

Dakota veterans of World War II the sum of three hundred thousand dollars.

§ 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 23, 1951.

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## AGRICULTURE

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### CHAPTER 92

H. B. No. 674  
(Langseth and Anderson)

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#### PERMANENT IMPROVEMENTS TO COUNTY FAIRS; INSTALLMENT PAYMENT

#### AN ACT

To amend and reenact section 4-0232 of the North Dakota Revised Code of 1943, relating to county fairs; providing that permanent improvements may be made on an installment payment basis.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-0232 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0232. EXPENSES OF LEASING AND PURCHASING; HOW PAID.) The purchase or lease price of the land and the cost of buildings and making the improvements may be paid out of the general fund of the county if the fund is sufficient after meeting all other obligations imposed on it. If the general fund of the county is insufficient, the board of county commissioners may assess a tax over and above the amount authorized to be levied for general purposes on all of the taxable property within the county, not to exceed one-half mill in any one year, to raise the necessary money for the purchase or lease of the land, the erection of the buildings, and the making of necessary improvements, and the moneys thus raised shall be placed in a fund to be designated as the "county fair fund." The land may be purchased or leased on installments, not to exceed five equal annual payments, and permanent improvements may be made to be paid for on installments of not to exceed five equal annual payments, and the board of county com-

missioners may issue county warrants for such deferred payments, to be paid out of the county fair fund as soon as there is sufficient money in the fund to take up the warrants in whole or in part. When the warrants are issued, a levy shall be made sufficient to pay the warrants in conformity with the terms of the purchase or lease.

Approved March 1, 1951.

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## CHAPTER 93

H. B. No. 621

(Stormon of Rolette, and Solberg)

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### TAX LEVY FOR COUNTY AGENT WORK

#### AN ACT

To amend and reenact section 4-0815 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to levies for county agent work.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-0815 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0815. ONE MILL LEVY AUTHORIZED.) The board of county commissioners of any county of this state in which a levy for county agent work is authorized may levy not to exceed one mill for such purposes, which levy shall not be restricted by the county tax levy limitation prescribed by law, in counties having a taxable valuation for tax purposes of less than seven million dollars.

Approved March 5, 1951.

## CHAPTER 94

H. B. No. 793  
(Trydal, Saumur)

POTATO IMPROVEMENT, MARKETING AND ADVERTISING ACT  
AN ACT

To promote the prosperity of the potato industry of North Dakota; to provide for the establishment of potato production areas, and within such areas to provide for the collection of fees by the use of potato promotion stamps or otherwise; and the regulation of certain marketing practices; to provide for referendum elections by potato growers; to provide for the appointment of a North Dakota potato development commission, and the appointment of a board of control for each established area; to provide for the administration of this act by the said potato development commission and such board of control; to permit cooperation with state or private agencies, including those of other states and the federal government; providing for the disbursement of funds; and prescribing penalties.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. This Act shall be known as the Potato Improvement, Marketing and Advertising Act of North Dakota.

§ 2. POLICY.) (a) It is hereby declared that the production, preparing for market and marketing of Irish potatoes in North Dakota is important to the health, peace, safety and general welfare of the people of the state of North Dakota. Economic waste is being fostered in the potato industry in North Dakota by lack of better methods of production, processing and marketing of potatoes and by lack of advertising and promoting better markets for potatoes produced in the state; and the inability of individual producers and shippers to develop better methods and new and larger markets for North Dakota potatoes; resulting in unreasonable and unnecessary waste of the agricultural and human resources of the state. Such conditions and the accompanying waste jeopardize the future continued production of an important food supply for the people of the state and jeopardize the future and continued employment of local human resources within the state and prevent potato producers and people they employ from obtaining a fair return for their labor, their farms, and the potatoes which they produce. As a consequence, the purchasing power of potato producers, potato shippers, and the persons within their employ has been and may continue to be in the future, unless such conditions are remedied, low in relationship to that of persons engaged in other gainful occupations within the state. Potato producers, potato packers and shippers and the persons within their employ are thereby

prevented from maintaining a proper standard of living and from contributing their fair share to the support of the necessary governmental and educational functions thus tending to increase unfairly the tax burdens of other citizens of the state.

