIRMAN NICHOLAS: Any other questions. Thank you Rodger.

BRAD BRUMMOND: WALSH COUNTY EXTENSION AGENT. Please see ""statistics sheet on North Dakota organic farming. I have served on Organic Boards, and have been an extension agent for 23 years. Control of weeds in ND is in every ones best interest. One thing I find when becoming involved in disputes between organic producers and boards. One thing I find when becoming involved in these disputes is that if each of the two, the organic producers and the boards could have been much more pleasant had they taken time to understand each other early in the process. Evens could have been pleasant and a solution could have been found sooner. Organic farmers and weed control officers have a the same goal in mind. Weed control.. We need to find a win solution. Growers must be respected. We are working on a program that will help with educating organic producers. Education is important. We will all win. We must get along.

REPRESENTATIAVE ONSTAD: Maybe it takes a period from two four years to get everything into control with the crop rotation.

BRAD: We do work with new producers. We have a to be in front of the problem. The certification board works with this.

REP. DAMSCHEN: Speculate on question as to CRP

BRAD: CRP SIGNS A CONTRACT WITH FEDERAL GOVERNMENT AS TO WEED CONTROL.

CHAIRMAN NICHOLAS: Question is. When those problems when the same weeds are found in CRP AS IN ORGANIC CROPS?

BRAD: If same weeds are in CRP or conventional land, they'll send them a letter or talk to producers. Organic farmers say it is a two way street. The CRP farmers loose there payment if they do not control the CRP land. I have been involved in the destruction of crops overtaken with weeds.

REPRESENTATIVE DAMSCHEN: How do you apply rules to organic farmers.

BRAD: To get a farmer back into compliance it takes up to two years.

THERESA PODOLL, EXECUTIVE DIRECTOR, NPSAS. I am addressing you as the Executive Director of Northern Plains Sustainable Agriculture Society and as an organic farmer. [[please see printed testimony]] The language in bill is not necessary.

CAROL: Former Organic Farmer. My degree is in chemistry. I am not for bill.

ANN ONSTAD: Printed testimony. Robinson. I oppose this bill.

MERLIN LEITHOLD: {{see printed testimony}} I oppose this bill

REPRESENTATIVE BRANDENBURAG: Are signs on sides of roads legal.

JEFF OLSON: DEPARTMENT OF AGRICULTURE.: The organic producer is asked to have a buffer strip for not to over spray. I don't know why signs are going up. Certifying agency wants a buffer zone. Signs are strictly a method of identifying organic farm the signs are curtesy to farmer spraying.

CHAIRMAN NICHOLAS: OK Committee Members we will close on HB 1331. Thank you everyone.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1331

House Agriculture Committee

☐ Conference Committee

Hearing Date 2----20-----05

Tape Number	Side A	Side B	Meter #
ONE	A		6.5 TO 8

Committee Clerk Signature Edward D Ellison

Minutes:

CHAIRMAN NICHOLAS: O.K. Committee, I would like to take action on the bill.

What are the committees wishes on the HB 1331?

REPRESENTATIVE BRANDENBURG: I MAKE A MOTION FOR A DO NOT PASS.

REPRESENTATIVE BELTER: I WILL SECOND THE MOTION..

CHAIRMAN NICHOLAS: THE CLERK WILL TAKE THE ROLL ON HB 1331.

THE ROLL WAS 12 YES

0 NO

1 ABSENT

REPRESENTATIVE BRANDENBURG CARRIED THE BILL.

THE CHAIR CLOSED ON HB 1331

HB 1331

Date: 2-10-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House **HOUSE AGRICULTURE COMMITTEE** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO NOT PASS

Motion Made By BRANDENBURG Seconded By BELTER

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER	✓		REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND					
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment BRANDENBURG

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1331: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1331 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1331

Roger Johnson
Agriculture Commissioner
www.agdepartment.com

North Dakota
Department of
Agriculture

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

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

Testimony of
Agriculture Commissioner Roger Johnson
HB 1331
House Agriculture Committee
January 27, 2005

Chairman Nicholas and members of the House Agriculture Committee. For the record, I am Roger Johnson, North Dakota Agriculture Commissioner. I am here to testify in opposition to HB 1331.

House Bill 1331 is both unnecessary and discriminatory. It is unnecessary because county weed boards already have the authority under NDCC. 63-01.1 to do what this bill proposes. NDCC 63-01.1 gives the county weed boards enforcement authority to control weeds, no matter where they occur.

We have been working diligently with the county and city weed boards for years to build local capacity for effective weed control. We monitor the work of the local weed control authorities and provide technical assistance to help them enforce NDCC 63-01.1. Through legislative appropriations, my office allocates more than $1 million per biennium to the county and local weed control authorities to do their work. This chapter is written so that weed control occurs on all lands in the state; range land, crop land, conservation land, state and federal lands, etc.

