

2009 HOUSE AGRICULTURE

HB 1270

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1270

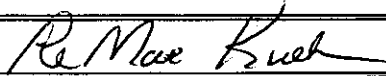
House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8098

Committee Clerk Signature



Minutes:

Representative Mueller, Sponsor of the Bill: (Written testimony #1a attached)

Spoke in support of HB 1270 which will create an inspection and certification program for weed seed free forage and gravel. He emphasized that only those requesting certification will be inspected.

(amendment attached #1b) This amendment is something of a housekeeping thing. The folks at OMB said we couldn't do it just as the way the bill is presented. The appropriation for the department is in another bill. So the "continuing appropriation" language was inappropriate. That short amendment fixes that issue.

Blake Schaan, Noxious Weed Specialist, Dept. of Ag.: (Written testimony #2a attached)

The Department receives numerous calls and emails requesting contact information for people who may have certified forage or gravel available. This bill gives gravel pit owners and forage producers the option to request inspection and certification of their products. While inspecting forage, agents will ensure forage meets the standards set forth by the North American Weed Management Association. Those standards also include the North Dakota county and state listed noxious weeds in addition to 54 other weed species that are found throughout the United States.

(attachment #2b) Example of certification tag to be placed on bales after forage standards have been met. These bales can be used to go into a state park.

Representative Schatz: The fiscal note for \$54,000 goes for what? Is there a movement to require that all gravel pits be required to be inspected?

Blake Schaan: That would be up to each county themselves. But I think for us to require inspection of every gravel pit would not be rational. In regard to the fiscal note, I based the numbers off of advice of those who have inspected in the past. I came up with an average of the fees that they charged. I went with the state rate for mileage and charged \$20/hr and then the inspection fee would be \$50 for the first acre and \$1 for every acre thereafter. So the numbers listed there are based on the Department as doing 50 inspections for the biennium. Inspectors out in the field who travel less, therefore, their cost would be less.

Representative Schatz: Is that including two inspections or just one site?

Blake Schaan: Just one site. They're actually based on certifying 101 acres of forage.

Representative Froelich: I would like to have a copy of what you just said with the breakdown of the dollars.

Chairman Johnson: Who is certified to do these inspections?

Blake Schaan: It would be anyone who chooses to participate. It could be County Weed Board officers. If we get enough officers that volunteer to provide this service, as agents of the state of course they wouldn't be on their regular county jobs. But we would look to them first and then reach out to others.

Chairman Johnson: Are you going to have a training program?

Blake Schaan: Once the inspectors would be in place, I would offer a training program so everyone is on the same page.

Chairman Johnson: Do you see an overwhelming request for a service like this?

Blake Schaan: I wouldn't say overwhelming but I see an increase in the number of calls from those doing construction projects. They say that their bid contracts require it. We also get a lot of calls from private individuals going out to, for example, Theodore Roosevelt National Park. Also, from those that need mulch.

Merlin Leithold, Weed Officer in Grant County, South Central Area Director for ND Weed Control Assn.: (written testimony #3 attached) The need for weed-free products is increasing in North Dakota.

Chairman Johnson: Are there enough certifiers out there now?

Merlin Leithold: I don't think we'll have a problem with it. The dept. is ready to go out this spring and get people certified. It's not a lengthy process—it's one day to get certified. Right now there's enough county weed boards to get by this spring.

Chairman Johnson: How many people are certified right now?

Merlin Leithold: Right now nobody is certified because it's left to the county weed boards. We had a program in place and then it was ruled unconstitutional. Then it was brought back to the county weed boards, for the past year.

Chairman Johnson: Have they been able to certify these pits where they want them?

Merlin Leithold: The existing law allows county weed boards to certify.

Representative Schatz: What was unconstitutional?

Merlin Leithold: Previously in the law it talked about weed-free forage inspectors. The Attorney General's office found problems with the wording of it because it allowed private individuals. The existing law did not state private individuals. It was just weed officers and weed boards. So they felt it should be the weed officers and weed boards doing it.

Representative Rust: Is the dollar amount on the fiscal note included in anybody's budget or would this be new dollars?

Merlin Leithold: I believe the dollars would be a wash. They come into the dept. and are paid out to inspectors.

Chairman Johnson: Through the EARP fund of the Ag. Dept.

Merlin Leithold: We were first going to have the persons we were doing the inspections for, have them pay the inspectors. We found that the ND Stockmen's Assn. ran into problems with where they were doing inspections and being paid. This way the producer would pay the dept. and then the dept. would pay the inspector. It would go to the EARP fund and then paid to the inspector.

Mike McEnroe, ND Chapter of the Wildlife Society: (written testimony #4 attached)

Weed-free materials are required on certain state and federal lands and for use on some reclamation projects on native grasslands.

Stanley Wolf, Cass County Weed Board: (written testimony #5a attached)

Spoke in support of HB1270. Also, gave proposed language to be included in gravel bids.

(attached to #5a)

Chairman Johnson: If this is a voluntary program for the pit owners, are we going to have a problem trying to find gravel.

Stanley Wolf: I don't think that's going to be a major problem. Ransom, Sargent, Barnes, and Richland County weed officers do a thorough job of inspecting all of the pits in their county.

Cass County has mined all of the gravel out of it so we have to bring it in from outside.

Ransom County has asked me to help him with inspection.

Vice Chairman Brandenburg: Who does this fall on? Is it the landowner or the contractor or the county?

Stanley Wolf: Ultimately it is the landowner's responsibility to keep those weeds under control which follows the noxious weed law.

Vice Chairman Brandenburg: Does this work together with the cost share program that we have set up with the EARP fund?

Stanley Wolf: They have used the cost share option at the discretion of the county weed board.

Representative Holman: How do you work together with the county engineer?

Stanley Wolf: We haven't had a problem with the county engineer. They incorporate it into their bid package.

Representative Belter: Weeds are moved by wind, birds, and animals. Is there really such a thing as a weed-free pit? Is there a tolerance that is set up?

Stanley Wolf: "Weed Free" is a misnomer. The crux of the bill is to control noxious weeds. We realize 100% is not possible.

Chairman Johnson: Implementing a voluntary system like this and getting bids, where are we at along the state lines? Some of these weeds aren't necessarily on their list. Are we going to shut those pits down along state lines as far as having them in the bid process?

Stanley Wolf: Our group has discussed it. We're trying to build a relationship with border states.

Stanley Wolf: I do also have testimony from a forage producer in my county. **Clayton Brennan**
(attachment #5b)

Derrill Fick, Ward County Weed Control Officer: (written testimony attached #6)

New plants found along the shoulder of gravel roads can be traced back to the gravel pit.

Cliff Ferebee, Farmer/Rancher in western ND: I'm here to ask you to do what you can to minimize the spread of noxious weeds that we've been spraying for 30 plus years.

