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**HB 1197 Testimony
Eric Delzer
Pesticide and Fertilizer Division Director
Senate Agriculture Committee
Fort Union
March 4, 2021**

Chairman Luick and members of the Senate Agriculture Committee, my name is Eric Delzer and I am the pesticide and fertilizer division director for the North Dakota Department of Agriculture. I am here today to testify in support of house bill 1197. The main purpose of this bill is to provide a necessary clarification to fertilizer law found in North Dakota Century Code (N.D.C.C.) chapter 4.1-40.

Under this statute, any person who sells a fertilizer product in North Dakota must first obtain a fertilizer distributor's license from the Department. However, under N.D.C.C. 4.1-40-03(7)(a) there is an exemption from the licensing requirements for persons that sell only specialty fertilizer products, which are defined as fertilizer distributed primarily for non-farm use. We believe this exemption was put in place to exempt small local retailers, like a small-town hardware store that sells only a handful of bags of lawn fertilizer, from the licensing and tonnage reporting requirements. However, the way this exemption is written also exempts the large commercial distributors that are importing all the specialty fertilizer into the state.

This bill proposes clarifying the specialty fertilizer exemption so that it would only apply to those that sell specialty fertilizer to an "end user" and changes the reportable package size from 25 pounds to 10 pounds. These simple language changes would ensure that our local retailers would remain exempt from the licensing and tonnage reporting requirements while also making it necessary for the large commercial distributors to be licensed and report their tonnage. This matches licensing and reporting requirements across the country.

HB 1197 will also require a purpose statement for soil amendments and plant amendments. As we're seeing more and more nonnutritive ingredients in fertilizer being guaranteed as beneficial, it is important that they explain the purpose of these ingredients. This language is taken directly from the model bill published by Association of American Plant Food Control Officials (AAPFCO). AAPFCO is an organization comprised of state control officials and fertilizer industry members that works together to develop uniform language for states to use to standardize fertilizer label requirements across all 50 states. This language is highly supported by the specialty fertilizer industry.

The final change proposed in HB 1197 relates to the wholesale tonnage reporting requirements. In 2013 the legislature added this provision at the request of the Department to aid in our tonnage auditing program. It was thought at the time to be necessary for auditing purposes, however the data proved to be not as valuable as we envisioned. Furthermore, the tonnage auditing program was cut by the Department several years ago due to budget constraints and we are no longer using this data, so it is no longer necessary to collect it. The wholesale reporting process is very tedious and burdensome to companies as they must separate their wholesale tons sold from their retail tons sold as well as track how many tons of each product they sold to each licensed facility in the state and report it separately. There is also no revenue to the state associated with this reporting so there will be no fiscal impact associated with its removal from statute.

Chairman Luick, and committee members, this concludes my testimony on HB 1197, and I would be happy to answer any questions.