

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2280

2005 SENATE AGRICULTURE

SB 2280

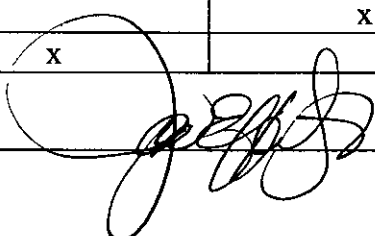
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2280

Senate Agriculture Committee

Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
1	x		4775 - end
1		x	0 - 5592
2	x		39 - 2907
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on SB 2280, a bill relating to the control of eradication of noxious weed and pests; relating to pest control by county weed boards. All members were present except Senator Taylor.

Senator Klein introduced the bill which has been introduced at the request of the weed board.

He has had some amendments drawn and will have to hear from the weed board about them.

Jeff Olson, Program Manager for the North Dakota Agriculture Department, testified in favor of the bill. (written testimony) In his testimony, he is addressing the amendments.

Senator Klein said the amendments are separate and were done at different times.

Senator Klein asked how the penalty is applied. (meter 5970)

Mr. Olson said the authority rests with the weed board. The weed officers are directed to work with the land owner. There are a number of instances when they refuse to cooperate, a penalty of up to \$50 per day which is to provide a monetary incentive to control the weeds.

Senator Klein clarified, when a weed officer sees noxious weeds, he contacts the land owner.

The producer is responsible for controlling the weeds. If he doesn't, the weed officer comes back and can assess the penalty.

Mr. Olson said that is correct. He is hearing that some landowners think the penalty is cheaper than spraying. (meter side B 25).

Senator Klein asked if the weed officer can spray the weeds and charge the landowner for the costs.

Mr. Olson said they can. The problem is the fees are attached to the property taxes and aren't paid until the property taxes are paid which can be several years.

Senator Urlacher asked if a landowner can hire a weed board to spray.

Mr. Olson said yes. Each county weed board has its own policies. They can also participate in weed control programs through the Agriculture Department.

Senator Urlacher said in South Dakota, the weed board flies over, identifies the weeds, notifies the landowners, sprays and bills the landowner. It is a very good program.

Mr. Olson said many weed boards in North Dakota operate on small budgets and cannot afford to wait 5 years to collect for spraying.

Senator Flakoll asked what happens if there is a fee assessed on the property taxes and the land is sold before the fee is satisfied.

Mr. Olson said he believes the assessment would show up in a title search as a lien on the taxes.
(meter 222)

Senator Flakoll asked what happens to the fees.

Mr. Olson said the fees stay with the local weed board.

Senator Flakoll asked if there is ever a judge/jury concern where the board assesses a penalty and gets to keep it.

Mr. Olson says there has not been a problem. There are appeal procedures.

Senator Urlacher asked if there is a problem with the city getting weed control funds and the county not getting enough.

Mr. Olson said there are 6 city weed boards. They have their own mil levy on the city taxes that are used for weed control. They are also supposed to cooperate with the county weed board.

Senator Urlacher asked if funds can be transferred from city to county weed boards.

Mr. Olson said that was not allowed. What they can do is share a weed officer.

The city weed boards are in the bigger cities. They need to have 3000 population before they can have a weed board. Some poor counties can't levy enough for weed control. They are assisted with Agriculture Department programs.

Senator Flakoll asked about the change in the hiring portion, can they contract for services.

Mr. Olson said yes, they can do it now. This bill will not limit their ability to contract.

Senator Flakoll asked about the responsibility for weed control if land is leased.

Mr. Olson said the landowner is ultimately responsible, sometimes this issue is dealt with in the lease.

Senator Klein asked if hiring comes out of the weed mil.

Mr. Olson said yes, the funding doesn't change.

Senator Urlacher asked if it is still permissible to buy equipment and hire personnel to run it.

Mr. Olson said yes. This bill will allow them to do legally what many weed boards are doing already, hiring help, often students.

Senator Flakoll asked if the limit on the penalty is per landowner or per farm.

Mr. Olson said he would refer the question to Moron.

Myron Dieterle, County Weed Board member and First Vice President of the North Dakota Weed Control Association, testified in favor of the bill. (written testimony) (meter 901) In most instances the county boards do not have the funds to control the weed and bankroll it until they collect from the landowner. Their other option is to fine. The producer has a right to a hearing with the weed board, with the county or city commission and they have the right to adjudication through the courts. The amount of penalty can start from the date of the notice to control.

Senator Urlacher asked how much time is allowed after the notice.

Mr. Dieterle said it is up to weed board policy, His weed board gives 10 days.

Senator Klein asked if the penalty is applied often. (meter 2043)

Mr. Dieterle said the process is not used much across the state. In his weed board they did it for the first time this year. They did not assess any penalties this year.

Senator Klein asked about the language referring to the city weed boards. Why is it necessary.

Mr. Dieterle said legislative council said it has to be laid out this way.

Senator Klein asked if the amendments are drafted yet.

Jeff Olson said yes.

Senator Klein asked what are we doing.

Mr. Dieterle said the county must provide 50% of the funds and the state cannot provide more than 50%. Salt cedar is a problem, especially along the Missouri River drainage. It is in our benefit to control salt cedar right away. The legislature has appropriated funds for this purpose but these funds are more than 50% of the cost. This amendment would make this legal.

Senator Urlacher asked if the one mil levy is being removed. (meter 2550)

Mr. Dieterle said they are removing the one mil designation for leafy spurge.

Senator Klein asked if the weed boards will be taking over responsibilities from the cities.

Mr. Dieterle said on his board, they are very limited in what they do in a city. They work together. They do some control as a service to the cities.

Senator Urlacher asked about sand and gravel. What controls are there on leafy spurge in gravel pits and to keep it from moving along roads.

Mr. Dieterle said there is a provision to stop the flow of gravel if there is concern about a noxious weed. It isn't used often. They inspect the gravel pits and control when necessary.

Senator Urlacher said it needs to be controlled. It is detrimental to the landowners along the roads. He is glad to hear they are trying to control it.

Melvin Fischer, Bismarck City Weed Board, testified in favor of the bill. (written testimony)
(meter 3839)

Carol Two Eagles, traditional and religious practitioner and former organic farmer, testified in favor of the bill with amendments. (meter 3995) She said prairie dogs are central in her religious practices but she cannot be too specific because of taboos. Similarly with sage, it is holy. The "man sage" is the specific sage that is holy. Page 16, line 7 is regarding the time frame for weed control and biologic control takes longer. In line 25, page 16, she assumes a hearing is automatic. In the case of over spray some landowners could be allergic. On page 19, lines 4 and 5, she asked about composting thermophilic matter, this is an organic farming issue.
(meter 4513)

Chairman Flakoll closed the hearing on SB 2280.

Senator Klein has the amendments on his desk and will have them this afternoon when the committee reconvenes for committee work.

Senator Klein asked if there was an issue between the city and county weed boards. Mr. Fischer has a couple of changes on the governing body and the prairie dogs.

Mr. Olson said nothing jumps out. He has inserted Mr. Fischer's recommendations in the bill. They may not have caught all the omissions on the rewrite.

Senator Klein asked if he would go over the changes and Mr. Fisher's recommended changes. Senator Klein asked about Mr. Fisher's concerns about moles and voles. Mr. Fischer does not want his weed board to have to deal with pests.

Mr. Olson referred to the definition of pests.

Mr. Dieterle said in order for a city or county to have a pest control program, it has to be agreed upon by the governing body and the weed board. It is not an automatic thing. It is not an issue. He would like to confer with Mr. Olson and go over the amendments.

Senator Flakoll said we will meet again at 1:45.

Senator Seymour asked if we have to give extra money to hire people.

Senator Klein said no, they still have the mill levy but the attorney general's ruling said they could not hire anyone and we would cut "during summer months" so they could hire year 'round staff.

Jeff Olson said the amendment is satisfactory with the Agriculture Department and the Weed Association but 2 more things need to be added. On page 21, line 18, the word county should be removed. This section with publicly owned lands and it keeps it generalized. On page 26 of the bill, we added a new heading for section 36 which was omitted by legislative council.

Regarding Mr. Fischer's recommendations, the first one regarding governing bodies, Mr. Olson agrees. Regarding changing city council to governing body, Mr. Olson agrees, it should be changed throughout the section. Regarding gophers and voles this is not a concern because the weed board is not required to control pests. Mr. Olson also distributed the definition of pest.

Myron Dieterly said this would also deal with Ms. Two Feather's concerns because they are not required to handle the pests.

Senator Klein asked if the amendments have been written. (meter 841)

Mr. Olson said he could get the changes to Anita Thomas.

Senator Klein said his only concern is over the penalties. Are they too severe. It is rarely assessed, if we raise the penalties, he feels for the producers.

Senator Flakoll said they would have 50 days.

Mr. Olson said they have discussed the penalties with the Weed Association. The Agriculture Department has no problem with them as long as the intent is compliance.

Mr. Dieterle said in some cases an organic farmer is more apt to pay the fine and get the higher value for his crop. For an organic crop, \$5000 isn't too high.

Senator Klein asked if to control weeds, an organic farmer would risk losing his organic certification. Shouldn't that be a motivating factor.

Mr. Dieterle said in those instances where the county can't afford to control, a penalty is used. In dealing with organic farmers they always offer two methods, one method would result in losing the certification, one would allow the certification to continue. The producer gets the choice.

Senator Klein asked if he would negotiate the penalty on the amendment.

Mr. Dieterle said, acting on behalf of the weed association, he would.

Senator Erbele asked about HB 1331.

Mr. Olson said it was heard today. The Agriculture Department testified against it because they thought it was discriminatory and redundant. The law already gives the weed boards the authority to go in and work with the producer and get control or force the producer to control. Its not fair to focus just on organic farmers. One argument is the budgets for the weed boards are so small, they can't afford to control. The Agriculture Department works with weed boards on producers who are not complying to try to work out a weed management program. The weed problems varies with the year.

Senator Flakoll asked Senator Klein who should draft the amendments.

Senator Klein said he would like to see it all together. What about changing the penalty to \$40 and \$4000.

Senator Erbele said it really should be \$80 and \$4000 to be proportional.

Senator Klein said one of the biggest complaints he hears is about Game and Fish and their control of weeds. What is Mr. Dieterle's experience.

Mr. Dieterle said in Sheridan county, there are extensive lands under state management and falls under state law. The state has to pay for control in 30 days. With federal lands, they try to work in the spirit of cooperation. The wildlife refuge at Lake Audobon, they invited the manager to a meeting to discuss plans. This makes them more responsive.

Senator Klein asked if this is a issue around the state.

Mr. Dieterle said when the weed boards were formed, the two groups were separated. Now by working with a contact person, there is more cooperation. The manager attends area meetings.

The newest thing is biologic control of Canada Thistle. US Fish and Wildlife management southeast of Bismarck is reporting some success.

Mr. Olson said the Corps of Engineers have had the budget for weed control go from \$50,000 to \$175,000 in 2 1/2 years and the Forest Service has seen an increase of \$600,000. There is improved communication with the federal agencies. They have a lot more complaints about State Game and Fish. They have a \$50,000 budget in a biennium.

Senator Klein asked if the Corps of Engineers are on top of salt cedar.

Mr. Olson said the salt cedar money is used to leverage federal matching funds. Lake Oahe is trying to get increased funding, they have submitted a \$300,000 budget.

Mr. Olson said sage is not listed as a noxious weed. The weed boards have no jurisdiction on reservations.

Chairman Flakoll closed the discussion on SB 2280.

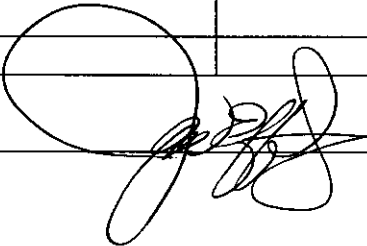
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2280

Senate Agriculture Committee

Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1		x	4102 - 5050
Committee Clerk Signature 			

Minutes:

Senator Klein said he has incorporated all the ideas into one amendment. He has removed the summer months provision for additional personnel, addressed the issue of replacing city council with governing bodies and the penalties. Jeff Olson and Myron Diederle went over the amendments.

Jeff Olson, North Dakota Agriculture Department, said he has looked at the amendments. The legislative council wasn't sure where to put the designation of the governing body could serve as the weed board. It already says it in another part of the bill. Anita Thomas wants to think about it and if its needed, it could be added in the house. Mr. Dieterle says this is a non issue because it is permitted, no matter where it is stated in the law.

Senator Klein moved the amendment 50712.0104 on SB 2280.

Senator Seymour seconded the motion.

Page 2

Senate Agriculture Committee
Bill/Resolution Number SB 2280
Hearing Date January 28, 2005

Chairman Flakoll thanked Mr. Olson for his help with the bill. This is a complex issue and the coordination between all the parties was very helpful.

The motion passed on a roll call vote 5-0-1.

Senator Klein moved a do pass for SB 2280 as amended.

Senator Seymour seconded the motion.

The motion passed on a roll call vote 5-0-1. **Senator Seymour** will carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/28/2005

Amendment to: Engrossed
 SB 2280

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

There could be an increase in county weed control funds based on the frequency with which the counties enforce the penalty section of the amendments. In the past, the penalty section was used sparingly and not on a consistent basis. However, we are unable to determine the exact fiscal impact on revenue to the county weed control funds. There should be no added expenditures. There will be no increase in state revenue or expenditures.

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.*

There is no fiscal impact to the state.

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.*

There will be no added expenditures caused by these changes.

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.*

There will be no additional appropriation required.

