

2011 SENATE AGRICULTURE

SB 2147

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2147
January 20, 2011
13132

Conference Committee

Committee Clerk Signature

Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to cutting weeds and grass along county and township roads.

Minutes:

Attachments: #1, #2, #3, #4, #5

Senator Flakoll: Called meeting to order on this 20th day of January, 2011 at 9:00 am

Clerk: Roll call: Senator Murphy, Senator Luick, Senator Heckaman attending another meeting, will be coming in soon.

Senator Erbele: SB 2147 several commissioners from the 2 counties I represent here today speaking in detail on SB 2147. I would ask for favorable consideration on SB 2147.

Senator Miller: Underlined area in bill?

Senator Erbele: Yes, line 15 and 16 underlined lines

Senator Flakoll: Anyone else in support of SB 2147?

Jack Erbele: County Commissioner, Logan County supporting SB 2147 (Attachment #1)

Senator Klein: Can't you buy authority the commission.... The grass is growing, we ask that everybody go out and cut grass. Do we need a law?

Jack Erbele: Yes, that is where exhibit B.... where we have had a request in for last couple years and haven't had much success. We have larger farms, non cattle farms, grain farms don't feel it is necessaryneed to realize other people travel those roads.

Senator Klein: July 1st a little early to be haying the ditches? About what time would we be haying the ditches?

Jack Erbele: Sweet Clover has been getting out of hand... by July 1 it is right up there. A number of accidents in the county, but we are not liable for them.

Senator Klein: is there an "or else"? Cut the ditches or what? Will we assess the landowners again as we currently have rules to do that?

Jack Erbele: Yes

Senator Klein: Is that the plan?

Jack Erbele: The deadline is October 1 (exhibit D) we have not assessed anybody anything as of yet, but was way off the deadline to October 13. If there is no law there, we have no "teeth". We are not having a great success with asking.

Senator Miller: Understanding we have these laws behind us, hard to get out to call these people, hard to be assessing fines the first few years.

Jack Erbele: You are right ...we have not been enforcing much at all, people do realize October 1 as a deadline. We picked Oct 1....people are doing it by Oct 1 ...waiting until the last minute.

Senator Klein: You have the same people who don't cut it at all. That issue, same ones but they know the laws. What can we do to make people comply?

Jack Erbele: I agree. Fact is we had something in place.

Senator Flakoll: Not penalizing them when they do violate the law?

Jack Erbele: Hard to find someone to as we have no mowers, our guys are too busy with other obligations.....we wouldn't have time to do it. We put out the last request for them to do it. Two people have been penalized. We have a bill of \$200 a roadside ditch.

Senator Flakoll: When I am busy, I can break the speed limit? Question: what impact would this have on wild life?

Jack Erbele: As nesting, or getting hit on the highway?

Senator Flakoll: Nesting or habitat?

Jack Erbele: There are birds that nest in the ditch.

Senator Flakoll: If you cut in June, how it be handled if you have a second cutting. If another specie comes up later is there any cover of protection there?

Jack Erbele: It would be like the second cutting We request the second cutting.

Senator Flakoll: Exhibit B regularly traveled roads ...does it cover dirt roads, gravel, and above?

Jack Erbele: We do have some roads that are winter maintained, but do not do any winter maintenance on them.....no one lives there. Section lines we don't do a lot of maintenance on. Don't ask them to cut those. Clarification, cycle mower not a lawn mower.

Senator Larsen: Exhibit C ...two rounds of mowing 14 feetwhat is that in relations to?

Thought it was just one mower length along the roadwhat is going into 14 feet?

Jack Erbele: Second paragraph. We have ask them to do 14 feet, not all roads (especially road with water or rip-rap) we are asking them to cut it out as far as they can... 14 feet is sufficient for most roads.

Senator Larsen: Fish and Game understands it is just a cycle width and then would not have an effect on habitat wild lifenot nesting birds and critters aren't 8 ft off the road. But they could be 14 ft into the ditch.

Jack Erbele: The 14 feet if for the October cut, by that time all nesting is done. We are saying one cut width in the July cutting.

Senator Miller: Accident in winter...hit a deer....a lot of grass, HP decides it is negligence on that land because not mowed....could they be liable in that case?

Jack Erbele: Do not know.

Senator Flakoll: Anyone to testify SB 2147?

Ron Meidinger: McIntosh County. (Attachment #2)

Senator Miller: Clarification: You would wish the county would require two mowing of the road side and you could specify times necessary. Early summer and late fall??

Ron Meidinger: yes

Senator Klein: You put a notice along with the tax statement.....some additional notice rather than the ad in the paper.

Ron Meidinger: The land owner claims not to read the paper. We put it in with the tax statement....then they look at the enclosed literature. We go out with the mower to cut for them and then penalize them by charging them for the county cutting the ditches. Still have the problem with the early cutting.

Senator Klein: Issue, since one doesn't live there, we expect the people who are renting the landPut more pressure on them to do the cutting.

Dennis Gloss: McIntosh County ...Road Supervisor: I suggest if there is a problem with the dates, select a specific date(s) that requires them to be cutting

Senator Flakoll: Do they have a choice of mowers.....rotary or cycle mower?

Dennis Gloss: We use rotary on pavementsDoesn't work on gravel

Senator Klein: Same person....just certain pocket where it is bad? Exception to the rule?

Dennis Gloss: Yes, I agree...always a few make your life miserable. Be along the shoulder to have time to decompose.

Terry Traynor: Assistant Director ND Association of Counties (Attachment #3)

Senator Flakoll: What are your thoughts on east/west boundaries....different dates because of the growing season?

Terry Traynor: Seems rather complicated...just set a date/range ...let there be more flexibility. If that what makes the bill go forward, we support it.

Senator Flakoll: Re-act to having it cut by July 15?

Terry Traynor: If they think it will work, we are for it. I sent this to Game and Fish Dept with July 1 date.

Senator Flakoll: Is there an advantage in listing in the law 9ft (cycle width) for the first cutting and 18ft for the fall cutting. Would it help to be more specific?

Terry Traynor; We didn't have specific cutting for late cutting. It would be great for limiting the first cutting to 9ft (cycle width)

Senator Flakoll: Regular traveled highways adjoining the lands....has that ever comes into play for challenging for people not committed to the cutting?

Terry Traynor; Not aware that it happens...might get a bill for not mowing

Senator Miller; Have any liability issues?

Terry Traynor: Not heard of insurance or victim going against landowner.

Larry Seiferson: Chairman of Board of Township Supervisors of Roseville Township of Traill county President of ND Township Officer Association (Mayville) (Attachment #4)

Senator Flakoll: How does it work in case where a county would requirefirst year where they want to establish some growth, as culverts....how do they manage that?

