

2011 HOUSE AGRICULTURE

HB 1317

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HB 1317  
January 28, 2011  
Job #13617

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to noxious weed control

## Minutes:

**Merlin Leithold, ND Weed Control Association:** (See attached testimony #1)

**Representative Boe:** My question is on the amendment. Was the thought process of putting "shall" in there because we were going to strike the requirement to report to the tenant?

**Merlin Leithold:** By doing this, you put "shall" in there. If a landowner doesn't control his weeds, law requires me to send him a certified letter. I would like to first contact by regular mail or just to call. It is less stressful.

**Representative Boe:** What I am looking at with Section 1a versus 1c, it was permissive in Section a. You had the right to notify the landowner or not but you were to notify the tenant. Now when we are taking the tenant out of the equation, they are just making sure somebody is going to be notified. Because if somebody doesn't perform the actions by your notice, there is going to be a penalty. Correct?

**Merlin Leithold:** That would be correct. You don't want to force yourself with a certified letter if you don't have to. A notice should be given if you have to go in to spray. I like to start the process slow by first giving a phone call. It depends on the phone conversation, like a hang up, then maybe a letter. I don't want to start with a certified letter.

**Representative Mueller:** It sounds like the weed board doesn't have to contact the tenant at all.

**Merlin Leithold:** That is correct. Weed boards have trouble finding who the tenant is. FSA cannot give us who the tenant is.

**Representative Mueller:** It basically is always on the landowner to filter down the information to the tenant if the tenant is responsible for the weeds. Is that an issue to find the owner? Do you go to a plot map or book?

**Merlin Leithold:** A plot books is outdated when it comes out. I go to the auditor's office.

**Myron Dieterle, Sheridan County Weed Board:** (see attached #2)

We are in support of this bill.

I researched the law before the interim committee rework, in the original law the word "may" was in there and not "shall."

**Representative Headland:** When land is leased to an operator, they are in charge of taking care of problems with weeds. Isn't taking them out of the equation and putting the property owner back in going to cause problems between them.

**Myron Dieterle:** If the lessee's responsibility is the weed control, we will contact both verbally or by phone. We've had situations where there are landowners in a range situation and have cattle in there. The only way we could find the tenant was to have a brand inspector out.

**Representative Holman:** In case there is a dispute about communication, how would you verify that if there is no requirement of a certified letter?

**Myron Dieterle:** The first thing is the informal of a phone call. We have separate programs for separate weeds. We have a limited amount of leafy spurge. All landowners with known spots of leafy spurge are contacted and explained our program. We provide the service. On the form we send out, we ask if they want to be present when we spray it. If they don't, then we ask for their signature. They sign the form and send it back to us. Not all return the form. The next is to contact by phone. We note the time and date on the form. With other weeds like Canada thistle or wormwood, we contact by phone or in person. If we feel there isn't any control, then we send the certified letter. Then we have the basis for a penalty or to take action.

**Representative Boe:** What if I accuse you of not contacting me in a timely fashion?

**Myron Dieterle:** That is an interesting situation which does occur. A certified letter comes late and the weed is going to seed. We act on the complaints when we receive them. We give them two options. Because of organic producers we give the option of clipping. We are seeing a big interest in taking CRP contracts out. When we send this notice and you do action required we will not call it a violation. We will work with you in establishing what is going to be done the next season so we don't have a similar occurrence. With clipping it prevents weed seeds from going to other properties.

**Representative Boe:** If you were able to contact and identify the lessee and tell them if it doesn't get resolved a letter will be sent to the landowner, does that get movement faster?

**Myron Dieterle:** We have not had that situation. Our producers with the CRP contracts or other contracts have been the active owner and not a tenant. We had a difficult one last year in the foreclosure process. The property was in receivership. The official notice was

sent and they signed for the notice, before a penalty was assessed because no action was taken, this land was sold. The new purchaser has been contacted to make him aware.

**Representative Schmidt:** I have 480 acres in Sheridan Co. so I can relate to your issues. I do like the idea of keeping the word "shall." I'd like to offer to add on line 6 after "officer", "may conduct an initial contact informally. Should in 30 days that initial contact result in noncompliance, then the weed control officer shall serve". I'm trying to get in law the opportunity to have an initial contact that is informal but if that doesn't work in 30 days, now you shall do it.

**Myron Dieterle:** If we have an option to contact and even if there is a time line, I wouldn't have a problem with "shall" within a certain amount of time.

**Representative Trottier:** If you have to contact because you can't find the renter, do you always let the landowner know that you are unable to find the renter?

**Myron Dieterle:** We haven't had a situation where we had a tenant to deal with. The situation with the cattle had a limited contact with the landowner because it is a difficult situation.

**Representative Boe:** Subsection C, lines 22-24 removed, that does not forbid you from notifying. With that taken out of the law you can still notify the tenant if you chose to?

**Myron Dieterle:** In Sheridan County we have five weed officers. Each of us does it a bit different. The legal notice is a signed form with the action to be taken. On the form there is no requirement to put my telephone number or address. On my forms I sign and put my telephone number. The mortgage co. could contact me because I put on my phone number. Their system has no record of land description. Everything is by addresses.

**Representative Boe:** Is there a list where their name is on because they received this notice? Is this just about the cost of the certified notice?

**Myron Dieterle:** Every time we do a certified letter there is a cost because sometimes they won't accept the letter, then law enforcement becomes involved. A certified letter costs under \$6.

**Representative Boe:** Is there a list where their name would show up that they received this letter.

**Myron Dieterle:** All of our records are public information. If someone wanted to see those folders, they could. We sent out 23 notices to control after other contact was made.

