

AGRICULTURE

CHAPTER 92

HOUSE BILL NO. 1083
(Legislative Council)
(Interim Committee on State and Federal Government)

MINOT DISTRICT FAIR TERMINATED

AN ACT to provide for the transfer of property and funds of the Minot district fair; and to repeal sections 4-02-17, 4-02-18, 4-02-19, 4-02-20, 4-02-22, 4-02-23, 4-02-24, and 4-02-25 of the North Dakota Century Code, relating to the location, premises, title to land, board of directors, executive committee, contributions, and report of the prize list of the Minot district fair.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. MINOT DISTRICT FAIR - TRANSFER OF PROPERTY.) The title to any real property owned by the Minot district fair is hereby transferred to the state fair association.

SECTION 2. MINOT DISTRICT FAIR - TRANSFER OF FUNDS.) Any funds belonging to the Minot district fair are hereby transferred to the state fair operating fund of the state treasury.

SECTION 3. REPEAL.) Sections 4-02-17, 4-02-18, 4-02-19, 4-02-20, 4-02-22, 4-02-23, 4-02-24, and 4-02-25 of the North Dakota Century Code are hereby repealed.

Approved February 8, 1979

CHAPTER 93

HOUSE BILL NO. 1079
(Legislative Council)
(Interim Committee on State and Federal Government)

CERTAIN INACTIVE ENTITIES REPEALED

AN ACT to repeal chapters 4-06 and 25-04.1 and section 55-01-09 of the North Dakota Century Code, relating to the federated cooperative agricultural association and agricultural code commission, compulsory sterilization, and the North Dakota heritage study committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. REPEAL.) Chapters 4-06 and 25-04.1 and section 55-01-09 of the North Dakota Century Code are hereby repealed.

Approved February 8, 1979

* NOTE: Section 55-01-09 was also repealed by section 15 of House Bill No. 1085, chapter 550.

CHAPTER 94

HOUSE BILL NO. 1237
(Nicholas, Peltier)

AGRICULTURAL SEED WEED SEED LABELING

AN ACT to amend and reenact subsections 4 and 5 of section 4-09-10 of the North Dakota Century Code, relating to weed seed labeling requirements for containers of agricultural seed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 4 and 5 of section 4-09-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. Percentage by weight of all weed seeds, which shall not exceed one percent;
5. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present, if the said restricted noxious weed seeds are present singly or collectively in amounts:
 - a. In--the--case--of--quack--grass--(agropyron--repens--&--beauv.)--and--dodder--(cuscuta--species--except--coryli)--in--excess--of--twenty-one--seeds--per--pound In seeds of grasses and small seeded legumes, in excess of thirteen seeds per pound; and
 - b. In--case--of--wild--mustard--(brassica--spp)--,--frencheeweed--(thlaspi--arvense)--,--wild--morning-glory--(ipomoea--spp)--and--wild--oats--(avena--fatua)--,--in--excess--of--thirty-one--seeds--per--pound,--provided,--however,--that--the--commissioner--may,--through--promulgation--of--regulations--change--the--requirements--under--this--subsection In other agricultural seeds including the cereals, oil seed crops, millets, and seeds of similar size, in excess of five seeds per pound;

Approved March 3, 1979

CHAPTER 95

SENATE BILL NO. 2306
(Vosper, Erdman)

AGRICULTURAL COMMODITIES REGULATION

AN ACT to provide for the inspection and grading of agricultural commodities by the North Dakota seed commission; to repeal section 4-25-05 of the North Dakota Century Code, relating to seed sales regulation by the North Dakota seed commission; and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Commission" means the state seed commission.
2. "Commissioner" means the state seed commissioner.
3. "Commodities" means any agricultural product of the soil for which grades, standards, or inspection services, or all of them, have not been established by the United States department of agriculture pursuant to the United States Grain Standards, as amended August 15, 1968, [Pub. L. 90-487; 82 Stat. 761; 7 U.S.C. 71 et seq.].