Larry Seiferson; Remain a local decision. County Commissioners could work it out on their own.

Senator Klein: Permissiveness.....wouldn't that allow the property owner not to feel responsible for cuttingthe words "may"??

Larry Seiferson: It is permissive to the county....they may require it they have the ability to make that an ordinance.

Senator Klein: Landowner not admitting to knowing about the requirement (law). Do you want the word "may" in there?

Larry Seiferson: Traill Country notice is specifies the fall mowing must be complete to edge of cultivation.

Jack Erbele: Front page A date so necessary, use that language. Which date is prescribed by the County Commissioners...that would take care of all directions of all weather conditions? If you are looking for a date that might be the wording you want.

Dennis Gloss: No matter whether developed or undeveloped section line, there is 33ft on each side that was given by congressthe landowner owns the land, but 33ft is allowed for travel. Indemnifies anything within that 66ft total he is not liable whether developed of undeveloped road.

Merlin Leithold: Weed Officer from Grant County (Attachment #5)

Senator Miller; We can make this work ...have 2 hay cuttings

Merlin Leithold: Mr. Seiferson talked about Aug 1, would probably work....would give the weed board time to get the top edges sprayed. We do not like to send the guys out twice. My county I spray myself...difficult to get all sprayed with weather conditions. We could make this work. Don't like the idea of cutting to the field's edge...would hamper a lot of weed control.

Language in bill is very vague.

Senator Miller: Scenario we could put out....let's put out a date. Set a date, consulting with the weed board.

Merlin Leithold: We could make that work..

Senator Klein; Cost of the weed control would possibly double if done twice.

Merlin Leithold: Yes, run the truck twice....labor, fuel all expenses.

Senator Larsen: If you are spraying weeds, you are doing the job the landowner is not doing.

Merlin Leithold; According to the law....duties of the weed board, spray all township and county roads in the county. Some counties do spray own road right away....money goes to weed control spraying to weed boardauthority under law for the weed board to spray the roads.

Senator Larsen: (Minot area) Weed there, there is huge amount hay and grasses that weed spray won't kill that? Lot of weeds in the cycle cut, but a lot of hay, haying those ditches in July. The weed spray won't get rid of the trash that needs to stop the snow.

Merlin Leithold: Correct.....weed spray should not kill the grass. Grant County sprayed a round up mixer on shoulders so they could blade them so wouldn't have the lumps. Don't do it every year...cost...labor. Had good results.

Senator Klein: Job to kill noxious weeds...that's what you are out there spraying to control noxious weed. Must spray at proper time or you can't keep control.

Merlin Leithold: Correct, if the weed is mowed off....the weeds spread on the root system...more problems the next year. If continues, it is a major problem.

Senator Heckaman; Do you do any double spraying now?

Merlin Leithold; Yes, if they hay it, we have to come back on that road. Spray the top shoulder and do before mowed. Do 2 passes over the whole county.

Senator Flakoll: Various herbicides, and seasonality, aren't they more effective during growth cycle than Oct/Nov that you referenced.

Merlin Leithold: Using certain chemicals...they are best during growing cycle. Mixture of plateau tordon...spring only, plateau tordon for leafy spurge, fall applied etc.....problem is seeing the weeds. Tall grass makes a problem of seeing the weeds.

Senator Murphy: Congratulations for taking good care of roads. Don't understand ...we would need to cover roads twice.... This would change this?

Merlin Leithold: In the law the roads must be clipped by July 1,

Senator Murphy: Not in the law...up to the county commissionerswould they make you do that?

Merlin Leithold: To be affective to do a weed control job, you treat the county roads like they are your own land. If they are clipped by July 1, you need to get out and spray as early as possible. (All day to do a 20 mile stretch)

Senator Murphy: County Commissioner requires you to do by July 1?

Merlin Leithold: My county ...I don't know....I am representing the entire state

Senator Larsen: Cost a mile to burn? A mower width? Does it cost more than \$200?

Merlin Leithold; I can't answer...what would the cost. Roundup \$16.50 a gallon. All counties vary.

Senator Larsen: Key issue is to get rid of the mulch....

Merlin Leithold: Getting rid of the mulch....mowing is not the answer
Only way to get rid of it is with a rotary.

Senator Flakoll: What if we wait until we do anything until October...then a lot gone to seed as opposed to doing one mowing in July 4 before mature and go to seed?

Merlin Leithold: Weeds or grass?

Senator Flakoll: weeds

Merlin Leifthold: Certain weeds depend on season leafy spurge June/July ...mature lying on the ground

Senator Flakoll: More mature in October/ rather than July

Merlin Leithold: Yes

Senator Flakoll: what type of weeds can be controlled by mowing?

Merlin Leithold: Canada thistle clipped several time can be controlled after several years
Leafy spurge is tougher...spreads moreworm wood controlled by clipping

Senator Flakoll: Spray 2 times a year ...is the cocktail mixture different each time of the year?

Merlin Leithold: Yes....if use tordon plateau for leafy spurge, by July 1, the cocktail is done
Don't use the rest of the year....plateau alone in the fall. Taller the weed, tougher to kill.

Senator Klein; Clear?? If we set it back to Aug 1, the weed guys could live with that?

Merlin Leithold: Yes we could live with that.

Senator Flakoll: Opposition?

Jack Erbele: Logan county Commissioner; Senator Larsen Spraying entire shoulder would become an erosion problem.

Senator Klein: Once sprayed with roundup, the grass doesn't come back ...the weeds do.

Jack Erbele: The weeds come back very fast

Senator Flakoll; Close hearing on SB 2147

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB2147
January 20, 2011
13159

Conference Committee

Committee Clerk Signature *Greta Nelson*

Explanation or reason for introduction of bill/resolution:

Committee Meeting referring to cutting weeds and grass along county and township roads.

Minutes:

You may make reference to "attached testimony."

Timer start: 21:16

Senator Flakoll: Committee to meet about SB 2147. Mowing along township and county roads.

Senator Flakoll: A few optionspass the bill out as presented, up or down. Possible moving that date from July 1 to another date as option. Option of consultation with Weed Board we could visit about. We should provide more specific on should cuttingat least the first cutting we say at or approximately so many feet. Should width should be at least 7ft

Senator Murphy: Worried about micro managing this thing. This bill would give a lot of latitude to the counties and they know what to do with their own county. Other than the date there isn't anything I would care to do. But that doesn't mean something shouldn't be done.

Senator Klein; Surprise there weren't any Ag groups here in opposition Waiting for them to speak in opposition. It is a grind to get this done in the fall....it is an issue to get the 7 or 9 ft cut. There are producers who live along those roads who said county isn't doing their job. If done more than once a year, wouldn't be so bad. We have to do the "give and take" we are giving them a lot more than I would like to, but we can amend this and get it in the position where I would be more inclinedget right behind it.