Name:	Jeff Weispfenning	Agency:	Agriculture
Phone Number:	328.4758	Date Prepared:	03/29/2005

FISCAL NOTE
Requested by Legislative Council
02/01/2005

Amendment to: SB 2280

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

There could be an increase in county weed control funds based on the frequency with which the counties enforce the penalty section of the amendments. In the past, the penalty section was used sparingly and not on a consistent basis. However, we are unable to determine the exact fiscal impact on revenue to the county weed control funds. There should be no added expenditures. There will be no increase in state revenue or expenditures.

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.*

There is no fiscal impact to the state.

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.*

There will be no added expenditures caused by these changes.

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.*

There will be no additional appropriation required.

Name:	Jeff Weispfenning	Agency:	Agriculture
Phone Number:	328.4758	Date Prepared:	02/02/2005

FISCAL NOTE
 Requested by Legislative Council
 01/19/2005

Bill/Resolution No.: SB 2280

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

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.*

There is no fiscal impact to the state.

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.*

There will be no added expenditures caused by these changes.

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.*

There will be no additional appropriation required.

Name:	Jeff Weispfenning	Agency:	Agriculture
Phone Number:	328.4758	Date Prepared:	01/20/2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 8, after line 29, insert:

- "3. Employ additional personnel during the summer months to assist with noxious weed control and eradication efforts."

Page 11, after line 23, insert:

- "3. Employ additional personnel during the summer months to assist with noxious weed control and eradication efforts."

Page 22, line 22, remove "and"

Page 22, line 24, after "pests" insert "; and

- c. Employ additional personnel during the summer months to assist with pest control and eradication efforts"

Page 24, line 27, remove "and"

Page 24, line 29, after "pests" insert "; and

- c. Employ additional personnel during the summer months to assist with pest control and eradication efforts"

Page 27, line 20, overstrike "fifty" and insert immediately thereafter "one hundred"

Page 27, line 21, overstrike "two" and insert immediately thereafter "five" and overstrike "five hundred"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 8, after line 29, insert:

- "3. Employ additional personnel during the summer months to assist with noxious weed control and eradication efforts."

Page 11, after line 23, insert:

- "3. Employ additional personnel during the summer months to assist with noxious weed control and eradication efforts."

Page 22, line 22, remove "and"

Page 22, line 24, after "pests" insert "; and

- c. Employ additional personnel during the summer months to assist with pest control and eradication efforts"

Page 24, line 27, remove "and"

Page 24, line 29, after "pests" insert "; and

- c. Employ additional personnel during the summer months to assist with pest control and eradication efforts"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 1, line 1, replace "seventeen" with "eighteen"

Page 6, line 8, remove "no fewer than", remove the overstrike over "~~or~~", and remove "nor more than"

Page 7, line 8, remove "county"

Page 7, line 9, overstrike "county" and remove the overstrike over "~~weed board~~"

Page 10, line 5, remove "no fewer than" and replace "nor more" with "or"

Page 10, line 6, remove "than"

Page 10, line 29, remove the second "city"

Page 10, line 30, replace "city" with "weed board"

Page 14, line 4, after "actual" insert "cost-share"

Page 14, line 6, overstrike "appropriation"

Page 14, line 8, after the first "a" insert "commissioner in consultation with the", remove the overstrike over "~~county weed board determines a~~" and insert immediately thereafter "noxious", and remove the overstrike over "~~weed is seriously endangering areas of a~~"

Page 14, line 9, remove the overstrike over "~~county or the state~~"

Page 14, line 13, remove "specifically provides for a higher percentage"

Page 14, line 14, after "4." insert "3."

Page 14, after line 21, insert:

- "4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

Page 15, line 15, after "actual" insert "cost-share"

Page 15, line 16, replace the second "appropriation" with "commissioner in consultation with the city weed board determines a noxious weed is seriously endangering areas of a city."

Page 15, remove line 17

Page 15, after line 23, insert:

- "4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

Page 16, line 13, after "control" insert "or eradicate"

Page 16, line 24, after the second "control" insert "or eradication"

Page 17, line 7, after the third "the" insert "noxious"

Page 17, line 8, after the second "the" insert "noxious"

Page 17, line 26, after "township" insert "roads and"

Page 17, line 28, after "township" insert "roads and" and overstrike "within the county"

Page 19, line 10, overstrike "of the state"

Page 19, line 19, overstrike "an individual county" and insert immediately thereafter "a"

Page 19, line 20, overstrike the first "by" and insert immediately thereafter "to do so through a", overstrike "county", and overstrike the second "of the"

Page 19, line 21, overstrike "county" and insert immediately thereafter "having jurisdiction over the area"

Page 19, line 29, overstrike "state" and after "highway" insert ", street, or road"

Page 20, line 1, overstrike "Noxious weed" and insert immediately thereafter "Weed-free"

Page 20, line 5, overstrike the first "noxious" and overstrike the second "noxious" and insert immediately thereafter "to which"

Page 20, line 7, overstrike "county"

Page 20, line 10, overstrike "noxious"

Page 20, line 11, overstrike "county"

Page 20, line 19, remove "noxious"

Page 20, line 28, replace "County weed" with "Weed"

Page 21, line 3, remove "3.", overstrike "State agencies", after "the" insert "3. Each", and remove the overstrike over "state" and insert immediately thereafter "agency"

Page 21, line 5, remove "any", overstrike "lands", after "of" insert "any land", and replace "their" with "its"

Page 21, line 13, overstrike "A" and insert immediately thereafter "Each"

Page 21, line 25, overstrike "county"

Page 24, line 10, replace "Highways" with "Roads and highways"

Page 24, line 11, after "township" insert "roads and"

Page 26, after line 12, insert:

"SECTION 35. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

City weed board - Pest control or eradication - Roads and highways. The city weed board shall control or eradicate pests along streets, roads, and highways within the city and any expenses incurred in the control or eradication must be paid from funds as provided in section 19 of this Act.

Page 26, line 27, remove the first "county" and replace "for the county" with "having jurisdiction over the area"

Page 26, line 30, remove "county"

Page 27, line 4, remove "county"

Page 27, line 10, remove "county"

Renumber accordingly

January 27, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 1, line 1, replace "seventeen" with "eighteen"

Page 6, line 8, remove "no fewer than", remove the overstrike over "or", and remove "nor more than"

Page 7, line 8, remove "county"

Page 7, line 9, overstrike "county" and remove the overstrike over "~~weed board~~"

Page 8, after line 29, insert:

"3. Employ additional personnel to assist with noxious weed control and eradication efforts."

Page 10, line 4, after "If" insert "the governing body of" and remove "council"

Page 10, line 5, replace "council" with "governing body", remove "no fewer than", and replace "nor more" with "or"

Page 10, line 6, remove "than".

Page 10, line 12, after "The" insert "governing body of the" and remove "council"

Page 10, line 14, after "the" insert "governing body of the" and remove "council"

Page 10, line 20, after "The" insert "governing body of the" and remove "council"

Page 10, line 29, remove the second "city"

Page 10, line 30, replace "city" with "weed board"

Page 11, after line 23, insert:

"3. Employ additional personnel to assist with noxious weed control and eradication efforts."

Page 14, line 4, after "actual" insert "cost-share"

Page 14, line 6, overstrike "appropriation"

Page 14, line 8, after the first "a" insert "commissioner in consultation with the", remove the overstrike over "~~county weed board determines a~~" and insert immediately thereafter "noxious", and remove the overstrike over "~~weed is seriously endangering areas of a~~"

Page 14, line 9, remove the overstrike over "~~county or the state~~"

Page 14, line 13, remove "specifically provides for a higher percentage"

Page 14, line 14, after "4." insert "3."

Page 14, after line 21, insert:

"4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

Page 14, line 25, after "The" insert "governing body of the" and remove "council"

Page 14, line 28, after "the" insert "governing body of the" and remove "council"

Page 15, line 1, after "The" insert "governing body of the" and remove "council"

Page 15, line 4, after "The" insert "governing body of the" and remove "council"

Page 15, line 15, after "actual" insert "cost-share"

Page 15, line 16, replace the second "appropriation" with "commissioner in consultation with the city weed board determines a noxious weed is seriously endangering areas of a city."

Page 15, remove line 17

Page 15, after line 23, insert:

"4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

Page 16, line 13, after "control" insert "or eradicate"

Page 16, line 24, after the second "control" insert "or eradication"

Page 17, line 7, after the third "the" insert "noxious"

Page 17, line 8, after the second "the" insert "noxious"

Page 17, line 26, after "township" insert "roads and"

Page 17, line 28, after "township" insert "roads and" and overstrike "within the county"

Page 19, line 10, overstrike "of the state"

Page 19, line 19, overstrike "an individual county" and insert immediately thereafter "a"

Page 19, line 20, overstrike the first "by" and insert immediately thereafter "to do so through a", overstrike "county", and overstrike the second "of the"

Page 19, line 21, overstrike "county" and insert immediately thereafter "having jurisdiction over the area"

Page 19, line 29, overstrike "state" and after "highway" insert ", street, or road"

Page 20, line 1, overstrike "**Noxious weed**" and insert immediately thereafter "**Weed-free**"

Page 20, line 5, overstrike the first "noxious" and overstrike the second "noxious" and insert immediately thereafter "to which"

Page 20, line 7, overstrike "county"

Page 20, line 10, overstrike "noxious"

Page 20, line 11, overstrike "county"

Page 20, line 19, remove "noxious"

Page 20, line 28, replace "County weed" with "Weed"

Page 21, line 3, remove "3.", overstrike "State agencies", after "~~the~~" insert "3. Each", and remove the overstrike over "~~state~~" and insert immediately thereafter "agency"

Page 21, line 5, remove "any", overstrike "lands", after "of" insert "any land", and replace "their" with "its"

Page 21, line 13, overstrike "A" and insert immediately thereafter "Each"

Page 21, line 18, remove "county"

Page 21, line 25, overstrike "county"

Page 22, line 22, remove "and"

Page 22, line 24, after "pests" insert "; and"

c. Employ additional personnel to assist with pest control and eradication efforts"

Page 24, line 10, replace "**Highways**" with "**Roads and highways**"

Page 24, line 11, after "township" insert "roads and"

Page 24, line 16, replace "A" with "The governing body of a" and remove "council"

Page 24, line 27, remove "and"

Page 24, line 29, after "pests" insert "; and

- c. Employ additional personnel to assist with pest control and eradication efforts"

Page 26, after line 12, insert:

"**SECTION 35.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

City weed board - Pest control or eradication - Roads and highways. The city weed board shall control or eradicate pests along streets, roads, and highways within the city and any expenses incurred in the control or eradication must be paid from funds as provided in section 19 of this Act."

Page 26, line 27, remove the first "county" and replace "for the county" with "having jurisdiction over the area"

Page 26, line 30, remove "county"

Page 27, line 4, remove "county"

Page 27, line 10, remove "county"

Page 27, line 20, overstrike "fifty" and insert immediately thereafter "eighty"

Page 27, line 21, overstrike "two" and insert immediately thereafter "four" and overstrike "five hundred"

Renumber accordingly

Date: 1/28/05
Roll Call Vote # 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2280

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 10 pass as amended

Motion Made By Sen. Klein Seconded By Sen. Seymour

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	A		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Seymour

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

REPORT OF STANDING COMMITTEE

SB 2280: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2280 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "seventeen" with "eighteen"

Page 6, line 8, remove "no fewer than", remove the overstrike over "or", and remove "nor more than"

Page 7, line 8, remove "county"

Page 7, line 9, overstrike "county" and remove the overstrike over "~~weed board~~"

Page 8, after line 29, insert:

"3. Employ additional personnel to assist with noxious weed control and eradication efforts."

Page 10, line 4, after "If" insert "the governing body of" and remove "council"

Page 10, line 5, replace "council" with "governing body", remove "no fewer than", and replace "nor more" with "or"

Page 10, line 6, remove "than"

Page 10, line 12, after "The" insert "governing body of the" and remove "council"

Page 10, line 14, after "the" insert "governing body of the" and remove "council"

Page 10, line 20, after "The" insert "governing body of the" and remove "council"

Page 10, line 29, remove the second "city"

Page 10, line 30, replace "city" with "weed board"

Page 11, after line 23, insert:

"3. Employ additional personnel to assist with noxious weed control and eradication efforts."

Page 14, line 4, after "actual" insert "cost-share"

Page 14, line 6, overstrike "appropriation"

Page 14, line 8, after the first "a" insert "commissioner in consultation with the", remove the overstrike over "~~county weed board determines a~~" and insert immediately thereafter "noxious", and remove the overstrike over "~~weed is seriously endangering areas of a~~"

Page 14, line 9, remove the overstrike over "~~county or the state~~"

Page 14, line 13, remove "specifically provides for a higher percentage"

Page 14, line 14, after "4-" insert "3."

Page 14, after line 21, insert:

- "4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

Page 14, line 25, after "The" insert "governing body of the" and remove "council"

Page 14, line 28, after "the" insert "governing body of the" and remove "council"

Page 15, line 1, after "The" insert "governing body of the" and remove "council"

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Page 15, remove line 17

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- "4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost."