SECTION 2. SEED COMMISSIONER - DUTIES.) The commissioner may establish commodity grades and inspection services for the purpose of making inspection and otherwise providing for the proper handling and marketing of the agricultural commodities defined in this chapter and may adopt rules necessary for and consistent with the provisions of this Act. The commissioner shall appoint a chief inspector and other agents, inspectors, assistants, and clerical aides as are necessary to assist, represent, and act for the commissioner in carrying out the provisions of this Act. The commissioner shall fix the salaries of employees of the commission within the limits of legislative appropriations therefor.

SECTION 3. GRADE INSPECTION - FEES AND CHARGES.) The commission shall fix by rule the fees for making commodity grade inspections, and the fees shall be uniform throughout the state for

periods of time as shall be specified. The fee for commodity grade inspection shall, as nearly as possible, approximate the cost of the service.

SECTION 4. COOPERATION WITH DEPARTMENTS AND BUREAUS.) The commissioner may cooperate with the United States department of agriculture or any bureau or division thereof, and with similar state inspection service departments of the several states, and with any person, with the intent and purpose that the grade inspection service in this state, and any or all of the grade certificates issued on North Dakota commodities, shall be officially recognized and accepted elsewhere in the United States, and to protect and promote the interests of any and all persons having an interest in the commodities grown or handled in this state, and to provide for any necessary joint arrangements to further the purpose of this Act.

SECTION 5. SEED COMMISSION MAY RECEIVE AND EXPEND FUNDS.) All moneys arising from the collection of fees and other charges under the provisions of this chapter shall be deposited by the commissioner with the state treasurer and credited to the seed department revolving fund. All proceeds deposited by the state treasurer in the revolving fund shall be subject to appropriation by the legislative assembly.

SECTION 6. REPEAL.) Section 4-25-05 of the North Dakota Century Code is hereby repealed.

SECTION 7. APPROPRIATION.) There is hereby appropriated out of any moneys in the seed department revolving fund in the state treasury, not already appropriated, the sum of \$43,069.00, or so much thereof as may be necessary, to the state seed commission for the purposes of carrying out the provisions of this Act for the biennium beginning July 1, 1979, and ending June 30, 1981 as follows:

Salaries and wages	\$ 23,500
Fees and services	10,850
Supplies and materials	725
Equipment	6,494
Land, structures, and major improvements	1,500
Total appropriation from seed department revolving fund	<u>\$ 43,069</u>

Approved March 21, 1979

CHAPTER 96

HOUSE BILL NO. 1407
(Peltier)

SUNFLOWER AND BEAN COUNCIL ELECTIONS

AN ACT to amend and reenact sections 4-10.2-03 and 4-10.3-03 of the North Dakota Century Code, allowing the commissioner of agriculture or a designated county agent, in cooperation with the cooperative extension service, to conduct an election for the North Dakota sunflower council or the North Dakota edible bean council and to allow for the elections to be conducted within seventy-five days prior to April first; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-10.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.2-03. NORTH DAKOTA STATE SUNFLOWER COUNCIL - MEMBERSHIP - ELECTION - TERM.) There is hereby established a North Dakota sunflower council. The council shall be composed of one participating grower elected from each of the districts established in section 4-10.2-04. The chairman of the council shall be a member of the council elected by a majority vote of the council. The commissioner of agriculture shall be an ex officio member of the council. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member shall be three years and shall begin on ~~July~~ April first of the year of election, except that initially two members shall be elected for a three-year term; two members shall be elected for a two-year term; and two members shall be elected for a one-year term as designated by the commissioner. If at any time during a member's term the member shall cease to possess any of the qualifications provided for in this chapter, the member's office shall be deemed vacant and the remaining members of the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in

the manner the commissioner deems fair and reasonable. The first election shall be held within forty-five days after April 9, 1977, and all elections thereafter shall be conducted ~~in June~~ within seventy-five days prior to April first. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