Opposition:

Mark Dougherty, Membership Services Director for the Associated General Contractors

of ND: We were told it could take 6 months to get a pit certified if we are forced into doing this. We have the shortest construction season of any state which includes Alaska. We have other approvals such as environment approvals that hold us up now. If you add another thing, that's going to be hard. In the bill I see you have to have approval before you open a pit. We've got bid letting coming up next month. How do we get certification done now for that property? We don't even know what it's going to cost to open that pit to bid this job. Is this going to become a mandatory program? The one that operates the pit doesn't own that pit. So the request can come from different areas. 90% or more of the gravel in Fargo comes from Minnesota. How do we get Minnesota gravel producers to buy into this when they don't have that requirement? It sounds like this is being done already. The county boards have the authority now to make them control their weeds. I see this as duplication. Gravel is not located in the top soil. The shallowest pit probably has a three foot overburden. When you get down three feet, that matter is considered inorganic. So it doesn't grow anything. If there are weeds in this gravel, it had to blow in from adjacent properties with dirt. Maybe the weed board control of the surrounding area needs to be increased. I feel this is headed to requirement rather than voluntary. It can add a lot of cost to gravel.

Chairman Johnson: Are you finding requirements in your bids for gravel from a certified pit?

Mark Dougherty: We're not. Mulches are required now to be weed free. But even that requirement has been lowered.

Brad Ballweber, Northern Improvement Co.: We as contractors spray pits. Right now that's working. Our construction season is very short. We have a lot of other agencies that we have

to deal with. I'm concerned about projects getting shut down or not even started. I think we have enough control now.

Chairman Johnson: When you bid for a project, is the gravel out of an old pit?

Brad Ballweber: Generally it's a pit that has been in service. Depending on where the project might be.

Representative Mueller: We have a law now. What is it that you like about the old law vs. the one that's here today?

Brad Ballweber: We haven't had a problem controlling the weeds. I'm just concerned about another layer to go through to get a project completed.

Representative Froelich: If somebody wants weed-free gravel, and yours is not, wouldn't this enable you to do that a lot easier.

Brad Ballweber: It certainly would. So far we haven't been required to have a certified weed free pit

Representative Froelich: But this bill doesn't say you have to have certified.

Brad Ballweber: I understand that. But as I am hearing this it's already being written into specifications for bid projects. We're concerned about the time frames.

Representative Froelich: Are bids requiring it.

Brad Ballweber: Not at this point in time.

Representative Mueller: What if the bid called for certified weed-free gravel?

Brad Ballweber: Then we would get certified pits.

Representative Mueller: You couldn't get them if this bill doesn't pass.

Brad Ballweber: I believe we could go to our weed board and ask for certification. Maybe we need someone from the state that will do that.

Neutral:

Ron Henke, Project Development Director, ND Dept. of Transportation:

(written testimony #7 attached) As a result of the contracting process and the Department's adherence to the current state noxious weed laws, we are comfortable that the noxious weeds or seeds will not be transported and spread off-site.

Representative Vig: How many pits does DOT own?

Ron Henke: I do not know that number, but will get it. **(attachment #7b)**

Vice Chairman Brandenburg: Are you requiring weed-free pits in your bidding process?

Ron Henke: I do not believe that we require weed-free certification of our gravel.

Chairman Johnson: Closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1270

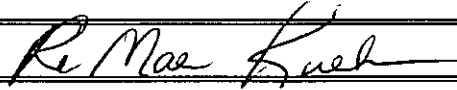
House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2009 (**Committee Work**)

Recorder Job Number: 8811 (14'39")

Committee Clerk Signature



Minutes:

Chairman Johnson: This is dealing with certification of gravel pits and forage.

Representative Mueller: The proposed amendments take "gravel" out of the weed-free certification process. I think the contractors like that idea. Before we move ahead with this idea, everyone ought to know that if we do this there will be no certification process for gravel. If a contractor gets a call for weed-free gravel, there's no process in place to provide that. I think the contractors like this amendment a lot but I do think it's a little short sighted. Unless you have a county weed officer that knows a contractor. But that's not a certification. We have to have the weed-free forage.

Chairman Johnson: There is no provision in the statute to allow for certification to happen.

Representative Mueller: That's correct.

Representative Belter: I support the amendment. My concern is that the county weed boards should take care of the problem on these gravel pits. We do have a problem. I know in our area we do have a lot more leafy spurge along our roads. I'm assuming that it's coming in from the gravel. I do see the contractor's point when bidding these jobs.

Representative Boe: Is there a certification process in a neighboring state?

Blake Schaan, Noxious Weed Specialist, ND Dept. of Ag.: South Dakota doesn't. Montana doesn't. I would have to do some checking on other states. If I should find some, I can let the committee know.

Representative Kingsbury: Only the county weed boards inspect now but they wouldn't do it unless they were asked. If a contractor needed certified gravel, would the contractor request the county weed board to inspect?

Blake Schaan: Yes, under current law.

Chairman Johnson: Do we have to amend this bill to accommodate the necessity of having a certified pit?

Blake Schaan: If there is a need for a pit and the bill passes without the amendment, then the contractor can contact the Dept. and request inspection.

Representative Mueller: Did you talk to contractors and can you give us a sense of how that went?

Blake Schaan: I've not had direct contact specifically regarding gravel only indirectly through county weed officers who had requests to certify gravel. Direct requests came from those needing mulch for highway projects, etc.

Chairman Johnson: Mark, as a contractor, are you seeing jobs where you need certified gravel?

Mark Dougherty: Very few at this point. They do have an arrangement in the southeast part of the state _____inaudible _____. We would be glad to work on the local level.

Chairman Johnson: With this amendment, if you do need certified gravel, we're not in a position to certify it.

Mark Dougherty: I think we are. Not necessarily a certification but similar to what they are doing in the southeast and what they did in Ward County. We would like to see the forage part go through.

Representative Holman: I contacted Folsam (sp??) Gravel from my district. He runs about 5 or 6 rigs. I asked him if he had a need for certified gravel and he said no. He has eight storage places that he uses. That told me something about the complexity of the problem. I am in support of the amendment.

Representative Rust: Representative Mueller, I got a feeling when you said there is no process for weed-free gravel certification that you were not impressed. Can you tell me what you feel like about this bill with the amendments.

Representative Mueller: I'm in support of the bill with or without the amendments. I think it makes sense that we have a system in place for when contractors have a need for certified weed-free gravel pits. What we're hearing is that the weed board officer can come out and look at the pit and say if it looks good. Then that's the end of the process. What we don't have is a certification process. We're hearing that it's not necessary. But if at a later date it's found there are weeds in that gravel, who is going to be liable? If we run it through the Commissioner's office, the Commissioner is on the hook. I don't think I would support the amendments but I would support the bill.

Chairman Johnson: If the contractors would be in here saying they need it because they're missing out on projects, I would be inclined to do something at this point. I don't want to create a problem either.

Representative Belter: I move the amendments.

Representative Schatz: Seconded

Voice Vote taken. Amendments passed.

Representative Boe moved Do Pass as amended.

Representative Uglem seconded.

Representative Rust: If we passed this bill, and gravel pits are a greater issue, they can come to us next session with a bill.