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Page 16, line 24, after the second "control" insert "or eradication"

Page 16, line 25, replace "council" with "governing body"

Page 17, line 7, after the third "the" insert "noxious"

Page 17, line 8, after the second "the" insert "noxious"

Page 17, line 26, after "township" insert "roads and"

Page 17, line 28, after "township" insert "roads and" and overstrike "within the county"

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Page 27, line 20, overstrike "fifty" and insert immediately thereafter "eighty"

Page 27, line 21, overstrike "two" and insert immediately thereafter "four" and overstrike "five hundred"

Renumber accordingly

2005 HOUSE AGRICULTURE

SB 2280

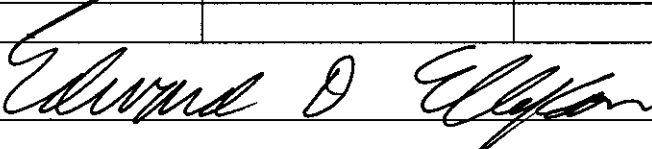
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2280

House Agriculture Committee

Conference Committee

Hearing Date 3---03---05

Tape Number	Side A	Side B	Meter #
ONE	A		00.0 TO 32.0
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: COMMITTEE MEMBERS, WE WILL OPEN ON SB 2280.

REPRESENTATIVE BRANDENBURG: This is a clean up bill as to noxious weeds. Handed out some amendments. Some county weed boards do a good job and some don't. The weed boards want to study this. They do not want to decided today on the bill. There are situations Where county weed board members may not want to deal with one of there relatives. Because of hard feeling coming up etc. Local county weed boards are not doing a good job. There are Amendments will deal with county board members that are not doing a good job and for those that are. Penalties will be involved. There are some problems with the amendments. I am asking the Chairman to hold this bill until we get the feedback we want from people back home. This is a big move. Involves all farming situations You can complain to the Ag. Commissioner

Page 2

House Agriculture Committee

Bill/Resolution Number SB 2280

Hearing Date 3---03---05

In stead of your relative and he can go to the board. They have up to one thousand dollars of there cost that they can impose of there cost to go out and take care of problem. I stand for questions.

CHAIRMAN NICHOLAS: We will hear from Jeff Olson prior to any questions. He is on a tight schedule. Committee Members, what my intention is on the bill is that I am going to hold the bill and give Rep. Brandenburg, Rep. Boe and the folks that want to work on this bill to the 17 of March. The we will work these bills. We will be getting County Weed Boards help on this bill.

JEFF OLSON: PROGRAM MANAGER, DEPARTMENT OF AGRICULTURE.

[[[Please read Jeff's printed testimony]]] Jeff pointed out that there are four points to bill.

Again read Jeff's testimony.

REPRESENTATIVE DAMSHCEN: Are we picking on anyone with this bill

JEFF OLSON: No we don't discriminate against anyone We are looking at all land owners.

REPRESENTATIVE MUELLER: Why the change in the bill? Are we finding more noxious weeds out there that we can't control.

JEFF: No the main reason the bill looks so large right now because we actually worked with the legislative council and getting the intent that the weed association wanted and that the department would like is that we separated out county weed and city weed boards separately gave them identical responsibilities under the law so it increased the size of the law because Of pulling out those separate sections. Weed control has flourished in the past five years. We have gotten more cooperation from federal and state land managers. We have got More cooperative from county weed authorities working with federal and state agencies.

Along with our department. We require a mapping ability. See what is happening. We are more aware of the weeds. They area not getting worse. Counties get a quick reaction.

REPRESENTATIVE MUELLER: We need to do what we need to do out there. I have railroads running through my land. If I get weeds because of the railroads not taking care Of weeds. It is not fair. Noxious weeds like to start in some areas. DOT contracts with most right away. We have pesticide meeting with the DOT as to proper applications.

We work with DOT so that the counties get proper funding to get there right of ways controlled. Railroads is a tougher animal. There headquarters are out of state.

CHAIRMAN: I had some complaining in Towner County. We got it fixed. Contact Weed Board and Railroads at the same time. There very diligent in there service

.EP, ONSTAD: Along Missouri River, how dose that work.

JEFF OLSON: The Corp. Of Engineers have not done a good job. Improvements have to be made. Weed control has \$300,000.00 to work with presently. We work with game and fish. Fish and wild life need to improve. US Forest Service came up with a million for weed control. Land owner is responsible for there land. We work along with county weed board along the river. We use our state funds that are matched with federal dollars.

REPRESENTATIVE FROELICH: We have a unique situation in Sioux County. We have town ships that don't have anyone living on them. We can get people on the weed board. It is a part time situation. We can not get people to spray. The BIA has a program, they have people hired for a while but because it is a prat time situation, no one wants the job. We have a big problem.

JEFF: The law states that land owners are responsible for weeds on there land.

Tribal lands in Sioux Count, we have no control over them. We have talked to BIA

Page 4

House Agriculture Committee

Bill/Resolution Number SB 2280

Hearing Date 3---03---05

REPRESENTATIVE FROELICH: This could causes a big problem in Sioux County.

CHAIRMAN NICHOLAS: OTHER TESTIMONY.

MERLIN LEITHOLD LOBBYIST # 384 DIRECTOR OF NORTH DAKOTA WEED

CONTROL ASSOCIATION. I AM ALSO THE WEED OFFICER FROM GRANT COUNTY

[[please read printed testimony]] Merlin stated he is glad we are holding the bill to work on amendments.

REPRESENTATIVE BRANDENBURG: We need to identify issues and work with them.

CHAIRMAN NICHOLAS: OTHER TESTIMONY?

MYRON DIETERLE: I am a farmer rancher, County Weed board member.

[[please read Myrons printed testimony.]] Offered amendments as to bill. See amendments.

REPRESENTATIVE BRANDENBURG You want to get those amendments in the bill.

CHAIRMAN NICHOLAS: ANY ADDITIONAL TESTIMONY IN FAVOR OF BILL.

ANY OPPOSITION.

WE WILL CLOSE ON SB 2280

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2280

House Agriculture Committee

Conference Committee

Hearing Date 3---17---05

Tape Number	Side A	Side B	Meter #
ONE		B	14.2 TO 35.0
Committee Clerk Signature <i>Edward D. Ellyson</i>			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON SB 2280.

THE BILL IS RELATING TO PEST CONTROL BY COUNTY WEED BOARDS.

REPRESENTATIVE BANDENBURG: We talked about what we wanted to do and what could and should be done. Some are in agreement and some are not, Go to Section 28 I think this is the most important thing that we may do. Dealing with weed control. If you have some very good weed boards out there doing a good job for the state. Yet we have some weed boards that are not doing a good job. How do we deal with that? This would allow that when notification is sent in to the county wheat board it also is sent into the Agriculture Department The Agriculture then in turns calls the county wheat board and say "how are you taking care of this are you doing a good job? We think there is a problem and the Ag. Commissioner stays out of it. There could be a conflict of interest because of a relative living close by that probably is not doing a good job as to weeds and yet you don't want to offend him. I don't want to get

involved. The Ag. Commissioner could then come down and become involved with county weed board. There is no provision for the Ag. Dept to recover any cost either. Which we had talked about. Also in Section 43 Same process You have a problem, notification to county weed board. The conflict of interest is in there too. Also Section 49, Agriculture Commissioner and County Weed Board. In Nov. 2005 and June 2006, the agriculture commissioner shall file a report with the legislative council which cites all notifications response to each notification and request. The rest of this bill is more of a hammer. Dose not come in until 2010. In other words if this starts working where we are seeing better control on weed and weed problems. We will be back in 2007 and see if we want to implement any more of this bill. We now have a process to work with. We currently have a weed problem. Questions

CHAIRMAN NICHOLAS: ANY QUESTIONS. O.K. REP. ONSTAD.

At the county level the wheat board, are they appointed by the County Commission?
I see every thing is being directed from the weed board right into the Ag. Commissioner.
Maybe it should be directed to the County Weed Board first. It is kind of by passing
The people that are appointing that group.

REPRESENTATIVE BRANDENBURG: Yes that is true. But it is only for the one's that are not doing there jobs. If the county weed board is doing there job. We don't go to Ag. Comm..to come out and take over. The board thinks is more involved then they though and then they don't want to do anything. Nothing gets done.

REPRESENTATIVE ONSTAD: I think you could do it a lot better and get quicker results by going to the county weed board.

REPRESENTATIVE BRANDENBURG: Well we could add that in.

CHAIRMAN NICHOLAS: REPRESENTATIVE BOE.

REPRESENTATIVE BOE: I don't mind Section 28 and Section 43 and Section 49 but

The rest of this stuff that was covered by the effective dates that was covered in 2007

That is the part of the bill that we all visited about and we thought we all understood each other

And when you put it on paper it just did not come up. The weed association did not like it

And they said they would just as soon it did not get implemented and I think it will cause lots of

nuisance claims setting in that have a nothing to do with the weed problem. I talking about the

oral complaints. Some other underlying problem as to who rented this or that quarter when they

wanted to rent it etc. I would just like to see that all left out and just take Section 28, 43 and 49

CHAIRMAN NICHOLAS: Well that is a good point from the stand point that we put those

three sections in and left out the other part it is not going into effect until 2007 anyway and

There will be another legislative session then and we can see by implementing this portion how things are working and whoever is here next session will know we have the frame work.

REPRESENTATIVE KINGSURY: We are thinking about the personalities here. I agree with Rep. Onstad. Rather then call in the big guns. Try the County board first.

REPRESENTATIVE BRANDENBURG: That is some of the discussion we had. It is the same situation we had some county commissioners that are implementing a good program and doing a good job and you have the same situation "conflict of interest"

REPRESENTATIVE KREIDT: I would just like to add that the County Commissioners Really don't have any expertise with weeds and the Ag. Dept Dose.

CHAIRMAN NICHOLAS: I have had Myron and Merlin come in and they have been at this for a long time. I respect there opinion on this. As to the concessus of the county weed boards.

And I know Mike works with them so I am going to get some input from them too.

JEFF OLSON: PROGRAM DIRECTOR FOR THE AGRICULTURE

COMMISSIONER. As Rep. Brandenburg noted we have met a couple of times Previously. We talked about the amendments. I met with the weed association executive committee a week ago. Their position was they did not want any of the amendments and The noxious weed law on page four line four and five actually the commissioner shall Enforce this chapter. It gives the Ag. Commissioner to enforce but what it does not do it gives the Ag. Commissioner the ability to enforce. There is no provision that gives us the ability To go in and either persuade or work with weed boards to move forward with their program. We have a good working relationship with the weed association. I visited with Rep. Brandenburg and Rep. Boe mentioned mentioned Sections 28 and 43 do give us the ability To go in and assist the weed board that are ineffective and or do have a conflict of interest. It gives us that ability. Which right now when we talk to weed boards they say what if we don't do it, what are you going to do? Well our response is we can't do anything. Just keep trying to educate them. Just a few weed boards don't want to do anything. We need to do some work as to what will be implemented in 2007. We do try to get the weed board to work with us.

CHAIRMAN NICHOLAS: Any other questions of Jeff?

REPRESENTATIVE MUELLER: We are talking pests, we are talking weeds. Incorporated the two. Could be one I guess. Does that create an issue. This is the weed board it is not the grass hopper board or what ever else. Can you talk about that a little as to how that all comes together.

JEFF OLSON: Pests include grass hoppers and other bugs etc that are defined in law.

But also pertains to prairie dogs that was added a number of years ago as to pests.

To have a pest program the county commission has to authorize a particular program.

We look at grass hopper control. With county commissioners.

Pest have been in the law. SB 2280 separates the two. There is some clarity. We wanted the weed board to hire someone to assist the weed board. There is no law that says you can hire anyone.

CHAIRMAN NICHOLAS: Merlin or Myron, any comments.

MYRON 2ND VICE PRESIDENT OF THE N.D. WEED CONTROL

ASSOCIATION. The comment I would make in regards to the amendments which are before you this morning is the amendments that were purposed at the initial committee meeting on this bill two weeks ago we were familiar with. The amendments that we are looking at were handed to us this morning as we got here. We have not had a lot of time with them. In our reviewing the amendments we feel that we could work with Rep. Brandenburg and committed in only adopting Section 28 which would give the provision that the Ag Commissioner have the authority. Pest have always been in Noxious weeds bill. The word prairie dog was added later. When we gave our initial testimony we brought two proposed amendments On behalf of our association for your consideration and basically what these will do Were technical situations that we overlooked when we did engrossed senate bill 2380 on the senate side. I did bring along amendments Mr. Chairman that people did read into testimony.

CHAIRMAN NICHOLAS: Myron, what I am going to do is hold this bill until next Thursday. Give you and Merlin time to adequately review the amendments. You have another week. **CHAIRMAN NICHOLAS CLOSED ON 2280**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2280

House Agriculture Committee

Conference Committee

Hearing Date 3---24---05

Tape Number	Side A	Side B	Meter #
ONE	A		00.0 TO END
ONE		B	00.0 TO 16.2
Committee Clerk Signature <i>Edward D. Ellefson</i>			

Minutes:

CHAIRMAN NICHOLAS: COMMITTEE MEMBERS, WE WILL RE-OPEN THE HEARING ON SB 2280. THE BILL IS RELATING TO THE CONTROL AND ERADICATION OF NOXIOUS WEEDS AND PESTS; AND TO REPEAL 63-01.1-04.2 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO PEST CONTROL BY THE BOARD OF WEED BOARDS. REPRESENTATIVE BRANDENBURG, DO YOU WANT TO PRESENT YOUR AMENDMENTS.

REPRESENTATIVE BRANDENBURG: I HAVE TWO SETS OF AMENDMENTS. THERE IS A CONFLICT. THE WEED PEOPLE WANT THE COUNTY COMMISSIONERS TO BE INVOLVED. [[[REPRESENTATIVE BRANDENBURG EXPLAINED HIS AMENDMENTS AND THE DIFFERENCE IN THEM. THE AMENDMENTS ARE ATTACHED.....PLEASE READ THEM]]] AS THE COMMITTEE HEARING WENT ON, ANITA THOMAS FROM THE LEGISLATIVE

Page 2

House Agriculture Committee

Bill/Resolution Number SB 2280

Hearing Date 3---24---05

COUNCIL WAS ASKED TO COME TO THE COMMITTEE HEARING AND ANITA ALONG WITH THE AGRICULTURE COMMITTEE BASICALLY RE- WROTE PARTS OF THE BILL AND REPRESENTATIVE BRANDENBURGS AMENDMENTS..