SECTION 2. AMENDMENT.) Section 4-10.3-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.3-03. NORTH DAKOTA STATE EDIBLE BEAN COUNCIL - MEMBERSHIP - ELECTION - TERM.) There is hereby established a North Dakota edible bean council. The council shall be composed of one participating grower elected from each of the districts established in section 4-10.3-04. The chairman of the council shall be a member of the council elected by a majority vote of the council. The commissioner of agriculture shall be an ex officio member of the council. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member shall be three years and shall begin on ~~July~~ April first of the year of election, except that initially one member shall be elected for a three-year term; two members shall be elected for two-year terms; and two members shall be elected for one-year terms as designated by the commissioner. If at any time during a member's term the member shall cease to possess any of the qualifications provided for in this chapter, the member's office shall be deemed vacant and the council shall, by majority vote, appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. The first election shall be held within forty-five days after April 20, 1977, and all elections thereafter shall be conducted ~~in June~~ within seventy-five days prior to April first. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1979

CHAPTER 97

SENATE BILL NO. 2386
(Senator Vosper)
(Representative Olson)

EDIBLE BEAN HANDLER REPORTS

AN ACT to amend and reenact section 4-10.3-08 of the North Dakota Century Code, requiring a handler of edible beans to record in the report to the council the individual and total amounts of edible beans received, sold, or shipped by the handler.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-10.3-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.3-08. TAX LEVIED - COLLECTION - REPORTS.) Effective July 1, 1977, an assessment at the rate of five cents per hundredweight shall be levied and imposed upon all edible beans grown in the state or sold to a designated handler. This assessment shall be due upon any identifiable lot or quantity of edible beans.

A designated handler of edible beans shall file an application with the council on forms prescribed and furnished by the council which shall contain the name under which the handler is transacting business within the state, the place or places of business, the location of loading and shipping places of agents of the first handler, the names and addresses of the several persons constituting the firm partnership, and if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The council shall issue a certificate to the designated handler. A designated handler shall not sell, process, or ship any edible beans until it has furnished a certificate as required by this section.

Every designated handler of edible beans shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate of five cents per hundredweight by deducting the assessment from the purchase price of all edible beans subject to the assessment and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of raw edible beans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council stating the quantity in individual and total amounts of edible beans received, sold, or shipped by it. The report shall state from whom each individual amount as received. The report shall be made at the times and in the manner prescribed by the council. The remittance of the assessment as provided in this section shall accompany the report. All moneys levied and collected under this chapter shall be paid to the council for deposit in the state treasury to the credit of an account or accounts designated "edible bean fund" to be used exclusively to carry out the intent and purposes of this chapter. Regular audits of the council's accounts shall be conducted in accordance with chapter 54-10 and submitted to the commissioner of agriculture.

Approved March 19, 1979

CHAPTER 98

HOUSE BILL NO. 1244

(Committee on Agriculture)

(At the request of the Department of Agriculture)

BEEKEEPER REGULATION

AN ACT to amend and reenact subsection 1 of section 4-12-01, and sections 4-12-03, 4-12-03.1, 4-12-03.2, 4-12-04, 4-12-08, and 4-12-22 of the North Dakota Century Code, relating to the keeping of bees and the powers and duties of the apiary division of the North Dakota department of agriculture with respect thereto; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 4-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Beekeeper" shall mean any person, firm, association, or corporation owning, ~~possessing~~, or controlling one or more colonies of ~~bees~~ honeybees for pollination or the production of honey, beeswax, or byproducts either for personal or commercial use.