Senator Flakoll: Senator Murphy distance came about as there was some confusion about certain requirements as width in the fall cut vs. earlier cut. Fall cut 18ft vs.33ft Rather than requiring them to go 18 ft, now 7ft that we are discussingthat constitutes what they need to do. Essentially save you a tripif 18ft then have to make 3 trips

Senator Larsen; Talking with Game and Fish, the 7 ft is not the concernbut July 1 can be very much can a concern for wildlife (fowl or animals) They are not on 7ft off the road.

Senator Heckaman: the county weed boards do work with the county. Work this out...why are we asked to come into these counties and micro manage and make rules for each county. They should be doing this in conjunction with the weed board and county commissioners and road crew. Read that this is how the counties do it. Why do we need to specify dates and lengths and widths?

Senator Flakoll: Right now they are prohibited from having it earlier, so this would be a laudable language. As it stands, they can't move it earlier than Sept 15.

Senator Miller: what has been discussed with the Weed Board.....it would be to their detrimentWasting county funds...I would propose that after July 1, the counties are free to make their own determination when to mow and how often. But have to mow by Oct 1. Only challenge is the notification to the land owners.

Senator Luick: Just be affecting bottom 18 ft not the top 7 ft swath which is something that should be kept down due to safety because of deer coming up out of the ditch. Extra 7ft to see the animal coming onto the road.

Senator Miller; That is the determination as to how they want to handle....how often do they want it mowed or do it themselves and charge the landowner.

Senator Klein: Then why are we putting in a date? Require an earlier cuttingthe issue be let the counties take the heat for sighting an earlier/late date. Remove the words "completed by Aug 1/ July 1" but let it be up to the counties?

Senator Flakoll; How would that work when the counties say that the state says we can?

Senator Miller; Language should say "between July 1 and October 1 the county may require 2 mowings, but must be at least one mowing done"

Senator Luick: As it reads, you cannot mow it before July 1

Senator Flakoll; Require that they could mandate it done by July 1. How much do we want to control....July 1 too early? July 15 better?

Senator Heckaman; Weather and season unpredictable....difficult to put dates in.

Senator Larsen: They are not upholding the fines....exhibit Dfine them with the second notice if it hasn't been done.

Senator Klein; I would like to amend that July 1st to Aug 1st by putting the gate in we'll bring the weed folks on board and wouldn't need to add consultation, felt by Aug 1st would have it under control. I move we change the word July to August.

Senator Miller; second

Senator Flakoll: page 1 line 16 overstrike the word July and insert August.

Senator Klein Moving that forward, what heard we have wild life issues, weed issues, why I think we can go this way. By this time, the organization will know what is happening out there.

Senator Larsen: By changing it to August, will that change the issue with the mulch and pile from May through August? Lots of growth

Senator Murphy: The language says it to be done by Aug 1st.

Senator Larsen: If I don't have to cut by AugustI won't cut until August

Senator Murphy: Decision if there is some danger of animals....

Senator Klein; Same folks not mowingthey are going to have to attack it on their own.

Senator Flakoll: Would prefer July 15By the time the county allows the grace period.

Senator Klein: Law won't go into effect this year until August...

Senator Klein: Gives them a year to think about it.....not retroactive.

Senator Murphy: Other amendment proposed?

Senator Flakoll Discussion about a few different issues that people would like and discussed some of those. Different dates due to locations, etc.

Senator Flakoll: Any other things? No problem with defining which roads covered. Klein amendment. Change on line 16 Completed by July 1 to Aug 1st

Clerk take roll

Clerk 7yes/ 0 no/ 0 absent

Senator Flakoll: Motion carried to change dates..... Klein Amendment

Senator Klein: The House can add height of weeds

Senator Klein; Move Do Pass SB 2147 as amended

Senator Murphy second

Clerk take roll vote

Clerk 7 yes/ 0 no/ 0 absent

Senator Flakoll: motion carries

Senator Flakoll; Senator Klein will carry

Senator Flakoll: Adjourned

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2147
March 31, 2011
Job # 16222

Conference Committee

Committee Clerk Signature *Breta Nelson*

Explanation or reason for introduction of bill/resolution:

Relating to cutting weeds and grass along county and township roads.

Minutes:

You may make reference to "attached testimony."

Senator Flakoll; Meeting called to order this 31st day of March, 2011 Committee meeting at 10:00am. Clerk take roll call.

Clerk: Roll call: 7-0-0

Senator Flakoll; Next SB 2147

Senator Klein; We have concurred to it and would add the worddiscussion on changing a word. I carry the bill and it is ready.

Date: 1-20-2011

Roll Call Vote #: _____

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 700

Senate Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 2147

Action Taken Amended

Motion Made By Senator Klein Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Senator Tim Flakoll	✓		Senator Joan Heckaman	✓	
Senator Oley Larsen	✓				
Senator Jerry Klein	✓				
Senator Larry Luick	✓				
Senator Joe Miller	✓				
Senator Bill Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

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

Date: 1-20-2011

Roll Call Vote #: 1-0-0

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

Senate Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 2147

Action Taken Do pass

Motion Made By Senator Klein Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Senator Tim Flakoll	✓		Senator Joan Heckaman	✓	
Senator Oley Larsen	✓				
Senator Jerry Klein	✓				
Senator Larry Luick	✓				
Senator Joe Miller	✓				
Senator Bill Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

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

REPORT OF STANDING COMMITTEE

SB 2147, as amended: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2147, as amended, was placed on the Sixth order on the calendar.

Page 1, line 16, replace "July" with "August"

Re-number accordingly

2011 HOUSE POLITICAL SUBDIVISIONS

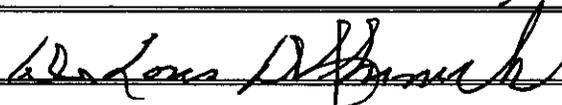
SB 2147

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2147
March 3, 2011
Job # 14883

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to cutting weeds and grass along county and township roads.

Minutes:

Testimony # 1, 2, 3

Chairman Johnson: Opened the hearing on SB 2147.

Senator Erbele: This bill is just a request to move the mowing dates. The Senate did amend the bill and made it an August 1st mowing that could be requested, but there is still a feeling out there that they would like to have you consider an earlier date than August 1st. There are county commissioners and Mr. Traynor himself can speak further to it.

Rep. Kretschmar: Sometimes I get complaints from farm people that they don't want it cut so early. Is that going to be a factor?