CHAIRMAN NICHOLAS: Merlin, do you want to give your testimony?

MERLIN LEITHOLD: NORTH DAKOTA WEED COMMISSION. GRANT COUNTY.

I talked to some county commissioners. They want to be in on it as to weed control. They want to keep it local. If the county is not getting the job done then go to the Agriculture Commissioner. I deal with a lot of oral complaints. Neighbor against neighbor. In some counties they have one county commissioner that has the weed portfolio. We want written complaints verses oral. Also written compliance.

REPRESENTATIVE ONSTAD: As to reasonable period of time in the bill. Compliance.

What is considered a reasonable period of time. Ten, fifteen, thirty days?

MERLIN LEITHOLD: Thirty days would be reasonable.

JEFF OLSON: AGRICULTURE DEPARTMENT: A reasonable period of time would be within thirty days. Thirty days would be good. The weed officer can go ahead and deal With a weed situation. He dose not have to go to the weed board.

CHAIRMAN NICHOLAS: Representative Boe, you worked on this also. Do you have any Comments?

REPRESENTATIVE BOE: The question is going to be is putting pests in there.

We talked to Anita and we had to do that because it was in statue. Other then that I have nothing to add to it.

CHAIRMAN NICHOPLAS: Representative Froelich.

REPRESENTATIVE FROELICH: We have whole townships where no one lives. I guess what I worry about here, if the neighbors are getting along. We can't get people to be on the weed board.

JEFF OSLO: If no one complains, I don't see where the weed board would go after you.

If the weed board feels that you are doing your job. Now if someone complains, a written notice, we want all notices to be written, and I am your weed officer and they would complain about it well I would check it out. If you are trying, my feeling is that you would be doing a good job. I would tell the board what I came up with. Then I would send a letter to the person that complained and state that they do have bugs and NDSU says they are under control. So I guess you would be controlling. If they went to the commissioner and he called me in I would explain the same thing to him. If the guy was still not happy then he would go to the Agriculture Department. It can happen. No matter what you tell some people they will not agree with you. I would show them my decision.

REPRESENTATIVE FROELICH: If the county could live with it, three neighbors could live with it what ever.

REPRESENTATIVE BRANDENBURG: What this bill will do is that if someone complains when the person complains then he will send a written notification to the weed board. If the weed board is not going to do anything, then the Ag. Commissioner will become involved. If no one is doing anything, the weed board is not active. Or the county commissioners are not active and no one wants to do anything with it because there is a conflict of interest

Because maybe they'll will want to buy that land some time or maybe they are related to those people or maybe they just don't want to do anything. Half of the weed boards in the state are doing a good job. Right now the Ag. Commissioner can't go out handle it.

REPRESENTATIVE MUELLER: So I can get this straight. The county Commissioner hires. The weed control officer. Is that correct:

REPRESENTATIVE BRANDENBURG: No, the county weed board hires the weed officer. The commissioner appoints the weed board.

REPRESENTATIVE MUELLER: Well given that, I can't imagine I would not want to put County people in the chain of command as we move to an ultimate solution. I think 204 makes a lot of sense. I would move on the amendment.

CHAIRMAN NICHOLAS: I will take the rest of the questions.

REPRESENTATIVE ONSTAD: In amendment 204 it really dose not say the county commission, it says the local governing authority. That might be the weed board. Do we need to clarify that.

MERLIN: The local governing authority is covered. This is for both city and county. This would be like the city council and board covers both. The statue, specifically, 2389 Covers city statue and county statue. This covers both.

CHAIRMAN NICHOLAS: Go ahead Myron. You can stand up there with Merlin.

MYRON: The question. If the governing authority because in some instances we have a county commission an some instances we have a city commission and in some instances we have a city council. To make it applicable to all situations.

REPRESENTATIVE ONSTAD: O.K. If I can continue. The judiciary, gives a reasonably period of time. Pretty ugly. What is reasonable time mean in your opinion.

MYRON: We have had numerous discussions with the Ag. Dept. About reasonable period of time and it can be 10 working days. The association talked about 14 working days. From there perspective they talk 30 days. Broad interpretation. I think, and that is the county that I am from we have in our policy so many days. We have 10 days in our particular county. When do the days start? When you receive the letter? One of our board members brought up the question when do the days start? When you receive the letter? As a weed officer or when you have a special board meeting. Or do you take it to the board meeting. It was confusing about that too. So I understand why reasonable came about. We had A board meeting last night and this morning I received a complaint in the mail. I would not want to call a special board meeting if I did not have to. But I wanted the entire board to be involved in it so I could just wait until the next board meeting. Well if you have 10 or 15 days, what would you do or put a special rules process in place. So if you have a complaint all you would have to do is get Hold of the chairman and deal with it. I think 30 days would be reasonable. If you can't do anything in 30 days it should be moved up to the next level.

REPRESENTATIVE KREIDT: If you had within 30 days everybody's policies would still be effective and you would still have a time line to complete it.

CHAIRMAN NICHOLAS: Would everyone agree to 30 days.?

JEFF OLSON: NDAD. Mr. Chairman, Reasonable period of time would be 30 days.

We would still get a good weed control.

Weed officer can respond. He dose not have to go to board.

REPRESENTATIVE BELTER: On April first they notify there weed board complaining about there neighbor. What is going to happen. What will be the procedure. Will the weed board say you complained to early. If you wait to long then comes the Canadian thistle.

JEFF OLSON: The answer to that one from my prospective is the Department will have received a complaint or phone call. What we do in that case we contact the weed officer To find out is there a history on it, have they done anything about it. If is the second year that we receive the call well we will contact the weed officer again and see what they have done about it. There will be a more in depth investigation. We would have thought that we followed the steps of appeal outlined in these amendments.

I would think if this guy pays a penalty he would get out there and take care of it so there Would not be another penalty.

REPRESENTATIVE BRANDENBURG: If we want to clean this up we need to do something in a timely manner. You have 30 days for this another 30 days for that, and then another 30 days and we need to get out there and take some action. By that time the thistles are blowing right through you. I think it stretches the time out. I am not trying to take away local control. We need a timely manner.

The question came up about if the farmer cannot afford to spray. Some counties are really in need because of no moisture. Do we feed the cattle or spray?

We are looking at the counties now to plan for the next spring. Leafy Spurge needs to be paid in the fall. I can see where Rep. Brandenburg wants to see action.

MYRON: As to amendments. To me the issue of 203 and 204. That was an issue representing the association. We are going to leave this to your wisdom., That is are take on that. We did

have a primary concern that was written in your amendments. The other concern we had is on going discussions between legislative council and the association and that's in the group of amendments page two line five after weeds insert and pests. We as an association do not want pests inserted in that page. The reason we do not is taking current existing law, it reads ND Century Code noxious weed control. It dose not say noxious weed and pest control. It is only later in the statue where the local governing authority whether it is the city, weed board. Or the county weed board to then create a program for pest control. We do not want pests inserted in the front as it is by these two amendments which are purposed for Page two and line five.

REPRESENTATIVE BOE: Thank you Mr. Chairman. We talked to Anita Thomas

On that and she said in order to make it work into the statue we would have to have it this way.

MYRON: I am aware of that. We just don't agree on it. We feel that pests is covered later

In Century code if you have a copy of your engrossed bill. Pest is on page 23 line 16

COUNTY WEED CONTROL OFFICER - PEST CONTROL OR ERADICATION. IF A

COUNTY WEED BOARD IS AUTHORIZED TO CONTROL OR ERADICATE PESTS, THE

COUNTY WEED CONTROL OFFICER SHALL ETC. How is a weed board authorized to

Control pests that is on page 22 on line 28. COUNTY WEE BOARD - PEST - CONTROL -

AUTHORIZATION: THE BOARD OF COUNTY COMMISSIONERS, IN CONSULTATION

WITH THE COUNTY WEED BOARD, MAY AUTHORIZE THE COUNTY WEED BOARD

TO CONTROL OR ERADICATE PESTS. We do not want it in the front where it is your

responsibility that along with controlling noxious weeds you also have to control pests

And if you are in town it gets to be a much bigger issue because then there is the responsibility of your neighbors to come forward. Neighbors for example to control mice or what ever.

REPRESENTATIVE BRANDENBURG: I THINK THAT THE SECTION OF LAW PUT THESE TWO THINGS TOGETHER, EVEN THOUGH THEY ARE SEPARATE, IT IS MORE OF A LEGAL ISSUE IT IS NOT A DISAGREEMENT.

CHAIRMAN NICHOLAS: MY INTERPRETATION WOULD BE MYRON IS THAT IT IS STILL GOING TO BE PREDICATED. IT WILL ONLY HAPPEN IF THE SECTIONS THAT YOU JUST READ, MY INTERPRETATION WOULD BE ONLY IF THE BOARD OF COUNTY COMMISSIONERS MAY, IF THEY DON'T AUTHORIZE IT, IT DOES NOT HAPPEN.

MYRON: Mr. Chairman and Mike, It still makes you liable as a producer for pest control along with weed control. We make you responsible for controlling noxious weeds. We do not make you responsible for controlling pests because for example you have to make a decision as to whether having hay for your cattle or spray for grasshoppers. What can we afford etc.

Again I will leave this to you.

JEFF OLSON: Just for a little clarification. What Myron is looking at is not requiring The land owner to control his pests. The legality part of it. The two are tied together. The weed board just don't want it so that the land owner has to control pests. That is the legality and without that in there land owners are not required to control pests and it does to my understanding make it harder to pull in the pest section to this chapter so it is a legally thing like Rep. Brandenburg had brought up and the understanding with Myron is that they don't want it so

land owners have to control pests if someone receives a complaint. We receive a few complaints that fall under prairie dogs in the SW part of the state. As long as there is not an authorized program then the counties are not responsible to fund a pest control program. No push for make that land owner control pests.

CHAIRMAN NICHOLAS: So if that section was in here then they would have to come up with a program to control prairie dogs. Is that what you are saying.

JEFF OLSON: They would not have to Mr. Chairman. But the land owner would have to control the pests. The weed board would not have to get involved. They would just have to enforce that the land owner control pests.

REPRESENTATIVE BRANDENBURG: I understand what the weed people are thinking. But I have a problem with the "may" and the "shall" and I think the thing could be stretched out longer than what I think we are trying to do.

CHAIRMAN NICHOLAS: The only advantage I see is the commissioners being in there is like Representative Froelich they don't have a working weed board then the commissioners are authorized to do something and it is a little buffer. I thought if we could put the 30 day in there the 30 day we don't stretch this period out to long. If we could add the 30 in here between between the weed board and the commissioners something is going to happen. The other thing is that if we do keep it in the county at least there is a buffer before it gets to the state.

REPRESENTATIVE BRANDENBURG: I can support 204 of the amendment. I can't support 203.

CHAIRMAN NICHOLAS: If we put the 30 days in there. I think that would put things on a much faster track. If you don't think 30 days we can use 14 days. Realistically there has to be some time and I thin 30 days would make sense.

REPRESENTATIVE BRANDENBURG: It says "may" it should say "shall"

REPRESENTATIVE ONSAD: Is it 30 days from county commissioners and then another 30 days to Ag. Commissioner.

CHAIRMAN NICHOLAS: I was thinking something should happen in 30 days. Total..

REPRESENTATIVE KREIDT: The 30 days would bring everyone under the umbrella Because there should be flexibility. I would be in favor of the 30 days.

REPRESENTATIVE BOE: Representative Brandenburg, you have trouble with the "may" provide written notification to the Ag. Commissioner. If is permissive to the point that they feel that they are not getting action they "may" take to Ag. Commissioner. They don't have to. But if they don't, they are out of luck. Would you not agree.

REPRESENTATIVE BRANDENBURG: Well I just want to keep the process going .

REPRESENTATIVE FROELICH: I MOVE AMENDMENT 204 WITH THE AMENDMENT BEING 21 DAY " 3 WEEKS"

REPRESENTATIVE BOE: SECONDED THE MOTION. 204 AMENDMENTS

KREIDT: I think this bill could do well without the pests in there.

REPRESENTATIVE BRANDENBURG: MR. CHAIRMAN. IN TALKING TO LEGISLATIVE COUNCIL IT JUST DOSE NOT WORK THE WAY LEGISLATION IS WRITTEN. IT JUST DOES NOT WORK. NOXIOUS WEEDS AND PESTS ARE TIED TOGETHER.

REPRESENTATIVE MUELLER: REFERENCES MYRONS COMMENTS. I DON'T KNOW, I DON'T THINK THEY DO. WE ARE TALKING PESTS. FOR EXAMPLE REPRESENTATIVE DAMSCHEN WILL BE IN CHARGE OF MICE, GRASS HOPPERS AND CATS AN DOGS AND EVERYTHING ELSE OUT THERE AND THAT IS WHAT THE LAW WILL SAY IF WE INCLUDE PETS IN THIS PART OF THE CHAPTER. I THINK REPRESENTATIVE KREIDT IS RIGHT. WE SHOULD STRIKE 5 AND 8 ON PAGE 2.

CHAIRMAN NICHOLAS: Representative Brandenburg> What if I did this. If we strike out pests what would happen if I got a better clarification before I turn this in. Is that O.K. With you. Lets have Anita Thomas come down and work with us on this. This is the way the bill was drafted.