Chairman Johnson: We like to send out a product as clean as we can. If it gets to be an issue before this process is done, it probably will be addressed.

Representative Belter: If there is a problem with gravel pits, the county weed officer is not doing his job. If there are a lot of weeds in the gravel pits, that just complicates the problem for the entire area because you're spreading weeds up and down the roads. The gravel pits should be the first place to patrol.

A Roll Call vote was taken. Yes: 12, No: 0, Absent: 1, (Representative Brandenburg).

Representative Boe will carry the bill.

FISCAL NOTE

Requested by Legislative Council
02/09/2009

Amendment to: HB 1270

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,402	\$0	\$48,922	\$0	\$0
Expenditures	\$0	\$5,402	\$0	\$48,922	\$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.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill would allow the Agriculture Department to designate agents to inspect and certify forage as "weed seed free" and to establish and collect fees for such inspection and certification.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Funds collected would be deposited in the Environment and Rangeland Protection(EARP)Fund. This fiscal note assumes that 18 such certifications would be conducted during the 2007-09 biennium and 162 in the 2009-11 biennium.

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.*

The Agriculture Department will establish a fee schedule for inspections and the agents will be reimbursed for actual expenses by the Agriculture Department. All funds collected will be deposited in the EARP Fund.

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.*

The Agriculture Department will collect all funds under the program and pay expenses of agents located throughout the state.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The appropriation amount from the EARP fund will need to be increased in HB1009 (Agriculture Commissioner budget) to allow the expenditures proposed by this bill. This bill makes no appropriation.

Name:	Jeff Weispfenning	Agency:	Agriculture
Phone Number:	328-4758	Date Prepared:	02/10/2009

FISCAL NOTE
Requested by Legislative Council
01/12/2009

Bill/Resolution No.: HB 1270

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$6,050	\$0	\$54,450	\$0	\$0
Expenditures	\$0	\$6,050	\$0	\$54,450	\$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.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill would allow the Agriculture Department to designate agents to inspect and certify gravel and forage as "weed seed free" and to establish and collect fees for such inspection and certification.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Funds collected would be deposited in the Environment and Rangeland Protection(EARP)Fund. This fiscal note assumes that 20 such certifications would be conducted during the 2007-09 biennium and 180 in the 2009-11 biennium.

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.*

The Agriculture Department will establish a fee schedule for inspections and the agents will be reimbursed for actual expenses by the Agriculture Department. All funds collected will be deposited in the EARP Fund.

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.*

The Agriculture Department will collect all funds under the program and pay expenses of agents located throughout the state.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The appropriation amount from the EARP fund will need to be increased in HB1009 (Agriculture Commissioner budget) to allow the expenditures proposed by this bill. This bill makes no appropriation.

Name:	Jeff Weispfenning	Agency:	Agriculture
Phone Number:	328-4758	Date Prepared:	01/20/2009

VK
2/5/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1270

Page 1, line 2, remove "gravel pits and"

Page 1, remove lines 8 through 23

Page 2, remove lines 1 through 4

Page 3, line 4, remove "gravel pits and"

Page 3, line 7, remove "gravel pits and", remove "sections 1 through 3 of", and replace "Act" with "chapter"

Renumber accordingly

Remove "gravel"

Date: 2/5/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1220

House Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90429.0202

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Boe Seconded By Rep. Uglem

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe	✓	
Mike Brandenburg, Vice Chair	AB		Rod Froelich	✓	
Wesley R. Belter	✓		Richard Holman	✓	
Joyce M. Kingsbury	✓		Phillip Mueller	✓	
David S. Rust	✓		Benjamin A. Vig	✓	
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep. Boe

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

REPORT OF STANDING COMMITTEE

HB 1270: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1270 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "gravel pits and"

Page 1, remove lines 8 through 23

Page 2, remove lines 1 through 4

Page 3, line 4, remove "gravel pits and"

Page 3, line 7, remove "gravel pits and", remove "sections 1 through 3 of", and replace "Act" with "chapter"

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1270

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1270

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9236

Committee Clerk Signature

Carmen Hart

Minutes:

Rep. Dennis Johnson, District 15, distributed a copy of the bill and the fiscal note (Attachments A & B). He discussed the bill and its intent. When it came to our committee, we wanted to certify gravel pits and forage from the Ag. Department. We took out the gravel pits and that is why you have the amended bill before us where we are just dealing with the forage. These are monies that are in the EARP Fund. Monies received goes into the EARP Fund. Monies paid out come from the EARP Fund for this project. There are no FTEs. We have had different activities going on throughout the state. Some weed boards are doing the certification. Some weed boards are taking in the monies and keeping it. By standards, it should all be centralized, and that is what we are trying to accomplish in this bill. The Ag. Department would control the certification of the state for the forage, and they would go through the local weed boards. If there is not someone from the local weed board available to do the certification, it would come out of the state office. If the local weed board does it, it is about \$281 per inspection. They would collect that money and send it to the state, and it would go into their fund and they would be reimbursed from the EARP Fund. If they have to send someone out from the state office, it would cost with the travel time and per diem mileage and such, about \$367 per inspection. The last biennium they inspected about 18,000 bales and somewhere between 3,000 and 6,000 acres.

Rep. Kempenich: You wanted the gravel pits amended out?

Rep. Johnson: When we amended the bill, we took gravel pits out and somewhere along the line it failed to come out of the title. Speaking with Anita Thomas from LC, she said I should suggest to you folks to amend out on gravel pits or clean it up in the house before it goes to senate rather than take it back to our committee.

Chm. Svedjan: It is only the language in the title?

Rep. Johnson: It is just the language in the title that was overlooked.

Chm. Svedjan: It would mean on Line 3 taking out the words gravel pits and.

Rep. Kempenich: I would move that amendment.

Rep. Pollert seconded the motion.

A voice vote was taken. Motion carries and the amendment is adopted.

Rep. Delzer: This is strictly voluntary for people that want to sell and transfer?

Rep. Johnson: This is one that is required. It has to be certified. Why gravel is brought in is to test the waters on certifying gravel, and that is why I took that out. The forage is a requirement. Right away, we are using the forage for cover for erosion and such. It is something that is needed and something they have to provide.

Rep. Delzer: Who decides it is required?

Rep. Johnson: The project manager for DOT or your different organizations that require this type of cover.

Rep. Kempenich: Also, there are a bunch of rules when you cross state lines.

Rep. Delzer: I want to make sure that this isn't something where the ag. commissioner could by rule say that anybody that cuts hay out there has to have something certified.

Rep. Berg: We have a forage industry in North Dakota that we want to support. What this bill's intention is that people who buy forage from North Dakota producers have confidence that there has been some level of certification. With the amendment, I think it is a good bill.

Rep. Klein moved a Do Pass as Amended. Rep. Berg seconded the motion.