Senator Erbele: No matter what we do there are always complaints as you well know. As far as the haying part of it a July 1st cutting typical grasses that grow would be able to be cut at that time. Definitely July 15th would be the date that tends to flow with the wildlife people too where a lot of haying is restricted. I think an earlier date could be considered.

Rep. Devlin: Are you talking about adding a cutting or just the requirement to where they could cut or are you talking about additional cuttings?

Senator Erbele: I believe we would still have to do that fall cutting just to keep the snow off, but they can speak to that.

Rep. Zaiser: The cutting shall be completed no later than September 15th or October 1st. What does that mean? Why the two dates?

Senator Erbele: I believe that just is to account for the different parts of the state maturity levels and the timing.

Rep. Zaiser: So that is established by county?

Senator Erbele: Yes the county commissioners are given the option of those dates.

Terry Traynor, ND Association of Counties: (See testimony #1). The wet seasons we have had in the last few years have really increased the grass height in the past few years which makes intersections difficult in some parts of the state as well as the wildlife issue of deer running out in front of vehicles. This would not be mandatory, just like the other cutting now is. Many counties particularly in the west said we probably would never use this authority. It would be permitted and the county could require the earlier cutting. They would publish it in the paper just like before. If the landowner doesn't cut the shoulder of the road then often times the county hires someone to do it and that is billed back to the landowner because it is their responsibility.

Rep. Klemin: In the situation where someone hays the ditch and they cut the ditch in July 1 and use it for hay and since it is a county wide requirement that they have it cut by August 1 are they going to have to cut it again?

Terry Traynor: I would assume not. It is by August 1 so if it is already done it is already done.

Rep. Hatelstad: Couldn't you just eliminate the dates and say a deadline set by the county commission and then they could do it however or whenever they wish?

Terry Traynor: I think you could and that would be fine from a county perspective.

Rep. Devlin: When I get complaints on this issue it is usually somebody that wants it cut at the other end in November or whatever because the grass grows later in the fall. One of the issues raised is if we cut in July or August the cutting we have in November isn't going to be nearly as clean because all the residue is still in the ditches from the first cutting? He thinks it is going to create problems with the fall cutting that is going to cause more snow to pile up in the ditches and along the roads.

Terry Traynor: Certainly if it is going to create more problems in the fall with the debris then the commissioners probably would not require it. The key is getting the stuff short before the snow starts to blow so I guess that they would not require it if it creates more problems.

Jack Erbele, County Commissioner from Logan County: (See testimony #2). A big part of it is the safety issue. We have lots of sweet clover and tall grasses in our area that create a blind spot for people traveling roads. On the second page the second paragraph I have July 1st down on there and that was originally what we wanted. When I testified at the Senate side they suggested August 1 so now that July 1st we would like to see by July 15th. The reason is by that time the wildlife has done their nesting thing. Your taller grasses have become to the point of almost maturing already so we feel that if we took it down at that point it would be fine. If it is just laying there by October 1st it has pretty well decomposed and that is what we are looking for. There is a big situation between Pembina County and Bowman County. That is why a representative mentioned couldn't we not put a date to it and just let it up to the county commissioners. If you would turn to the third page which is Exhibit A of ND Century Code 63-05-01 the county has the option of September 15th or October 1st as prescribed by the board of county commissioners. I think that would

be some good wording to use also in this earlier mowing. I contacted the ND DOT and they do their mowing by July 4th through the 15th for purposes of haying to provide more haying for the people that are haying those ditches. Went through the exhibits.

Rep. Shirley Meyer: If you don't get your weeds cut by the landowner isn't it just cut anyway and then you are given the bill?

Jack Erbele: Yes we have right now set a \$200 per roadside mile. That is what we charge to people. We have been very successful with just phone calls as reminders.

Rep. Hatelstad: How about just take the dates out and give you as county commissioner flexibility. Would that work or not?

Jack Erbele: That would be great.

Chairman Johnson: What would you think of a maximum of two cutting a year?

Jack Erbele: That is what we have in mind. One with a date put to it and we should have an ending date put down. The current one is September 15th or October 1st. There are probably going to be some testifying against this bill as far as weed issues and spraying. We have some noxious weeds in our county and with that our weed board has asked us not to maintain some roads because of moving weeds from one side of the road to the other and we have acknowledged that so it is just an in house issue and we have obliged them with that.

Larry Syverson, Township Supervisor of Roosevelt Township of Trail County and President of ND Township Officers Association: There has been some question about an open date on this. Any earlier dates would bring out the wildlife people. They think anything before July 1 would severely impact wildlife so that is what gets it pushed back.

Rep. Hatelstad: Would you think the county commissioners would be aware of the wildlife peoples request and so given the option they could make adjustments in cooperation with; would that work?

Larry Syverson: I would imagine that would work. I don't have a problem myself with the July 1st date.

Opposition:

Merlin Leithold, ND Weed Control Association: (See testimony #3). I you want to pass this I would like to see it left the way it came out of the Senate.

Rep. Kilichowski: Would a two week window work like it does in the fall from July 15th to August 1st. Would that work for the weed board?

Merlin Leithold: In some instances it might work, but when you are talking a statewide program some of the weeds aren't growing as actively as they are in the east also. I would rather see that August 1st.

Rep. Mock: You are standing in opposition to the bill. Do you oppose the bill in general or do you support the bill as it is written and oppose any amendments?

Merlin Leithold: The original bill we opposed. As it came out of the Senate amendment we would support the engrossed bill.

Hearing closed.

Discussion:

Rep. Devlin: When I read the bill I did not read it that they could require an additional early cutting. I would like to see the wording say require an additional completed by August 1. It looks like they could if necessary move it up to August 15, but it doesn't look to me as I read it that they could make it two cuttings so I think that needs to be clarified no matter what you do with the bill.

Rep. Klemin: I think August 1st would be a reasonable compromise.

Rep. Hatelstad: I would think with all the different dates it would be easier for each county to say based upon what is going on here we can arrange it working with the various people in the county.

Rep. Shirley Meyer: Stark County as you know we are assessed that if we don't have it mowed. I would hate to see where maybe our county commission would say we want you to mow these once a month. That would be my only concern. If you left it wide open and you decided we are going to start making you do this once a month and you don't get it done it becomes a revenue generator if you will for the county so that is why if you are going to add two dates they better be set.

Rep. Mock: The board of county commissioners may also if necessary would that be interrupted as a second cutting or does that need to be clarified for it to be permissive for a second cutting?

Rep. Klemin: That is the way I read it is permissive for a second cutting and that was the testimony that was the intent. The whole thing is not written very well in my opinion.

Chairman Johnson: Would it be a problem if we changed the word earlier to additional?