LETS HAVE ANITA COME DOWN IF SHE CAN.

ONSTAD: Conflict of interest. Is that on this.

.....ANITA THOMAS, LEGISLATIVE COUNCIL CAME TO COMMITTEE MEETING PER CHAIRMAN NICHOLAS REQUEST.

CHAIRMAN NICHOLAS: We want to rap this bill up and get it out and the question that has arose is conflicting sections of the code. The question is further on in the code Pest is not included and the committee is looking for some clarification. What is says Is in this bill if you will go to the bottom of page 22. Line 28; it says the board of county commissioners , in consultation with the county weed board, may authorize the county weed board to control or eradicate pests. And then on page 23, starts out line 1, A county weed board that has been authorized to control or eradicate pests under this section shall

And so on. And now we are moving into another section on page two line five of the bill Where it says after weeds inset pests and on page two line eight after weeds insert the words pests. We are moving it to another section and the question the committee has dose that need to be in that section.

ANITA THOMAS: Mr Chairman, what I can tell you, in drafting the bill. This dose not create a program where a program was not intended. It is not a mandate where every county board create a board that takes care of pests. But, what it dose do, is tell the land owner that noxious weeds on there land they are responsible for and pests. I don't believe we have any consequences if program to control pests dose not exists. There is no consequence.

REPRESENTATIVE KREIDT: If we would leave line five 63-01.1-01. And not put weeds there the bill could still stand without having that there. The way I read it you have to take care of your mice and ground hogs etc. By putting that in the section for the land owners sake.

ANITA THOMAS: I am not certain what you mean.

REPRESENTATIVE KREIDT: You are saying the land owner is responsible for controlling these pests and that he has to control them. According to this section.

ANITA THOMAS: If you have the county board. There is no obligation on the part of the land owner to do it. You are initially responsible.

REPRESENTATIVE MUELLER: I think we do that if we put pests in there we are making a pretty major decision here as to land owners and property owners as to what

they are going to have to do. Should we put pests in there. I don't know. It back up what Anita had to say. We don't saddle the land owners. Is that correct?

ANITA THOMAS: You are probably going to be saddled with -----? But you don't have an obligation. You have political subdivisions that are going on your land and they determine that you have done nothing. It is like a lawsuit waiting to happen.

REPRESENTATIVE BELTER: It seems like you are increasing the liability for the land owner. Because of pest control responsibility. To a higher extent than we already have.

ANITA THOMAS: I am not sure how to respond to that. Given the rest of the law it appears that you are responsible. The land owners have the first responsibility as to their land.

CHAIRMAN NICHOLAS: I think we are doing quite a bit with the weeds.

REPRESENTATIVE BELTER: What concerns me is adding the pest. You could have a piece of ground ten miles from home that you don't go by every day and the next thing you know the neighbor shows up in the yard and said that all the grasshoppers went from your land to mine and now I have to spray and it is all your fault. Now maybe that is currently the land owners responsibility but I think by adding pests we increase our liability. I don't know that we had a real problem with this existing code and I don't want to throw pests out there and all of a sudden we have created a monster we don't want.

ANITA THOMAS: My comment is that the monster is probably out there but you just have not recognized it.

REPRESENTATIVE KINGSBURY: As to city government.

REPRESENTATIVE MUELLER: In cities is OK. I think we are opening it up.

REPRESENTATIVE BOE: I with draw my motion.

THERE WOULD BE A COOPERATIVE EFFORT TO CONTROL PESTS.

THERE WERE CHANGES IN AMENDMENTS AND ADOPTED BY COMMITTEE.

PLEASE SEE FINAL AMENDMENTS AS TO THE BILL.

REPRESENTATIVE BELTER: IN SHORT WE ARE STILL GOING TO HAVE SOME AUTHORITY TO DEAL WITH PESTS? THAT IS MY CONCERN. I DID NOT MEAN TO ELIMINATE THE PEST PORTION OF IT. I JUST DID NOT WANT THE INCREASE IN LIABILITY FOR PESTS

MR CHAIRMAN AND REPRESENTATIVE BELTER: YOU HAVE THE AUTHORITY ON PUBLIC LAND AND YOU HAVE THE AUTHORITY TO CONFRONT ON PRIVATE LAND WITH THE COOPERATION OF LAND OWNER.

REPRESENTATIVE BELTER: WELL ARE YOU SAYING THEN IF THERE IS NOT ANY COOPERATION FROM THE LAND OWNER THEN THERE IS NOTING THAT POLITICAL JURISDICTION CAN DO ABOUT IT.

ANITA THOMAS: THIS COMES FULL CIRCLE IF THE LAND OWNER HAS NO OBLIGATION TO CONTROL THE PESTS. THEN NO ONE-----?

REPRESENTATIVE BELTER: UNDER CURRENT LAW DOSE THE LAND OWNER HAVE OR CAN A POLITICAL SUBDIVISION CONTROL PEST WITHOUT THE AGREEMENT OF THE LAND OWNER.

ANITA THOMAS: I BELIEVE THE INTENT OF THE LAW IS THAT A POLITICAL SUBDIVISION COULD GO ON TO THE LAND TO CONTROL PESTS. BUT THE LAND OWNER HAS NO OBLIGATION TO CONTROL THE PESTS?

REPRESENTATIVE BELTER; UNDER CURRENT LAW.

ANITA THOMAS: YES CURRENT OWNER HAS NO OBLIGATION TO CONTROL PESTS UNDER CURRENT LAW.

JEFF OLSON: PEST IS DEFINED REFERRING TO CHAPTER FOUR THIRTY THREE WHICH IS THE PLANT PROTECTION LAW. MESQUITE ARE NOT PART OF THAT. PLEASE SEE DEFINITION OF PEST.

CHAIRMAN NICHOLAS: WOULD SOMEONE LIKE TO MOVE THE AMENDMENTS TO 2280? I WAS HOPING TO MOVE THIS ON. ANITA WILL GET US A NEW SET OF AMENDMENTS AND SHE WILL REDRAFT THESE AMENDMENTS IF WE ARE IN AGREEMENT WITH WHAT WAS EXPLAINED TO US. WE WILL DELETE ON PAGE TWO LINE FIVE AND PAGE TWO, LINE EIGHT OF THE AMENDMENTS THAT WERE PURPOSED HERE 0204 AND THEN WE ARE GOING TO INSERT IN SECTION 28 WE ARE GOING TO INSERT 21 DAYS. IS THAT WHAT WE ARE IN AGREEMENT ABOUT. AND THEN ANITA WILL MAKE THE CHANGES THAT SHE EXPLAINED AND THEN WE WILL HAVE A COMPLETE SET OF AMENDMENTS.

CHAIRMAN NICHOLAS: WE WILL ENTERTAIN A MOTION ON THE AMENDMENTS.

REPRESENTATIVE BRANDENBURG: MOVED THE AMENDMENTS.

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House Agriculture Committee
Bill/Resolution Number SB 2280
Hearing Date 3---24---05

REPRESENTATIVE BELTER SECONDED THE MOTION.

A VOICE VOTE WAS TAKEN. YA'S WON.

O.K. WE HAVE 2280 BEFORE US AS AMENDED.

THE CHAIR WILL ENTERTAIN A MOTION ON 2280 AS AMENDED.

REPRESENTATIVE BELTER: MOVED FOR A DO PASS

REPRESENTATIVE BRANDENBURG SECONDED THE MOTION.

THE ROLL WAS TAKEN THERE WERE 7 YES 3 NO 3 ABSENT

REPRESENTATIVE BRANDENBURG WILL CARRY THE SB 2280.

CHAIRMAN NICHOLAS: CLOSED ON SB 2280

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2280

Page 1, line 1, replace "eighteen" with "twenty-eight"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; and to provide a penalty"

Page 2, line 5, after "weeds" insert "and pests"

Page 2, line 8, after "weeds" insert "and pests"

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

Page 22, after line 25, insert:

SECTION 28. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Failure to eradicate or control weeds - Oral or written notification of weed board - Filing of formal complaint. If an individual believes that a person who is in charge of or in possession of land in this state has not eradicated or is not controlling noxious weeds as required by section 63-01.1-01, the individual may provide oral or written notification of the alleged failure to eradicate or control weeds to the weed board having jurisdiction over the area in which the land is located or may file a formal complaint with the weed board having jurisdiction over the area in which the land is located.

SECTION 29. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Oral or written notification of weed board - Enforcement by weed board. If a weed board receives oral or written notification of an alleged failure to eradicate or control weeds, the weed board shall investigate the complaint. If the weed board determines the complaint has merit, the weed board shall do all things reasonable and necessary to ensure that the person in charge of or in possession of the land eradicates or controls the noxious weeds.

SECTION 30. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Filing of formal complaint - Enforcement by weed board.

1. If a weed board receives a formal complaint of an alleged failure to eradicate or control weeds on land in an area under the jurisdiction of the weed board, the weed board shall direct the weed control officer to investigate the complaint. Within ten working days from the date on which the complaint was received by the weed board, the weed control officer

shall investigate the complaint, develop a remediation plan with the person that is in charge of or in possession of the land, obtain on the remediation plan the signature of the person who is in charge of or in possession of the land, and submit one copy of the remediation plan to the weed board, one copy to the agriculture commissioner, and one copy to the individual who filed the complaint.

2. If the person in charge of or in possession of the land refuses to sign the remediation plan or if the person does not at a minimum follow the requirements for control or eradication set forth in the remediation plan, the weed board is deemed to have given the person notice under section 63-01.1-08 and may cause the noxious weeds to be controlled or eradicated as provided for in that section.
3. A formal complaint filed under this section must be in writing on a triplicate form. One copy of the complaint must be filed with the weed board, one copy must be filed with the agriculture commissioner, and the individual filing the complaint may retain a copy. The agriculture commissioner shall design the form and make the form available for distribution by city and county weed boards. The agriculture commissioner also shall make the form available to any individual upon request.

SECTION 31. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Weed board - Failure to enforce chapter.

1. If the individual who provided oral or written notice of an alleged failure to eradicate or control weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter and determine whether the weed board has failed unjustifiably to enforce this chapter.
2. If the agriculture commissioner receives a copy of a formal complaint filed under section 30 of this Act, the commissioner shall maintain contact with the weed board to ensure that the matter is being addressed appropriately and in a timely manner.

SECTION 32. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Conflict of interest - Failure of weed board to enforce chapter - Penalties.

1. If a weed board receives oral or written notification of a person's alleged failure to eradicate or control weeds and the weed board determines that its ability to enforce this chapter is compromised because of a conflict of interest, the weed board may notify the agriculture commissioner and ask that the commissioner assist in the investigation and enforcement of the chapter.
2. If a weed board receives a formal complaint regarding a person's alleged failure to eradicate or control weeds and the commissioner determines that the weed board is not addressing the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter.
3. If a person who is in charge of or in possession of land has not eradicated or is not controlling noxious weeds as required by section 63-01.1-01, the person may be assessed penalties by the agriculture commissioner in an

amount equal to the costs incurred by the commissioner in responding to this section or one thousand dollars, whichever is less. Any moneys collected under this section must be retained by the commissioner and may be used only for matters related to noxious weed control or eradication. Any moneys collected under this section by the commissioner are in addition to any other penalties that may be assessed under section 63-01.1-15."

Page 28, after line 12, insert:

"SECTION 42. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Failure to eradicate or control pests - Oral or written notification of weed board - Filing of formal complaint. If an individual believes that a person who is in charge of or in possession of land in this state has not eradicated or is not controlling pests as required by section 63-01.1-01, the individual may provide oral or written notification of the alleged failure to eradicate or control pests to the weed board having jurisdiction over the area in which the land is located or may file a formal complaint with the weed board having jurisdiction over the area in which the land is located.

SECTION 43. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Pests - Oral or written notification of weed board - Enforcement by weed board. If a weed board receives oral or written notification of an alleged failure to eradicate or control pests, the weed board shall investigate the complaint. If the weed board determines the complaint has merit, the weed board shall do all things reasonable and necessary to ensure that the person in charge of or in possession of the land eradicates or controls the pests.

SECTION 44. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Pests - Filing of formal complaint - Enforcement by weed board.

- 1.** If a weed board receives a formal complaint of an alleged failure to eradicate or control pests on land in an area under the jurisdiction of the weed board, the weed board shall direct the weed control officer to investigate the complaint. Within ten working days from the date on which the complaint was received by the weed board, the weed control officer shall investigate the complaint, develop a remediation plan with the person who is in charge of or in possession of the land, obtain on the remediation plan the signature of the person who is in charge of or in possession of the land, and submit one copy of the remediation plan to the weed board, one copy to the agriculture commissioner, and one copy to the individual who filed the complaint.
- 2.** If the person in charge of or in possession of the land refuses to sign the remediation plan or if the person does not at a minimum follow the requirements for control or eradication set forth in the remediation plan, the weed board is deemed to have given the person notice under section 35 or 39 of this Act and may cause the pests to be controlled or eradicated as provided for in the relevant section.
- 3.** A formal complaint filed under this section must be in writing on a triplicate form. One copy of the complaint must be filed with the weed board, one copy must be filed with the agriculture commissioner, and the individual

filing the complaint may retain a copy. The agriculture commissioner shall design the form and make the form available for distribution by city and county weed boards. The agriculture commissioner also shall make the form available to any individual upon request.

SECTION 45. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Weed board - Failure to enforce chapter.

1. If the individual who provided oral or written notice of an alleged failure to eradicate or control pests believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter and determine whether the weed board has failed unjustifiably to enforce this chapter.
2. If the agriculture commissioner receives a copy of a formal complaint filed under section 44 of this Act, the commissioner shall maintain contact with the weed board to ensure that the matter is being addressed appropriately and in a timely manner.