The obvious difference between the current law and this bill is the uses of the words "may" and "shall". NDCC 63-01.1 states, "If any land is found to be infested with noxious weeds...the county weed officer may serve upon the landowner written notice either personally or by certified mail, requiring the landowner to control or eradicate the noxious weeds..." You can see the use of "shall" throughout this bill, and that language may cause county weed boards some serious problems.

HB 1331 requires that county weed boards shall enforce and control weeds on land under organic production. Mandating that county weed control authorities control weeds in certain instances may cause county weed boards budgetary problems and result in other regulatory actions being neglected. NDCC 63-01.1 authorizes weed boards to charge weed control costs to the property taxes of the land owner. However, the recovery of these costs may take up to five years to collect, leaving the county weed boards without adequate funding to conduct other necessary weed control activities in their counties.

Most troubling, it appears that the intent of this bill is to single out one type of farming practice over another, making the bill discriminatory. One type of agriculture production is neither better nor worse than the other types of production systems in terms of weed control. I know of organic producers who have better weed control practices than many conventional farmers. I know of conventional farmers, minimum till farmers, and no-till farmers who have better (and poorer) weed control than their neighbors. It should not be the policy of the legislature to adopt laws and regulations that discriminate against one type of farming practice.

Mr. Chairman, members of the committee, I believe that HB 1331 is both unnecessary and discriminatory, and I urge a "Do Not Pass" on it. I would be happy to answer any questions.

Refer
HB 1391

NORTH DAKOTA ORGANIC STATISTICS
USDA 2001
Brad Brummond Walsh County Extension Agent
November 2004

CERTIFIED ORGANIC ACRES

North Dakota 159,00 (Colorado 581,6140 and they were just about all pasture)

CERTIFIED ORGANIC CROP ACRES

North Dakota 144,890 rank #2
California had 148,664

NORTH DAKOTA NATIONAL LEADER IN THESE CROPS

Organic oil seeds	20,243 acres (North Dakota produced approximately half the oilseeds in US)
Organic grains	
flax	16,456 acres
sunflowers	3,788 acres
oats	8,051 acres
buckwheat	6,165 acres
dry beans	2,782 acres
dry peas & lentils	3,571 acres

OTHER CROP RANKINGS

#2 wheat	31,172 acres
#2 barley	4,855 acres
#3 rye	906 acres
#4 millet	3,631 acres
#6 corn	4,667 acres
#6 soybeans	10,667 acres (this number I suspect is much larger now in 2004)

NORTH DAKOTA PERCENTAGE OF TOTAL CROP ACRES

Grain 40%
Beans 17%
Oilseeds 13%
Hay 11%
Other Crops 10%
Pasture 9%

Testimony HB 1331
Theresa Podoll, Executive Director, NPSAS

Members of the House Agriculture Committee:

I am addressing you as the Executive Director of Northern Plains Sustainable Agriculture Society and as an organic farmer. As an organic farmer weed managment is an integral part of our farm's production plan. Our farm is subject to the same noxious weed laws as my conventional farming neighbors. Those laws are clearly outlined in our states' century code.

As part of our farm's organic certification process , we must provide our certification committee with a weed control plan specific to our farm. Our farm is certified with Farm Verified Organic through International Certification Services. Module 11 is the actual document from our yearly Farm Plan that addresses weed control. The module identifies any problems we know exist or anticipate for weeds, pests, diseases, and vertebrate pests and which fields they will affect. The second part of the module is an outline of the practices will be used to combat the problems. The third segment outlines any of-farm inputs you plan to use. Finally, the plan asks how the challenges you face with regard to weed, pest, and disease control have changed since the previous production cycle and if you have any plans to change your practices or inputs. Organic farmers take a thoughtful, planned, proactive, preventative, systems approach to weed control.

Some of the techniques and approaches employed by organic producers to address weed control are crop rotations, soil fertility management, beneficial insects, alleopathic crops such as rye, tillage, grazing, clipping, hand work and as a last resort, plow down.

As the Executive Director of the Northern Plains Sustainable Agriculture Society, I can tell you that one of the most popular segments of our annual winter conference is our producer panel on weed control and crop rotations. These panels are where our producers share their ideas, practices, on-farm experiences, frustrations, concerns, success stories, and research questions with those in attendance. These producers are

innovators and are highly motivated to practice good weed management. It makes no economic sense for us to culture weeds. We have no silver bullets and cannot afford to let weeds proliferate on our farms.

