

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1476

2005 HOUSE TRANSPORTATION

HB 1476


2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1476

House Transportation Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1	X		22.7-53.1
2	X		0-1.7,
3	X		27.9-33.9
Committee Clerk Signature 			

Minutes:

Vice Chairman Hawken opened the hearing on HB 1476 A Bill for an Act to amend and reenact section 63-05-01 of the North Dakota Century Code, relating to the cutting of weeds and grasses adjacent to highways.

Rep. Kretschmar: The problem is in the summer time probably about the middle of June along county roads and state highways the grass is high. Probably between two and three feet tall and it is hard to see wildlife or anything in ditches. This bill mandates cutting some of the edge of the roads by July 15th so you have a little better change to see a deer coming out of the ditch at night. I have been visiting with the Association of Counties and they are not to pleased with the mandate of the bill. I think they are going to present amendments and those amendments would be fine with me.

Rep. Weiler(25.6) I think this is a good piece of legislation. But the bill says it should be cut by July 16th of each year. Should it be moved up?

Rep. Kretschmar:(26.0) That would be up to the committee or the Association of Counties.

They did not want to interfere with pheasant season.

Rep. Weiler The way the law currently reads; on lines 13 & 14 it says, the cutting shall be completed. I understand that this is going to make it more.

Rep. Kretschmar: It would give authority to counties or townships to do the work themselves and charge it onto the land as part of the taxes.

Rep. Weiler Is there a penalty with this? If they don't do it.

Rep. Kretschmar: I don't think it is under this bill, but under current law is they can charge you for the work done by the county or township.

Vice Chairman Hawken: Are there others in favor of HB 1476?

Alan Erickson: Is passing out the amendment and see attached testimony #1 .I recommend a do pass.

Vice Chairman Hawken: Rep. Kretschmar said it is actually in statues, but it does not happen that the grass gets cut. Would it happen now?

Alen Erickson: Thinks it would help especially in areas where they don't hay the ditches.

Rep. Price(30.6) It seems like the travel portion of the roads vary by my place, depending on who is running the blade? Where are you going to start measuring the travel portion.

Alan Erickson: I think by cutting the grass the maintainer could probably get out a little further when they don't have the ridge on the edge of the road.

Rep. Thorpe(31.6) Wouldn't you think we need to leave this discussion up to the township and counties. Places vary so much depending on the area and CRP etc. One part of the township can be entirely different than the other.

Alan Erickson: Should be left up to the counties or townships.

Wade Williams: Association of Counties. We had a resolution that did actually what this bill is doing. It was defeated at the convention, mainly because several states said you don't need a law. The County or Township can already require a second mowing. There are a number of counties that are uncomfortable doing that? There are some counties already requiring second mowing. Generally what counties and townships do is charge \$100/mile and that goes onto their taxes if they don't mow. Not all of the roads are being mowed. We would be supportive of the bill with the amendment.

Vice Chairman Hawken: Any further support of HB 1476? Any opposition of HB 1476?

Merlin Leithold: (see attached testimony #2).

Rep. Price(38.7) Can you work with county and townships boards in the vary areas that you are concerned about?

Merlin Leithold:(38.9) Yes, but if you have a county that has no organized township then it becomes a mandate of the entire county. If the county commission puts into rule that the clipping must be done by July 15 you all of a sudden have the entire county having to do this. I understand that there are some counties that have a problem with 2-3' of grass, but coming from drought stricken Grant County I don't know that it has been many years since I have seen that much on the side of the road. Everyone would be cutting it early and try to get two to three

cuttings. Making a landowner clip it even though they don't have this problem is not very effective.

Charles Mormon:(41.1) Road Superintendent for Morton County. We have to live with this particular bill as it is now. Truth be said we do not follow it to the letter. Especially with the cutting. We do not mow it twice a year; we mow it once a year. Main reason is our landowners need the grass that is available in the county. A couple of years ago we tried to mow in July and we almost had world war three because we were cutting grass that they needed. Farmers and ranchers were buying hay so it just did not work. We maintain about 1600 miles of road in the summer time. We cut grass on about 1300 or about 2600 miles of shoulder and of that we assume that half of it will be cut by the local landowners. Morton county is a rural and almost becoming an urban county because the urban is becoming more than the rural. Allot of renters do not like to cut the grass on shoulders or roads they do not own the land up to. It says all the grass up to the public right of way. That can be a problem for us. If we are going to do this it will cost of additional money for employees if we are going to cut it twice. We cut it much later in the fall. Actually getting done in late November and that seems to work out pretty well for us. We do not charge any landowner for the cutting of grass. We use to charge them and that caused a lot of problems. Too much to manage the enforcement.