SECTION 2. AMENDMENT.) Section 4-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03. BEEKEEPER'S LICENSE REQUIRED.) Every beekeeper, on or before the first day of May in each year ~~or--within--twenty--days thereafter~~, shall make application to the commissioner of agriculture, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every beekeeper who makes a satisfactory application in the form prescribed by the commissioner and pays the license fee required in this chapter. Any person ~~procuring or coming into possession of~~ newly acquiring bees within this state shall, within ten days thereafter ~~shall~~, make an application to the commissioner of agriculture for a license. Each applicant shall include on his application a legal description, to the nearest quarter section, of each apiary ~~to be maintained by him. The application shall also set out the number of hives or colonies of bees maintained at each apiary described in the application.~~ An application completed by a

commercial operator or a person intending to be a commercial operator shall also set forth the total number of hives or colonies of bees to be maintained by him within this state. An application to be completed by any beekeeper who is not a commercial operator shall also set forth the number of hives or colonies of bees maintained at each apiary described in the application. Applications completed by all beekeepers shall specify which apiaries, if any, are to remain vacant in accordance with the provisions of this chapter. No beekeeper shall maintain bees in this state unless he possesses a valid beekeeper's license. The license ~~certificate~~ required by this section shall be nontransferable. He Any licensed beekeeper shall first have obtained a permit to enter if bringing in bees and equipment from out of state.

SECTION 3. AMENDMENT.) Section 4-12-03.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03.1. ESTABLISHMENT OF LOCATIONS - EXCEPTION - LOCATION RIGHTS.)

1. No new commercial location may be established within two miles of another commercial location. No commercial operator may establish an apiary within two miles of another commercial operator. The noncommercial beekeeper with one to twenty-four colonies will have territorial rights on one location.
2. If any seed grower requests the commissioner of agriculture to include additional locations for the purpose of pollinating his crop, the restriction prohibiting the maintaining of locations within two miles of one another shall not apply; provided however that the movement of bees onto fields of clover and alfalfa for pollination purposes shall be limited to a maximum of thirty days from the date of the request. The name and address of each apiary shall be displayed at each location.
3. The A property owner will be exempt from this section. For the purposes of this section, a "property owner" means the person who has actual use and exclusive possession of the land; provided however that any person leasing land for the primary purpose of establishing an apiary thereon shall not be considered property owners, nor shall any person who does not own and personally manage and operate the bees and hives placed on such land.

SECTION 4. AMENDMENT.) Section 4-12-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03.2. RETENTION OF LOCATIONS.) A commercial operator may register prospective commercial locations with the commissioner

of agriculture if such locations contained in the application do not exceed in number ~~twenty-five~~ ten percent of the number of active commercial locations maintained by him. ~~All~~ Ninety percent of all commercial locations must be occupied by July first, at least every other year. Any commercial location left unoccupied by the first of July shall be canceled by the department. The department of agriculture shall cancel the entire license of any beekeeper failing to comply with the requirements of this section.

SECTION 5. AMENDMENT.) Section 4-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-04. BEEKEEPER'S LICENSE - FEES.) Any beekeeper, resident or nonresident, upon making application for a license certificate, shall pay a license fee of one dollar up to ten colonies and ten cents per colony for every colony more than ten for the total number of colonies owned ~~or possessed~~ by the applicant in North Dakota.

SECTION 6. AMENDMENT.) Section 4-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-08. COMMISSIONER TO MAKE REGULATIONS GOVERNING ~~DISEASES OF BEES - ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.~~) The commissioner of agriculture shall prescribe and issue such emergency regulations and orders as are necessary to ~~prevent,--eradicate,--or control the introduction, spread, or dissemination of all contagious or infectious diseases of honey bees.~~ implement the provisions of this chapter. Any proceeding under this chapter for:

1. The issuance or modification of rules and regulations including emergency orders relating to control of bee diseases; or
2. Determining compliance with rules and regulations of the department,

shall be conducted in accordance with the provisions of chapter 28-32, and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to the spread of bee diseases, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this chapter, such order shall be effective immediately, but on application to the department an interested person shall be afforded a hearing before the commissioner within ten days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within thirty days after such hearing.