Rep. Klemin: I think you mentioned at one point in the hearing that maybe there could be a window from August 1 to October 1 where they could have a maximum of two cuttings. It seems like they were dealing OK with the September 15 or October 1st. I think changing earlier to additional would certainly clarify the way it is now.

Rep. Zaiser: I think it would be good to establish a not to exceed number of cuttings. In other words additional cuttings up to two or three or three hundred or whatever number that might be reasonable.

Chairman Johnson: If we delete earlier and put in additional it would say an additional, which would be singular and I think that would cover it.

Rep. Hatelstad: Looking at that term logy it says if necessary to require a cutting completed by August 1 so could the county commissioner's day July 1? But you have to have it done by August 1.

Rep. Shirley Meyer: We can do that right now. We can cut whatever we want whenever we want. This is just the one that is the requirement. This language is just a requirement on the roadways getting into the fall where they would require it because we are no longer haying at that time, just so they don't catch snow.

Rep. Klemin: If you change the word earlier to additional; instead of saying require an additional cutting to be completed no earlier than August 1? The compromise was for weeds and wildlife they didn't want it cut before August 1, but the way it reads now that is the end date. So if they want it done before August 1st it doesn't say that now.

Rep. Kilichowski: My understanding was they didn't want it between July 1st and July 15th but by August 1st would work. They didn't want it in the first half of July.

Chairman Johnson: What if we did a proposed amendment that would say if necessary require an additional cutting completed between July 15 and August 1?

Rep. Shirley Meyer: I think if we add just an additional cutting completed by August 1st would solve the problem. Some of these take a while to do so if you put in the two week window it might be harder.

Rep.Devlin Made a Motion that the bill be amended to on line 15 we replace the word earlier with additional. Seconded by Rep. Maragos:

Discussion: None

Voice vote carried.

Do Pass As Amended Motion Made by Rep. Kilichowski; Seconded by Rep. Shirley Meyer:

Vote: 13 Yes 0 No 1 Absent Carrier: Rep. Shirley Meyer:

March 3, 2011

VK
3/3/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2147

Page 1, line 15, replace "earlier" with "additional"

Page 1, line 16, after "cutting" insert "be"

Renumber accordingly

Date: 3-3-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2147

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider _____

Motion Made By Rep. Davison Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Vote
Carried!*

Date: 3-3-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2147

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Kilichowski; Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Meyer

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

REPORT OF STANDING COMMITTEE

SB 2147, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2147 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "earlier" with "additional"

Page 1, line 16, after "cutting" insert "be"

Renumber accordingly

2011 TESTIMONY

SB 2147



LOGAN COUNTY, NORTH DAKOTA
BOARD OF COUNTY COMMISSIONERS
JOHN W. WALD, CHAIRMAN
DEAN B. ENTZMINGER, VICE-CHAIRMAN
JACK T. ERBELE, BOARD MEMBER
301 BROADWAY
NAPOLEON ND 58561
FAX: 701-754-2280

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FELLOW COMMISSIONERS, VISITORS AND GUESTS:

I'M JACK ERBELE, COUNTY COMMISSIONER FROM LOGAN COUNTY, AND I'M HERE TO RESPECTFULLY REQUEST YOUR SUPPORT OF SENATE BILL NO. 2147, WHICH BILL PERTAINS TO AMENDING NDCC SECTION 63-05-01, WHICH MAKES IT THE DUTY OF LANDOWNERS OR OPERATORS WITH LAND ADJOINING REGULARLY TRAVELED COUNTY AND TOWNSHIP HIGHWAYS TO CUT ALL WEEDS AND GRASSES ALONG THE REGULARLY TRAVELED HIGHWAYS ADJOINING THEIR LANDS ON OR BEFORE SEPTEMBER 15TH OR OCTOBER 1ST, WHICHEVER IS PRESCRIBED BY THE BOARD OF COUNTY COMMISSIONERS.

In Logan County, we have been requesting the landowners and operators to cut at least one mower width cut of all weeds and grasses along the county roads before July 1st of each year, later followed with a Notice to Cut Weeds by October 1st, and lastly, another reminder to mow weeds. (See exhibits A, B, C & D attached).

We have not been having a great deal of success with the July 1st request, and we are present to solicit your assistance in amending NDCC 63-05-01 to allow counties to make it the duty of landowners to cut one mower width cut of weeds and grasses along county roads by July 1st of each year.

Our request is based on the following:

- (1) Our first concern is for the safety of the individuals who must travel on our county roads. When weeds and grasses get quite tall, and as the wildlife are wandering back and forth across the roads, it is extremely difficult for oncoming traffic to stop immediately when wildlife suddenly come onto the roadway. In the event the weeds were cut by July 1st, it would give the public a broader perception of what lies ahead as they travel on these roads.**

- (2) In the event that one cutting of weeds and grasses was to be required by July 1st, it would allow sufficient time for the weeds and grasses to break down so they would decompose naturally, and not leave large piles at the edges of the roadsides.**

- (3) When our county maintenance operators are attempting to blade the roads, the tall weeds and grass become entangled in the gravel, causing large clumps to remain along the edges of the roads. These large clumps then create a hazard for the public, especially as two vehicles meet on the roadways. A great deal of gravel material is then lost when the county maintenance operators are required to remove snow from the roadways and they are unable to avoid removing a large amount of gravel that has become entwined with the weeds and grasses.**

In conclusion, Mr. Chairman and members of this committee, on behalf of the counties and for the safety and concern of the traveling public, we respectfully request that you consider supporting Senate Bill 2147 for the reasons that are set forth above.

THANK YOU

63-05-01

WEEDS

Expenses levied as taxes Section
against land. 63-05-04. Definition of operator.

63-05-01. Landowners or operators along county and township highways to cut weeds and grasses. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering the highways and their lands. The cutting shall be completed not later than September fifteenth or October first, as prescribed by the board of county commissioners.

Source: S.L. 1981, ch. 638, § 21.

Cross-References.

County weed boards' duty to control weeds along highways, see N.D.C.C. § 4.1-47-09.

damages to advertiser arising from obstruction of public view of sign or billboard on account of growth of vegetation in public way, 21 A.L.R.4th 1309.

Collateral References.

Governmental liability for compensation or

63-05-02. Designation of time for cutting — Notice. The board of county commissioners of each county shall prescribe the time for cutting of the weeds and grasses, prescribe the height of stubble to be left and the minimum width of the cuts, designate the county highways along which weeds and grasses shall be cut, and request the board of township supervisors to designate township roads along which weeds and grasses shall be cut. The board of township supervisors shall make the designation, and the board of county commissioners shall publish notice of the designated highways, the time for cutting, and the height of stubble to be left and the minimum width of cut in the official county newspaper at least twice, and the last publication must appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice must be given by posting, in the same manner as election notices are posted. Expenses incurred in publishing the notice must be paid from funds provided in section 63-01.1-06 by the board of county commissioners.