**Representative Mueller:** Did you run this by the entire Weed Association? Are your colleagues OK with non-notification of tenant?

**Myron Dieterle:** I will defer that to Merlin Leithold.

**Merlin Leithold:** We have five areas in our association. We have fall area meetings. We brought this to our board before the area meetings. Our board unanimously approved the entire bill. We sent it to each area as a resolution and explained it to them. It passed all five areas.

**Melvin Fischer, Administrator Environmental Health Division for the city of Bismarck:** (See attached #3)

**Representative Schmidt:** When I see the word "or", that doesn't require you to send a certified letter. It gives the option. Correct?

**Melvin Fischer:** The way I interpret that is we either mail it or personally deliver it. That is why the amendment would provide options.

**Chairman Johnson:** So if we were to adopt the previously offered amendments, going back to "may" you would be OK and wouldn't need this.

**Melvin Fischer:** Yes.

**Representative Boe:** Could you give me an example of a method you would deem appropriate?

**Melvin Fischer:** We have established dates in our ordinance for controlling tall grass and weeds. They are June 1, July 15, and/or September 1 if necessary. We announce that in the media. We send a memo to property owners that we've addressed in years past. Should they choose not to then we have to give them a seven-day notification process by mail or telephone. All information is documented. If it isn't taken care of, we send in our weed officer to control it. They will either receive a bill or we assess it to the property.

**Representative Schmidt:** The reason I added the "or", is in your written testimony you say, "You do not see the need to require the use of certified mail adding more time or cost to your program." You did not say that you were opposed to do personal contact.

**Representative Trottier:** Are dandelions part of this in the city?

**Melvin Fischer:** No they are not. The first day dandelions were blooming we had 65 calls.

**Opposition:** None

**Chairman Johnson:** Closed the hearing

**Representative Wrangham:** I would like to see a proposal similar to what Representative Schmidt read off. I think the "shall notify" has to be in there before those drastic measures are taken. I would like to have the weed officers have the ability to contact by phone and try to work it out.

**Chairman Johnson:** Merlin, what are your feelings?

**Merlin Leithold:** (response inaudible)

**Representative Boe:** Is 30 days the right number? Or does that get to be excessive?

**Merlin Leithold:** Thirty days would work.

**Representative Wrangham:** Do we even need a day limit? It is up to the weed officer now. I think we could just leave it open.

**Representative Schmidt:** If it takes too long then the value of spraying is lost.

**Merlin Leithold:** It takes a while for the process to get the return receipt. By not putting a day on there it would be the best. Every county has a different way of doing it.

**Representative Wrangham:** It should be up to the weed control officer. It was mentioned that "if they hang up", they could send a certified letter that day.

**Representative Holman:** From testimony things are working as it should. What we do applies to every officer. I think it is important that we put in code so it is done the right way. I agree Representative Wrangham.

**Representative Boe:** According to this if we left "shall", that "they shall upon determining." If we could find language that would give them something other than the trigger of the actual determination. The determination is subjective. What triggers the "shall"? As a tenant, I would hate to have the weed office send my landlord a letter. The landowner ultimately "shall" be notified because the corrective action is going to show on his tax bill.

**Chairman Johnson:** Appointed a subcommittee consisting Representative Wrangham, Chair; Representative Schmidt; Representative Boe.

**Representative Belter:** I hope the subcommittee could come up with language that would make every effort to notify the lessee of the land first before notification of the landowner.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HB 1317  
February 11, 2011  
Job #14463

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Committee Work—relating to noxious weed control  
Report of subcommittee

## Minutes:

**Representative Wrangham:** Recognized Rep. Boe and Rep. Schmidt for their work on the subcommittee. Prepared an amendment LC #11.295.01001.

The weed board wanted to do a friendly contact before they had to send out a certified letter. This amendment seems to do that.

**Representative Mueller:** Are we going to have a “may” and a “shall.”

**Representative Wrangham:** The overstrike will be taken off from the “may” so they may do and “shall” for the remainder.

**Representative Mueller:** So “shall” does stay in.

**Representative Wrangham:** If they are going to attach your taxes, there is a “shall.” The word “occupant” got some discussion. Anita Thomas felt that was a good word because it would work for any circumstance. Defining it any further could limit the judgment of the weed control officer. We did add an emergency clause.

**Representative Wrangham:** Moved amendment and emergency clause

**Representative Schmidt:** Seconded the motion

**Representative Rust:** Does this amendment include emergency clause?

**Representative Wrangham:** Yes.

**Voice Vote taken on amendment. Passed.**

**Representative Wrangham:** Mel Fischer from the City of Bismarck has a question, which wasn't discussed in the subcommittee. On page 3, lines 12-14 where we overstruck "may" and put "shall" puts the city in a position of needing to send a certified letter each time a house has a problem. Sometimes there are as many as 700 letters sent out. It would be quite onerous on them. The words Mr. Fischer offered that day, on Line 14 after the words "personally" write "notice either personally by a method deemed appropriate or by certified mail."

**Vice Chairman Kingsbury:** In my notes I wrote "by a certain date using media, if non compliance, contact by personal mail."

**Chairman Johnson:** Merlin had concerns about that part.

**Merlin Leithold:** Rep. Wrangham and I looked at it. I think if we put in "method deemed appropriate or by certified mail." "Method deemed appropriate" could be media or a number of things. I see his concern.

**Representative Boe:** Line 13 "officers shall serve upon the landowner notice requiring the landowner to control the noxious weeds." Leave it up to them how they serve it. They have to have an acceptable method of proving that they did it.

**Merlin Leithold:** That would work for me.

**Representative Schmidt:** It would read "Shall serve notice upon the landowner requiring the landowner to control noxious weeds." You would cross out "written" all the way through "mail."