SECTION 46. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Conflict of interest - Failure of weed board to enforce chapter - Penalties.

1. If a weed board receives oral or written notification of a person's alleged failure to eradicate or control pests and the weed board determines that its ability to enforce this chapter is compromised because of a conflict of interest, the weed board may notify the agriculture commissioner and ask that the commissioner assist in the investigation and enforcement of the chapter.
2. If a weed board receives a formal complaint regarding a person's alleged failure to eradicate or control pests and the commissioner determines that the weed board is not addressing the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter.
3. If a person who is in charge of or in possession of land has not eradicated or is not controlling pests as required by section 63-01.1-01, the person may be assessed penalties by the agriculture commissioner in an amount equal to the costs incurred by the commissioner in responding to this section or one thousand dollars, whichever is less. Any moneys collected under this section must be retained by the commissioner and may be used only for matters related to pest control or eradication. Any moneys collected under this section by the commissioner are in addition to any other penalties that may be assessed under section 63-01.1-15."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2280

Page 1, line 1, replace "eighteen" with "thirty"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; to provide for reports to the legislative council; to provide a penalty; to provide an effective date; and to provide an expiration date"

Page 2, line 5, after "weeds" insert "and pests"

Page 2, line 8, after "weeds" insert "and pests"

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

Page 22, after line 25, insert:

SECTION 28. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

SECTION 29. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Failure to eradicate or control noxious weeds - Oral or written notification of weed board - Filing of formal complaint. If an individual believes that a person who is in charge of or in possession of land in this state has not eradicated or is not controlling noxious weeds as required by section 63-01.1-01, the individual may provide oral or written notification of the alleged failure to eradicate or control noxious weeds to the weed board having jurisdiction over the area in which the land is located or may file a formal complaint with the weed board having jurisdiction over the area in which the land is located.

SECTION 30. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Oral or written notification of weed board - Enforcement by weed board. If a weed board receives oral or written notification of an alleged failure to eradicate or

control noxious weeds, the weed board shall investigate the complaint. If the weed board determines the complaint has merit, the weed board shall do all things reasonable and necessary to ensure that the person in charge of or in possession of the land eradicates or controls the noxious weeds.

SECTION 31. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Filing of formal complaint - Enforcement by weed board.

1. If a weed board receives a formal complaint of an alleged failure to eradicate or control noxious weeds on land in an area under the jurisdiction of the weed board, the weed board shall direct the weed control officer to investigate the complaint. Within ten working days from the date on which the complaint was received by the weed board, the weed control officer shall investigate the complaint, develop a remediation plan with the person in charge of or in possession of the land, obtain on the remediation plan the signature of the person in charge of or in possession of the land, and submit one copy of the remediation plan to the weed board, one copy to the agriculture commissioner, and one copy to the individual who filed the complaint.
2. If the person in charge of or in possession of the land refuses to sign the remediation plan or if the person does not at a minimum follow the requirements for control or eradication set forth in the remediation plan, the weed board is deemed to have given the person notice under section 63-01.1-08 and may cause the noxious weeds to be controlled or eradicated as provided for in that section.
3. A formal complaint filed under this section must be in writing on a triplicate form. One copy of the complaint must be filed with the weed board, one copy must be filed with the agriculture commissioner, and the individual filing the complaint may retain a copy. The agriculture commissioner shall design the form and make the form available for distribution by city and county weed boards. The agriculture commissioner also shall make the form available to any individual upon request.

SECTION 32. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Weed board - Failure to enforce chapter.

1. If the individual who provided oral or written notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter and determine whether the weed board has failed unjustifiably to enforce this chapter.
2. If the agriculture commissioner receives a copy of a formal complaint filed under section 31 of this Act, the commissioner shall maintain contact with the weed board to ensure that the matter is being addressed appropriately and in a timely manner.

SECTION 33. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Conflict of interest - Failure of weed board to enforce chapter - Penalties.

1. If a weed board receives oral or written notification of a person's alleged failure to eradicate or control noxious weeds and the weed board determines that its ability to enforce this chapter is compromised because of a conflict of interest, the weed board may notify the agriculture commissioner and ask that the commissioner assist in the investigation and enforcement of the chapter.
2. If a weed board receives a formal complaint regarding a person's alleged failure to eradicate or control noxious weeds and the commissioner determines that the weed board is not addressing the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter.
3. If a person in charge of or in possession of land has not eradicated or is not controlling noxious weeds as required by section 63-01.1-01, the person may be assessed penalties by the agriculture commissioner in an amount equal to the costs incurred by the commissioner in responding to this section or one thousand dollars, whichever is less. Any moneys collected under this section must be retained by the commissioner and may be used only for matters related to noxious weed control or eradication. Any moneys collected under this section by the commissioner are in addition to any other penalties that may be assessed under section 63-01.1-15."

Page 28, after line 12, insert:

"SECTION 43. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided notice of an alleged failure to eradicate or control pests believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

SECTION 44. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Failure to eradicate or control pests - Oral or written notification of weed board - Filing of formal complaint. If an individual believes that a person in charge of or in possession of land in this state has not eradicated or is not controlling pests as required by section 63-01.1-01, the individual may provide oral or written notification of the alleged failure to eradicate or control pests to the weed board having jurisdiction over the area in which the land is located or may file a formal complaint with the weed board having jurisdiction over the area in which the land is located.

SECTION 45. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Pests - Oral or written notification of weed board - Enforcement by weed board. If a weed board receives oral or written notification of an alleged failure to eradicate or control pests, the weed board shall investigate the complaint. If the weed board determines the complaint has merit, the weed board shall do all things reasonable and necessary to ensure that the person in charge of or in possession of the land eradicates or controls the pests.

SECTION 46. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Pests - Filing of formal complaint - Enforcement by weed board.

1. If a weed board receives a formal complaint of an alleged failure to eradicate or control pests on land in an area under the jurisdiction of the weed board, the weed board shall direct the weed control officer to investigate the complaint. Within ten working days from the date on which the complaint was received by the weed board, the weed control officer shall investigate the complaint, develop a remediation plan with the person who is in charge of or in possession of the land, obtain on the remediation plan the signature of the person who is in charge of or in possession of the land, and submit one copy of the remediation plan to the weed board, one copy to the agriculture commissioner, and one copy to the individual who filed the complaint.
2. If the person in charge of or in possession of the land refuses to sign the remediation plan or if the person does not at a minimum follow the requirements for control or eradication set forth in the remediation plan, the weed board is deemed to have given the person notice under section 36 or 40 of this Act and may cause the pests to be controlled or eradicated as provided for in the relevant section.
3. A formal complaint filed under this section must be in writing on a triplicate form. One copy of the complaint must be filed with the weed board, one copy must be filed with the agriculture commissioner, and the individual filing the complaint may retain a copy. The agriculture commissioner shall design the form and make the form available for distribution by city and county weed boards. The agriculture commissioner also shall make the form available to any individual upon request.

SECTION 47. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Weed board - Failure to enforce chapter.

1. If the individual who provided oral or written notice of an alleged failure to eradicate or control pests believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may notify the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter and determine whether the weed board has failed unjustifiably to enforce this chapter.
2. If the agriculture commissioner receives a copy of a formal complaint filed under section 46 of this Act, the commissioner shall maintain contact with the weed board to ensure that the matter is being addressed appropriately and in a timely manner.

SECTION 48. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Conflict of interest - Failure of weed board to enforce chapter - Penalties.

1. If a weed board receives oral or written notification of a person's alleged failure to eradicate or control pests and the weed board determines that its ability to enforce this chapter is compromised because of a conflict of interest, the weed board may notify the agriculture commissioner and ask

that the commissioner assist in the investigation and enforcement of the chapter.

2. If a weed board receives a formal complaint regarding a person's alleged failure to eradicate or control pests and the commissioner determines that the weed board is not addressing the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter.
3. If a person in charge of or in possession of land has not eradicated or is not controlling pests as required by section 63-01.1-01, the person may be assessed penalties by the agriculture commissioner in an amount equal to the costs incurred by the commissioner in responding to this section or one thousand dollars, whichever is less. Any moneys collected under this section must be retained by the commissioner and may be used only for matters related to pest control or eradication. Any moneys collected under this section by the commissioner are in addition to any other penalties that may be assessed under section 63-01.1-15.

SECTION 49. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL. In November 2005 and June 2006, the agriculture commissioner shall file a report with the legislative council which cites all notifications and requests for assistance under sections 28 and 43 and includes the commissioner's response to each notification and request."

Page 29, after line 10, insert:

"SECTION 52. EFFECTIVE DATE. Sections 29 through 33 and sections 44 through 48 become effective on July 1, 2007.

SECTION 53. EXPIRATION DATE. Sections 28 and 43 of this Act are effective through June 30, 2007, and after that date are ineffective."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2280

Page 1, line 1, replace "eighteen" with "twenty"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; to provide for reports to the legislative council; and to provide a penalty"

Page 2, line 5, after "weeds" insert "and pests"

Page 2, line 8, after "weeds" insert "and pests"

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

Page 14, line 20, overstrike "state" and insert immediately thereafter "landowner assistance"

Page 22, after line 25, insert:

"SECTION 28. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

Page 28, after line 12, insert:

"SECTION 38. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided notice of an alleged failure to eradicate or control pests believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall

investigate the matter. If the commissioner determines that an authorized pest control program exists and that the weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

SECTION 39. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL. In November 2005 and June 2006, the agriculture commissioner shall report to the legislative council all notifications and requests for assistance under sections 28 and 38 and include the commissioner's response to each notification and request."

Page 29, line 8, after "the" insert "governing body of the" and remove "council"

Renumber accordingly

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 1, line 1, replace "eighteen" with "seventeen"

Page 1, line 3, remove the first comma

Page 1, line 4, replace "61-01.1-04.1" with "63-01.1-04.1" and replace "61-03.1-05" with
"63-01.1-05"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; to provide for reports to the legislative council; and to
provide a penalty"

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 14, line 20, overstrike "state" and insert immediately thereafter "landowner assistance"

House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005

Page 22, after line 25, insert:

"SECTION 28. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided written notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the weed board within twenty-one days from the date of the complaint, the individual may provide written notification to the local governing authority. If the individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the local governing authority within twenty-one days from the date of the notice to the local governing authority, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter satisfactorily within the twenty-one day period, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest."

Page 22, line 28, after the underscored boldfaced period insert:

"1."

Page 22, line 30, after "pests" insert "on public lands within the county and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the county"

House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005

Page 23, remove lines 1 through 6

Page 23, line 13, after "efforts" insert "under this section"

Page 23, line 17, after "pests" insert "under section 29 of this Act"

Page 23, line 18, replace "land users" with "landowners"

Page 23, line 24, remove "Take enforcement action when necessary."

Page 23, line 25, remove "6."

Page 23, line 27, replace "7." with "6."

Page 23, line 28, replace "8." with "7."

Page 23, remove lines 30 and 31

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 24, remove lines 1 through 28

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 25, line 7, after the underscored boldfaced period insert:

"1."

Page 25, line 9, after "pests" insert "on land within the corporate boundaries of the city and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the city"

Page 25, remove lines 10 through 15

Page 25, line 22, after "efforts" insert "under this section"

Page 25, line 26, after "pests" insert "under section 32 of this Act"

Page 25, line 27, replace "land users" with "landowners"

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 26, line 2, remove "Take enforcement action when necessary."

Page 26, line 3, remove "6."

Page 26, line 5, replace "7." with "6."

Page 26, line 6, replace "8." with "7."

Page 26, remove lines 8 through 31

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 27, remove lines 1 through 5

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 28, line 26, remove "a."

Page 28, line 30, remove "b. All penalties" and overstrike "collected pursuant to this section for failure or refusal to"

Page 28, line 31, overstrike "control", remove "or eradicate", and overstrike "pests"

**House Amendments to Engrossed SB 2280 (50712.0204) - Agriculture Committee
03/25/2005**

Page 29, line 1, overstrike "must be credited to the weed control", remove "and eradication", and overstrike "fund in the political"

Page 29, line 2, overstrike "subdivision in which the penalty originated but dedicated for use"

Page 29, line 3, remove "in the", overstrike "control", remove "or eradication of", and overstrike "pests." and insert immediately thereafter:

"4."

Page 29, line 6, replace "4." with "5."

Page 29, line 8, after "the" insert "governing body of the" and remove "council"

Page 29, after line 8, insert:

"SECTION 37. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL. In November 2005 and June 2006, the agriculture commissioner shall report to the legislative council all notifications and requests for assistance under section 28 of this Act. The reports must include the commissioner's response to each notification and request."

Renumber accordingly

3-24-05
SB 2280

Date:
Roll Call Vote #:

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

House HOUSE AGRICULTURE COMMITTEE Committee

Check here for Conference Committee

50712-0204

Legislative Council Amendment Number MOVE Amendment

Action Taken _____

Motion Made By BRAND 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					

*Voice
Voted*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

3-24-05

SB 2280

Date:
Roll Call Vote #:

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

House HOUSE AGRICULTURE COMMITTEE Committee

50712.0204
0300

Check here for Conference Committee

Legislative Council Amendment Number AS Amended

Action Taken DO PASS

Motion Made By BELTER Seconded By BRANDENBURG

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) 7 No 3

Absent 3

Floor Assignment BRANDENBURG

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

REPORT OF STANDING COMMITTEE

SB 2280, as engrossed: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2280 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "eighteen" with "seventeen"

Page 1, line 3, remove the first comma

Page 1, line 4, replace "61-01.1-04.1" with "63-01.1-04.1" and replace "61-03.1-05" with "63-01.1-05"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; to provide for reports to the legislative council; and to provide a penalty"

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

Page 14, line 20, overstrike "state" and insert immediately thereafter "landowner assistance"

Page 22, after line 25, insert:

"SECTION 28. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided written notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the weed board within twenty-one days from the date of the complaint, the individual may provide written notification to the local governing authority. If the individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the local governing authority within twenty-one days from the date of the notice to the local governing authority, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter satisfactorily within the twenty-one day period, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest."