(b) These conditions vitally concern the health, peace, safety and general welfare of the people of this state. It is hereby declared to be the policy of this state to aid potato producers, potato shippers and the general welfare of the communities within the area in preventing economic waste and unemployment, and in the production, processing and marketing of potatoes, to develop new and better varieties of potatoes, more efficient and equitable methods of producing and marketing of potatoes and to preserve this opportunity for employment of workers within the producing area, and to aid in restoring and maintaining their purchasing power at a more adequate, equitable and reasonable level.

(c) The production, processing and marketing of potatoes within the state of North Dakota is hereby declared to be affected with the public interest. The provisions of this Act are enacted in the exercise of the police powers of this state for the purposes of protecting the health, peace, safety and general welfare of the people of this state.

§ 3. PURPOSES.) The purposes of this Act are:

(a) To enable the potato producers and shippers of this state to better meet the competition from other states who are conducting potato improvement, marketing and advertising programs.

(b) To establish and promote orderly marketing of potatoes, to provide for potato inspection by the established federal-state inspection service or the use of special permits or identification to permit storage or processing in transit, and to provide methods and means for ascertaining and developing better methods of producing and marketing potatoes.

(c) To provide means and methods for the development of new and larger markets for potatoes grown within the state.

(d) To eliminate or reduce the economic waste in production, packing and marketing of potatoes grown within the state.

§ 4. DEFINITIONS.)

(a) The term "potatoes" as used in this Act means any and all white Irish potatoes produced or handled within the state.

(b) "Producer" means any person engaged in the business of producing or causing to be produced for market any potatoes within the state.

(c) "Handler" means and includes any person in the business of buying, receiving, selling or shipping potatoes for profit or remuneration.

association, grower or any other business unit.

(d) "Person" means individual, partnership, corporation.

(e) The term "grower" means any person who grows or shares in the ownership of potatoes grown for market on one or more acres.

(f) "Commission" means the North Dakota Potato Development Commission.

(g) The term "commission's order" means any order issued by the commission pursuant to this Act, prescribing rules and regulations pertaining to the collection of fees and disbursement of funds and restricting or regulating the sale of cull potatoes.

(h) The term "cull potatoes" means any potatoes which because of quality, condition, or size, fail to meet any of the standard classifications described in the official United States and/or North Dakota regulations as applied to potatoes.

(i) The term "processing" means receiving, grading, packing and/or loading potatoes in preparation for marketing or offering on the market. The term "processor" means any person engaged within this state in any of such activities.

§ 5. POTATO DEVELOPMENT COMMISSION.) The governor shall appoint a commission to be known as the North Dakota Potato Development Commission, to consist of three members, one of whom shall, at the time of his appointment, be the president of the North Dakota Certified Seed Potato Growers Association, and one of whom shall, at the time of his appointment, be either the president or the vice president of the Red River Valley Potato Growers Association. The term of office of the members of the commission shall be one year from and after the first day of July in each year.

§ 6. POWERS OF COMMISSION.) (a) The commission shall administer and enforce the provisions of this Act and shall have and may exercise any or all of the administrative powers conferred by this Act, except such as are herein given to the board of control. In order to effectuate the declared purposes of this Act, the commission is hereby authorized to issue, administer and enforce the provisions of the commission's orders hereunder regulating the shipment of cull potatoes and the collection of fees (not exceeding one cent per hundredweight of potatoes

(b) Whenever the commission has reason to believe that the issuance of a commission's order will tend to affect the declared shipped), and the disbursement of funds as provided in this Act.

policy of this Act with respect to potatoes, it shall give due notice of and an opportunity for a public hearing upon a proposed commission's order.

(c) Due notice of any hearing called for such purpose shall be given to all persons, who may be directly affected by any action of the commission pursuant to the provisions of this Act, and whose names appear upon lists to be filed by such potato industry with the commission. Such hearing shall be open to the public. All testimony shall be received under oath and a full and complete record of all proceedings at any such hearing shall be made and filed by the commission in the office of the attorney general.

(d) In order to effectuate the declared policy of this Act, the commission shall have the power, after due notice and opportunity for hearing, to prepare a commission's order and submit same to the potato industry for approval. Such order shall not become effective unless it is approved by a public referendum by at least 2/3rds of the potato growers voting in such referendum. The provisions of such commission's order shall be only those provisions provided for in Section 7 of this Act.