**Representative Boe:** I was thinking "the officer shall serve upon the landowner notice requiring the landowner to control the noxious weeds." Remove "written" and leave in "notice" and remove either "personally" or "by certified mail" and the comma.

**Representative Wall:** When we use the words "serve notice", something has to be served. It would be inferred that it is written. Media or newspaper wouldn't work.

**Representative Boe:** What we heard in testimony that day, they were talking about tacking a note on the door. If they are comfortable with that, I am comfortable with that.

**Chairman Johnson:** It leaves it broad.

**Representative Boe:** It does leave it broad. We want to make sure the landowner had the opportunity to take care of the problem. How they deliver the notice is up to them.

**Representative Mueller:** This is about city weeds. In the county weed section we have a more descriptive process of notification. Could we say "serve notice for counties also"?

**Merlin Leithold:** It would be nice if both laws mirror each other. If I read "shall provide notice", to me it is a piece of paper with something on it. When dealing with County Commissioners or States Attorneys, a seasoned weed officer knows you need a proper



paper trail. I feel it would work. Sometimes certified letters don't work. You have to use the sheriff. If you do it on the city side then do it on the county side also.

**Representative Rust:** Tioga has had problems with an airport authority. That individual learned to not pick up certified mail. The notice is never served upon that individual.

**Chairman Johnson:** What does the committee wish to do on addressing cities?

**Representative Wrangham:** The idea of the bill had nothing to do with that paragraph. By leaving the "may" as in the past, it seemed to work for the cities. I would ask to remove the overstrike over "may" and removing "shall."

**Representative Mueller:** If I get a bill for weed control and they had the option of sending me notice that I should take care of it on my own which is what "may" would imply. "Shall" means that you will notify that person. If you get a bill later on and don't like it, they can say we didn't have to notify you because it says "may."

**Representative Rust:** I'm comfortable with either one.

**Representative Boe:** The only big difference "may" and "shall," with "shall" we know there will be notice and undesirable weeds will be taken care of. With "may", the weed officer could drive by and decide to do nothing.

**Merlin Leithold:** That is just the notification. If I see you have weeds, I may or may not contact you. Most boards are going after only those being complained. You need "shall." I like the word "may" but the problem is you may have a county weed board going in to spray and charge him because "may" serve notice. Anita says you have to have "shall."

**Representative Rust:** Moved to list in both the county and city the same thing which is "shall serve upon the landowner notice." Strike the words "written" and "either personally or by certified mail."

Motion received a second.

**Representative Schmidt:** Wasn't it in the other section that we didn't want to notify the landowner. We wanted to notify the individual that was renting the land first. Would this change that? If we have them the same, then the county part would say you have to go to the landowner.

**Merlin Leithold:** That was part of the original bill to begin with because we don't know who the tenant is. That is why the one paragraph is struck.

**Representative Rust:** I will redo this. You have an amendment handed out that deals with those same areas. Right now you have "may first contact the occupant and request the occupant control noxious weeds within a prescribed period of time and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer shall serve upon the landowner notice."

**Merlin Leithold:** "Occupant" would take care of "tenant." It is workable.

**Representative Rust:** What we put in "you may first contact the occupant and request they control the weeds in a prescribed period of time." If it hasn't been done, then we "shall serve upon the landowner notice requiring the landowner . . ." Strike "written" and "either personally or by certified mail."

**Chairman Johnson:** I would like the subcommittee to work on this again.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee  
Peace Garden Room, State Capitol

HB 1317  
February 17, 2011  
Job #14658

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Committee Work—relating to noxious weed control  
Report of subcommittee

## Minutes:

**Representative Wrangham:** I suggest to you there were really no problems in the past with the way the city weed control officer was doing things. We had no complaints from citizens. Anita Thomas agreed she had never heard that anything was a problem in dealing with the city portion of the weed control officer.

The changes were made to make it possible for the County Weed Control Officer to properly notify the person responsible for the weeds and at the same time be able to work with the operator of the property. This all started over the fact that they had no way of finding out who the lessor or the operator of the property would be to send them the papers. We came up with a solution to fix everything. Everyone is fine with what we did for the county weed officers. We did pass amendment LC #11.0295.01001. However, the second paragraph of that amendment deals with page 3 line 13 which again put new language into the area of the city weed control officer.

What the committee is suggesting is that we reconsider our action the way we placed the amendment on to the bill. Then further amend by putting the first paragraph of that amendment on along with Anita's new language which does renumbering and relettering. It also strikes out in the original bill we were striking out "may" and changing it to "shall." This puts it back to "may."

The end result is: we fix problems with the County Weed Control Officer and do nothing, no changes, to the section that deals with the city weed control officer.

**Representative Wrangham:** Moved to reconsider committee's action by amending HB1317.

**Representative Schmidt:** Seconded it.

**Voice Vote taken.** Motion to reconsider passed.

**Representative Wrangham:** Moved to amend HB1317 by including the first paragraph of LC #11.0295.01001 and further amending using amendment LC #11.0295.01002 which removes the overstrike over "may" and removes the word "shall" which had been added.

**Representative Schmidt:** Seconded it.

**Representative Mueller:** We are putting in language for the counties but not the cities?

**Representative Wrangham:** That is right.

**Representative Mueller:** Why are we not consistent?

**Representative Wrangham:** There is a huge difference in the way the two different weed control officers need to perform their duties. By changing it to "shall" it would require in some cities as many as 700 certified letters to be sent out. They don't have trouble contacting the landowner. Generally it is a small parcel of land. People don't rent a small area in town unless they live there. It is easy to contact the responsible party in town.

