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Equal Opportunity in Employment and Services

**Testimony of Judy Carlson
Program Coordinator
House Bill 1026
Agriculture Committee
Roosevelt Room
10:15 a.m., Thursday, February 26, 2009**

Chairman Flakoll and members of the Senate Agriculture Committee, I am Judy Carlson, a Program Coordinator at the department of agriculture. I am here today in support of House Bill 1026, which would rewrite North Dakota's noxious weed control law.

Noxious weed law was the first area of agriculture law that the Interim Agriculture Committee reviewed. It has been our pleasure to work with the interim committee, chaired by Representative Phil Mueller. I am pleased to testify in support of this bill.

At the first interim committee hearing, held on October 16, 2007, Commissioner Johnson testified that his goal in working with the Interim Agriculture Committee was to have easily understood law that maximizes state and local efforts to control weeds. He also identified several areas in the law that needed further clarification or revision, including:

1. **Responsibility for controlling weeds** – House Bill 1026 appropriately clarifies that it is the duty of each person to control the spread of noxious weeds (Page 3, Section 3, lines 1-2).

Current law (NDCC § 63-01.1-01) requires that every person in charge of or in possession of land in this state, whether as landowner, lessee, renter, or tenant, shall control or eradicate noxious weeds on those lands. This bill broadens the responsibility of controlling weeds to include any person conducting activities that may spread noxious weeds; including, but not limited to, construction activities, seed sales, custom combining, and haying.

2. **Enforcement** – During the interim process, the commissioner testified in support of clarifying and strengthening the noxious weed enforcement authority (NDCC § 63-01.1-03). House Bill 1026 provides authority for the agriculture commissioner to enter onto land in order to assess situations and take samples without being subject to any action for trespass or damages (Page 3, Section 4, lines 3-7).

Enforcement responsibilities of other agencies (Page 12, Section 28, lines 23-25) – It provides a general statement that law enforcement agencies “shall” cooperate with weed control authorities to enforce the noxious weed law. Current law (NDCC § 63-01.1-14) directs the state patrol, county sheriffs, and the truck regulatory division to cooperate with weed control authorities and includes a provision that these law enforcement agencies “may” enforce NDCC § 63-01.1-12(2) if machinery, commodities, or articles are being moved on highways and roads and are contributing to the dissemination of noxious weeds.

Quarantine (Page 15, Section 30, lines 15-31, continuing on page 16, lines 1-2) – This bill clarifies quarantine authority and provides for the imposition of an emergency quarantine and a penalty for any person violating a quarantine order. It also clarifies due process. Current law (NDCC § 63-01.1-12.1) only provides the agriculture commissioner with authority to declare a quarantine when requested to do so through a resolution adopted

by two-thirds majority vote of the weed board having jurisdiction. In fact, current law seems to “direct” the agriculture commissioner to declare the quarantine, before even determining if sufficient grounds exist to do so.

Preventing the dissemination of noxious weeds (Page 16, Section 31, lines 3-12) – The bill also provides for a penalty and clarifies restrictions on transporting material or equipment that may disseminate noxious weeds. Current law (NDCC § 63-01.1-12) has no specific penalty for individuals who willfully transport or dispose of materials that disseminate noxious weed seeds or propagating parts.

Action on complaints (Page 17, Section 33, lines 4-29) – The bill further establishes the board of county commissioners or the governing body of the city as the final authority regarding noxious weed complaint investigations. Current law (NDCC § 63-01.1-18) provides for a cumbersome appeals process potentially involving weed boards, county or city commissions, and the agriculture commissioner.

3. **Funding** – we encouraged the Interim Agriculture Committee to keep the law describing funding simple, equitable, and with sufficient flexibility to direct funds to address the needs of local officials struggling to control weeds. The current bill clearly separates law authorizing the Targeted Assistance Grant (TAG) (Page 7, Section 16) and the Landowner Assistance Program (LAP) (Page 8, Section 17).

The TAG Program targets local weed control needs and provides a cost-share opportunity to county and city weed boards to meet those needs. TAG proposals describe a noxious or invasive weed problem within the county or city weed boards’ jurisdiction and proposes a management strategy.

LAP provides weed boards with cost-share assistance for landowner noxious weed control. Weed boards must levy at least three mills for noxious weed control or eradication to be eligible to receive LAP funds. Historically, a majority of weed boards have provided landowners with herbicide cost-share assistance with these funds. Eligible county and city weed boards are responsible for developing a LAP cost-share program for their areas.

We offered amendments to SB 2371 that specifically provides for the use of state funds for controlling “invasive” and noxious weeds.

4. **Noxious weeds: definitions, purpose, and listing** – We also support the current bill’s provisions which provide for a review of the state, county, and city weed lists and provides the authority for the agriculture commissioner to approve all listings (Sections 11 and 22, pages 5 and 10). Current law (NDCC §§ 63-01.1-04.4, 63-01.1-07.4) only provides the agriculture commissioner with the authority to remove weeds from a list but doesn’t provide for a periodic review of all state, county, and city weed listings. This bill appropriately does so.

Chairman Flakoll and committee members, I urge a “do pass” recommendation for HB 1026.

I appreciate your hard work as you move forward in strengthening weed control efforts across the state. I would be happy to answer any questions.