§ 7. BOARD OF CONTROL.) (a) Any commission's order issued pursuant to this Act shall provide for the establishment of a board of control to administer such order in accordance with its terms and provisions. The members of the board of control shall be appointed by the commission from nominations submitted by the industry within the affected area and shall hold office until the expiration of term or until such appointment is withdrawn by the commission for cause. Such board of control shall consist of seven members to be selected by the commission from the nominees submitted by the potato industry, and, in addition the commissioner of agriculture and labor, the state seed commissioner and the director of the experiment station shall be ex officio members. The ex officio members shall meet with the board and act in advisory capacity but shall have no vote. The term of office of the appointed members shall be two years from and after July 1, except that of the first seven members appointed, four shall serve for two years and three shall serve for one year. The potato industry shall submit nominations of at least two names for each position to be filled on such board.

(b) No member of any such board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. The commission may authorize such board to employ necessary personnel, including an attorney approved by the attorney general, fix collected as herein provided, as the commission may deem neces-

sary and proper to enable such board properly to perform such of its duties as are authorized herein. The powers and duties of their compensation and terms of employment, and to incur such expenses, to be paid by the board of control from moneys any such board of control shall be administrative only and shall include only the following:

(1) Subject to the approval of the commission to administer such commission's orders.

(2) To recommend to the commission administrative rules and regulations relating to the commission's orders.

(3) To receive and report to the commission complaints of violations of the orders.

(4) To recommend to the commission for its approval an estimated budget of expense necessary for the operation of any commission's order established by authority of this Act; and also submit for approval a method of assessing and collecting such funds as the commission may find necessary for the administration of such orders.

(5) To recommend to the commission amendments to the commission's orders.

(6) To assist the commission in the collection of such necessary information and data as the Commission may deem necessary to the proper administration of this Act.

#### § 8. COMMISSION'S ORDERS.)

(a) In accordance with the provisions, restrictions and limitations set forth herein any order issued by the commission pursuant to this Act may contain any or all of the following provisions, but no others:

(1) Provisions for entering into contracts with corporations, organizations, or agencies which have facilities, personnel or knowledge which in the opinion of the board of control would make such corporation, organization or agency competent to carry out the program or portions thereof outlined by the board of control and recommend to the commission payment for such services from the funds collected by the board under the commission's order.

(2) Provision for the compulsory inspection by the established federal-state inspection service, and/or special permit or identification to allow for storage or processing in transit.

(3) Provisions for establishment of plans for research and advertising and sales promotion to create new and larger markets for potatoes grown in the state of North Dakota, provided that any such plans shall be directed towards increased sale of potatoes

without reference to a particular brand or trade name which is the private property of any person.

(4) Provisions for prohibiting the sale or offering for sale or shipments of cull potatoes on the commercial market, except such potatoes as carry the official tag or other official designation of the North Dakota seed certification department.

(5) Provisions authorizing the control board to obtain a special mark or insignia and establishing rules, regulations governing its use and making the same available to any and all potato producers, or handlers, who are willing to abide by such rules and regulations. Such mark or insignia may be copyrighted in the name of the control board and can be used only on specific permission granted by the control board.

(6) Provisions for entering into cooperative arrangements with organizations or state and federal agencies, including those of other states, whenever, in the opinion of the board of control and the commission, such cooperative arrangements will assist in furthering the declared policies of this Act, and to make payment from the funds collected under this Act to such cooperative arrangement.

(7) Provisions fixing fees and the method of collecting the same as hereinafter provided.

(b) Any order established under this Act may be terminated in the following manner: a petition signed not later than July 1st in any year by at least 150 potato growers living in the counties covered by the program of which there are at least five growers from each county signing, will make it mandatory upon the commission to call a meeting of potato growers at a central point. If the meeting has a total attendance of at least 150 potato growers made up of not less than five from each county, and if two-thirds of the growers attending such meeting vote in favor of a referendum, the commission shall arrange for a referendum. If a majority of the growers voting at such referendum election favor a termination of the order, the order shall be terminated within thirty days after the results of the referendum are determined.

(c) Upon the issuance of any commission's order, or any suspension, amendment or termination thereof, a notice shall be posted on a public bulletin board to be maintained by the control board at its office and a copy of such notice shall be published in a newspaper of general circulation published in the area to which the order applies and in such other newspaper or newspapers as the commission may prescribe. No order or any suspension, amendment or termination thereof shall become effective until the termination of a period of five (5) days from the date of such posting and publication. It shall also be the duty of the com-



mission to mail a copy of the notice of said issuance to all persons, directly affected by the terms of such order, suspension, amendment or termination, whose names and addresses may be on file in the office of the board of control and to every person who files in the office of the board of control a written request for such notice.