**Voice vote taken. Amendment passed.**

**Representative Wrangham:** Moved Do Pass on HB 1317 as amended.

**Representative Schatz:** Seconded the motion.

A Roll Call vote was taken. **Yes: 14, No: 0, Absent: 0,**

**DO PASS as amended carries.**

**Representative Wrangham will carry the bill.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1317

Page 2, line 6, remove the overstrike over "~~may~~" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer"

Page 3, line 13, remove the overstrike over "~~may~~" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the city weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the city weed officer"

Renumber accordingly

Date: 2/11/11

Roll Call Vote # 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1317

House **Agriculture** Committee

Legislative Council Amendment Number 11.0295.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Wrangham Seconded By Representative Schmidt

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Bill Carrier \_\_\_\_\_

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

*Also Add  
Emergency  
Clause*

Date: 2/17/11

Roll Call Vote # 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1317

House **Agriculture** Committee

Legislative Council Amendment Number 11.0295.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Wrangham Seconded By Representative Schmidt

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Bill Carrier \_\_\_\_\_

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

Motion to reconsider committee's action on passing amendment 11.0295.01001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1317

Page 2, line 6, remove the overstrike over "may" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer"

~~Page 3, line 13, remove the overstrike over "may" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the city weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the city weed officer"~~

Renumber accordingly



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1317

Page 1, line 2, after "control" insert "; and to declare an emergency"

Page 3, line 13, remove the overstrike over "may"

Page 3, line 13, remove "shall"

Page 3, line 27, remove the overstrike over "~~The city weed officer shall deliver a copy of the  
notice personally or forward a~~"

Page 3, remove the overstrike over lines 28 and 29

Page 3, line 30, remove the overstrike over "d."

Page 4, line 5, remove the overstrike over "e."

Page 4, line 5, remove "d."

Page 4, line 9, remove the overstrike over "f."

Page 4, line 9, remove "e."

Page 4, after line 15, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency  
measure."

Re-number accordingly

Date: 2/17/11

Roll Call Vote # 2

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1317

House **Agriculture** Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Wrangham Seconded By Representative Schmidt

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

**Total** Yes \_\_\_\_\_ No \_\_\_\_\_

**Absent** \_\_\_\_\_

**Bill Carrier** \_\_\_\_\_

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

Use first paragraph of amendment #11.0295.01001 & further amend with Amendment # 11.0295.01002

Puts it back to "may" and removes "shall"

February 17, 2011

VK  
2/17/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1317

Page 1, line 2, after "control" insert "; and to declare an emergency"

Page 2, line 6, remove the overstrike over "may" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer"

Page 3, line 13, remove the overstrike over "may"

Page 3, line 13, remove "shall"

Page 3, line 27, remove the overstrike over ~~"The city weed officer shall deliver a copy of the notice personally or forward a"~~

Page 3, remove the overstrike over lines 28 and 29

Page 3, line 30, remove the overstrike over "d."

Page 4, line 5, remove the overstrike over "e."

Page 4, line 5, remove "d."

Page 4, line 9, remove the overstrike over "f."

Page 4, line 9, remove "e."

Page 4, after line 15, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Re-number accordingly

Date: 2/17/11

Roll Call Vote # 3

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1317

House **Agriculture** Committee

Legislative Council Amendment Number First paragraph of amendment #11.0295.01001 &  
further amend with  
Amendment # 11.0295.01002

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended  
☐ Rerefer to Appropriations

Motion Made By Representative Wrangham Seconded By Representative Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	X	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland	X		Phillip Mueller	X	
David Rust	X				
Mike Schatz	X				
Jim Schmidt	X				
Wayne Trottier	X				
John Wall	X				
Dwight Wrangham	X				

Total Yes 14 No 0

Absent 0

Bill Carrier Representative Wrangham

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

**REPORT OF STANDING COMMITTEE**

**HB 1317: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1317 was placed on the Sixth order on the calendar.

Page 1, line 2, after "control" insert "; and to declare an emergency"

Page 2, line 6, remove the overstrike over "~~may~~" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer"

Page 3, line 13, remove the overstrike over "~~may~~"

Page 3, line 13, remove "shall"

Page 3, line 27, remove the overstrike over "~~The city weed officer shall deliver a copy of the notice personally or forward a~~"

Page 3, remove the overstrike over lines 28 and 29

Page 3, line 30, remove the overstrike over "~~d.~~"

Page 4, line 5, remove the overstrike over "~~e.~~"

Page 4, line 5, remove "d."

Page 4, line 9, remove the overstrike over "~~f.~~"

Page 4, line 9, remove "e."

Page 4, after line 15, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2011 SENATE AGRICULTURE

HB 1317

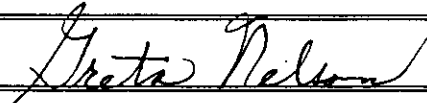
# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Agriculture Committee**  
Roosevelt Park Room, State Capitol

HB 1317 (Engrossed)  
March 25, 2011  
Job # 16010

☐ Conference Committee

Committee Clerk Signature



## **Explanation or reason for introduction of bill/resolution:**

Related to noxious weed control; and to declare an emergency.

## **Minutes:**

Attachments: #1, #2, #3

**Senator Flakoll:** Meeting called to order on this 25<sup>th</sup> day of March 2011 at 10:00 am on HB1317 (Engrossed) Clerk take roll call.

