

**Interim Judiciary Committee
Testimony of Julie Lawyer, Assistant Attorney General
October 11, 2012**

Chair Nething and Members of the Committee:

My name is Julie Lawyer and I am prosecutor with the Attorney General's Office assigned to prosecute drug crimes.

Synthetic drug abuse has presented many unforeseen challenges for law enforcement and prosecution in this State. In 2011, the Legislature scheduled seven (7) chemical groups of synthetic cannabinoids, which were being sold as "incense," and several synthetic cathinones, which were being sold as "bath salts." These substances were sold as legal alternatives to controlled substances, and, despite their labels stating the products were not for human consumption, the substances were smoked, snorted, and ingested for the purpose of the getting high.

When the chemical groups were scheduled, we thought we had taken care of the problem. However, the manufacturers of these substances changed the chemical structure, making the new substances similar to, but different from, the chemical classes that were controlled.

Law enforcement and prosecutors began seeing the same products, labeled with such names as "New Dimension," "Spark," and "100% Pure Evil," now containing a non-controlled synthetic. Reports were coming in of juveniles overdosing on very small amounts of these substances. People who were smoking these substances were combative with police. Users told police they thought they were having a heart attack; they thought their hearts were going to jump out of their chests. Police have also responded to hospital emergency rooms where users have been foaming at the mouth and incoherent. In June 2012 in the Grand Forks area, two teenagers died and at least one other overdosed on a synthetic cathinone known as 2C-I and the street name, Smiles. In that case, witnesses described the victims as thrashing about and growling and one of the victims was pounding his head into the ground before he stopped breathing.

Unfortunately, because none of these substances are controlled, the distributors of these drugs cannot be charged with any drug trafficking crimes. We have no way, under present state law, of prohibiting these dealers from selling these substances.

To give you an understanding of what these drugs can do to a person, I would like to play a 911 call. This emergency call was made on May 20, 2012. Officers found the caller and discovered that it was a 16 or 17 year old girl. She had gone to a home in Grafton where she had taken what she described as "two hits" from a pipe containing a synthetic cannabinoid packaged under the name "100% Pure Evil." Officers have seized Pure Evil in other cases and laboratory analysis on the product showed that it contains XLR-11, which is not controlled under our current law. From the girl's cell phone, officers found that she sent a text message to a friend stating she was at the residence. Fifteen (15) minutes later this call

came in. Within those fifteen (15) minutes, she had taken two (2) hits from the pipe containing this synthetic.

When I listen to this call, the only words I can understand is that she's driving and she needs help. She later told officers that she felt she was in a cartoon world. She was screaming in the call because she was frustrated and scared at knowing in her mind what she wanted to say, but not being able to get the words out of her mouth.

These new substances have fallen through the cracks of our current statutes. In the Grand Forks case of the distribution of 2C-I which resulted in the deaths of two (2) teenagers, the federal government, through the controlled substance analog statute, was able to charge the distributors of 2C-I with drug trafficking offenses. A controlled substance analog is a chemical which is similar to a controlled substance, but is not itself specifically controlled. Drug Enforcement Administration chemists have confirmed that the new synthetic cannabinoids available since the 2011 legislation, including XLR-11, are analogs of the synthetic cannabinoids that are controlled. North Dakota needs a controlled substance analog statute so law enforcement and prosecutors are able to stop the distribution of substances that are similar to controlled substances, yet different enough to be "legal."

As we discovered after the 2011 legislation with the advent of these new chemical substances, the makers and distributors of synthetic drugs do what they can to find a way around the law. To try to stop that, we are also drafting proposed legislation that would make it a crime for an individual to distribute any substance they know their customer is going to use to get high, whether the substance is controlled or not. If the makers and distributors can manufacture yet another synthetic substance that is new and not an analog of any controlled substance, law enforcement and prosecutors will have the tools to stop the spread of these dangerous substances.

Thank you.