§ 10. BUDGETING AND COLLECTION OF FEES.)

(a) For the purpose of providing funds to defray the necessary expenses incurred by the board of control in the formation issuance, administration and enforcement of any order issued by the commission hereunder, the board of control shall prepare the necessary budget for the cost of same. Likewise the board shall prepare a budget for administration and operating cost and expenses, including amounts to be spent for research and development work, for advertising, sales promotion and for contractual operations, whenever, in its judgment, such contracts are most desirable to carry out the declared provisions of the order. Both budgets, with the provision for collection of such necessary fees, the time and conditions of such payment, and in no case to exceed one cent (1c) per hundredweight of all potatoes sold or shipped within the area covered by the order, shall be subject to approval by the commission. Each and every person engaged in the production, processing or handling of potatoes sold or shipped within the state and directly affected by any order issued pursuant to this Act shall pay to the control board at such time and in such manner prescribed by the order as adopted an assessment covering the budgets provided by this Act. That fraction which the general budget shall have allocated to advertising and promotion of all fees which are collected upon certified seed potatoes shall be remitted to the state seed commissioner for disbursement by him for the advertisement and promotion of North Dakota certified seed potatoes as provided for by Section 4-1013 of the 1949 Supplement to the Revised Code of 1943, or amendments thereof.

(b) The board of control may require each and every producer, processor, distributor or handler directly affected by any marketing order to deposit with him in advance, an amount based upon the estimated gross dollar volume of sales by such producer or the dollar volume of purchases or amounts handled by such processor, distributor or handler during the period or periods covered by such commission's order. At the close of such period or periods, the sum so deposited shall be adjusted to the amount which is chargeable against such producer, processor, distributor or handler upon the basis of the actual gross dollar volume or sales by such producer or actual dollar volume of purchases or amount handled by such processor, distributor or handler during

such period or periods. The commission shall have the power, if deemed feasible, to provide by order for the issuance of "Potato Promotion Stamps" to be purchased from the board of control and to be affixed or attached to the containers, invoices, shipping documents, inspection certificates, releases or receiving receipts or tickets, or such other containers or records as may adequately provide notice that such tax has been paid, and for the cancellation of such stamps and all regulations to be followed in connection therewith.

(c) The commission shall prescribe the rules and regulations with respect to the assessment and collection of such funds for such purposes.

(d) Any moneys collected by the control board or its authorized employees shall be deposited in a bank or banks approved by the commission and may be disbursed by the board of control or its authorized representative for the actual expenses incurred in carrying out the provisions of the order. All persons authorized to control, handle or disburse such funds, shall provide bond in such manner and in such amount as required by the commission.

§ 11. AREAS.) Orders issued by the commission under this Act may be limited in their application by prescribing the areas or portions of the state in which a particular order shall be effective. Provided, that no order shall be issued by the commission unless it embraces all persons of a like class in a given area who are engaged in processing, production or marketing potatoes.

§ 12. ENFORCEMENT.)

(a) The commission and the board of control shall be responsible for the administration and enforcement of this Act.

(b) All fees herein provided for shall be collectible by the board of control through civil action; and injunction shall be available as a remedy for the violation or to prohibit future avoidance or violation of any orders issued pursuant to this Act. Violations of this Act, or any commission's order issued pursuant thereto, shall be punishable by a fine of not to exceed one hundred dollars (\$100.00) or confinement in the county jail for not to exceed thirty days. The state's attorney of each county within the affected area shall represent the board of control and assist in the collection of fees and the enforcement of this Act and orders issued pursuant to this Act.

(c) Upon the filing of a verified complaint charging violation of any provisions of this Act or of any provisions of any order issued by the commission hereunder, and prior to the

institution of any court proceeding authorized hereinafter, the board of control may in its discretion refer the matter to the attorney general or any state's attorney of this state for action pursuant to the provisions of this Act, or call a hearing to consider the charges set forth in such verified complaint. In such case, the board of control shall cause a copy of such complaint together with a notice of the time and place of hearing of such complaint, to be served personally, or by mail, upon the person or persons named as respondent or respondents therein. Such service shall be made at least three days before said hearing shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the violation complained of is alleged to have occurred, at the discretion of the board. At the time and place designated for such hearing, the board of control or its agents shall hear the parties to said complaint and shall enter in the office of the attorney general at Bismarck, its findings based upon facts established at such hearing.

