

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



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

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

**Testimony of Roger Johnson
Agriculture Commissioner
Senate Bill 2139
North Dakota Legislative Council
Agriculture Committee
Roughrider Room
October 16, 2007
9:00 AM**

Chairman Mueller and members of the Agriculture Committee, I am Agriculture Commissioner Roger Johnson. During the last legislative session, I testified in support of SB 2139 which provided for a comprehensive review of North Dakota state law related to agriculture. To the best of my knowledge, the dairy law is the only chapter of agricultural code that has received a comprehensive review in recent sessions.

I am here today in support of the Agriculture Committee's plan to draft and submit a bill next legislative session that will provide a much-needed, thorough review and simplification of the existing agriculture law. I appreciate the opportunity to work with the Agriculture Committee and Legislative Council staff in this cooperative process. Anita Thomas of the Legislative Council has prepared a bill draft of the noxious weed chapter. I think this draft is an excellent starting point in the process of reviewing this chapter, and I would like to thank Ms. Thomas for her hard work in preparing it.

Prior to this hearing, my staff met with the North Dakota Weed Control Association and North Dakota State University to review the current law. My staff is prepared to describe how we work with local weed boards to administer the noxious weed program. My overriding goal in working with the Agriculture Committee through this process is to have an easily understood law that maximizes state and local efforts to control weeds.

I believe the agriculture commissioner should have the following responsibilities: distribute funds for local weed control, provide an appeal process, act as the enforcement authority when local weed control fails to act and provide education and technical assistance.

Here are a few areas in the law that you may want to consider further clarifying or revising:

1. **Responsibility for Controlling Weeds** – Current law extends responsibility to landowners, lessees, renters, or tenants; the bill draft restricts responsibility to the landowners. I am opposed to this change. While it appears to be an easier path to require the landowner to control weeds and assess penalties to land taxes, there are many situations where the landowner is not in actual control of the land. Simply limiting authority to landowners overlooks the obvious and direct responsibility that land operators have with respect to noxious weed control. The law should be clear about the responsibilities of the land operator and landowner and the collection mechanisms available.

2. **Enforcement** – Enforcement authority for the agriculture commissioner needs to be clarified and strengthened. As I previously stated, the agriculture commissioner should provide an appeal process when local efforts have failed to address weed control concerns and complaints and should have authority to act in the absence of local enforcement actions. I would caution the committee about removing certain provisions of law that provide the agriculture commissioner penal authority, since this may limit his/her ability to cooperate with local law enforcement or penalize individuals who don't own land. The state needs the ability to enforce the law on individuals who spread noxious weeds, but who don't own land.

3. **Funding** -- Current law describing noxious weed funding is unclear and serves as a roadblock (3 mill and 50 percent cost share requirements) to passing through financial resources to local weed boards. The bill draft, which eliminates the 3 mill and 50 percent cost share requirements, will simplify the process of directing funds to address the needs of local officials struggling to control weeds.

4. **Noxious weeds: definitions, purpose, and listing** -- One might argue the purpose of the noxious weed list is to place focus and resources on those weeds that present the most serious threat to agriculture and the environment. I would urge the committee to consider whether this is the right purpose. Current law and the draft bill in front of you limit state funding of local efforts to controlling noxious weeds and pests. But new invasive species of weeds, which do not fit within the current definition of "noxious weed," also present a serious threat to our state. Efforts should be made to eradicate these weeds

found in limited locations with all control methods at our disposal. In order to control new invasive weeds, the state needs to define them, include them in funding and attempt to eradicate them. Should they be put on the state noxious weed list? Or should they be treated differently?

This committee should also consider whether the language referring to pests belongs in the noxious weed law. As it stands, state funding for noxious weed control could be used by county weed boards to control pests, which the current bill draft defines as prairie dogs, grasshoppers, or any organism.

Currently, the state has 12 noxious weeds listed in the administrative code; all were added through the rule making process. The law arguably allows weeds to be added to the state list by rule making or simple declaration after consultation with North Dakota State University (NDCC: sections 63-01.1-02(10) and 63-01.1-03(4)). In addition to the state list, each county is allowed to make its own weed list. We recently discovered that the agriculture commissioner may not have the authority to enforce county weed lists since they are set by declaration rather than through a rule making process. This committee may wish to provide guidance on the process of naming of noxious weeds and of formally reviewing the state and county lists at scheduled intervals. Defining this process will help the agriculture commissioner keep track of which weeds are on the county weed lists so that these lists can be made available to the public to give notice of which weeds are noxious.

My staff has prepared amendments to the current draft for your consideration. The amendments in front of you reflect input from the Attorney General's office, North Dakota State University and local weed boards.

Chairman Mueller and committee members, I urge the Agriculture Committee to consider these amendments. I appreciate your hard work as you move forward in strengthening weed control efforts across the state. I would be happy to answer any questions you may have.