SECTION 7. AMENDMENT.) Section 4-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-22. SHIPMENTS INTO STATE - PERMIT - FEES.) Before any person transports into this state any bees on comb, used hives, or used apiary equipment he shall obtain from the state bee inspector a permit for such transportation. A copy of the certificate of health issued by the official bee inspector of the state or country of origin, a complete description of the shipment, and such other information as may be required by regulations established by the commissioner of agriculture shall be provided the state bee inspector who shall upon receipt of this information issue the required permit if the permit applicant holds a valid license under this chapter. Immediately upon the arrival of any bees into this state the owner thereof shall comply with the provisions of this chapter relating to the registration of bees. Upon the issuance of the permit authorized in this section, a nonresident applicant shall pay to the commissioner of agriculture an entrance fee of one dollar and fifty cents for each hive or colony of bees transported into the state of North Dakota. Provided, however, no applicant for a permit shall be charged more than one entrance fee for any hive or colony of bees, regardless of the number of times the colony or hive of bees is transported into or out of the state. The permit fee authorized in this section shall apply only if the state from which the hives or colonies of bees were imported requires entrants to pay an inspection or entrance fee for hives or colonies of bees brought into that state.

SECTION 8. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1979

CHAPTER 99

HOUSE BILL NO. 1258
(Boym, Lee)

HONEY PROMOTION

AN ACT relating to the promotion, advertising, research and development of honey, prescribing a tax on honey production, providing for its collection; providing penalties for the violation of the Act; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. TITLE OF ACT.) This Act shall be known as the "North Dakota Honey Promotion Act".

SECTION 2. DEFINITIONS.) Whenever used in this Act:

1. "Association" means the North Dakota beekeeper's association.
2. "Beekeeper" means any person, firm, association, or corporation owning or controlling one or more colonies of bees for the production of honey, beeswax or byproducts either for personal or commercial use.
3. "Commissioner" means the commissioner of agriculture.
4. "Market development" means research, promotion, and education programs toward better and more efficient production, marketing and utilization of honey for resale. The term also means the use of other methods including, but not limited to, public relations and other promotion techniques, for the maintenance of present honey markets, for the development of new or larger domestic or foreign markets, for the sale of honey and for prevention, modification or elimination of trade barriers which obstruct the free flow of agricultural commodities to market. The term includes providing promotion funds for a North Dakota honey queen program.

SECTION 3. ASSESSMENT.) There is hereby levied on beekeepers an assessment of five cents per colony of honey bees licensed by the

beekeeper. The minimum assessment shall be one dollar for the first twenty colonies. The assessment shall be remitted to the commissioner at the same time the annual license fees are due as specified in section 4-12-04.

SECTION 4. SPECIAL FUND.) The state treasurer shall deposit all moneys received under this Act in a special fund to be known as the honey fund. All moneys deposited in the honey fund shall, subject to legislative appropriation, be expended by the commissioner for use pursuant to this Act.

SECTION 5. REFUNDS.) Any beekeeper who makes a written application under separate cover therefore to the commissioner within thirty days of the remission of his fees to the commissioner shall receive a refund of the assessment submitted by him.

SECTION 6. COMMISSIONER TO EFFECTUATE PURPOSES OF THIS CHAPTER - ADVICE OF THE ASSOCIATION SOUGHT.) The commissioner is hereby authorized to expend moneys and take the actions it deems necessary and proper to effectuate the purposes and policies of this Act. The commissioner shall request the advice, review, and comment of a committee appointed by the association regarding the projects, programs, and policies undertaken to carry out the provisions of the Act.

SECTION 7. HONEY INFORMATION IN REPORT.) The commissioner shall include information concerning its activities under the provisions of this Act, including a complete listing of the assessments collected and the moneys spent under this Act, in its report to the governor.

SECTION 8. COLLECTION OF UNPAID ASSESSMENTS.) If a beekeeper fails to remit the proper assessment, the commissioner may enforce the remittance in any court of competent jurisdiction in the state.