DO PASS AS AMENDED. 21 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING. Rep. Boe is
the carrier of this bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1270

Page 1, line 3, remove "gravel pits and"

Renumber accordingly

VR
2/12/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1270

Page 1, line 3, remove "of gravel pits and forage"

Renumber accordingly

Date: 2/11/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1270

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken remove "grand pits and" from line 3
Motion Made By Kemp Seconded By Pollert of bill

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Vote carries

Date: 2/11/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1270

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass as Amended

Motion Made By

Klein

Seconded By

Berg

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 21 No 0

Absent 4

Floor Assignment

Rep. Bar

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

REPORT OF STANDING COMMITTEE

HB 1270, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). Engrossed HB 1270 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "of gravel pits and forage"

Renumber accordingly

2009 SENATE AGRICULTURE

HB 1270

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1270

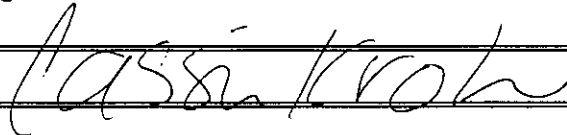
Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10388

Committee Clerk Signature



Minutes:

Sen. Flakoll opened the hearing on HB 1270, a bill relating to certification of forage and relating to weed free certification. All members (7) were present.

Rep. Mueller, district 24, testified in favor of the bill.

Rep. Mueller- This will create an inspection certification program for weed seed forage. Went over bill and what it does with committee (00:46-04:18)

Sen. Miller- can you speak of the gravel component a little bit/

Rep. Mueller- the current law did talk about gravel and such, I believe the general contractors of the state wanted it removed cause they had some fairly serious problems because they would have the weed people go out and certify gravel pits as being weed free. The committee on our side felt that was the right thing to do and amended that out.

Sen. Heckaman- other than the construction people was there a lot of concerns on that gravel issue?

Rep. Mueller- they were the only ones that came in to testify to have that eliminated from the bill, discussions went on with the association of general contractors and the department of ag people and they seemed to be fairly inflexible about their position on it which was to take that out of the bill.

Sen. Taylor- do you know the fees they set in order to come up with the fiscal note?

Rep. Mueller- I am not sure.

Blake Schaan, Noxious Weed Specialist in the ND Dept of Ag, testified in favor of the bill.

See attached testimony, attachment #1.

Sen. Wanzek- in the repeler what are we repelling?

Blake Schaan- the gravel certification was taking out.

Sen. Miller- this is now a state program right?

Blake Schaan- that is correct that is from when it was a county program before.

Sen. Miller- I also noticed that in century code there was a lot more reference to NDSU extension, so they are being cut out of this program then? Did they ever have any extensive involvement in it?

Judy Carlson, ND Dept of Ag was called to the podium.

Judy- during the interim ag committee NDSU was at some of the hearings and they were surprised that they were in that section of the code, they did not want agents certifying at all. They did say that they would be involved in educational programs if this does become law.

Merlin Leithold, ND Weed Control Associations South-Central Area director, testified in favor of the bill. See attached testimony, attachment #2.

Sen. Heckaman- you don't have a problem with the gravel being out of there then?

Merlin Leithold- yes and no, it would have been nice to have it in but with the pressure that we were hearing we felt that we didn't want to lose the forage part of it because that is where the importance lies. So we agreed that amending it out would be ok for this biennium and hopefully we can show that there is a need by need biennium.

Sen. Klein- so have you been out inspecting gravel?

Merling Leithold- yes even with the new law I can go inspect the pit, I have inspected some pits. The only problem is that even when I took samples of gravel and sent them in they came back negative even though I knew there was spurge in it.

Derrill Fick, Ward county weed control officer, testified in favor of the bill. See attached testimony, attachment #3.

Mike McEnroe, ND chapter of the Wildlife Society, testified in favor of the bill. See attached testimony, attachment #4.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Wanzek motioned for a do pass and was seconded by **Sen. Miller**, roll call vote 7 yea 0 nay 0 absent. Sen. Wanzek was designated to carry the bill to the floor.

Date: 11/11/2011
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1270

Senate Agriculture

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]

Total	(Yes)	No
10	1	9

Absent _____

Floor Assignment Sen. Wanzek

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2009 1:42 p.m.

Module No: SR-39-4244
Carrier: Wanzek
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1270, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1270
was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1270

**Testimony of Phil Mueller
Legislative Assembly Representative
House Bill 1270
Agriculture Committee
Peace Garden Room
January 29, 2009**

#1a
HB 1270
1/29/09
Rep Mueller

Chairman Johnson and members of the Committee, I am Representative Phil Mueller. I am here today in support of HB 1270, which will create an inspection and certification program for weed seed free forage (WSFF) and gravel. The growing demand for and subsequent use of certified forage and gravel will ultimately mitigate the risk of spreading noxious and invasive weeds in North Dakota and surrounding states.

Current law (NDCC § 63-01.1-12.2) allows for the inspection and certification of gravel, scoria, and sand surface mining operations and forage and clearly authorizes only county weed boards to carry out the program. However, the provision proved convoluted and prevented those counties with no participating weed boards from having a program. The interim agriculture committee decided to completely remove this section and recommended that the subject be revisited and if there was interest to introduce a separate bill to provide a more clear and workable program.

If HB1270 passes, gravel pits requesting certification will be inspected for compliance with the noxious weed laws of the state.

Certification of forage will adhere to the North American Weed Management Association (NAWMA) standards, which are designed to provide some assurance to all participants that forage certified through this program meets a minimum acceptable standard and to provide

continuity between the various provinces and states in the program. Currently, twenty U.S. states and one Canadian province participate in similar programs, including Montana, Minnesota, and South Dakota.

Certified forage will allow those who use state and federal lands to meet the requirements those agencies have regarding the strict use of certified WSFF. Currently, North Dakota's State Parks, National Parks, as well as U.S. Forest Service lands, Bureau of Land Management, Bureau of Reclamation, Military Reservations, and U.S. Fish and Wildlife lands all require the use of certified forage. In addition, certified mulch and gravel are required in bid contracts for projects such as road building and maintenance, erosion control, wind tower construction sites, and pipeline projects.

In addition, this bill will allow for the intra and interstate as well as international commerce of forage while protecting natural resources and preserving the value of land. Natural habitats for wildlife will be better protected as well as preserving the aesthetic value of our natural scenery. Also, those in charge of building and maintaining roads and construction sites will be better able to minimize and prevent the spread of weeds and meet requirements. Examples of these areas are oil fields, erosion control strips, mulch used for the suppression of vegetation on construction sites, pipeline projects, and reclamation projects requiring or desiring to use certified material. Inspections of forage acreage and/or gravel pits will only occur upon request by land managers.

Chairman Johnson and members of the committee, I urge a do pass on HB 1270. I would be happy to answer any questions you may have.

#16

90429.0201
Title.

Prepared by the Legislative Council staff for
Representative Mueller
January 15, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1270

Page 1, line 3, remove the second "to"

Page 1, line 4, remove "provide an appropriation;"

Page 3, line 6, remove "- Continuing appropriation"

Renumber accordingly



600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020
Equal Opportunity in Employment and Services

**Testimony of Blake Schaan
Noxious Weed Specialist
House Bill 1270 – Agriculture Committee
Peace Garden Room
January 29, 2009**

Chairman Johnson and members of the Agriculture Committee, my name is Blake Schaan. I am a Noxious Weed Specialist in the North Dakota Department of Agriculture. I am here today in support of HB 1270.