Source: S.L. 1981, ch. 638, § 21; 1993, ch. 611, § 1.

Cross-References.

Official county newspaper, see N.D.C.C. ch. 46-06.

63-05-03. Failure to cut weeds and grasses — Expenses levied as taxes against land. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the

REQUEST TO MOW WEEDS

The Board of Logan County Commissioners hereby requests the assistance of all landowners/operators in the prevention of unforeseen wildlife/vehicle accidents, and to assist in the maintenance of roads by cutting at least one (1) mower width cut of all weeds and grasses along all improved Farm to Market, County and Township Roads on or before July 1, 2010.

Thank you for your cooperation in the maintenance of your county's road system and for the safety and concern of all road users.

Logan County Commissioners

**Publish June 16th
June 23rd**

NOTICE TO CUT WEEDS

Weeds Along and on Rights-of-Way Must be Cut and Removed By

October 1, 2010

NDCC Section 63-05-01 makes it the duty of landowners or operators with land adjoining regularly traveled county and township highways, (as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways), to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public rights-of-way bordering the highways and their lands, and if such owner or operator fails to do so, same to be cut and the expenses certified and charged against the land of the landowner and collected in the same manner as other real estate taxes are collected.

Two rounds of mowing must be made on the rights-of-way with minimum width cut of fourteen feet (14'), maximum stubble height of four (4") inches, and all weeds must be removed from top of roads and road shoulders so as not to interfere with road maintenance.

The cost of cutting weeds will be \$200.00 per roadside mile if cut by Logan County, and will be added to the taxes of the landowner, and shall become a part of the taxes to be levied against the land for the ensuing year and collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

All bills for weed cutting must be certified by Township Clerk in organized townships and County Board of Commissioners in unorganized townships to County Auditor no later than November 1, 2010.

**INSPECTION OF ROADS WILL BE MADE AND
ENFORCED TO THE FULLEST EXTENT!!!**

**BOARD OF COUNTY COMMISSIONERS
LOGAN COUNTY, NORTH DAKOTA**

Publish September 8, 2010
September 15, 2010

REMINDER TO MOW WEEDS

The Board of Logan County Commissioners would like to remind all area landowners and operators that the deadline for cutting and removing weeds from area roadsides was October 1, 2010. Mowing and removing weeds assists the county highway department in snow removal efforts, and enhances public safety when wildlife wander across roads. In the event that weeds have not yet been mowed, Logan County will retain individuals to do so, and the cost of \$200.00 per roadside mile will be assessed against the taxes of the Landowner. PLEASE GIVE THIS YOUR IMMEDIATE ATTENTION!!!!!!!!!!!!!!

Board of Logan County Commissioners

Publish October 13, 2010

Gina Ketterling

From: Ronald Meidinger [saminger@drtel.net]
Sent: Wednesday, January 19, 2011 9:23 AM
To: Gina Ketterling
Subject: Fw: SENATE BILL NO. 2147

#2

From: Ronald Meidinger
Sent: Tuesday, January 18, 2011 9:45 PM
To: gkellerl@nd.gov
Subject: SENATE BILL NO. 2147

Mr. Chairman and committee members

We have come here today in support of Senate Bill No. 2147.

Two main reasons.

1. Tall weeds are a safety issue, weeds not cut until fall hide deer in the ditch which become a hazard on county and township roads, as they are hard to see until they hit the vehicle.
2. Weeds and grass cut late cause a great amount of road shoulder litter causing maintainer operators from doing a good job preparing the road for the winter season, as every clump will hold the snow blowing across the road.

We would like to see early cutting completed by July 15 rather than July 1, giving ducks and pheasants time for their hatch.

THANK YOU
MCINTOSH COUNTY



**Testimony To The
SENATE AGRICULTURE COMMITTEE
Prepared January 20, 2010, by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

#3

REGARDING SENATE BILL No. 2147

Chairman Flakoll and members of the Committee, the Association of Counties asked Senator Erbele to sponsor this legislation and we thank him for his interest in getting the bill before you. This bill is a direct result of a resolution adopted by the county commissioners from across the state.

As the bill clearly shows, county boards have the authority under current law to require landowners to ensure that the weeds and grass alongside "*regularly traveled county and township highways*" are cut "*not later than September 15th or October 1st.*"

SB2147 would permit the county board to also "*if necessary, require an earlier cutting completed by July 1st.*" The reason for this is twofold – safety and efficient road maintenance.

Our current cycle of wet weather has increased awareness of this issue, with much faster growth and higher stands of grass and weeds. These higher stands can reduce visibility at rural intersections – a clear safety hazard – as well as limiting the opportunity of drivers to avoid wildlife.

From a road maintenance standpoint, when the growth is higher and ultimately mowed much later, the volume of material that falls onto the roadbed increases, hindering the efficient handling of road materials by motor graders.

Some county commissioners at our convention indicated that they would be unlikely to use this added authority, while others felt there were times in recent years that an earlier mowing would greatly benefit the county and its citizens.

Mr. Chairman and committee members, county commissioners urge your support and request a "do pass" recommendation on Senate Bill 2147.



In support of SB2147:

Good morning Chairman Flakoll and members of the Senate Agriculture Committee.

I am Larry Syverson, a farmer from Mayville and Chairman of the Board of Township Supervisors of Roseville Township of Traill County. I am also the President of the North Dakota Township Officers Association. NDTOA represents nearly 6,000 township officers in 1,340 dues paying member townships.

Each year the Board of County Commissioners publishes the notice of responsibility to mow right-of-ways of regularly traveled county and township highways in their county, specifying that the mowing must be completed by either September fifteenth or October first, as prescribed in 63-05-01 of the NDCC.



It is true that in many parts of the state this late mowing suffices to prevent the establishment of trees in the right-of-way and avoid snow piling on highways. However in some areas, a late mowing still results in large amounts of debris present at first snowfall. This residue catches drifting snow and can cause roads to quickly close. When large amounts of early snow have to be pushed off of roadways, the wing often pushes up a wall of snow which results in even more snow accumulating as the winter advances, thus compounding the problem, the danger and the expense.

As has become evident in the last few years the fall may turn very wet making it difficult to do an adequate job of fall mowing; in these cases the problem may be less severe if a mowing had been done earlier.



This bill would not prescribe that an additional mowing be done but will allow the Board of County Commissioners to make that local determination based on actual growing conditions, and backs up that decision with the ability to charge actual mowing expenses against the taxes if the owner or operator fails to comply.