SECTION 9. DELINQUENT ASSESSMENT REMITTANCE.) Any beekeeper who fails to remit the assessment as specified shall be delinquent and shall levy a penalty assessment of five percent of the assessment due plus interest at the rate of six percent per annum, from the due date. The penalty and interest shall be collected in the manner described in section 8.

SECTION 10. PENALTY.) Any person who willfully violates this Act is guilty of a class B misdemeanor.

SECTION 11. 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 10, 1979

CHAPTER 100

HOUSE BILL NO. 1384
(Representatives Richie, Nicholas)
(Senators Shablow, Tallackson, Vosper)

AGRICULTURAL PRODUCTS UTILIZATION COMMISSION

AN ACT to provide for the creation of an agriculturally derived alcohol motor vehicle fuel tax fund, for its administration by the agricultural products utilization commission to further the production and marketing of agriculturally derived alcohol-blended motor vehicle fuels and motor vehicle fuels blended with methanol derived from biomass residue; to amend and reenact sections 57-50-01, 57-50-03.1, 57-50-05, and 57-54-08 of the North Dakota Century Code, relating to refunding the motor vehicle fuel tax and to the amount of the motor vehicle fuel tax on fuel with an agriculturally derived alcohol blend; to provide for a transfer of funds; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE POLICY AND PURPOSE.) It is hereby declared to be the public policy of the state of North Dakota to protect and foster the prosperity and general welfare of its people by providing a new domestic source of energy, and by stimulating the agricultural economy of the state. In furtherance of this policy, it is the purpose of this Act to provide necessary assistance in the construction, operation, and maintenance of an agriculturally derived alcohol plant in North Dakota for the manufacture and marketing of agriculturally derived alcohol and methanol derived from biomass residue.

SECTION 2. AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND - PURPOSES.) There is hereby created in the state treasury, a fund, to be known as the agriculturally derived alcohol motor vehicle fuel tax fund, which shall be used to provide a program for the implementation of a state agriculturally derived alcohol industry for motor vehicle fuels. The fund shall be used for the following purposes:

1. Establishment, with cooperation from private industry, of procedures and processes necessary to the manufacture and marketing of agriculturally derived alcohol-blended fuels

and motor vehicle fuels blended with methanol derived from biomass residue.

2. Establishment of a procedure for entering the agriculturally derived alcohol-blended fuel and fuel blended with methanol derived from biomass residue into the marketplace by private enterprise.
3. Analysis of the marketing process and testing of marketing procedures to assure acceptance of agriculturally derived alcohol-blended fuels, motor vehicle fuels blended with methanol derived from biomass residue, and byproducts resulting from their manufacture, in the private marketplace.
4. Cooperation with private industry to establish privately owned agriculturally derived alcohol manufacturing plants in this state to supply demand for agriculturally derived alcohol and methanol derived from biomass residue.

SECTION 3. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - COMPOSITION - APPOINTMENT.) The agriculturally derived alcohol motor vehicle fuel tax fund shall be administered by the agricultural products utilization commission which is hereby established. The commission shall consist of seven members to be appointed by the governor for terms of two years each, arranged so that at least three terms expire every year. Four members shall be actively engaged in farming in this state, one member shall be actively engaged in the petroleum industry, and two members shall be actively engaged in business in this state. Commission members may be reappointed to the commission. Terms of commissioners shall run from the first day of July of odd-numbered years.

SECTION 4. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - MEETINGS - PERSONNEL - ADVISORY COMMITTEE.) The agricultural products utilization commission shall meet at least once annually, and shall report to each session of the legislative assembly. The commission may secure office space and employ needed personnel for the performance of its duties, may hire consultants, and may contract with public entities or private parties for services. The agricultural products utilization commission shall have an advisory committee composed of three persons, one each designated by the director of the business and industrial development department, the president of the North Dakota state university, and the state commissioner of agriculture.

SECTION 5. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - EXPENSE REIMBURSEMENT ONLY.) All members of the agricultural products utilization commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, in the same manner as other state officials are reimbursed, according to sections 44-08-04 and 54-06-09 of the North Dakota Century Code, and shall receive no other compensation.