(d) If the commission finds that no violation has occurred, it shall forthwith dismiss such complaint and notify the parties to such complaint.

(e) If the commission finds that a violation has occurred it shall so enter its findings and notify the parties to such complaint. Should the respondent or respondents thereafter fail, neglect or refuse to desist from such violation, within the time specified by the commission, the commission may thereupon file a complaint against such respondent or respondents in a court of competent jurisdiction as set forth hereinafter.

(f) Each state's attorney of this state may, upon his own initiative, and shall upon any complaint of any person, if, after investigation, he believes a violation to have occurred, bring a criminal action in the proper court in his district in the name of the people of this state against any person violating any provision of this Act or of any order duly issued by the commission hereunder.

(g) The board of control, upon approval of the attorney general of this state may if, after investigation he believes a violation to have occurred, bring an action in the name of the people of this state in the proper courts of the state of North Dakota for an injunction against any person violating any provisions of this Act or any order duly issued by the commission hereunder.

(h) The court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon trial of such action and, if judgment be in favor

of the plaintiff, the court shall permanently enjoin defendant from further violations.

(i) The judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff reasonable costs of such suit including attorney's fees incurred by the board of control in the prosecution of such action.

(j) Any such action may be commenced either in the county where defendant resides, or where any act or omission or part thereof complaint thereof occurred.

(k) The penalties and remedies herein prescribed with respect to any violation mentioned herein shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

§ 12. Any assessment herein levied, in such specified amount as may be determined by the commission pursuant to the provisions of this Act shall constitute a personal debt of every person so assessed and shall be due and payable to the board of control when payment is called for by the board. In the event of failure of such person or persons to pay any such assessment upon the date determined by the board, the board may file a complaint against such person or persons in a state court of competent jurisdiction for the collection thereof, as provided in section 11.

§ 13. RESPONSIBILITY OF BOARD AND EMPLOYEE.) The members of any such board of control duly appointed by the commission, including employees of such board, shall not be held responsible individually in any way whatsoever to any producer, processor, distributor or other handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of such board. The liability of the members of such board shall be several and not joint and no member shall be liable for the default of any other member.

§ 14. RECORDS TO BE KEPT AND FURNISHED.)

(a) The board of control may require any and all processors, or distributors subject to the provisions of any marketing order issued pursuant to this Act, to maintain books and records reflect-

ing their operations under said marketing order, and to furnish to the board of control or his duly authorized or designated representatives, such information as may be from time to time requested by them relating to operations under any such order, and to permit the inspection by said board of control or its duly authorized or designated representatives, of such portions of such books and records as relate to operations under said marketing order.

(b) Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed to give legal advice thereupon, or by court order.

(c) For the purpose of carrying out the purposes of this Act, the commission and/or the board of control may hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of books, records, or documents of any kind.

(d) No person shall be excused from attending and testifying or from producing documentary evidence before the commission or board of control in obedience to the subpoena of the commission or board of control on the ground or for the reason that the testimony or evidence, documentary, or otherwise, required by him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the commission or board of control in obedience to the subpoena issued by him. Provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

#### § 15. DEPOSIT REQUIRED.)

(a) Prior to the issuance of any marketing order by the commission, under this Act, the commission may require the applicants therefor to deposit with it such amount as the commission may deem necessary to defray the expenses of preparing and making effective such marketing order. Such funds shall be received, deposited and disbursed by the commission in accordance with the provisions as set forth in Section 9 hereof.

(b) The commission may reimburse the applicant in the amount of any such deposit from any funds received by the commission pursuant to the provisions of Section 9.

Approved March 6, 1951.

## CHAPTER 95

H. B. No. 566  
(Legislative Research Committee)  
at the request of  
(The Poultry Improvement Board)

## POULTRY IMPROVEMENT BOARD; MEETINGS, ETC.

## AN ACT

To amend and reenact section 4-1306 of the North Dakota Revised Code of 1943, relating to the poultry improvement board.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-1306 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1306. BOARD: CHAIRMAN OF; MEETINGS OF; QUORUM; REGULATIONS.) The board shall elect one of its members chairman of the board to serve for the period of time determined by the board. The board shall hold its meetings at such times and places within the state as it may determine, but there shall not be more than four regular meetings each year. The chairman of the board may call special meetings whenever in his judgment it is necessary. A majority of the appointed members of the board shall constitute a quorum for the transaction of business. The board shall make all necessary rules and regulations for the conduct of its meetings and business, and for carrying out the purposes of this chapter.