I had a discussion with Senator Murphy about this bill; he had reservations about the July first date, as do I. Senator Murphy fears July first may be too early for some nesting wildlife, and I add that it might even allow time for a large re-growth of weeds on the right-of-way before the fall mowing. I invited him to offer an amendment to change the deadline to August first and indicated that we would support such an amendment.

The North Dakota Township Officers Association asks that you give Senate Bill 2147 a favorable recommendation.

Thank you Chairman Flakoll, that concludes my prepared testimony this morning and I will try to answer any questions you or the Committee may have.

CHAPTER 63-05 CUTTING WEEDS AND GRASSES ON HIGHWAYS

63-05-01. Landowners or operators along county and township highways to cut weeds and grasses. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering the highways and their lands. The cutting shall be completed not later than September fifteenth or October first, as prescribed by the board of county commissioners.

63-05-02. Designation of time for cutting - Notice. The board of county commissioners of each county shall prescribe the time for cutting of the weeds and grasses, prescribe the height of stubble to be left and the minimum width of the cuts, designate the county highways along which weeds and grasses shall be cut, and request the board of township supervisors to designate township roads along which weeds and grasses shall be cut. The board of township supervisors shall make the designation, and the board of county commissioners shall publish notice of the designated highways, the time for cutting, and the height of stubble to be left and the minimum width of cut in the official county newspaper at least twice, and the last publication must appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice must be given by posting, in the same manner as election notices are posted. Expenses incurred in publishing the notice must be paid from funds provided in section 63-01.1-06 by the board of county commissioners.

63-05-03. Failure to cut weeds and grasses - Expenses levied as taxes against land. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the expenses shall be charged against the land of the landowner and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

63-05-04. Definition of operator. As used in this chapter, the word "operator" means a person chiefly responsible for the farming or other operations being performed on the land, whether for that person's own benefit or for the benefit of the landowner or another.



NORTH DAKOTA WEED CONTROL ASSOCIATION

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TESTIMONY OF MERLIN LEITHOLD
LOBBYIST # 207
SB 2147
SENATE AGRICULTURE COMMITTEE
JANUARY 20TH, 2011

#5

Good morning Chairman Flakoll and members of the Senate Agriculture Committee.

My name is Merlin Leithold. I am here before you today representing the ND Weed Control Association. I am also the weed officer from Grant County.

SB 2147, as we heard, deals with cutting of county right of ways, possibly twice a year.

The ND Weed Control Association opposes this bill.

According to NDSU, cutting weeds is a means of control, but counties do not consider this as a means of control on all right of ways.

The ND Department of Transportation does clip the top edges on their highways in July and then again in the late fall. Most county weed boards have the contracts to spray those highways. We all scramble to get the tops sprayed in ample time before they get mowed. If we miss them, we have to wait for regrowth, which takes until fall to be recognizable from a spray truck.

On county roads, some right of ways get hayed. Because of some of the time restrictions on certain chemicals, we leave those right of ways until they get hayed, and then again wait for regrowth. This bill, if it would become law, would basically severely hamper county right of way programs. We would need to cover roads twice, spraying the areas of a ditch that are uncut, and coming back in the fall for the top edges.

We are talking about allot of fall ditch spraying. That could work if we have warm and dry falls into November, but realistically, we don't feel that county weed boards could get all of their right of ways sprayed each year, if this bill becomes law.

We urge you to vote no on SB 2147. Thank you

**Testimony To The
HOUSE POLITICAL SUBDIVISIONS COMMITTEE
Prepared March 3, 2011, by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING ENGROSSED SENATE BILL No. 2147

Madam Chair and members of the Committee, the Association of Counties asked Senator Erbele and the cosponsors to introduce this legislation and we thank them for their interest in getting the bill before you. This bill is a direct result of a resolution adopted by the county commissioners from across the state.

As the bill clearly shows, county boards have the authority under current law to require landowners to ensure that the weeds and grass alongside "*regularly traveled county and township highways*" are cut "*not later than September 15th or October 1st.*"

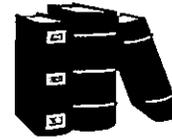
Engrossed SB2147 would permit the county board to also "*if necessary, require an earlier cutting completed by August 1st.*" The reason for this is twofold – safety and efficient road maintenance.

Our current cycle of wet weather has increased awareness of this issue, with much faster growth and higher stands of grass and weeds. These higher stands can reduce visibility at rural intersections – a clear safety hazard – as well as limiting the opportunity of drivers to avoid wildlife.

From a road maintenance standpoint, when the growth is higher and ultimately mowed much later, the volume of material that falls onto the roadbed increases, hindering the efficient handling of road materials by motor graders.

Some county commissioners at our convention indicated that they would be unlikely to use this added authority, while others felt there were times in recent years that an earlier mowing would greatly benefit the county and its citizens.

Madam Chair and committee members, county commissioners urge your support and request a "do pass" recommendation on Engrossed Senate Bill 2147.



#2

LOGAN COUNTY, NORTH DAKOTA
BOARD OF COUNTY COMMISSIONERS
JOHN W. WALD, CHAIRMAN
DEAN B. ENTZMINGER, VICE-CHAIRMAN
JACK T. ERBELE, BOARD MEMBER
301 BROADWAY
NAPOLEON ND 58561
FAX: 701-754-2280

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FELLOW COMMISSIONERS, VISITORS AND GUESTS:

I'M JACK ERBELE, COUNTY COMMISSIONER FROM LOGAN COUNTY, AND I'M HERE TO RESPECTFULLY REQUEST YOUR SUPPORT OF SENATE BILL NO. 2147, WHICH BILL PERTAINS TO AMENDING NDCC SECTION 63-05-01, WHICH MAKES IT THE DUTY OF LANDOWNERS OR OPERATORS WITH LAND ADJOINING REGULARLY TRAVELED COUNTY AND TOWNSHIP HIGHWAYS TO CUT ALL WEEDS AND GRASSES ALONG THE REGULARLY TRAVELED HIGHWAYS ADJOINING THEIR LANDS ON OR BEFORE SEPTEMBER 15TH OR OCTOBER 1ST, WHICHEVER IS PRESCRIBED BY THE BOARD OF COUNTY COMMISSIONERS.

In Logan County, we have been requesting the landowners and operators to cut at least one mower width cut of all weeds and grasses along the county roads before July 1st of each year, later followed with a Notice to Cut Weeds by October 1st, and lastly, another reminder to mow weeds. (See exhibits A, B, C & D attached).

We have not been having a great deal of success with the July 1st request, and we are present to solicit your assistance in amending NDCC 63-05-01 to allow counties to make it the duty of landowners to cut one mower width cut of weeds and grasses along county roads by July 1st of each year.