**Clerk:** 7-0-0

**Merlin Leithold:** ND Weed Control Association Officer in Grant County (Attachment #1)

**Senator Flakoll:** Emergency clause is still in play..passed the House 92-2.

**Melvin Fischer:** Environmental Health Division-Bismarck Fire Department (Attachment #2)  
Support of HB 1317

**Senator Heckaman:** How did you contact those property owners?

**Melvin Fischer:** We had an extensive education program. We use the media and use the newspaper, website; we have a history of property owners who don't control noxious weeds and tall grasses. About 400 in the community we send direct mailing.

**Senator Larsen:** What is the noxious weed of choice in Bismarck?

**Melvin Fischer:** Leafy spurge, Canada thistle, and worm wood.

**Senator Flakoll:** City standpoint, do you view this as a general favorable budget?

**Melvin Fischer:** No, I don't see a budget issue. We collect less than what would be an equivalent to a mill for the weed control in the city....so we don't take advantage of any cost share program.

**Myron Dieterle:** Farmer from Sheridan County Weed Board (Attachment #3)

**Senator Flakoll:** Opposition:

**Judy Carlson:** State Agriculture Dept Director of the Plant Industry Division. One provision in this bill is the incline section, the area the commissioner feels strongly the land owners should have the option to choose if they want to do incline. In 2009, the weed association asked our attorney if they could do that or up to the county. Law reads it is up to the landowner. Our goal is to get the weed control money on the ground to control weeds. If a landowner doesn't have the money, we can allow them to use (and the county) match as far as their labor, use of their equipment, etc. Two years we have known this is the interpretation; we have tried to get the county the county to use this. Now our LAP fund ....we have probably almost half a million that has not been spent. We have until June 30 to use those funds. Our goal is to make it as easy as possible for the landowners to access state funds to control noxious weeds. We have no problem with the rest of the bill because we have until June 30 to spend this money.....the emergency clause could cause us problems, getting the word out to people to know that this is how the law will be read and have they have 3 months to try to spend it and redo their formulas.

**Senator Miller:** The way the bill is worded/changed...the weed board would probably give consideration to whatever the land owner is contributing?

**Judy Carlson:** In this part of the weed leafing, every county has different guidelines. The commissioner gets frustrated as the state funds and has similar guidelines. You could land on 2 different counties and do totally different. Some counties assess everybody a certain dollar amount and they pick up the rest. This change would be up to the weed officer if they are going to let you do .....The wording now are attorney interprets it is up to the landowner. If they want to give them \$20 or 20% or use their use their labor as match. The amount of money the county is the same.

**Senator Klein;** Part that you don't like is the emergency clause or do you think it needs additional work on page one? It creates flexibility, but heard you say emergency clause could be the sticking point.

**Judy Carlson:** getting the word out is going to be difficult. We have SB2085 that doesn't have an emergency clause and try to get out the law books to let them know what is required....this has emergency clause, we may print weed law books for April, May, June and in July reprint the new changes for August. In three or four months, we would have 3 different sets of weed laws.

**Senator Klein;** Yes or no?

**Judy Carlson:** I can see for the notification part, the city doesn't send certified to every person. Our budget is bases on a biennium ends June 30. It will be difficult to get the message out. If it passes, we will do the best we can to get it out.

**Senator Klein;** don't want the emergency clause...yes or no?

**Judy Carlson:** Our preference would be not to have it on the inkine section.



**Senator Miller;** Concerned about printing the laws up and disseminating the information out to people. Has taken place already?

**Judy Carlson;** We did that after last session

**Senator Miller;** Can't you add another version

**Judy Carlson:** Could distribute them at trade shows....cannot reach all of them until the next year.

**Senator Miller;** I don't see this as problematic ....

**Judy Carlson:** We can work with this....we have always left it up to the landowner.

**Senator Flakoll;** There are always people who will be aware of the law? (Question to you)

**Judy Carlson:** Absolutely

**Senator Flakoll;** If it would be Jan 12 and effective date.....(interrupted)

**Judy Carlson:** That is something we have been trying to work out with OMB and the auditors to allow our budget to go through a different so it wasn't cut up in the middle of the spray season....not much luck with that.

**Judy Carlson:** If both bills went in at the same time, it would be helpful.

**Senator Flakoll;** Notification of language.....we are not referencing that change.

**Judy Carlson:** The re-write was 2 sessions ago.

**Senator Flakoll;** Make sure, otherwise ....I didn't find anything with the re-write with that. I have a sequence issue

**Judy Carlson:** Not sure of HB 1027 is

**Senator Miller;** what is the largest cost share to the landowner.....what is most expensive cost

**Judy Carlson:** Each county is different.

**Senator Miller** If someone can't afford...has it always been a 20-50 dollar range?

**Judy Carlson:** biggest cost is if they don't control their weeds, the county can assess on their property for that control. Biggest problem is landowners who have mental issues....don't want to take over the land. County might spray the perimeter of the land. County divides up the money so no one gets a large chunks.

**Senator Flakoll;** Anyone wants someone to come back to the podium

**Senator Klein** Get Merlin to speak on the emergency clause would be an issue?

**Merlin Leithold** If the lost would mandate the weed board has to offer inkind whether they can afford to or not. If we can get this changed with the emergency clause weed board in April is doing their cost share. Setting it up for the coming year. We could get word out to the weed boards through internet and newsletter and website so they would know if it would pass that the inkind would be there...the emergency clause would be there in effect for the spring season. Difficult for a weed board to change the program half way August...weed boards have already set up their program. We felt the emergency would get us started this spring ....into this year.

**Senator Klein;** Would you be safe to say this issue has been discussed at the weed board convention and people are aware of what the changes would be. Would not be a major concern with them as they are up to speed because they know you are working on this?

**Merlin Leithold:** Yes, it was discussed at our association convention during the annual meeting and at our 5 area meetings. We voted on them at the area meetings and was a unanimous decision. The books still have the main law within.

