

**2023 HOUSE AGRICULTURE**

**HB 1099**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Room JW327C, State Capitol

HB 1099  
1/5/2023

Weed seed free forage inspector contracting and refund of tax for fuel used for an industrial purpose
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9:00 a.m. Chairman Thomas called to order. Members present; Chairman Thomas, Representative Beltz, Christy, Fisher, Headland, Henderson, Kiefert, Pritchard, Schreiber-Beck, Tveit, VanWinkle, Finley-DeVille. Member absent: Representative Olson

## **Discussion Topics:**

- De minimis amounts
- Weed control complaints

In favor:

Dutch Bialke General Counsel & Senior Policy Advisor, ND Department of Agriculture #12407, and proposed amendment #12408

Chairman Thomas adjourned the hearing 9:18

*Diane Lillis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Room JW327C, State Capitol

HB 1099  
1/19/2023

Relating to complaints to the proper weed control authority and the refund of tax for fuel used for an industrial purpose.

Chairman Thomas called to order 10:46 AM

Members present; Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.  
Member absent: Representative Finley-DeVille.

## **Discussion:**

- Committee action

Tom Bodine, Deputy ND Agriculture Department, proposed amendment, #17450

Representative Schreiber-Beck moved do pass on the amendment, #18859  
Representative Fisher seconded.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 12-0-1

Chairman Thomas adjourned the meeting 10:58 AM

*Diane Lillis, Committee Clerk*

February 2, 2023

JK  
2-2-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, remove "section 4.1-14-03 and"

Page 1, line 1, after "4.1-47-04" insert "and section 57-43.1-03"

Page 1, line 2, remove "making weed seed free forage inspector"

Page 1, line 3, remove "contracting, and"

Page 1, line 3, remove "; and to repeal section"

Page 1, line 4, replace "57-43.1-03 of the North Dakota Century Code, relating to" with "and the"

Page 1, remove lines 7 through 13

Page 1, replace line 18 with:"

**SECTION 2. AMENDMENT.** Section 57-43.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03. Refund of tax for fuel used for an industrial purpose - Reduction for agricultural products utilization fund.**

Any consumer who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. ~~The amount of the tax refund provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural products utilization fund.~~

Renumber accordingly

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Room JW327C, State Capitol

HB 1099  
2/2/2023

Relating to complaints to the proper weed control authority and the refund of tax for fuel used for an industrial purpose.
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Chairman Thomas called to order 11:16 AM

Members present; Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVile, Fisher, Headland, Henderson, Kiefert, Olson, Pritchard, Schreiber-Beck, Tveit, VanWinkle.

**Discussion Topics:**

- Fiscal impact

Representative Beltz moved a do pass as amended  
Representative Scheiber-Beck seconded.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVile	Y
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	AB
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 12-0-1

Representative Schreiber-Beck will carry the bill.

Chairman Thomas adjourned the meeting 11:21 AM

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1099: Agriculture Committee (Rep. Thomas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1099 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 4.1-14-03 and"

Page 1, line 1, after "4.1-47-04" insert "and section 57-43.1-03"

Page 1, line 2, remove "making weed seed free forage inspector"

Page 1, line 3, remove "contracting, and"

Page 1, line 3, remove "; and to repeal section"

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Renumber accordingly

**2023 SENATE AGRICULTURE AND VETERANS AFFAIRS**

**HB 1099**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1099  
3/9/2023

A bill relating to complaints to the proper weed control authority and the refund
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10:00 AM Chairman Luick called the meeting to order. Members present: Chairman Luick, Senator Lemm, Senator Weston, Senator Weber. Members absent: Senator Myrdal.

### Discussion Topics:

- Industrial fuel tax
- Weed control
- Motor fuel tax refund
- Agricultural Products Utilization Fund

10:00 AM John Schneider, Business Marketing and Information Division Director with the North Dakota Department of Agriculture, representing Agriculture Commissioner, Doug Goehring, testified in favor of HB 1099. #23421

10:08 AM Chairman Luick closed the hearing on HB 1099.

10:08 AM Senator Hogan moved to DO PASS HB 1099. Senator Weber seconded the motion.

Roll call vote:

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	A
Senator Kathy Hogan	Y
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Vote: 5-0-1 Motion Passed HB 1099.

Senator Lemm will carry the bill.

Chairman Luick closed the hearing on HB 1099.