Based on the continued demand for certified forage and gravel products, the Department worked extensively with others to craft a revised program. Current law authorizes only county weed boards to perform inspections and issue certifications for weed free forage and gravel, scoria, and sand pits. Not all counties offer this inspection service and demand for this service has not been met. The Department receives numerous calls and emails requesting contact information for people who may have certified forage or gravel available. People who have contacted the Department include private individuals, contractors (such as Department of Transportation contractors) and those undertaking reclamation projects.

The Interim Agriculture Committee decided to completely remove language regarding weed seed free forage during the agriculture law rewrite process. The Committee suggested assessing the

need for such a program and, if there was still a need, introducing a separate bill. Therefore, an advisory group was formed representing several private, state, and federal entities. This group recommended creating a state program, rather than one at the county level, to meet the demand for weed seed free forage and gravel products.

This bill gives gravel pit owners and forage producers the option to request inspection and certification of their products. Upon request, designated agents of the agriculture commissioner (agents) would inspect and certify forage and gravel if minimum standards are met. Agents may be county weed officers or weed board members, those who are determined by the commissioner to be qualified, and/or those who have successfully completed training. Agents will be allowed to inspect and certify throughout the state, and will not be limited to provide services only within county borders. Also, a centralized database will be maintained by the commissioner.

Specific to gravel pit certification, agents will ensure that pit owners/operators are in compliance with the noxious weed law and have a noxious weed control program. For the first two consecutive years that an owner/operator of a pit requests inspection, pits will be inspected at least twice during the growing season. If certification is issued during the first two years, pits will be inspected at least once during the growing season for each year thereafter that inspection is requested. If a year is skipped and/or inspection is not requested, the twice-a-year inspection will again take place. When establishing a new gravel pit, owners/operators wishing to be provide certified product during the same calendar year must request inspection before the land is disturbed.

While inspecting forage, agents will ensure forage meets the standards set forth by the North American Weed Management Association (NAWMA). Forage must be harvested no more than

ten days after inspection and plants harvested must not include weeds that are producing viable seed. If there are weeds that are producing viable seed or are threatening to produce viable seed and/or scheduled harvest does not occur, certification will not be issued.

Upon harvest of inspected forage crop(s), agents must verify that the scheduled harvest has occurred, determine the number of bales for which certification tags must be issued, and verify that the forage is stored or will be stored in an area or areas in compliance with NAWMA standards. Once all bales are accounted for and it is determined that standards have been met, the agent shall issue and affix or cause to be affixed on each bale of forage one dated certification tag. By affixing the certification tags and thus complying with NAWMA standards, certified forage products will be able to enter onto lands within North Dakota or an adjacent state's land that requires certified forage.

Agents will follow a fee schedule determined by the commissioner that will allow the agents to be compensated for performing inspections. Fees collected will go into the Environment and Rangeland Protection fund (EARP). This program will enable producers to make an increased profit from the certified product(s), and forage and gravel would be available for projects requiring their use.

It is important to note that the intent of the bill is strictly to inspect and certify product upon request only. Those counties that have mandatory gravel pit inspections or similar programs in place will not be affected by this program.

Chairman Johnson and members of the committee, I urge a do pass on HB 1270. I would be happy to answer any questions you may have.

Blake
Schaan

#26
HB 1220
4/29/09

NORTH DAKOTA COUNTY WEED SEED FREE FORAGE CERTIFICATION PROGRAM
North Dakota County Weed Board Certified (14crttag)

For questions or concerns call 1-800-242-7535
or visit <http://www.agdepartment.com>

NO. 03364

800Z

#26

FORAGE CERTIFICATION TAG

FORAGE TO WHICH THIS TAG IS ATTACHED HAS BEEN INSPECTED.
IT MEETS THE REQUIREMENTS OF THE NORTH AMERICAN WEED FREE
FORAGE CERTIFICATION STANDARDS. THIS TAG MAY NOT BE
REUSED AND MAY NOT BE USED ON FORAGE HARVESTED FROM A
FIELD THAT WAS NOT OFFICIALLY INSPECTED AND CERTIFIED AS
MEETING THE NORTH AMERICAN WEED FREE FORAGE
CERTIFICATION STANDARDS.

DISCLAIMER: THIS IS NOT A STATE PROGRAM. THIS FORAGE IS NOT CERTIFIED BY THE NORTH DAKOTA DEPARTMENT OF AGRICULTURE.



Merlin Leithold *HB 1270* *#3*
NORTH DAKOTA WEED CONTROL ASSOCIATION
3196 119th Ave SE, Valley City, ND 58072
www.ndweeds.homestead.com *1/29/09*

Derrill Fick
NDWCA President
P.O. Box 5005
Minot, ND 58702-5005
701-852-1970
wcweeds@ndak.net

Bruce Fagerholt
NDWCA 1st Vice-President
7591 Hwy 18
Hoople, ND 58243
701-894-6292

Stan Wolf
NDWCA 2nd Vice-President
1201 West Main Ave
West Fargo, ND 58078
701-298-2388
wolfs@casscountynd.gov

Becky Schroeder
Executive Secretary
3196 119th Ave SE
Valley City, ND 58072
701-570-3545 (cell) 701-845-1081
schroeder.becky@yahoo.com

TESTIMONY OF MERLIN LEITHOLD
LOBBYIST # 324
HB 1270
HOUSE AGRICULTURE COMMITTEE

JANUARY 29TH, 2009

Good Morning Chairman Johnson and members of the House Agriculture Committee.

My name is Merlin Leithold. I am the ND Weed Control Association's South-Central Area director, the association's lobbyist, and I am also the weed officer in Grant County.

Before you this morning, you have HB 1270. This bill deals with weed free forage and gravel. This bill would add a new chapter to the law. As some of you know, the Interim Agriculture Committee left out this part in the rewrite bill, HB 1026.

As asked by the interim committee, the Agriculture Department formed a working group, under the direction of Mr. Blake Schaan. The group consisted of folks from NDSU, county weed boards, state and federal parks, private individuals with interests in weed free hay, and others. The group met several times over the past year. The results from the group you have before you in HB 1270.

The need for weed free products is increasing in North Dakota. One such product is weed free gravel. With various construction projects taking place in our state, the need for weed free gravel is increasing. In some areas of our state, weed free gravel inspections are already taking place by county weed boards. Potential pits are being inspected for noxious weeds before mining begin, and again after the piles are completed. This is especially true in areas where gravel is moving across county lines. This bill will not change what counties are currently doing, but will give a direction to others to begin a program in their respective counties.

Another product is weed free straw. With pipeline projects, and road projects for instance, straw is used for fighting erosion. Most of these projects require certified straw. Certified straw is in very short supply in North Dakota.