**Senator Klein;** They were aware of the emergency clause to be on and aware of it on for this season?

**Merlin Leithold:** yes

**Senator Flakoll;** Worse scenario for most people here....emergency does not carry?

**Merlin Leithold:** We will work with it

**Senator Luick;** Timing for the emergency is for just this year?

**Merlin Leithold:** Yes

**Senator Flakoll;** What if date set as Jan 2012

**Merlin Leithold:** Nice to have budget from Jan 1 to Dec 31.

**Senator Flakoll;** Close hearing

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Agriculture Committee**  
Roosevelt Park Room, State Capitol

HB 1317 (Engrossed)  
March 25, 2011  
Job # 16012

☐ Conference Committee

Committee Clerk Signature

*Greta Nelson*

## Explanation or reason for introduction of bill/resolution:

Relating to noxious weed control; and to declare an emergency.

## Minutes:

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**Senator Flakoll;** Meeting called to order March 25, 2011 HB 1317 (Engrossed) 10:55 am

**Senator Miller;** Move to Do Pass HB 1317

**Senator Heckaman;** Second

**Senator Flakoll;** Discussion

**Senator Luick;** Does this include the emergency clause?

**Senator Flakoll;** Yes

**Senator Klein;** The Ag Dept might be a little concern...the information is out there and the weed people have talked and understand and know the emergency clause.

**Senator Flakoll;** Discussion? Clerk take the roll for a Do Pass engrossed for HB 1317

**Clerk;** 7-0-0

**Senator Flakoll;** Motion carries. Senator Miller will carry the bill.

**Senator Flakoll;** HB 1317 Complete

**Senator Flakoll;** Discussion and explaining the process of the bills if bills are returned.

Date: 3/25/11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1317 (Engrossed)

Senate Agriculture Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	✓		Senator Heckaman	✓	
Vice-Chair Oley Larsen	✓				
Senator Klein	✓				
Senator Luick	✓				
Senator Miller	✓				
Senator Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Miller

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

**REPORT OF STANDING COMMITTEE**

HB 1317, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1317 was placed on the Fourteenth order on the calendar.

**2011 TESTIMONY**

**HB 1317**



#1

**NORTH DAKOTA WEED CONTROL ASSOCIATION**  
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**TESTIMONY OF MERLIN LEITHOLD**  
**LOBBYIST # 207**  
**HB 1317**  
**HOUSE AGRICULTURE COMMITTEE**  
**JANUARY 28<sup>TH</sup>, 2011**

Good morning Chairman Johnson and members of the House Agriculture Committee. My name is Merlin Leithold. I represent the ND Weed Control Association. I am also the weed officer in Grant County.

You have before you this morning HB 1317. This bill does a couple of changes to 4.1-47-16 and 4.1-47-28, of the noxious weed law.

The first change deals with in kind cost share. During the rewrite process, the ND Department of Agriculture asked that language be added allowing counties to cost share labor to landowners. At the time this was already being done in some counties, but the attorney for the Ag Dept felt that language was needed to allow counties to continue to receive reimbursement from the Ag Dept for labor or as is referred to in the law, in kind.

On page #1 of HB 1317, lines 22 thru 24, you can see the language was added. After the law went into effect, the attorney for the Ag Dept found that the language in the law was worded such that counties would now be mandated to provide in kind cost share to landowners. This was not the original intent of the Ag Department, the Weed Association., the Legislative Council, or the Interim Ag. Committee.

What you see on lines 22 thru 24, the proposed language would be changed allowing counties the flexibility to offer in kind to landowners. Each and every county in the state has a different program. Programs depend on local landowner participation and local funding. Not changing this section of the law will only cause economic hardships to some counties. This change does not

intend to deprive counties of state cost share dollars, it only changes the wording to reflect the original intent.

For instance in Grant County, my county, I received \$33,673 in LAP reimbursement from the Ag Department in this current biennium. That is a 100% match for dollars that were paid out to county landowners for noxious weed control. Our cost share rates are as follows, landowner's share is around 22% while we pay the other 78%. Each chemical we cost share has a different rate, because in Grant County, landowners purchase Tordon, Curtail, and Milestone from dealers, and they purchase Plateau and Milestone directly from the weed board. The amount the landowners paid for their chemical which cost share did not cover was approximately \$11,000. Our carryover funds that could be used for cost share is approximately \$30,000. If we would be required to also pay for in kind, as the law now states, we would have 3 years of in kind cost share before our extra funds would be used up. My county is fortunate to have some money left over. This carryover was as a result of several dry years. Less money was spent on noxious weeds, more spent on feed. I have heard from counties that have said that if they have to pay for in kind as well, the money will have to come from the portion of their budget for roadside spraying. We would then defeat the purpose of trying to control more noxious weeds.

Currently, this part of the law has not been adhered to by all the counties. When reading the existing language in the law, it uses the word "may". This is confusing. But we have heard from an attorney stating otherwise. We felt that we should try and correct the problem, hopefully eliminating any confusion.

The second part of the bill, which proposes a change to the noxious weed law, is on page # 2 of HB 1317, lines 22 thru 24. This deals with the county part of the law. On page #3, lines 27 thru 29 it deals with the city part of the law.

This paragraph was added during the interim committee process. This was new language in the law. Some on the interim committee felt that when problems occur due to non control of noxious weeds, not only should the landowner be notified, the tenant, lessee, or operator of that land also be notified. Everyone felt that this was an excellent idea. The problem is that in some cases, who is that person. How does a weed officer find out who the tenant is? FSA cannot help us. All we can go on is either the landowner themselves, or a neighbor. We feel that by notifying the landowner, the landowner will let the tenant know, especially if the weeds are the responsibility of the tenant.

