



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

**Testimony of Roger Johnson
Agriculture Commissioner
Draft Bill: Noxious Weed Control, NDCC Chapter 63-01.1
Version: 90012.0200
North Dakota Legislative Council
Agriculture Committee
Roughrider Room
Friday, January 11, 2008
9:00 AM**

Chairman Mueller and members of the Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of the draft bill to rewrite North Dakota's noxious weed control law (Version: 90012.0200).

At your last committee hearing, held on October 16, 2007, I testified that my overriding goal in working with the Agriculture Committee through the interim process is to have an easily understood law that maximizes state and local efforts to control weeds. I also identified several areas in the law that I feel need further clarification or revision, including:

1. **Responsibility for Controlling Weeds** – The current bill draft appropriately clarifies that it is the duty that every person control the spread of noxious weeds.
2. **Enforcement** – I testified in support of clarifying and strengthening the enforcement authority for the agriculture commissioner. This bill draft also does that. It provides

authority for the agriculture commissioner to enter onto land in order to assess situations and take samples without being subject to any action for trespass or damages. The current bill draft provides that law enforcement agents shall cooperate with the agriculture commissioner for the purposes of enforcing the noxious weed control law.

This bill draft also clarifies quarantine authority and provides for the imposition of an emergency quarantine and a penalty for any person violating a quarantine order. It provides restrictions against the transportation of materials or equipment which spreads noxious weeds. Finally, it provides the agriculture commissioner with civil penalty authority and directs either the board of county commissioners or the governing body of the city – replacing the agriculture commissioner - as the final authority regarding complaint investigations. These are all thoughtful and appropriate provisions.

3. **Funding** – I encouraged the Agriculture Committee to keep the law describing funding as simple, equitable, and flexible as possible so as to address the needs of local officials struggling to control weeds. The current bill draft clearly separates law authorizing the Targeted Assistance Grant (TAG) (Section 15) and the Landowner Assistance Program (LAP) (Section 16), and provides greater flexibility for counties to qualify for LAP by being able to designate a budget amount equal to three mills. While I still have doubts about the purpose of any specific mill levy requirement, I think this language reflects a reasonable compromise with those who advocate for the three mill provision.
4. **Noxious weeds: definitions, purpose, and listing** – I testified in support of the state defining new invasive weeds and providing for their control. It appears that the current

bill draft only allows funding for the control of "noxious" weeds. The following suggested amendment could remedy this oversight:

Page 2, after line 19, insert:

6. "Invasive specie" means a specie that is non-native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Page 2, line 20, overstrike "6." and insert immediately thereafter "7."

Page 2, line 26, overstrike "7." and insert immediately thereafter "8."

Page 8, line 14, after "weed" insert "or invasive specie"

Page 8, line 21, after "weed" insert "or invasive specie"

Renumber accordingly

Also, the current bill draft provides authority for the agriculture commissioner to approve all listings of noxious weeds by counties and cities; however, it does not provide the agriculture commissioner with the authority to remove a weed from a county or city noxious weed list – authority the agriculture commissioner currently possesses. I have prepared the following suggested amendment to deal with this:

Page 6, line 7, after "commissioner." insert "The commissioner may require a county weed board remove a noxious weed from its list."

Page 11, line 5, after "commissioner." insert "The commissioner may require a city weed board remove a noxious weed from its list."

Renumber accordingly

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