Our request is based on the following:

(1) Our first concern is for the safety of the individuals who must travel on our county roads. When weeds and grasses get quite tall, and as the wildlife are wandering back and forth across the roads, it is extremely difficult for oncoming traffic to stop immediately when wildlife suddenly come onto the roadway. In the event the weeds were cut by *July 15* ~~July 15~~, it would give the public a broader perception of what lies ahead as they travel on these roads.

(2) In the event that one cutting of weeds and grasses was to be required by July 1st, it would allow sufficient time for the weeds and grasses to break down so they would decompose naturally, and not leave large piles at the edges of the roadsides.

(3) When our county maintenance operators are attempting to blade the roads, the tall weeds and grass become entangled in the gravel, causing large clumps to remain along the edges of the roads. These large clumps then create a hazard for the public, especially as two vehicles meet on the roadways. A great deal of gravel material is then lost when the county maintenance operators are required to remove snow from the roadways and they are unable to avoid removing a large amount of gravel that has become entwined with the weeds and grasses.

In conclusion, Mr. Chairman and members of this committee, on behalf of the counties and for the safety and concern of the traveling public, we respectfully request that you consider supporting Senate Bill 2147 for the reasons that are set forth above.

THANK YOU

63-05-01

WEEDS

Expenses levied as taxes Section
against land. 63-05-04. Definition of operator.

63-05-01. Landowners or operators along county and township highways to cut weeds and grasses. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering the highways and their lands. The cutting shall be completed not later than September fifteenth or October first, as prescribed by the board of county commissioners.

Source: S.L. 1981, ch. 638, § 21.

Cross-References.

County weed boards' duty to control weeds along highways, see N.D.C.C. § 4.1-47-09.

damages to advertiser arising from obstruction of public view of sign or billboard on account of growth of vegetation in public way, 21 A.L.R.4th 1309.

Collateral References.

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Source: S.L. 1981, ch. 638, § 21; 1993, ch. 611, § 1.

Cross-References.

Official county newspaper, see N.D.C.C. ch. 46-06.

63-05-03. Failure to cut weeds and grasses — Expenses levied as taxes against land. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the

REQUEST TO MOW WEEDS

The Board of Logan County Commissioners hereby requests the assistance of all landowners/operators in the prevention of unforeseen wildlife/vehicle accidents, and to assist in the maintenance of roads by cutting at least one (1) mower width cut of all weeds and grasses along all improved Farm to Market, County and Township Roads on or before July 1, 2010.

Thank you for your cooperation in the maintenance of your county's road system and for the safety and concern of all road users.

Logan County Commissioners

**Publish June 16th
June 23rd**

NOTICE TO CUT WEEDS

Weeds Along and on Rights-of-Way Must be Cut and Removed By

October 1, 2010

NDCC Section 63-05-01 makes it the duty of landowners or operators with land adjoining regularly traveled county and township highways, (as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways), to cut all weeds and grasses along the regularly traveled highways adjoining their lands, including weeds and grasses growing within the public rights-of-way bordering the highways and their lands, and if such owner or operator fails to do so, same to be cut and the expenses certified and charged against the land of the landowner and collected in the same manner as other real estate taxes are collected.

Two rounds of mowing must be made on the rights-of-way with minimum width cut of fourteen feet (14'), maximum stubble height of four (4") inches, and all weeds must be removed from top of roads and road shoulders so as not to interfere with road maintenance.

The cost of cutting weeds will be \$200.00 per roadside mile if cut by Logan County, and will be added to the taxes of the landowner, and shall become a part of the taxes to be levied against the land for the ensuing year and collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

All bills for weed cutting must be certified by Township Clerk in organized townships and County Board of Commissioners in unorganized townships to County Auditor no later than November 1, 2010.

**INSPECTION OF ROADS WILL BE MADE AND
ENFORCED TO THE FULLEST EXTENT!!!**

**BOARD OF COUNTY COMMISSIONERS
LOGAN COUNTY, NORTH DAKOTA**

Publish September 8, 2010
September 15, 2010

REMINDER TO MOW WEEDS

The Board of Logan County Commissioners would like to remind all area landowners and operators that the deadline for cutting and removing weeds from area roadsides was October 1, 2010. Mowing and removing weeds assists the county highway department in snow removal efforts, and enhances public safety when wildlife wander across roads. In the event that weeds have not yet been mowed, Logan County will retain individuals to do so, and the cost of \$200.00 per roadside mile will be assessed against the taxes of the Landowner. PLEASE GIVE THIS YOUR IMMEDIATE ATTENTION!!!!!!!!!!!!!!

Board of Logan County Commissioners

Publish October 13, 2010



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#3

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TESTIMONY OF MERLIN LEITHOLD

LOBBYIST # 207

SB 2147

HOUSE POLITICAL SUBDIVISIONS COMMITTEE

MARCH 03rd, 2011

Good morning Chairman Johnson and members of the House Political Subdivisions Committee.

My name is Merlin Leithold. I am here before you today representing the ND Weed Control Association. I am also the weed officer from Grant County.

SB 2147, as we heard, deals with cutting of county right of ways, possibly twice a year.

The ND Weed Control Association opposes the original concept of this bill. We supported the amendments that were placed on this bill, in the Senate Agricultural Committee.

According to NDSU, cutting weeds is a means of control, but counties do not consider this as a means of control on all right of ways.

The ND Department of Transportation does clip the top edges on their highways in July and then again in the late fall. Most county weed boards have the contracts to spray those highways. We all scramble to get the tops sprayed in ample time before they get mowed. If we miss them, we have to wait for regrowth, which takes until fall to be recognizable from a spray truck.

On county roads, some right of ways get hayed. Because of certain time restrictions on certain chemicals, we leave the mentioned right of ways until they get hayed, and then again wait for regrowth. This bill, if it would become law in its original form, would severely hamper county right of way spraying programs. We would need to cover roads twice, spraying the areas of a ditch that are uncut, and coming back in the fall for the top edges that were clipped under the rules of this bill.

New noxious weeds in a county or in a new area of that county usually begin on road shoulder. Certain noxious weeds are not easily recognizable until later on in the summer. Clipping them off early would only cause them to spread, without control.

If this bill were to become law in its original form, we would be talking about allot of fall ditch spraying. That could work if we have warm and dry falls into November, but realistically, we don't feel that county weed boards would get all of their right of ways sprayed each year.

We feel that we could work with an August 1st, date for the first clipping, if needed. If intersections are becoming hazardous due to tall grasses and weeds, I believe a county can clip those areas without a state law.

We urge you to vote no on the original concept of SB 2147, and vote yes on engrossed SB 2147.

Thank you