Approved February 23, 1951.

## CHAPTER 96

H. B. No. 574

(Legislative Research Committee)  
at the request of  
(The State Dairy Commissioner)

GRADES OF CREAM AND BUTTERFAT; RECORDS  
OF PURCHASES

## AN ACT

To amend and reenact section 4-1815 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to grades of cream and butterfat; providing for standards of grading; and requiring the coloring of "unlawful cream," and the keeping of records.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-1815 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1815. GRADES OF CREAM AND BUTTERFAT BASED ON SEDIMENT CONTENT AND QUALITY.) All cream and butterfat sold and purchased shall be graded and paid for on the basis of the following established grades:

1. "Sweet cream" shall have only the fresh natural cream flavor and odor except that it may have a slight feed flavor and odor. Acidity calculated as lactic acid, shall not exceed two-tenths of one percent. The sediment pad shall not exceed number three;
2. "Grade one" shall have a fresh natural cream flavor and odor except that it may have a slight to definite feed or slight to definite acid flavor and odor. Acidity calculated as lactic acid shall not exceed seven-tenths of one percent. The sediment pad shall not exceed number four;
3. "Grade two" shall have not more than pronounced feed and definite degrees of stale, acid, weak, bitter, and other unnatural but not offensive flavors and odors. Acidity calculated as lactic acid shall not exceed eight-tenths of one percent. The sediment pad shall not exceed number four;

4. "Unlawful cream" is cream which contains dirt, filth, or other extraneous matter which would make it unfit for human food, or which has an offensive feed, weed, stale, or other unnatural flavor and odor, or is foamy, or cheesy, or shows surface mold, or is putrid or decomposed, or in which the acidity calculated as lactic acid is in excess of eight-tenths of one percent, or in which the sediment pad is in excess of number four; and
5. All persons, firms, or corporations authorized to purchase cream or butterfat shall add a harmless vegetable color to all "unlawful cream" offered for sale. Cream so colored shall then be returned to the party offering it for sale. All licensed cream buyers shall keep a record of cream or butterfat purchased as to grade and sediment test. Such record shall be available for inspection for six months from the date of purchase.

In making the sediment test provided for in this section, a pint off the bottom sample shall be used. The sediment discs shall be rated on the basis of the state dairy department sediment standards for milk and cream.

Approved March 5, 1951.

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## CHAPTER 97

H. B. No. 573

(Legislative Research Committee)  
at the request of  
(the State Dairy Commissioner)

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### SELLING IMPURE OR ADULTERATED MILK, CREAM, OR SKIMMED MILK; PENALTY

#### AN ACT

To amend and reenact section 4-1846 of the North Dakota Revised Code of 1943, relating to the sale of impure, or adulterated milk, cream, or skimmed milk.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-1846 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1846. SELLING IMPURE, OR ADULTERATED MILK, CREAM, OR SKIMMED MILK; PENALTY.) Any person who shall sell, or expose



for sale or exchange, or deliver or bring to another, for domestic or potable use, or to be converted into any product of human food, any unclean, impure, adulterated, or unwholesome milk, cream, or skimmed milk, or milk from which has been held back what commonly is known as strippings, or milk, or cream taken from an animal having disease, ulcers, abscesses, or running sores, or which has been taken from animals within fifteen days before or five days after parturition, is guilty of a misdemeanor.

Approved March 5, 1951.

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## CHAPTER 98

H. B. No. 760  
(Schmidt-Hageman)

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### NURSERIES AND NURSERY STOCK; INSPECTION

#### AN ACT

Relating to nurseries and nursery stock and the inspection thereof, and repealing chapter 4-20 of the North Dakota Revised Code of 1943.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Insect pests and diseases of nursery stock" shall mean and include any stage of development of an insect, nematode, or other invertebrate, or any other parasite of virus, bacterial, fungus or plant origin which is injurious to nursery stock. Alternate hosts of serious crop diseases covered by quarantines and regulations shall be construed as being included within this subsection;
2. "Nursery stock" shall mean and include trees, shrubs, and other plants having a persistent woody stem, and all hardy herbaceous perennials, and parts thereof capable of propagation;
3. "Certified nursery stock" shall mean and refer only to nursery stock which has been inspected by the state entomologist and found to be free of insect pests and diseases of nursery stock;
4. "Nursery" shall mean and include any place where nursery stock is grown, stored or handled for sale or distribution;

5. "Nurseryman" shall mean and include any person who owns, leases, manages, or is in charge of a nursery and who grows or propagates nursery stock for sale or distribution;
6. "Person" shall include a corporation, company, society, association, partnership, or any individual or combination of individuals or government agency;
7. "Dealer" shall mean any person, not a grower of nursery stock, who obtains nursery stock for the purpose of sale or distribution; and
8. "Commissioner" shall mean the commissioner of agriculture and labor of this state.