Another product is weed free hay. This is one product that has not been in large demand, but has the potential to do so. Previously, weed free hay, which follows the NAMA standards, had smooth brome listed as not an allowable plant. That turned out to be an error, an error which nearly killed the program, in our state, altogether. We believe that by having smooth brome in weed free hay; will allow the program to grow. We have heard that there is a need for weed free hay, a need that is growing.

HB 1270 also addresses the problem of not enough inspectors in certain areas of the state. HB 1270 allows inspectors to cross county lines if the need arises. This could be due to no inspector, or a conflict of interest.

On behalf of the ND Weed Control Association, I ask that you consider a do pass on HB 1270.

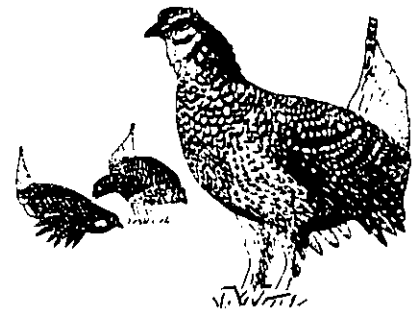
Thank-you



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
on HB 1270
HOUSE AGRICULTURE COMMITTEE
January 29, 2009**

Chairman Johnson and Members of the Committee:

For the record I am Mike McEnroe and I am representing the North Dakota Chapter of The Wildlife Society in support of this bill. HB 1270 provides an additional tool to be used to mitigate and prevent the spread of noxious weeds.

This bill provides for a weed-free certification program for forage, mulch and gravel pits. Such materials are required on certain State and federal lands and for use on some reclamation projects on native grasslands. There are producers available to provide these certified weed-free products and this certification program will facilitate that industry. The ultimate result will be a reduction in the spread of noxious weeds and a reduction in the need for noxious weed control.

Thank you for the opportunity to support this bill.

#5a



**Cass County
Weed Control
Board**

Larry Wilcox, Chairman
Ken Hagen
Clayton Brennan
Tom Moores
Wes Ecker

Stan. L. Wolf
Weed Control Officer

**Testimony of Stanley Wolf
Cass County Weed Board
House Bill 1270
Agricultural Committee
Peace Garden Room
9:00 a.m., Thursday, January 29, 2009**

Chairman Johnson and members of the House Agricultural Committee, I am Stanley Wolf, Cass County Weed Control Officer and Vice President of the North Dakota Weed Control Association. I have been on the working committee that helped draft the language and subsequent rules for inspection and certification for House Bill 1270. I am here today to support House Bill 1270, relating to certification of gravel pits and forage.

As Cass County Weed Control Officer, I feel that HB 1270 is needed as HB 1026, the Noxious Weed Law rewrite, if passed, does not provide for inspection and certification of gravel pits and forage. Gravel pits infested with noxious weeds have been documented as a source for new noxious weed infestations. Weed seeds are carried in the gravel and germinate and establish in the road rights-of-way. Presently in Cass County, gravel is trucked in from surrounding counties; primarily Ransom County, ND and also from Clay and Becker Counties in Minnesota. These gravel pit operations are known to have been infested with Leafy spurge, Absinth wormwood, Spotted knapweed and other troublesome weeds.

In 2005, several counties in the south-east portion of North Dakota, including Cass County, worked together to develop an inspection and certification program for gravel pit operations, of which HB 1270 is modeled after. This has worked very well with the cooperation of county highway departments and township boards. The gravel suppliers are required to submit the certification of inspection supplied by the weed officer as a bid requirement to win the yearly gravel supply contract. This requirement puts all gravel suppliers on notice that their pit operations need to be free of noxious weeds if they want to be eligible to submit a gravel supply bid. A copy of the bid language is attached for your reference.

HB 1270 also provides for a uniform system of inspecting and certifying forage as being weed seed free. I have inspected hay lands of several forage producers in the county. These producers either use the forage for their own use or supply weed seed free forage to riding

1201 West Main Ave.
West Fargo, ND 58078

Phone: 701-298-2388
Fax: 701-298-2396

electric transmission, and wind power generation projects, a lot of land will be worked up and reseeded. Utilizing certified weed seed free mulch will go a long way to help control the spread of noxious weeds.

HB 1270 is a good bill that when enacted will provide a means of controlling the spread of noxious weeds from the major sources of most new infestations. On behalf of the Cass County Weed Board, I urge a do pass on HB 1270.

Thank you.

Stanley Wolf
Cass County Weed Control Officer

**Testimony of Stanley Wolf
Cass County Weed Board
House Bill 1270
Agricultural Committee
Peace Garden Room
9:00 a.m., Thursday, January 29, 2009**

Proposed language to be included in gravel bids

Successful bidders as part of their supply contract will be required as part of the bid acceptance to comply with the following:

1. All noxious weeds must be controlled within the pit and extraction area each year in compliance with North Dakota State Agriculture Department recommendations for noxious weed control.
2. The county weed officer shall inspect the pit and extraction area before any materials shall be removed and shall by written letter certify operator's compliance with the North Dakota Department of Agriculture's recommendations for noxious weed control.
3. Any questions concerning the certifications of compliance for noxious weed control and the requirements thereunder is available from the County Weed Officer.

This request is made pursuant to section 63-01.1 of the North Dakota Century Code.

#56

Testimony of Clayton Brennan

Sunrise Ranch

House Bill 1270

House Agriculture Committee

9:00 a.m. Thursday, January 29 2009

My name is Clayton Brennan, and I live at West Fargo, ND, and I am in support of House Bill 1270 as written.

My reason for supporting the bill: I grow certified weed free hay and sell to horse people who need certified weed free hay while riding in ND State Parks. Several of my customers come from Minnesota, and Wisconsin on their way to The ND Badlands and also to Montana. They do this because they don't know if hay will be available when they arrive at their destination.

I thank the committee and I urge you to pass House Bill 1270.

Clayton Brennan

2608 Ann St

West Fargo, ND 58078



Derrill Fick
1/29/09

#6
HB 1270

Ward County Weed Control

P.O. Box 5005 • Minot, ND 58702-5005 • 900 13th St. SE • (701) 852-1970
Fax (701) 838-3801 • E-mail: wcweeds@ndak.net

**Testimony of Derrill Fick
Ward County Weed Control Officer
House Bill 1270
House Agriculture Committee
Peace Garden Room
9:00 a.m., Thursday, January 29, 2009**

Chairman Johnson and members of the House Agriculture Committee, my name is Derrill Fick, I am the weed control officer for Ward county and for the city of Minot. I am here today representing the Ward County Weed Control Board and to urge a "do pass" of bill 1270.

With the many miles of gravel roads in our area, weather it is a township road or a county road the noxious weed problems continue. When we find new plants growing along these gravel roads it is mostly along the shoulder. A majority of these weeds have been traced back to the gravel pit where the gravel originated from.

In Ward County we have contracted with a sprayer that applies chemical with a helicopter to spray county operated gravel pits. This contractor will also spray private gravel pits if the pit owner desires to have the weeds controlled knowing that the Ward County weed board will issue a certificate stating that this pit has a weed management program applied to it.