Page 22, line 28, after the underscored boldfaced period insert:

"1."

Page 22, line 30, after "pests" insert "on public lands within the county and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the county"

Page 23, remove lines 1 through 6

Page 23, line 13, after "efforts" insert "under this section"

Page 23, line 17, after "pests" insert "under section 29 of this Act"

Page 23, line 18, replace "land users" with "landowners"

Page 23, line 24, remove "Take enforcement action when necessary."

Page 23, line 25, remove "6."

Page 23, line 27, replace "7." with "6."

Page 23, line 28, replace "8." with "7."

Page 23, remove lines 30 and 31

Page 24, remove lines 1 through 28

Page 25, line 7, after the underscored boldfaced period insert:

"1."

Page 25, line 9, after "pests" insert "on land within the corporate boundaries of the city and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the city"

Page 25, remove lines 10 through 15

Page 25, line 22, after "efforts" insert "under this section"

Page 25, line 26, after "pests" insert "under section 32 of this Act"

Page 25, line 27, replace "land users" with "landowners"

Page 26, line 2, remove "Take enforcement action when necessary."

Page 26, line 3, remove "6."

Page 26, line 5, replace "7." with "6."

Page 26, line 6, replace "8." with "7."

Page 26, remove lines 8 through 31

Page 27, remove lines 1 through 5

Page 28, line 26, remove "a."

Page 28, line 30, remove "b. All penalties" and overstrike "collected pursuant to this section for failure or refusal to"

Page 28, line 31, overstrike "control", remove "or eradicate", and overstrike "pests"

Page 29, line 1, overstrike "must be credited to the weed control", remove "and eradication", and overstrike "fund in the political"

Page 29, line 2, overstrike "subdivision in which the penalty originated but dedicated for use"

Page 29, line 3, remove "in the", overstrike "control", remove "or eradication of", and overstrike "pests." and insert immediately thereafter:

"4."

Page 29, line 6, replace "4." with "5."

Page 29, line 8, after "the" insert "governing body of the" and remove "council"

Page 29, after line 8, insert:

"SECTION 37. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL. In November 2005 and June 2006, the agriculture commissioner shall report to the legislative council all notifications and requests for assistance under section 28 of this Act. The reports must include the commissioner's response to each notification and request."

Renumber accordingly

2005 TESTIMONY

SB 2280



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

**NORTH DAKOTA DEPARTMENT OF AGRICULTURE
LEGISLATIVE TESTIMONY**

Testimony of Jeff Olson,
Program Manager
Senate Bill 2280
January 27, 2005, 10:30 a.m.
Senate Agriculture Committee
Roosevelt Room

Chairman Flakoll and members of the committee. My name is Jeff Olson. I am a Program Manager at the Department of Agriculture. I am here to testify in support of SB 2280, with amendments, a bill that amends and creates seventeen new sections to Chapter 63-01.1 of the North Dakota Century Code relating to the control and eradication of noxious weeds. I would also like to submit amendments to the bill. The Department worked closely with the ND Weed Control Association in reviewing the changes and drafting these amendments. If there are any questions about the amendments, I would be happy to answer them.

The Commissioner of Agriculture is charged with ensuring the county and city weed boards enforce chapter 63-01.1. The Department works closely with the weed boards and state and federal agencies on weed control issues.

This bill consists of four main changes to the statute that I would like to point out for you.

Change one, allows the repeal of the one mill requirement designated for leafy spurge control.

The change allows each county more flexibility to use that mill for their most pressing weed problem whether it is leafy spurge, Canada thistle, knapweed, etc.

The second change is to provide city weed boards with the same authority as the county weed boards and also allows them the same opportunity to access state funding for weed control.

The third major change is to allow county and city weed boards to hire the necessary staff to support their programs. A 1993 Attorney General's opinion, requested by the Cass County State's Attorney, concluded that the county and city weed boards could not hire staff except for the weed officer. With the increase in weed control activity by counties and cities, the need to hire staff to do the work is increasing. This issue would be resolved with the approval of the amendments presented by Senator Klein, but I would like you to amend the amendment to omit "during the summer months." Some weed boards utilize a secretary and other technicians year round to help with the administrative and mapping requirements of the board. Weed control also occurs into October and November.

The fourth significant change is to increase the penalty that a weed board may levy against a property owner. Although the Commissioner does not get involved in this issue, under the jurisdiction of the local weed control authority, we do support the increase in penalties to assist the weed control authorities in gaining compliance with weed laws.

I would ask the committee to consider including the amendments and then approve SB 2280.

Thank you. I would be happy to answer any questions.

Untitled

Good Morning Mr. Chairman, Members of the Committee,

For the record, my name is Myron Dieterle. I am a farmer, rancher, County Weed Board member and ^{2nd} ~~1st~~ vice president of the ND Weed Control Association.

First of all I would like to thank Senator Klien for helping us bring this bill to you today.

The ND Weed Control Association and the Department of Agriculture began work on revising all of the Noxious Weed Law in the fall of 2004. The Board of Directors and Legislative Committee brought the draft of what was to become SB 2280 before our annual convention in January. Over forty weed boards were represented and agreed with the proposed changes.

The draft of the association and the Ag Department was submitted to the Legislative Council, and when numbered, became available to us for reviewal. We discovered many changes, some of which changed the intent of the law, others made things clearer. We reviewed it all and went back to the Legislative Council Attorney with our ideas for ammendments.

These amendments have been reviewed by the Board of Directors and were a cooperative effort of the Ag Department and the Association. These amendments have been submitted by Jeff Olson. I have reviewed SB 2280 and felt it important to go throught all sections and explain.

Section 1, amendment line 10: Current law and proposed law, referencing 4-33-11 NDCC. This refers to pests affecting plants and no where has any referenceto Vector Control Programs.

Section 2 amended is verbage changes.

Section 3 amendment deals with definitions. On page 3 line 1 we need to define a highway, street, or road and offer an amendment to end line 3 with "and does not need to have a hard

Untitled

surface." On line 15 through 19 we deleted the definition of a person since it is covered under line 4- definition of a landowner. Line 21, page 3 "Township Road" language is better defined.

Section 4 amendment covering the "Duties of the Commissioner", is again cleaned up, however on page 5 line 5 we have a major item omitted. Line 5 needs to be reinstated as proposed in the amendments because later sections of the law give the commissioner authority to adopt rules for certification of weed officers and rules for standards providing for hay and gravel, weed free. No where in SB 2280 is there a provision to provide authority for the commissioner to use the rule process to declare a weed "Noxious". Under current law, the public hearing process is used and this would not be included unless we leave this section in as we propose by amendment.

Section 5, page 5 refers to "Powers" of the commissioner and says he May, and these items are in current statute.

Section 6, page 5 meaning is the same but worded better.

Section 7, page 6, line 8: we are wanting to amend this since wording proposed in SB2280 provides for a board made up of 5, 6 or seven members and we feel the need to keep the board number odd to maintain viability. On page 6, line 11 and 12, "any qualified elector residing in the board member's area is eligible to represent that area on the board." We noticed "subject to taxation" was omitted. It was brought to our attention that in ~~one~~ county, the States Attorney interpreted "taxation" to include sales and income tax and thus, no one was excluded. So we agreed with deleting this part.

Section 8, page 7 line 8, we are discussing weed officers and reads as follows: An individual may serve as a county or city weed control officer for more than delete county and reinstate weed board. We want to provide for the opportunity of sharing a weed officer either in a multi

county or city and county agreement.

Sections 9 and 10, page 8 and 9 look like new sections but are actual provisions deleted from other areas and reformed here.

Section 11, page 9, lines 28-30 are deleted and to my knowledge no weed control officer ever has served as county seed inspector. The duties related to seed and its regulation are under the jurisdiction of the State Seed Department.

Sections 7, starting on page 5 and sections 8,9,10 and 11, ending on page 9 refer to the county weed board, its make up, terms, compensation duties, powers, weed list and the duties of a county weed officer. I must reiterate all reference to a "county" situation.

Section 12, beginning on page 10 and including sections 13, 14, 15, and 16 ending on page 12 all relate to a city weed board and a city weed control officer and mirror the code of section 7 through 11 but refer to a city. Sections 12 through 16 need the same amendments as used in 7 through 11 and both cities and counties will have similar duties and responsibilities.

Section 17, page 12 refers to certification of weed officers and is amended to include city as well as county weed officers.

Section 18, page 13 covers funding of county programs as noted on line 14 and 15. The requirement of dedicating 1 mill for leafy spurge is removed. In our county, Sheridan, this is beneficial since we have a limited amount of spurge control but are short of funds when it comes to controlling other noxious weeds on public right of ways.

On page 14, line 2 the requirement of "landowner to contribute twenty percent of the cost of control

Untitled

on their land" is deleted. We are requesting reinstatement of this section by amendment because we feel it is important for any landowner to recognize ^{the cost of control and be a part by either} financial or in kind services.

On page 14, line 3 through line 13, we propose to amend this to read, and I quote, "a county weed board may not receive more than one half of the boards actual cost share expenditures for noxious weed control or eradication from any legislative appropriation, unless the commissioner and county weed board determines a weed is seriously endangering areas of a county or the state, then assistance in control may be provided by legislative appropriation. Delete on 13 "specifically provides for a higher percentage."

Page 14 lines 14 through 21 retains the requirement of a county to levy a minimum of 3 mills for noxious weed control to be eligible to get state cost share dollars. The NDWCA feels it is important for the county to indicate the importance of weed control by its commitment of its taxpayers to be eligible for state dollars.

Section 19, page 14 and 15 refers to funding of city programs and we propose the amendments included for 18 be added to 19 to make county and city noxious ^{weed} control programs equal.

Section 20, page 15 through 17 refer to the right of entry on private land for control purposes and SB2280 includes language to cover entry in both a county and a city situation.

Section 21, page 17, line 26, we would amend to read " along county and township roads and highways.

Section 22, page 18 provides for cities of three thousand or more to organize and run a noxious weed control program separate from the county.

Section 23, page 18 and 19 as amended is similar to current law and deals with dissemination of noxious weeds.

Section 24, page 19 deals with quatantines for controlling the spread of noxious weeds and the proposed amendments make this section applicable to both a county and city jurisdiction.

On page 19, line 29 we propose deleting state and adding street or road so enforcement action could be taken on all roads and not just state highways.

Section 25, page 20 deals with certification of gravel and sand and hayland. In all other sections of SB2280, we refer to "noxious weeds". It is only in this section do we propose to ament out the term noxious since this section provides that the commissioner establish rules for certification of hay, sand or gravel. For ~~our~~^{OUR} producers of hay to meet standards of certification to be transported to national parks, grasslands, etc. their product must be free of fifty plus weeds and this is why we refer to weeds and not noxious weeds only in this section. NAMA standards.

We also propose amendments to make this section comparable for both a county and city jurisdiction.

Section 26, page 20 and 21 is the only section dealing with noxious weed control on publicly owned land. Because of this we propose amendments to include cities as well as countys working to control or eradicate noxious weeds.

Section 27, page 21-22, we leave as proposed.

Section 28, page 22, section 29, and section 30 ending on page 24, line 7 refer to the county weed board and county weed officer conducting a pest control program and are similar to current law but in a different format but we would not amend these sections.

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Section 31, page 24, line 11 after the word township we would insert "roads and."

Section 32, page 24, section 33 and 34 ending on page 26, line 12 refers to pest control by a city board and a city weed officer and we would use the language as we proposed for sections 28, 29, and 30 ^{city} county pest control.

Section 35, page 26 is the only section dealing with pest control on publicly owned land and our proposed amendments seek to make this applicable for both a county and city situation. They also use wording similar to control of noxious weeds under section 26.

Section 36, page 27, penalties line 20 and 21. We support an increase in penalties from fifty to one hundred dollars per day and from a maximum of two thousand, five hundred to five thousand per year. Currently there is HB 1331 which attempts to deal with weed control in an organic situation. Many weed boards do not have the necessary funds to go out and control or eradicate noxious weeds when a complaint is received even though they could receive the funds when the taxes are paid. Consequently their only other course of enforcement action is to levy a fine for inaction. In some instances it is much more profitable to pay a fine than destroy a crop or salvage it by haying or grazing. Increasing the fine would increase the deterrent.

The balance of SB 2280 is covered in existing law.

Mr Chairman, members of the Committee, I have been on a county weed board since the 1981 law created them. During the 80's and early to mid 90's, I was the lobbyist for the ND Weed Control Association and was part of the rewrites of the whole law. Based on concerns raised years ago, I tried to highlight points of interest today. I was asked to prepare this testimony because of experience but also because I am one amongst 2 people serving on this state board who is not employed as a county weed officer. I personally feel it is very important for weed boards to be able to employ people to collect bugs, disperse bugs, spray roads, conduct weed surveys, serve as secretaries of weed boards and all the host of activities that make a successful noxious weed control program. If county or city commissioners feel we

Untitled

aren't doing our job, then let them remove us.

Mr. Chairman, members of the committee, not all boards have access to contract services ,
whether spray or secretarial. We are not trying to take power away from the commissioners.