Vice Chairman Hawken: Did you see the amendment to this bill?

Charles Mormon: We would support that, but don't like the twice a year thing.

Rodney Ness: (47.0)Highway Superintendent for Burleigh county HB 1476 was it is written, has good merit from a maintenance and safety standpoint. However from an enforcement standpoint it looks like it is a night mare. To go out twice a year and physically make a list of the

areas that need to be cut and go out and cut them, we end up doing all the cutting, but we simply don't have the resources to do this. We have over 3,000 lane miles of road we mow annually and our current department policy is we start mowing on August 15 we meet heavy resistance with area landowners because they want to cut the hay. We do identify certain high traffic roads and mow those. This bill would affect us heavily.

Myron Deeterle: Sheridan County. (See attached testimony #3) Copy of Chapter 63-05. It tells you when you should cut roads for weeds and grasses. Reads cutting will be done not later than September 15 or October 1 as subscribed by the Board of County Commissioners.

Tape 2 Side A

The counties that I live in I can appreciate your concern for safety. But we have many roads that when out of state hunters come, I am sure there is a limited number of people to drawn from including your county commissioners. Our county commissioners mandates a July cut and they did a July cut from those that weren't done. There is an ongoing dispute because some of the township boards thought they had control and the commissioners when and did it. They billed \$100/mile per land owners.

Hearinig closed 1.7

Tape 3 Side A 27.1

Chairman Weisz reopened hearing on HB 1476.

Motion made by Rep. Meyer Seconded by Rep. Hawken

Chairman Weisz asked if everyone knew what the amendments do? Any discussion on the amendment.

Rep. Meyer This concerns leafy spurge in the road ditches and identified. You have to have 10 days where it has to burn down. When we cut it you have accomplished nothing. The weeds get a stronger base then and you get more spurge. It is a 10 day burn time and after that you can't identify it. If this bill would happen to pass it would be bad for our county.

Rep. Weiler The amendment removed July 16th and it says a time as designated by the counties.

Motion Made by Rep. Delmore Seconded By Rep. Weiler Voice vote carried. No opposition

Rep. Price (31.4) Maybe if we made that last line, not a have to for the county.

Chairman Weisz Any county can do what they want.

Motion Made By Rep. Hawken Seconded by Rep. Iverson

DO NOT PASS AS Amended 13 Yes 1 No 1 Absent Carrier: Rep. Schmidt

(33.9)

House Amendments to HB 1476 - Transportation Committee 02/11/2005

Page 1, line 16, after the underscored comma insert "if required by the board of county commissioners or board of township supervisors."

Page 1, line 17, replace "July sixteenth of each year" with "such time as designated by the board of county commissioners or board of township supervisors"

Renumber accordingly

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

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1476

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amend.

Motion Made By Rep. Hawken Seconded By Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
Rep. Weisz - Chairman	✓		Rep. Delmore	✓	
Rep. Hawken - Vice Chair.	✓		Rep. Meyer	✓	
Rep. Bernstein	✓		Rep. Schmidt	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Iverson	✓				
Rep. Kelsch	<u>not</u>				
Rep. Owens	✓				
Rep. Price	✓				
Rep. Ruby	✓				
Rep. Vigesaa	✓				
Rep. Weiler		✓			

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep Schmidt

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

REPORT OF STANDING COMMITTEE

HB 1476: Transportation Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1476 was placed on the Sixth order on the calendar.

Page 1, line 16, after the underscored comma insert "if required by the board of county commissioners or board of township supervisors,"

Page 1, line 17, replace "July sixteenth of each year" with "such time as designated by the board of county commissioners or board of township supervisors"

Renumber accordingly

2005 TESTIMONY

HB 1476

2-10-05 HB 1476

#1

NORTH DAKOTA TOWNSHIP OFFICERS ASSOCIATION
ALAN ERICKSON

CHAIRMAN WEIZ AND MEMBERS OF THE COMMITTEE
THIS BILL IS ABOUT CUTTING WEEDS AND GRASSES
ALONG COUNTY AND TOWNSHIP ROADS. IT SIMPLY SAYS
THAT A LANDOWNER OR OPERATOR NEEDS TO CUT THE
GRASS TWICE A YEAR. ONCE EARLY WITH ONLY ONE PASS
OR SIX FEET ON THE TOP EDGE OF THE ROAD.