SECTION 6. AMENDMENT.) Section 57-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-01. REFUND OF TAX PROVIDED FOR - REDUCTION FOR AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND.) Any person who shall buy or use any motor vehicle fuel as defined in subsection 2 of section 57-54-03, for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of the state of North Dakota on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time hereinafter provided, the amount of such tax paid by him upon the presentation to and the approval of the tax commissioner of a claim for refund. Provided, however, the amount of the tax refund provided for in this section shall be reduced by one-eighth cent per gallon, and the one-eighth cent per gallon withheld from the refund shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Those persons who have a valid tax assignment permit issued by the state tax commissioner under the provisions of section 57-50-11.1 shall be charged one-eighth cent per gallon by the dealer and the one-eighth cent charge shall be remitted to the state tax commissioner by the dealer when the dealer submits the tax assigned invoices for credit. Those aviation gasoline fuel taxes collected, upon which no refund is claimed and those revenues remaining as unclaimed refunds under the provisions of the statutory refunds on aviation gasoline and aviation motor fuels are hereby appropriated, in accordance with the time limitations as provided by law, and used exclusively for construction, reconstruction, repair, maintenance, and operation of small landing strips near highways and communities in this state and for the purchase of necessary land required therefor and shall be administered and expended by the state of North Dakota aeronautics commission for the above purpose.

SECTION 7. AMENDMENT.) Section 57-50-03.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03.1. REFUND TO PREVENT DOUBLE TAXATION - REDUCTION FOR AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND.) Any person to whom special fuel or motor vehicle fuel is sold on which the tax imposed by chapter 57-52 or chapter 57-54 has been paid who thereafter removes such fuel from this state to another state which requires payment of a tax upon the use of the fuel in that state shall be granted a refund of the tax that was paid pursuant to chapter 57-52 or chapter 57-54. Provided, however, the refund of tax paid pursuant to chapter 57-54 shall be reduced by the amount provided in section 57-50-01, and the reduction shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Such refund shall be granted only upon application to the tax commissioner on forms prescribed by the tax commissioner, including proof of payment of the tax imposed by the other state, and shall be subject to the limitations provided in section 57-50-03. The tax provided for in chapter 57-53 shall not be levied on sales of any

such fuel for which a refund of tax is made pursuant to this section.

SECTION 8. AMENDMENT.) Section 57-50-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-05. REFUND TO STATE OR POLITICAL SUBDIVISION.) When any construction, reconstruction, or maintenance of a public road, highway, street, or airport is undertaken by the state or any county, city, township, park district, or other municipality in the state and where public funds of the United States, state, county, city, township, park district, or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction, or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this chapter and under the same terms and conditions. Provided, however, the refund provided for in this section shall not be reduced for deposit to the agriculturally derived alcohol motor vehicle fuel tax fund.

* SECTION 9. AMENDMENT.) Section 57-54-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS - TAX REDUCED FOR AGRICULTURALLY DERIVED ALCOHOL-BLENDED FUELS.) There is hereby imposed a tax of eight cents per gallon on all motor vehicle fuel sold or used in this state. Provided, however, the tax imposed by this section on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol whose purity is at least ninety-nine percent alcohol shall be four cents per gallon. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

SECTION 10. APPROPRIATION.) There is hereby appropriated out of any moneys in, or to be deposited in, the agriculturally derived alcohol motor vehicle fuel tax fund, from public or private sources, the sum of \$200,000.00, so much thereof as may be necessary, to the agricultural products utilization commission for the administration of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 11. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the agricultural products utilization commission for the purpose of administering the provisions of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

* NOTE: Section 57-54-08 was also amended by section 1 of Senate Bill No. 2338, chapter 621.

SECTION 12. TRANSFER.) There shall be transferred prior to July 1, 1981, to the general fund in the state treasury out of the agriculturally derived alcohol motor vehicle fuel tax fund the sum of \$50,000.00, upon order of the agricultural products utilization commission, to repay the general fund appropriation provided by section 11 of this Act.