§ 2. COMMISSIONER TO APPOINT STATE ENTOMOLOGIST; NURSERY INSPECTOR.) The commissioner shall appoint a state entomologist who shall be in charge of nursery inspection under the supervision of the commissioner.

§ 3. POWERS AND DUTIES OF STATE ENTOMOLOGIST.) Under the supervision of the commissioner, the state entomologist shall:

1. Inspect at least once each year during the growing period all nursery stock;
2. Require, at the owner's expense, the destruction or treatment of nursery stock harboring insect pests or diseases;
3. Issue certificates for approved nursery stock and revoke the same when inspection shows stock to be diseased or to be harboring insect pests;
4. Enter and inspect any place which might harbor insect pests and disease of nursery stock;
5. Require the destruction or treatment of nursery stock harboring insect pests and diseases; and
6. Adopt such rules and regulations as may be necessary to carry out the provisions of this Act.

§ 4. COMMISSIONER TO ISSUE LICENSES; REVOCATION.) The commissioner shall issue licenses or permits for nurseries and may revoke any such licenses or permits for due cause after a hearing has been held as provided for by chapter 28-32 of the North Dakota Revised Code of 1943.

§ 5. DEALER'S LICENSE REQUIRED; FEE.) Every person engaged in selling, distributing, or otherwise dealing in certified nursery stock shall obtain a dealer's license from the commissioner before doing business within this state. The annual fee for such license for the year beginning April 15th for any one place of business where nursery stock is sold or distributed by the dealer shall be ten dollars.

§ 6. NURSERY LICENSE FEE.) Every person engaged in the growing of nursery stock for the purpose of sale or distribution shall pay an annual nursery license fee of ten dollars. The annual

nursery license shall be obtained from the commissioner for the year beginning September 15th.

§ 7. CERTIFICATE OF INSPECTION.) A certificate of inspection for the year beginning September 15th may be issued by the state entomologist for any nursery which is found to be free from insect pests and diseases of nursery stock and which is found to have otherwise complied with the provisions of this Act.

§ 8. CERTIFIED NURSERY STOCK TO BEAR TAGS OF INSPECTION DATE.) All certified nursery stock held for sale or distribution shall have attached thereto a statement signed by the state entomologist, showing the date of inspection.

§ 9. STATE ENTOMOLOGIST MAY ENTER INTO RECIPROCAL AGREEMENTS WITH OTHER STATES.) The state entomologist with the approval of the commissioner may enter into reciprocal agreements with the responsible officers of other states under which nursery stock may be sold in this state without a bond requirement, the payment of fees, or special tags if similar privileges are accorded nurserymen and dealers of this state.

§ 10. REPORTING SHIPMENTS FROM FOREIGN COUNTRIES.) Each person receiving, directly or indirectly, any nursery stock from a foreign country shall notify the state entomologist of the arrival of such stock, the kinds and amounts of the same, and the name of the consignor. Such shipments shall be held in the original container until inspected and released by the state entomologist.

§ 11. REPORTING UNCERTIFIED STOCK.) Each person receiving directly or indirectly any nursery stock which is not accompanied by a valid shipping inspection tag shall notify the state entomologist of the arrival of such stock, the kinds and amounts of the same, and the name of the consignor and shall hold such stock until inspected and released by the state entomologist.

§ 12.) SHIPPING TAGS; CONTENTS.) A shipping tag bearing a copy of the certificate of inspection must be attached to every package, bundle, or individual plant coming under the classification of nursery stock which is sold or transported by any person.

§ 13. FILING OUT-OF-STATE CERTIFICATE OF INSPECTION.) Each out-of-state nurseryman whose nursery stock is sold, offered for sale, or distributed within this state, must have a certified copy of a certificate of inspection for the current fiscal year on file in the office of the state entomologist of this state.