The industry continues to grow at an annual rate of over 20%. As organic farmers continue to transition conventional land to organic production, gaining control of weed problems is a key transitioning issue and one organic producers continue to experiment with, conduct on-farm research on and develop innovative approaches for.

Northern Plains Sustainable Agriculture Society is an educational organization and we continue to work with producers and researchers to share weed control strategies that work. That is in the best interest of all producers and of our farming communities. Our experience is that some producers are particularly adept at figuring out and addressing their weed control issues. Our organization provides a platform for producers to work with weed ecologists and agronomists to address research needs. NPSAS also provides a platform for county weed boards, organic producers, and their certification committees to enter into dialogue to resolve weed control issues before any problems escalate.

The language in this bill is redundant to the current noxious weed laws already in place in our century code. This bill is clearly not necessary. However, it did provide NPSAS and the farmers here present with the opportunity to provide this committee with information about organic farming systems. We thank you for the opportunity to address these important issues with you. It has also increased the level of dialogue between NPSAS, organic certification organizations in this state, and the North Dakota Weed Control Association. Those relationships are already bearing important fruit. Again, thank you!

North Dakota Weed Control Association

NORTH DAKOTA WEED CONTROL ASSOCIATION
724 5th Street
Langdon, ND 58249

Terry Volk
NDWCA President
314 W 5th St.
Bottineau, ND 58318
701-228-2555
tvolk@pioneer.state.nd.us

Jim McAllister
NDWCA 1st Vice-President
2525 126th Ave. SE
Oriska, ND 58063
701-840-1473
jmcallister@co.barnes.nd.us

Myron Dieterle
NDWCA 2nd Vice-President
661 2nd St NE
Keif, ND 58747
701-626-7470

Randy Mehlhoff
Executive Secretary
724 5 St.
Langdon, ND 58249
701-256-5491 / 701-570-3545 (cel
rmehlhof@ndsuext.nodak.edu

HB 1331
House Agriculture Committee
January 27, 2005
By Merlin Leithold #384

Good Morning, Mr. Chairman, members of the committee. For the record, my name is Merlin Leithold. I am the south-central area director with the ND Weed Control Association. I am also the weed officer in Grant County.

I am before you this morning in opposition to HB 1331.

The North Dakota Century Code states in 63-01.1-01. It shall be the duty of every person in charge of or in possession of land in this state, whether as landowner, lessee, renter, or tenant, under statutory authority or otherwise, to eradicate or to control the spread of noxious weeds on those lands.

In 63-01.1-08. Paragraph #2, talking about entry on land for weed control, it lists a line referring to out of state landowners. This is the only part that separates the difference in landowners. Later this morning, your counterparts in the Senate Ag Committee will hear SB 2280. That bill deals with the Century Code. In it, the line mentioning out of state landowners, would be deleted. We do not feel that every type of landowner should be listed separately. If organic farmers need to be listed, then so should ranchers, no till farmers, etc.

HB 1331 creates several problems for county weed boards. I will share them with you this morning.

1. HB 1331 does not give the weed board any options. It states that if a complaint is filed, the board shall direct the weed officer to investigate. If the complaint has merit, the process will then be put in place to serve notice, and likely could result in the weed board entering the land and controlling the weeds. Shall has no options. In the Century Code, may is the term used, giving us options.
2. If the weed board or its officer uses chemical, which it would have the right to do, according to the bill, the organic farmer in question would no longer be eligible for the program. Weed boards do not want that kind of power.
3. If the weed board would use chemical, our liability insurance, which is through the ND Reserve Fund, would not protect us from spraying on cropland. So we would need to have it sprayed, most likely by an aerial sprayer. Higher costs.
4. Funding for these projects. If the landowner does not pay for the work that is done, we can go through the process and have the bill placed on his taxes. If a project would cost $2000.00, a county's funds could be depleted rather quickly. We must remember that the assessment on the taxes could take several years to be paid. Where would the money come from? Most county weed boards do not have extra funds for this type of project.
5. Penalties. Nowhere does HB 1331 provide for any penalties. Some counties do use penalties, as provided by the Century Code. Referring to SB 2280, it deals with raising the penalties from $50/day to $100/day, and from $2,500/year to $5000/year. This part of that bill, if passed, could take care of problems on

their own, without having the weed board going in and controlling them for a landowner, like an organic farmer.

We understand that there are some organic farmers in the state that are having a problem with weed control. There are also other landowners, private, state, and federal, with the same problems. We believe that working with other agencies, an understanding takes place on how weed control works, and what it takes to get it done. We have come a long way, and we have a long way to go.

Maybe a committee, compiled of legislators, organic people, weed people, and whoever else you would want, to sit done, maybe twice annually, and discuss the problems on all sides, and try and come up with working resolutions.

Thank-you