All we want is to be able to conduct successful programs.

The ND Weed Control Association supports SB 2280 with the amendments provided by the
Department of Agriculture.

Thank you for this opportunity on behalf of the ND Weed Control Association. I would be happy
to try to answer any questions you may have.

Myron Dieterle
701-626-7470

SENATE BILL 2280

Chairman and members of the Senate Agriculture Committee, my name is Melvin Fischer, Administrator, Environmental Health Division, Department of Fire and Inspections, Bismarck, ND. I am here in support of SB 2280.

I would like to offer three technical changes that will provide clarification and/or better define the law as it relates to cities that administer weed programs:

- I would urge the following language “the governing body of a city may act as the weed board” be added to Section 12. This language is present in Section 22, however, I think it is important to indicate earlier in the law;
- I would also suggest that the language referenced as “city council” be changed to the “governing body of a city” throughout the context of the bill. Some cities operate under a commission form of government, others under a council form of government. This provides the latitude for all cities interested in administering a weed control program pursuant to the parameters of the law; and
- Lastly, Section 32 of the bill references city weed board-pest control-authorization. The term “pest” is defined in section 4-33-01 and a prairie dog. I would urge that the definition include some aspect of risk to human or public health. In my opinion, this could be interpreted to include gophers, voles, etc. and I am concerned of requiring this type of pest control within a city unless it presents a human or public health threat.

I am available to address any questions you may have.

CHAPTER 4-33 PLANT PESTS

4-33-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with a pest.
2. "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.
3. "Host" means any plant or plant product upon which a pest is dependent for completion of any portion of its life cycle.
4. "Infested" means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.
5. "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved.
6. "Permit" means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.
7. "Person" means any individual, corporation, limited liability company, company, society, or association, or other business entity.
8. "Pest" means any invertebrate animal, pathogen, parasitic plant, or similar organism which can cause damage to a plant or part thereof or any processed, manufactured, or other product of plants.
9. "Phytosanitary certificate" means an international document issued or authorized by the commissioner stating that a plant or plant product is considered free from quarantine pests and practically free from injurious pests and that they are considered to conform with the current phytosanitary regulations of the importing country.
10. "Plant" means agronomic field crops, horticultural crops, and native and tame grasses used for livestock production.
11. "Regulated article" means any article of any character as described in the quarantine carrying or capable of carrying the plant pest against which the quarantine is directed.

4-33-02. Administration - Rulemaking authority - State agricultural entomologist. The commissioner has the responsibility for administration of the provisions of this chapter. The commissioner shall employ a qualified entomologist to serve as state agricultural entomologist and to carry out the survey, control, and quarantine provisions of this chapter. The individual must be a graduate in agricultural entomology from an accredited college or university and must be stationed in Bismarck. The commissioner may adopt such rules under chapter 28-32 as are necessary to carry out the purposes and provisions of this chapter.

4-33-03. Authority for voluntary measures. The commissioner, either independently or in cooperation with counties or political subdivisions thereof, cities, towns, farmers' associations or similar organizations, individuals, federal agencies, or agencies of other states, is authorized to carry out operations or measures to locate; to suppress, control, or eradicate; or to prevent or retard the spread of pests with the consent of the owners of the property involved.



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

**NORTH DAKOTA DEPARTMENT OF AGRICULTURE
LEGISLATIVE TESTIMONY**

Testimony of Jeff Olson,
Program Manager
Senate Bill 2280
March 3, 2005
House Agriculture Committee
Peace Garden Room

Chairman Nicholas and members of the committee. My name is Jeff Olson. I am a Program Manager at the Department of Agriculture. I am here to testify in support of SB 2280. This bill amends and creates seventeen new sections to Chapter 63-01.1 of the North Dakota Century Code relating to the control and eradication of noxious weeds. I also request to comment on amendments to SB 2280 that are presently being developed. The Department worked closely with Representatives Brandenburg and Boe and the ND Weed Control Association in drafting these amendments.

The Commissioner of Agriculture is charged with ensuring that the county and city weed boards enforce chapter 63-01.1. The Department works closely with the weed boards and state and federal agencies on weed control issues.

This bill consists of four main changes to the statute that I would like to point out for you.

Change one, allows the repeal of the one mill requirement designated for leafy spurge control.

The change allows each county more flexibility to use that mill for their most pressing weed problem whether it is leafy spurge, Canada thistle, knapweed, etc.

The second change is to provide city weed boards with the same authority as the county weed boards and also allows them the same opportunity to access state funding for weed control.

The third major change is to allow county and city weed boards to hire the necessary staff to support their programs. A 1993 Attorney General's opinion, requested by the Cass County State's Attorney, concluded that the county and city weed boards could not hire staff except for the weed officer. With the increase in weed control activity by counties and cities, the need to hire staff to do the work is increasing. Some weed boards utilize a secretary and other technicians year round to help with the administrative and mapping requirements of the board.

The fourth significant change is to increase the penalty that a weed board may levy against a property owner. Although the Commissioner does not get involved in this issue because it is under the jurisdiction of the local weed control authority, we do support the increase in penalties to assist the weed control authorities in gaining compliance with weed laws.

I would ask the committee to approve SB 2280. Thank you. I would be happy to answer any questions.

SB2280
House Agriculture Committee
March 3, 2005
By Myron Dieterle

Good Morning Mr. Chairman, Members of the Committee,

For the record, my name is Myron Dieterle. I am a farmer, rancher, County Weed Board member and 2nd vice president of the ND Weed Control Association.

First of all, I would like to thank Senator Klien for helping us bring this bill to you today.

The ND Weed Control Association and the Department of Agriculture began work on revising all of the Noxious Weed Law in the fall of 2004. The Board of Directors and Legislative Committee brought the draft of what was to become SB 2280 before our annual convention in January. Over forty weed boards were represented and agreed with the proposed changes.

The draft of the association and the Ag Department was submitted to the Legislative Council, and when numbered, became available to us for reviewal. We discovered many changes, some of which changed the intent of the law, others made things clearer. We reviewed it all and went back to the Legislative Council Attorney with our ideas for amendments.

These amendments have been reviewed by the Board of Directors and were a cooperative effort of the Ag Department and the Association. These amendments have been adopted by the Senate and are engrossed Senate Bill 2280 as it is before you.

What changes are proposed in Senate Bill 2280 that are not in current law:

1. County and city weed boards are brought to equality under the law. Seperate sections were written for both providing similar rights, rules, funding, and organizational structure. Previously most references of the law were to county weed boards and it was left to "assume" the same applied to city weed boards.

2. Previously if a county weed board assessed more than three mills for noxious weed control, one of those mills had to be dedicated to leafy spurge control. With the advancement of leafy spurge control across the state, some counties have found a portion of the dollars previously needed and dedicated for spurge control can be better utilized for other noxious weed control, thus the removal of the language for a dedicated fund for leafy spurge control.
3. Senate bill 2280 provides for the ability of county and city weed boards to employ people. Previously they could designate a weed officer but there wasn't any statutory authority to employ people to conduct noxious weed control programs.
4. The reference to weeds through out the law is changed to read "noxious weeds" other than Section 25 dealing with weed free certification- Gravel and sand and hay land. Section 25 references weeds only because to meet national standards for weed free hay in interstate commerce and state and national parks, etc. We must examine for over 50 weeds, some of which are noxious by our standards but many of which are not.
5. The penalty a weed board can assess for non control of noxious weeds is increased from fifty dollars a day maximum of twenty five hundred dollars to eighty dollars per day maximum of four thousand dollars to better act as a deterrent in non control of noxious weeds.

Most other changes made are changes in formatting the law and cleaning up and clarifying while still maintaining the same intent.

What is not changed in Senate Bill 2280:

1. There is still no mandate for Pest control programs. Page 22, line 28, "the board of County Commissioners in consultation with the county weed board MAY authorize the county weed board to control or eradicate pests. Similar language is used on page 25, line 7 in that a city MAY establish a pest control program.
2. No where in the law is there provisions for Vector control programs or expenditure of weed or pest funds for such programs.
3. The rights of an individual that a complaint has been filed against are still the same. They can have a hearing before the county or city weed board, the county or city governing body or be adjudicated in the courts.
4. Weed control is still accomplished by Page 9 line 10: "the county weed officer shall", continuing on line 20 "investigate all complaints" etc. Page 16, line 10 "any control authority or its agent may enter upon land within its jurisdiction to perform duties and to exercise powers under this chapter" etc.

And finally if we as county and city weed boards are not doing our job on Page 4 line 4 "The Commissioner SHALL" continuing on line 5 "enforce this chapter. I repeat "The Commissioner SHALL enforce this chapter. We must note it says SHALL and not MAY.

Mr. Chairman- members of the Committee, current engrossed SB2280 provides for control or eradication of noxious weeds if all entities involved do a cooperative effort in utilizing 63-01.1 in weed control in North Dakota.

When we worked on this on the Senate side, we had five pages of amendments which were adopted into Engrossed SB2280. After extensive study we found two minor changes needed.

Mr. Chairman, I would offer for the Committee's consideration and on behalf of the North Dakota Weed Control Association these minor changes as amendments before

you.

1. "Landowner assistance" is inserted for clarification purposes.
2. "Governing body of the" is inserted so all sections read the same.

These two amendments are not included in Representative Brandenbergs amendments.

Thank you Mr. Chairman- members of the Committee.

Are there any questions?

Myron Dieterle

626-7470



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 (cell)
rmehlhoff@ndsnxt.nodak.edu

HOUSE AGRICULTURE COMMITTEE
THURSDAY, MARCH 3, 2005
TESTIMONY ON SB 2280
BY
MERLIN LEITHOLD
LOBBYIST # 384

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

For the record, my name is Merlin Leithold. I am the south central area director with the North Dakota Weed Control Association. I am also the weed officer from Grant County.

I stand before you this morning, not testifying on the engrossed bill, SB 2280, but on the amendments proposed by Rep. Brandenburg.

Last week, Rep. Brandenburg, Rep. Boe, Jeff Olson, from the Dept. of Ag, Myron Dieterle, from the weed association, and myself met with a representative from the legislative council. We discussed at length concerns everyone had about weed control, and the ways various weed boards handle weed concerns in their respective counties. We came to the conclusion that there are probably 53 different programs in the state. Some are excellent, and some probably not so good. We felt that there needs to be a way that those not so good counties could be brought up to par with the rest.

One of the ways discussed was by putting a rule making process into the century code to assist all 53 counties, but in a way not to take away the local control of those counties. We felt that we would give this a try for a couple of years to see if it would help. If not, we would come back to the table and try to see what it would take to get it

done. We also felt that some problems could be addressed in administrative rule making instead of more laws.

But, sometimes what you think will be put down on paper does not always happen. These proposed amendments were definitely not what we were looking for.

For instance, an oral complaint would be as good as a written complaint. As a county weed officer, I do investigate oral complaints, and usually talk to the landowner who has a problem. But, that is as far as I go. Unless the person who complained puts it in writing, and signs it, no further action is taken.

Speaking on behalf of the weed association's executive board, we would be in favor of taking these amendments to all weed boards in the state for their input. We would also be in favor of waiting to see how the proposed higher fine limits in SB 2280 would impact the problem. Another possibility would be to perhaps have an interim study of this problem, and to work out a solution that would leave more local control.

So I ask you to either not act on the amendments proposed by Rep. Brandenburg, or to vote them down. I do however urge passage of SB 2280.

Thank-you

Presented by North Dakota Weed
Control Association by:
Myron Dieterle- 2nd Vice President
March 3, 2005

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2280

Page 14, line 20, remove "state" insert "landowner assistance"

Page 29, line 8, after "the" insert "governing body of the", remove "council"

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2280

Page 1, line 1, replace "eighteen" with "twenty"

Page 1, line 7, remove the second "and"

Page 1, line 8, after "boards" insert "; to provide for reports to the legislative council; and to provide a penalty"

Page 2, line 5, after "weeds" insert "and pests"

Page 2, line 8, after "weeds" insert "and pests"

I feel that this needs to be omitted so there is no question that this doesn't supersede the governing authority & weed boards ability to choose to have a program
Myron D.

Page 5, line 1, replace "Forward" with "Except as otherwise provided, forward"

Page 14, line 20, overstrike "state" and insert immediately thereafter "landowner assistance"

Page 22, after line 25, insert:

"SECTION 28: A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

Note I wrote

Investigation by agriculture commissioner - Conflict of Interest. If an individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest."

NOTE

Page 28, after line 12, Insert:

"SECTION 38. A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

J.R. Hen

Investigation by agriculture commissioner - Conflict of interest. If an individual who provided notice of an alleged failure to eradicate or control pests believes that the matter has not been addressed satisfactorily within a reasonable period of time by the weed board, the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall

investigate the matter. If the commissioner determines that an authorized pest control program exists and that the weed board has not addressed the matter appropriately and in a timely manner, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

SECTION 39. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL. In November 2005 and June 2006, the agriculture commissioner shall report to the legislative council all notifications and requests for assistance under sections 28 and 38 and include the commissioner's response to each notification and request."

Page 29, line 8, after "the" insert "governing body of the" and remove "council"

Renumber accordingly

Note 1 = There is the feeling "written" should be inserted between "provided" and "notice". Thus boards would NOT have to act on any other type complaint.

Note 2 = Between "the" and "Agriculture Commissioner" insert "local governing authority". If the individual²

who provide notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily within a reasonable period of time by the local governing authority, the individual may provide written notification to the "

This would theoretically move the complaint up the "chain of command."

Notes 1 & 2 would be inserted in Section 38 To make it similar to 28.