Derrill Fick • County Weed Officer

Charles Weiser, Minot • Arvid Carlson, Minot • Jerome Behm, Burlington • Leonard Lehman, Kenmare • Howard "Bucky" Anderson, Minot

The Ward County Weed Board would like to see an across the state certification and implementation of a program for the development and use of gravel pits because in some cases the gravel may be pulled from the ground in one county then transported to another county to be used not only on township or county roads but also for the development of state highways, oil rig sites or for the maintenance of missile sites.

As for the certification of weed seed free forage; this certified forage is to be used on state and federal lands where required. With the many thousands of acres of federal and state lands within ND and the northwest region of the United States and with the public traveling to these lands for the recreational use of the horse trails, it would be a prohibitive action to certify the forage being used for the horses as being weed seed free. This would help slow the spread of these weeds on lands that are tougher to control not only because of the terrain but also because of chemical use regulations.

Chairman Johnson and members of the House Agriculture Committee, the Ward County Weed Board urges a "do pass" of bill 1270 as a proactive stance on the control of noxious weeds in ND.

Thank you.

HOUSE AGRICULTURAL COMMITTEE

January 29, 2009

9:00 a.m. – Peace Garden Room

North Dakota Department of Transportation

Ron Henke, P.E., Office of Project Development Director

HB 1270

#7a
Ron Henke
HB 1270
1/29/09

Good morning, Mr. Chairman and members of the committee. I'm Ron Henke, Office of Project Development Director for the North Dakota Department of Transportation (NDDOT). I'm here to provide information for the committee as you consider HB 1270.

The NDDOT uses gravel pits for almost all of its road construction projects to provide aggregate for base material or to produce surface materials. Highway constructions projects are bid in late fall, winter and early spring months for the next construction season. This past year the Department cleared approximately 325 pits for use on highway construction projects. The Department uses three different types of gravel pits including:

- Gravel pits the state owns
- Gravel pits the state has prospected and taken an option on
- Gravel pits provided by the road construction contractor.

In all situations current state laws, NDCC 63-01.1, require the control of noxious weeds. We adhere to state laws by requiring NDDOT districts to inspect and take appropriate action on noxious weeds encountered on state-owned gravel pits, as stated in the North Dakota Department of Transportation Maintenance Manual. For this biennium the Department has spent approximately \$1 million dollars to control noxious weeds on all DOT owned property. On State optioned and contractor provide gravel pits the existing state law requires the owner of the land to control noxious weeds.

In addition to monitoring and controlling noxious weeds, the first step in developing a gravel pit for production is the removal and stockpiling of topsoil and overburden. This process contains any potential noxious weed plants and seeds that may not have been eliminated by using the current process.

As a result of the contracting process and the Department's adherence to the current state noxious weed laws, we are comfortable that the noxious weeds or seeds will not be transported and spread off-site.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions that the committee may have. Thank you



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

HB 1270 #76
4/29/09 Ron Henke

January 29, 2009

The Honorable Dennis Johnson
Agriculture Committee Chair
House Chambers
600 E. Boulevard Avenue
Bismarck, ND 58505

HB 1270 - GRAVEL PITS AND FORAGE

During the Hearing on HB 1270 -- Gravel Pits and Forage, Representative Vig, asked a question I was unable to answer. The question was, how many gravel pits does the state own?

After doing some research the state owns a total of 152 pits. The breakdown is as follows:

82 Pits by agreement which is ownership of gravel only with no land or surface ownership.

70 Pits by Deed in which we own the land and the gravel rights.

RONALD J. HENKE, P.E., DIRECTOR – OFFICE OF PROJECT DEVELOPMENT

57:rjh:js

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Attachment #1

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

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020
Equal Opportunity in Employment and Services

**Testimony of Blake Schaan
Noxious Weed Specialist
House Bill 1270 – Agriculture Committee
Roosevelt Park Room
March 6, 2009**

Chairman Flakoll and members of the Agriculture Committee, my name is Blake Schaan. I am a Noxious Weed Specialist in the North Dakota Department of Agriculture. I am here today in support of HB 1270, which will create an inspection and certification program for weed seed free forage (WSFF). The growing demand for and subsequent use of certified forage will ultimately mitigate the risk of spreading noxious and invasive weeds in North Dakota and surrounding states.

Based on the continued demand for certified forage, the Department worked extensively with others to craft a revised program. Current law authorizes only county weed boards to perform inspections and issue certifications for weed free forage and gravel, scoria, and sand pits. Not all counties offer this inspection service and demand for this service has not been met. The Department receives numerous calls and emails requesting contact information for people who may have certified forage or gravel available. People who have contacted the Department include private individuals, contractors (such as Department of Transportation contractors) and those undertaking reclamation projects.

The Interim Agriculture Committee decided to completely remove language regarding weed seed free forage during the agriculture law rewrite process. The Committee suggested assessing the need for such a program and, if there was still a need, introducing a separate bill. Therefore, an advisory group was formed representing several private, state, and federal entities. This group recommended creating a state program, rather than one at the county level, to meet the demand for weed seed free forage and gravel products. However, since we have received few requests for certified gravel by contractors or others, the gravel certification language was amended out of this bill. Also, there was opposition from contractors concerned that gravel certification would become mandatory. Therefore, it will be the duty of counties to enforce the noxious weed law in instances of contaminated gravel. There will be no "certification" process for gravel, only inspections and notices to control noxious weeds when requested or necessary. The department will document any certified gravel requests for future legislative consideration.

This bill gives forage producers the option to request inspection and certification of their product(s). Upon request, designated agents of the agriculture commissioner (agents) would inspect and certify forage if minimum standards are met. Agents may be county weed officers or weed board members, those who are determined by the commissioner to be qualified, and/or those who have successfully completed training. Agents will be allowed to inspect and certify throughout the state, and will not be limited to provide services only within county borders. Also, a centralized database will be maintained by the commissioner.

Agents will ensure forage meets the standards set forth by the North American Weed Management Association (NAWMA). Forage must be harvested no more than ten days after

inspection and plants harvested must not include weeds that are producing viable seed. If there are weeds that are producing viable seed or are threatening to produce viable seed and/or scheduled harvest does not occur, certification will not be issued.

Upon harvest of inspected forage crop(s), agents must verify that the scheduled harvest has occurred, determine the number of bales for which certification tags must be issued, and verify that the forage is stored or will be stored in an area or areas in compliance with NAWMA standards. Once all bales are accounted for and it is determined that standards have been met, the agent shall issue and affix or cause to be affixed on each bale of forage one dated certification tag. By affixing the certification tags and thus complying with NAWMA standards, certified forage products will be able to enter onto lands within North Dakota or an adjacent state's land that requires certified forage.

Agents will follow a fee schedule determined by the commissioner that will allow the agents to be compensated for performing inspections. Fees collected will go into the Environment and Rangeland Protection fund (EARP). This program will enable producers to make an increased profit from the certified product(s) and those products would be available for projects requiring their use.