Myron Dieterle, a weed board member from Sheridan County, will testify on this part of the bill.



Mr. Chairman, I have a couple of minor amendments to this bill. I would ask the committee to consider them.

When this bill was drafted, legislative council changed a couple of words, and we would like to have them changed back.

Page #2 of the bill, line #6, "may" is crossed out, and "shall" is added. We would like to have the word "may" left in.

Page #3, line #13, "may" is crossed out, and "shall" is added. We would like to have the word "may" left in.

We would also like to propose that this bill have an emergency status attached. The reason being, is if this bill passes, the changes would go into effect for this growing season.

January 28, 2011

Sheridan County Weed Board

#2  
1317

Good morning Mr. Chairman, and members of the committee.

For the record, my name is Myron Dieterle. I am here representing the Sheridan County Weed Board. I am a farmer- rancher, weed board member, and in our county, we are designated to be weed officers in a portion of the county different than the area we represent. We are in support of House Bill 1317 with the proposed amendment.

On page 2, line 22, item C and continuing through line 24, we are deleting "the county weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located." Mr. Chairman, committee members, this section was put in during the rewrite of state noxious weed law, done by the joint house and senate interim committee which was made responsible for reviewing all ag law. At the time, I served as President of the North Dakota Weed Control Association and remember interim committee members felt that with today's amount of land being operated by someone other than the actual landowner it would appropriate that the operator, lessee, or tenant should be notified of the noxious weed problem. The Weed Control Association felt that it was a legitimate concern, and agreed to include this new section. When coming to implement this required notice we found there was no means to do so.

The Sheridan County Weed Officers continued to notify the landowners as they had in the past according to Century Code.

No attempt was made to notify an operator, lessee, or tenant because there wasn't any verifiable way to know who such person or entity was. Mr. Chairman, Committee Members, we ask for your approval of removing this section and the similar section on page 3, line 27, item C through line 29 as it references our city weed officers and a similar requirement. We all like to be in compliance with Century Code.

Finally Mr. Chairman and Committee Members, on page 2, line 5, item 1A, "if a county weed officer determines that any land....., the county weed officer shall serve upon the landowner written notice...." We would like the word "may" left in as we contact landowners by phone and by regular letter regarding noxious weed problems and control options. We feel inserting the word "shall" as proposed requires us to deliver or send certified mail "control notices" to land owners. We like to use simple steps first and resort to certified mail for notice to control when we feel other methods are not working. We would support similar language on page 3, line 13 in referencing city weed officers in "the officer may" and not "shall."

Thank you Mr. Chairman and Committee Members. Are there any questions?

Testimony-HB 1317

#3  
1/28/11

Melvin Fischer, Administrator  
Environmental Health Division-Bismarck Fire Department

Chairman and members of the House Agriculture Committee, my name is Melvin Fischer, Administrator of the Environmental Health Division, Bismarck Fire Department. Our agency is responsible for the control of tall grass and noxious weeds within the corporate limits of the City of Bismarck. I am here in support of HB 1317 relating to noxious weed control and would like to offer one amendment. I would like to offer an amendment to line 14, page 3 of the proposed bill draft: inserting after the following language after the word personally, method deemed appropriate.

In 2010, our division contacted 715 property owners ordering them to control tall grass and weeds located on their property. The Code of Ordinances of the City of Bismarck governing tall grass and weed control requires property to be maintained and provides for specific notification processes. We are very successful with our current process and do not see the need to require the use "certified mail" adding more time and cost to our program.

Thank you for your consideration and I will address questions you may have.



# **NORTH DAKOTA WEED CONTROL ASSOCIATION**

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## **TESTIMONY OF MERLIN LEITHOLD LOBBYIST # 207 ENGROSSED HB 1317 SENATE AGRICULTURE COMMITTEE March 25<sup>th</sup>, 2011**

Good morning Chairman Flakoll and members of the Senate Agriculture Committee. My name is Merlin Leithold. I represent the ND Weed Control Association. I am also the weed officer in Grant County.

You have before you this morning engrossed HB 1317. This bill does a couple of changes to 4.1-47-16 and 4.1-47-28, of the noxious weed law.

The first change deals with in kind cost share. During the rewrite process, the ND Department of Agriculture asked that language be added allowing counties to cost share labor to landowners. At the time this was already being done in some counties, but the attorney for the Ag Dept felt that language was needed to allow counties to continue to receive reimbursement from the Ag Dept for labor or as is referred to in the law, in kind.

On page #1 of engrossed HB 1317, lines 22 thru 24, you can see the language was added. After the law went into effect, the attorney for the Ag Dept found that the language in the law was worded such that counties would now be mandated to provide in kind cost share to landowners. This was not the original intent of the Ag Department, the Weed Association., the Legislative Council, or the Interim Ag. Committee.

What you see on lines 22 thru 24 of this bill, the proposed language would be changed allowing counties the flexibility to offer in kind to landowners. Each and every county in the state has a different program. Programs depend on local landowner participation and local funding. Not changing this section of the law will only cause economic hardships to some counties. This

change does not intend to deprive counties of state cost share dollars, it only changes the wording to reflect the original intent.