*Brenda Cook, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**HB 1099, as engrossed: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1099 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1099**

COMMISSIONER  
DOUG GOEHRING



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**NORTH DAKOTA**  
**DEPARTMENT OF AGRICULTURE**  
STATE CAPITOL  
600 E. BOULEVARD AVE. – DEPT. 602  
BISMARCK, ND 58505-0020

**Testimony on HB 1099**  
**Dutch Bialke**  
**General Counsel & Senior Policy Advisor**  
**North Dakota Department of Agriculture**

**House Agriculture Committee**  
**Thursday, January 5, 2023, 9:00 a.m.**  
**Room 327C, State Capitol**

Chairman Thomas and members of the House Agriculture Committee, I am Dutch Bialke. I will testify this morning on behalf of the North Dakota Department of Agriculture.

The Department supports House Bill 1099. House Bill 1099 contains proposed amendments to a statute regarding weed control complaints and a proposed partial repeal of a statute.

The Department also respectfully proposes an amendment removing Section I of House Bill 1099. Section I currently proposes that Forage Inspector Contracting not be subject to procurement rules.

After very positive inter-agency coordination with the Office of Management and Budget, OMB & the Department have jointly concurred that this proposed amendment to the Century Code, if enacted by the Legislature, would be much better placed within North Dakota Century Code Chapter 54-44.4, State Purchasing Practices.

Accordingly, Section 1 will be jointly proposed to be an amendment to OMB's current agency-filed bill, specifically SB 2042 that references North Dakota Code Chapter 54-44.4. This proposed bill amendment is strictly concerns where the bill is best placed in the Century Code.

Consequently, the Department respectfully requests House Bill 1099 be amended to delete Section I in its entirety.

Finally, the Department respectfully proposes a second amendment to House Bill 1099, specifically Section III, the proposed repeal of North Dakota Century Code 57-43.1-03. In making this proposed amendment, the Department would not request or propose that the first sentence of this statute be repealed, only that the second sentence in the statute be removed.

### **Weed Control Complaints**

In Section II of House Bill 1099, the Department requests that weed control complaints not be statutorily required to be signed before they are forwarded to the proper weed authority. While the majority of noxious weed control is delegated to local county and city weed control officials, NDCC 4.1-47-04 identifies the Agriculture Commissioner's duties in relation to noxious weeds.

Subsection 3 of this weed control statute currently requires the Agriculture Commissioner to forward all signed complaints to the proper weed control authority.

However, as a practical matter, the Commissioner will treat every weed control complaint he receives seriously, regardless of the form of the complaint. As a result, the requirement that the complaint be "signed" before being forwarded is unnecessary.

This proposed amendment removes the unnecessary word "signed" and would in law treat all complaints the same whether made by info-line, phone, email, or letter.

### **Refund of Tax**

Finally, the Department requests that North Dakota Century Code 57-43.1-03 be amended. Currently, according to this law, any consumer

who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the State Tax Commissioner for a refund.

Then, however, according to the second sentence of the statute, the amount of that tax refund must be reduced by one-half cent per gallon, except for aircraft fuel, and that one-half cent per gallon must be withheld from that refund and consequently deposited in the Agricultural Products Utilization Fund (APUC).

However, since the inception of the law, as a practical matter, the amount of money collected by the State Tax Commissioner under this law and subsequently deposited into APUC has been *de minimis*.

Given the extraordinarily low amounts historically that have been deposited into APUC, by removing the second sentence in this law, this would permit the Tax Department to not have to first calculate the *de minimis* reduction of one half of the refund by one-half cent per gallon, and then transfer those resulting minimal funds to APUC.

Chairman Thomas and committee members, thank you for your consideration of HB 1099. I will respectfully stand for any questions.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, remove “section 4.1-14-03 and”

Page 1, at the end of line 1, insert “and 57-43.1-03”

Page 1, line 2, remove “making weed seed free forage inspector”

Page 1, line 3, remove “contracting, and”

Page 1, line 3, remove “; and to repeal section”

Page 1, line 4, amend and replace “57-43.1-03 of the North Dakota Century Code, relating to” with “and”

Page 1, remove lines 7 through 13

Page 1, after line 17, insert:

**57-43.1-03. Refund of tax for fuel used for an industrial purpose – Reduction for agricultural products utilization fund.**

Any consumer who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. ~~The amount of the tax refund provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural products utilization fund.~~