Chairman Flakoll and members of the committee, I urge a do pass on HB 1270. I would be happy to answer any questions you may have.

NORTH DAKOTA COUNTY WEED SEED FREE FORAGE CERTIFICATION PROGRAM	
North Dakota County Weed Board Certified (4certag)	FORAGE CERTIFICATION TAG
For questions or concerns call 1-800-242-7535 or visit http://www.agdepartment.com	FORAGE, TO WHICH THIS TAG IS ATTACHED, HAS BEEN INSPECTED. IT MEETS THE REQUIREMENTS OF THE NORTH AMERICAN WEED FREE FORAGE CERTIFICATION STANDARDS. THIS TAG MAY NOT BE REUSED AND MAY NOT BE USED ON FORAGE HARVESTED FROM A FIELD THAT WAS NOT OFFICIALLY INSPECTED AND CERTIFIED AS MEETING THE NORTH AMERICAN WEED FREE FORAGE CERTIFICATION STANDARDS.
No. 03373	2008
DISCLAIMER: THIS IS NOT A STATE PROGRAM. THIS FORAGE IS NOT CERTIFIED BY THE NORTH DAKOTA DEPARTMENT OF AGRICULTURE.	



Attachment #2

NORTH DAKOTA WEED CONTROL ASSOCIATION
3196 119th Ave SE, Valley City, ND 58072
www.ndweeds.homestead.com

DeLack
NDWCA President
P.O. Box 5005
Minot, ND 58702-5005
701-852-1970
wcweeds@ndak.net

Bruce Fagerholt
NDWCA 1st Vice-President
7591 Hwy 18
Hoople, ND 58243
701-894-6292

Stan Wolf
NDWCA 2nd Vice-President
1201 West Main Ave
West Fargo, ND 58078
701-298-2388
wolfs@casscountynnd.gov

Becky Schroeder
Executive Secretary
3196 119th Ave SE
Valley City, ND 58072
701-570-3545 (cell) 701-845-1081
schroeder.becky@yahoo.com

TESTIMONY OF MERLIN LEITHOLD
LOBBYIST # 324
HB 1270
SENATE AGRICULTURE COMMITTEE

MARCH 6TH, 2009

Good Morning Chairman Flakoll and members of the Senate Agriculture Committee. My name is Merlin Leithold. I am the ND Weed Control Association's South-Central Area director, the association's lobbyist, and I am also the weed officer in Grant County.

Before you this morning, you have HB 1270. This bill deals with weed free forage. This bill would add a new chapter to the law. As some of you know, the Interim Agriculture Committee left out this part in the rewrite bill, HB 1026.

The interim committee had concerns whether the need existed to have a weed free forage program. They felt that those closer to the issue, needed to work on it. The Agriculture Department formed a working group, under the direction of Mr. Blake Schaan. The group consisted of folks from NDSU, county weed boards, state and federal parks, private individuals with interests in weed free hay, and others. I had the privilege to be a part of that group. We met several times over the past year. The results you have before you in HB 1270.

The need for weed free products is increasing in North Dakota. One such product is weed free straw. With pipeline projects, and road projects for instance, straw is used for fighting erosion. A few of these projects are beginning to require weed free certified straw. Without a program in place, that straw would have to be brought in either from other areas, or the tougher requirements would have to be softened.

Another product is weed free hay. This is one product that has not been in large demand in the past, but the demand is steadily rising. Previously, the weed free hay program in North Dakota, which follows the North American Weed Management Association (NAWMA) standards, had smooth brome listed as not an allowable plant. That turned out to be an error, an error which nearly killed the program, in North Dakota. We believe that by correcting this error, and having smooth brome allowed in weed free hay; the program will grow. The working committee came to the conclusion that there is a need for weed free hay, a need that is growing. Most if not all State and Federal Parks require certified hay. You can either bring it along with you, or you can purchase it on site. Purchasing it on site can also be a problem, as park managers are having a difficult time finding certified hay.

Under the old law, if a county weed officer or county board member did the inspecting, they could not inspect acreage in an adjoining county. This created areas that had no inspectors. HB 1270 addresses that issue. HB 1270 does not require each county to have an inspector, but allows inspectors to cross county lines, if the need arises. This could be due to no inspector, or a conflict of interest.

On behalf of the ND Weed Control Association, I ask that you consider a do pass on HB 1270.

Thank-you

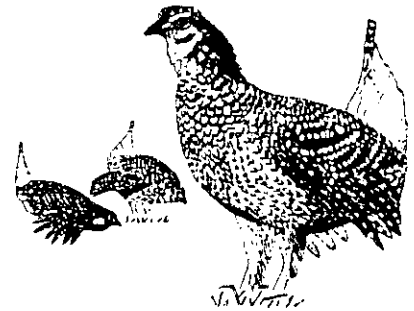
Attachment #4



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
on HB 1270
SENATE AGRICULTURE COMMITTEE
March 6, 2009**

Chairman Flakoll and Members of the Committee:

For the record I am Mike McEnroe and I am representing the North Dakota Chapter of The Wildlife Society in support of this bill. HB 1270 provides an additional tool to be used to mitigate and prevent the spread of noxious weeds.

This bill provides a weed-free forage certification program. Such forage is required on certain State and federal lands in North Dakota. Producers are available to provide certified weed-free forage and this certification program will facilitate that industry. The ultimate result will be a reduction in the spread of noxious weeds and a reduction in the need for noxious weed control.

Thank you for the opportunity to support this bill.



Ward County Weed Control

P.O. Box 5005 • Minot, ND 58702-5005 • 900 13th St. SE • (701) 852-1970

Fax (701) 838-3801 • E-mail: weweeds@srt.com

**Testimony of Derrill Fick
Ward County Weed Control Officer
HB 1270
Senate Agriculture Committee
Roosevelt Park Room
10:00 a.m., Friday March 6, 2009**

Chairman Flakoll and members of the Senate Agriculture Committee, my name is Derrill Fick, I am the weed control officer for Ward county and for the city of Minot. I am here today representing the Ward County Weed Control Board and to urge a "do pass" of bill 1270.

The certification of weed seed free forage will be a great benefit to ND as this certified forage is to be used on state and federal lands where required. With the many thousands of acres of federal and state lands within ND and the northwest region of the United States and with the public traveling to these lands for the recreational use of the horse trails, it would be a prohibitive action to certify the forage being used for the horses as being weed seed free. This would help slow the spread of these weeds on lands that are tougher to control not only because of the terrain but also because of chemical use regulations. This would also confine the weeds to an area instead of being baled and hauled across the state.

Chairman Flakoll and members of the Senate Agriculture Committee, the Ward County Weed Board urges a "do pass" of bill 1270 as a proactive stance on the control of noxious weeds in ND.

Thank you.

Derrill Fick • County Weed Officer

Charles Weiser, Minot • Arvid Carlson, Minot • Jerome Behm, Burlington • Leonard Lehman, Kenmare • Howard "Bucky" Anderson, Minot