For instance in Grant County, my county, I received \$33,673 in LAP reimbursement from the Ag Department in this current biennium. That is a 100% match for dollars that were paid out to county landowners for noxious weed control. Our cost share rates are as follows, landowner's share is around 22% while we pay the other 78%. Each chemical we cost share has a different rate, because in Grant County, landowners purchase Tordon, Curtail, and Milestone from dealers, and they purchase Plateau and Milestone directly from the weed board. The amount the landowners paid for their chemical which cost share did not cover was approximately \$11,000. Our carryover funds that could be used for cost share is approximately \$30,000. If we would be required to also pay for in kind, as the law now states, we would have 3 years of in kind cost share before our extra funds would be used up. My county is fortunate to have some money left over. This carryover was as a result of several dry years. Less money was spent on noxious weeds, as more money was spent for feed.

I have heard from counties that have said that if they have to pay for in kind as well, the money will have to come from the portion of their budget for roadside spraying. We would then defeat the purpose of trying to control more noxious weeds, the original intent of cost sharing in kind. Currently, this part of the law has not been adhered to by all the counties. When reading the existing language in the law, it uses the word "may". This is confusing, but the attorney for the Ag. Department has stated otherwise. One county weed board asked their states attorney, and that states attorney felt it was not mandatory. The Weed Association felt that we should try and have you help us correct the problem, hopefully eliminating any confusion.

The second part of the bill, which proposes a change to the noxious weed law, is on pages # 2 and top part of #3 deals with the county portion of the law. The remaining portion of page #3 and page #4, deals with the city portion of the law. The city portion of the law was changed, in the House Ag Committee, changing it back to its original form. Mr. Mel Fischer, from the city of Bismarck will testify on why that change was made.

On the county portion, page # 2, line 26 thru 28, this paragraph was added during the interim committee process. This was new language in the law. Some on the interim committee felt that when problems occur due to non control of noxious weeds, not only should the landowner be notified, the tenant, lessee, or operator of that land also be notified. Everyone felt that this was an excellent idea. The problem is that in some cases, who is that person. How does a weed officer find out who the tenant is? FSA cannot help us. All we can go on is either the landowner

themselves, or a neighbor. We feel that by notifying the landowner, the landowner will let the tenant know, especially if the weeds are the responsibility of the tenant.

On page # 2, line 6 thru 11, new language was added in the House Ag Committee, to replace the paragraph on line 26 thru 28 that would be deleted, in the law. The original bill would have mandated that a weed officer shall, page # 2, line 10 notify by certified mail, everyone who has a weed problem. Weed officers like the flexibility of contacting a landowner in person, or by phone, or by regular mail when a weed problem is first detected. Only when a weed problem is not controlled, and a control measure is needed, certified mail is used. This language gives weed officers that flexibility.

Mr. Myron Dieterle, a weed board member from Sheridan County, will testify on this part of the bill, going into greater detail, as to why these changes were necessary.

This bill also carries an emergency declaration on it. If passed, these changes in the law would go into effect this spring, in time for this years spraying season.

On behalf of The North Dakota Weed Control Association, I would ask you to give this bill a do pass recommendation.

Thank you

#2

**Testimony-HB 1317**

Melvin Fischer, Administrator  
Environmental Health Division-Bismarck Fire Department

Chairman and members of the Senate Agriculture Committee, my name is Melvin Fischer, Administrator of the Environmental Health Division, Bismarck Fire Department. Our agency is responsible for the control of tall grass and noxious weeds within the corporate limits of the City of Bismarck. I am here in support of HB 1317 relating to noxious weed control. The bill was amended to the original language currently in statute for the City's process and has been working well for us.

In 2010, our division contacted 715 property owners ordering them to control tall grass and weeds located on their property. The Code of Ordinances of the City of Bismarck governing tall grass and weed control requires property to be maintained and provides for specific notification processes. We are very successful with our current process and do not see the need to require the use "certified mail" adding more time and cost to our program.

Thank you for your consideration and I will address questions you may have.



#3

March 25, 2011

Sheridan County Weed Board

Good morning Mr. Chairman, and members of the committee.

For the record, my name is Myron Dieterle. I am here representing the Sheridan County Weed Board. I am a farmer- rancher, weed board member, and in our county, we are designated to be weed officers in a portion of the county different than the area we represent. We are in support of House Bill 1317 as passed by the House.

On page 2, line 26, item C and continuing through line 28, we are deleting "the county weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located." Mr. Chairman, committee members, this section was put in during the rewrite of state noxious weed law, done by the joint house and senate interim committee which was made responsible for reviewing all ag law. At the time, I served as President of the North Dakota Weed Control Association and remember interim committee members felt that with today's amount of land being operated by someone other than the actual landowner it would appropriate that the operator, lessee, or tenant should be notified of the noxious weed problem. The Weed Control Association felt that it was a legitimate concern, and agreed to include this new section. When coming to implement this required notice we found there was no means to do so.

As all of us know, land ownership changes but even more so, land operators, tenants, or lessee's change more often. The Sheridan County Weed Board conducts an

No attempt was made to notify an operator, lessee, or tenant because there wasn't any verifiable way to know who such person or entity was. Mr. Chairman, Committee Members, we ask for your approval of removing this section.

On page 2, line 6 we have new wording, "the county weed officers may first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer shall serve written notice on the landowner, etc.". The two key words here are "may" and "shall". The key word being "may" as the weed officer could, if they wanted to contact the occupant. The key word "shall" was used when giving "notice to control". The weed officers only option on an official notice is to serve upon the landowner, written notice, either personally or by certified mail, requiring the landowner to combat the noxious weeds within the time period prescribed by the county weed control officer. The word "occupant" was used since it seemed to be less defined. The word "occupant" was felt by the House Agriculture Committee and the Weed Control Association, could be used to describe a renter, lessee, tenant, or landowner.

Mr. Chairman, members of the committee, we like the "may" option since most of the time talking to the "occupant" by phone or in person will resolve many noxious weed problems rather inexpensively from a weed boards perspective.