§ 14. VIOLATIONS OF ACT; WHAT CONSTITUTES.) No person shall:

1. Fail to carry out the treatment or destruction of condemned nursery stock after official notification by the state entomologist;
2. Fail to remove or destroy alternate host plants of serious crop diseases in accordance with official notification from the state entomologist;

3. Sell, transport, or offer for sale nursery stock which has not been inspected and certified by a state entomologist to be free of insect pests and disease;
4. Use an invalid certificate of inspection, nursery license, or shipping tag in the sale or distribution of nursery stock;
5. Misrepresent or mislabel nursery stock as to vigor, variety, viability, and hardiness; or
6. Hinder or prevent the state entomologist from carrying out the provisions of this act.

§ 15. PENALTY.) Any person violating any of the provisions of this Act is guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than two hundred dollars.

§16. COMMISSIONER TO RECEIVE AND COLLECT MONEY.) The commissioner shall receive and account for all moneys collected under the provisions of this Act and shall pay the same to the state treasurer monthly.

§ 17. REPEAL.) Chapter 4-20 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 6, 1951.

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## CHAPTER 99

H. B. No. 649  
(Monke, Maher and Zurcher)

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### SOIL CONSERVATION DISTRICTS; COMMITTEE MEMBERS; ELECTION; SUPERVISORS

#### AN ACT

To amend and reenact sections 4-2203 and 4-2222 of the North Dakota Revised Code of 1943 and section 4-2221 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to soil conservation districts; providing for appointment of four farmer members to the soil conservation committee, and the election of district supervisors at the regular state general election, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 4-2203 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-2203. STATE SOIL CONSERVATION COMMITTEE: MEMBERS; COMPENSATION OF; RECORDS AND SEAL.) The "state soil conservation committee" shall be maintained as an agency of this state

to perform the functions conferred upon it in this chapter. The committee shall be composed of ex-officio members to consist of the governor, the commissioner of agriculture and labor, the director of the state extension service, and one member to be appointed by the secretary of agriculture of the United States, and regular members to consist of four soil district supervisors. Such regular members first appointed shall be appointed by the present state soil conservation committee from a list of at least eight supervisors submitted by the state association of soil district supervisors. The term of appointment for the regular members shall be for two years each, except that in the first appointment of regular members two shall be appointed for two year terms, and two shall be appointed for one year terms. The members of the committee shall receive no compensation for serving on such committee other than their traveling expenses necessarily incurred in carrying out the duties prescribed for such committee under the terms of this chapter. The committee shall keep a record of its official actions, shall adopt a seal which shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

§ 2. AMENDMENT.) Section 4-2221 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-2221. GENERAL ELECTION OF DISTRICTS: WHEN HELD; REGULATIONS GOVERNING.) The general election of soil conservation districts shall be held at the same time and place as the regular state general election. The judges and election officers at such district general election shall be the regularly appointed (the) officers of the soil conservation district. The notice of such election and the conduct thereof shall be the same as provided herein for the first district election except that the supervisors of the district shall give the notice of election. The returns of all electors shall be submitted to the committee in the same manner as the returns of the first election, and the committee shall canvass and verify such returns and issue certificates of election. Election supplies for such district general elections shall be distributed by the auditors of the counties in which the district is located.

§ 3. AMENDMENT.) Section 4-2222 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-2222. SUPERVISORS: TERMS OF OFFICE; ELECTION OF CHAIRMAN; VACANCIES; REMOVAL.) The election at which the supervisors first are elected shall be considered as the first general election of the district regardless of when such election is held.

The supervisor receiving the highest number of votes at the first general election shall serve until January 1st, following the fourth general election of the district. the supervisor receiving the next highest number of votes shall serve until January 1st, following the third general election, and the supervisor receiving the next highest number of votes shall serve until January 1st, following the second general election of the district. All supervisors elected at other than the first general election of the district shall hold office for a term of six years beginning January 1st, following the election at which he was elected. If a vacancy shall occur in the office of supervisor, the remaining supervisors, with the consent and advice of the committee, shall fill the vacancy by appointment, and a supervisor appointed to fill a vacancy shall serve until the next general election of the district at which time a supervisor shall be elected to fill the unexpired term. Each supervisor, however, shall hold his office and continue to serve until his successor has been elected and qualified. Any supervisor may be removed by the committee for neglect of duty or malfeasance in office after hearing upon notice to the supervisor involved. The present soil district supervisors whose terms expire in March 1951, shall hold office until January 1, 1953.

§ 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 5, 1951.