BECAUSE OF THE WIDE VARIATION OF LAND ACROSS N.
DAK. FROM COUNTIES AND TOWNSHIPS THAT ARE ALL
CROPLAND TO ALL GRASSLANDS AND SOME OF THESE
DITCHES PUT UP FOR HAY. WE THINK THE TIME OF
CUTTING THE FIRST CUT WOULD BE BETTER MANAGED BY
THE COUNTIES OR TOWNSHIP BOARDS.

I WANT TO OFFER AMENDMENTS ON LINE 16 AFTER THE
COMA INSERT "IF REQUIRED BY THE COUNTY OR
TOWNSHIP BOARD" ON LINE 17 REPLACE "JULY
SIXTEENTH OF EACH YEAR" WITH SUCH TIME AS
DESIGNATED BY THE COUNTY OR TOWNSHIP BOARD.

RECOMMEND A DO PASS

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1476

Page 1, line 16, after the underscored comma insert "if required by the county or township board,"

Page 1, line 17, replace "July sixteenth of each year" with "such time as designated by the county or township board"

Renumber accordingly



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HL

HB 1476
House Transportation Committee
February 10, 2005
By Merlin Leithold # 384

Good Morning, Mr. Chairman, and members of the House Transportation Committee.

For the record, my name is Merlin Leithold. I am before you this morning representing the ND Weed Control Association, of which I serve as the south central area director. I am also the weed officer in Grant County. We are in opposition of HB 1476. We are not in opposition to the entire bill, as we understand the need for fall clipping. We are opposed to adding part of line 15, all of line 16 and 17. This part refers to the cutting of shoulders before July 16th.

A county weed department usually begins spraying county road ditches the end of May to the beginning of June. This is a slow and tedious process. If the wind is blowing in excess of 5 M.P.H., the spray trucks stay parked. In North Dakota, as you are aware of, we have more windy days than calm days. If the temperature reaches 90 degrees, spraying becomes ineffective, the trucks are again parked.

HB 1476 would require that all shoulders be clipped before July 16th. Putting this into perspective, shoulders would begin to be clipped around July 10th. If a county weed department begins spraying on June 1st, that department would have 29 days to spray the shoulders. This includes not spraying on Sundays, and also leaving a 5-day window for

chemical intake into the plant before it is clipped. Putting into this, windy days, the overall window becomes very short.

Once the area is clipped, you need approximately 30 days to allow that plant to mature to be able to identify it from the truck. That puts it to the middle of August, usually the hottest time of the season. So realistically, we are starting close to Labor Day, the time of the year when a lot of weed boards lose their summer help.

To perhaps answer a question before it is asked, yes landowners do hay ditches. But they do not hay all the ditches. As a weed officer, I learned to know what ditches get cut-first. Those are the ditches that get sprayed first, like the larger farm to market roads.

Noxious weeds usually, but not always, begin to grow in a ditch by being brought in from an outside area. Graveling a road with noxious weed seeds in the gravel, hay being hauled down the road, losing a little here and there, of which contains noxious weeds. These weeds then begin to grow in the first 6 feet of the ditch, the very area this bill proposes to have clipped. When clipping noxious weeds, the root system strengthens and grows, allowing more plants to emerge.

The last two plus lines of this bill would increase the spread of noxious weeds. We do not need a law to help the spread of noxious weeds. I urge all of you on the committee to consider striking out the last sentence in HB 1476.

Thank-you

#3

**CHAPTER 63-05
CUTTING WEEDS AND GRASSES ON HIGHWAYS**

63-05-01. Landowners or operators along county and township highways to cut weeds and grasses. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering the highways and their lands. The cutting shall be completed not later than September fifteenth or October first, as prescribed by the board of county commissioners.

63-05-02. Designation of time for cutting - Notice. The board of county commissioners of each county shall prescribe the time for cutting of the weeds and grasses, prescribe the height of stubble to be left and the minimum width of the cuts, designate the county highways along which weeds and grasses shall be cut, and request the board of township supervisors to designate township roads along which weeds and grasses shall be cut. The board of township supervisors shall make the designation, and the board of county commissioners shall publish notice of the designated highways, the time for cutting, and the height of stubble to be left and the minimum width of cut in the official county newspaper at least twice, and the last publication must appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice must be given by posting, in the same manner as election notices are posted. Expenses incurred in publishing the notice must be paid from funds provided in section 63-01.1-06 by the board of county commissioners.

63-05-03. Failure to cut weeds and grasses - Expenses levied as taxes against land. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the expenses shall be charged against the land of the landowner and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

63-05-04. Definition of operator. As used in this chapter, the word "operator" means a person chiefly responsible for the farming or other operations being performed on the land, whether for that person's own benefit or for the benefit of the landowner or another.