Renumber accordingly

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## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, remove "section 4.1-14-03 and"

Page 1, at the end of line 1, insert "and 57-43.1-03"

Page 1, line 2, remove "making weed seed free forage inspector"

Page 1, line 3, remove "contracting, and"

Page 1, line 3, remove "; and to repeal section"

Page 1, line 4, amend and replace "57-43.1-03 of the North Dakota Century Code, relating to" with "and"

Page 1, remove lines 7 through 13

Page 1, after line 17, insert:

**57-43.1-03. Refund of tax for fuel used for an industrial purpose – Reduction for agricultural products utilization fund.**

Any consumer who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. ~~The amount of the tax refund provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural products utilization fund.~~

Renumber accordingly

A BILL for an Act to amend and reenact ~~and~~ subsection 3 of section 4.1-47-04 of the North Dakota Century Code, relating to ~~making weed seed free forage inspector contracting, and~~ complaints to the proper weed control authority; and ~~to repeal section 57-43.1-03~~ to amend and reenact section 57-43.1-03 of the North Dakota Century Code, relating to refund of tax for fuel used for an industrial purpose.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~SECTION 1. AMENDMENT. Section 4.1-14-03 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4.1-14-03. Reciprocal recognition of certification.~~

~~The agriculture commissioner may contract with any governmental entity that is responsible for the certification of forage in another state or province and provide for the reciprocal recognition of such certifications. The provisions of chapter 54-44.4 do not apply to certification of forage inspector contracting under this section.~~

SECTION 1. AMENDMENT. Subsection 3 of section 4.1-47-04 of the North Dakota Century Code is amended and reenacted as follows:

3. Except as otherwise provided, forward all ~~signed~~ complaints to the proper weed control authority; and

~~SECTION 3. REPEAL. Section 57-43.1-03 of the North Dakota Century Code is repealed.~~

SECTION 2. AMENDMENT. Section 57-43.1-03 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03. Refund of tax for fuel used for an industrial purpose – Reduction for agricultural products utilization fund.

Any consumer who buys or uses any motor vehicle fuel for an industrial purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. ~~The amount of the tax refund provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuel used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural products utilization fund.~~



COMMISSIONER  
DOUG GOEHRING



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**NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL  
600 E. BOULEVARD AVE. – DEPT. 602  
BISMARCK, ND 58505-0020

**Testimony of John Schneider  
Business, Marketing, and Information Division Director  
HB 1099  
Senate Agriculture and Veterans Affairs Committee  
Fort Union Room  
March 9, 2023**

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Chairman Luick, and members of the Senate Agriculture Committee, I am John Schneider, Business, Marketing, and Information Division Director with the North Dakota Department of Agriculture here representing Agriculture Commissioner, Doug Goehring. I am here today to testify in support of House Bill 1099. House Bill 1099 contains changes to a statute regarding weed control complaints and a proposed partial repeal of statute regarding industrial fuel tax.

**Weed Control Complaints**

In Section I of House Bill 1099, the Department requests that weed control complaints not be statutorily required to be signed before they are forwarded to the proper weed authority. While most of the noxious weed control is delegated to local county and city weed control officials, NDCC 4.1-47-04 identifies the Agriculture Commissioner's duties in relation to noxious weeds. Subsection 3 of this weed control statute currently requires the Agriculture Commissioner to forward all signed complaints to the proper weed control authority.

However, as a practical matter, the Commissioner will treat every weed control complaint he receives seriously, regardless of the form of the complaint. As a

result, the requirement that the complaint be “signed” before being forwarded is unnecessary.

### **Refund of Tax**

Finally, the Department requests that North Dakota Century Code 57- 43.1-03 be amended. Currently, according to this law, the amount of motor fuel tax refund must be reduced by one-half cent per gallon, except for aircraft fuel, and that one-half cent per gallon must be withheld from that refund and consequently deposited in the Agricultural Products Utilization Fund (APUC).

However, since the inception of the law, as a practical matter, the amount of money collected by the State Tax Commissioner under this law and subsequently deposited into APUC has been less than 1000 dollars.

Given the extraordinarily low amounts historically that have been deposited into APUC, by removing the second sentence in this law, this would permit the Tax Department to not have to first calculate the reduction of one half of the refund by one-half cent per gallon, and then transfer those resulting minimal funds to APUC.

Chairman Luick, and committee members, thank you for your time and I’d be happy to answer any questions you may have.