Approved April 7, 1979

CHAPTER 101

HOUSE BILL NO. 1327
(Representatives Marsden, Houmann)
(Senator Erdman)

STATE FORESTER RESPONSIBILITIES

AN ACT to amend and reenact sections 4-19-05, 4-19-07, and 4-19-08 of the North Dakota Century Code, relating to the duties of the state forester, the authority to charge a user fee for state forest facilities, and the disposition of revenues derived from forestry activities; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-05. STATE FORESTER MAY ACCEPT LAND FOR FORESTS OR PARKS.) The state forester may accept gifts, donations, or contributions of land suitable for forestry ~~ex-park~~ purposes and may enter into agreements ~~with-the-federal-government-ex-ether--agencies~~ for acquiring, by lease, purchase, or otherwise, such lands as in his judgment are desirable for state ~~forests-ex-state--parks~~ forest purposes.

SECTION 2. AMENDMENT.) Section 4-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-07. POWERS OF STATE FORESTER WHEN LANDS ACQUIRED OR LEASED.) When lands are acquired or leased under section 4-19-05 of this chapter, the state forester may make expenditures from any funds not otherwise obligated, for the management, development, and utilization of such areas. He may provide recreational services within those areas and may charge a user fee in an amount sufficient to cover the cost of providing such services. He may sell or otherwise may dispose of products from such lands, and may make necessary rules and regulations to carry out the purposes of this chapter.

SECTION 3. AMENDMENT.) Section 4-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-08. REVENUE RECEIVED FROM LANDS ACQUIRED OR LEASED - REGULATIONS GOVERNING.) All revenues derived from lands acquired or leased under the provisions of this chapter shall be segregated by the state treasurer for the use of the state forester in the acquisition, management, development, and use of such lands until all obligations incurred have been paid in full, except that the state forester shall not expend more than ten thousand dollars in any one fiscal year for such purposes. After all obligations for the acquisition of land have been extinguished, fifty percent of all net profits accruing from the administration of such lands shall be subject to use for such purposes as the legislative assembly may prescribe, and fifty percent shall be paid into the school fund of the county in which the lands are located; provided, however, that from those revenues derived from agricultural leases there shall be paid over to the governing body of the county in which those lands are located, an amount sufficient to cover the loss of tax revenues, if any, resulting from such acquisition or lease.

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

Approved March 8, 1979

CHAPTER 102

HOUSE BILL NO. 1243
(Committee on State and Federal Government)
(At the request of the State Auditor)

AUDITS BY THE STATE AUDITOR

AN ACT to amend and reenact section 4-27-11, subsection 10 of section 4-34-05, section 18-03-08, section 18-05-13 and section 18-10-09 of the North Dakota Century Code, relating to the duty of the state auditor to audit books and accounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-11. DAIRY PRODUCTS PROMOTION COMMISSION.) The commission shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04. The books, records, and accounts shall be audited ~~annually~~ biennially by the state auditor, the cost of such audit to be paid from the funds of the North Dakota dairy products promotion commission.

SECTION 2. AMENDMENT.) Subsection 10 of section 4-34-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. The commission shall keep or cause to be kept accurate records of all assessments, expenditures, moneys, and other financial transactions performed pursuant to this chapter. Such records, books, and accounts shall be audited ~~annually,--ex--often--~~ by the state auditor, in accordance with established auditing and accounting procedures.

SECTION 3. AMENDMENT.) Section 18-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-03-08. REPORT OF USE OF MONEY.) On or before the first day of July of each year, the president, secretary, and treasurer of the North Dakota firemen's association shall make to the department of accounts and purchases a full and complete report, duly verified

by the secretary, of the disposition of all moneys received; ~~and the state auditor shall examine the books of the said association annually, the cost of said audit to be borne by the firemen's association~~ the association shall provide for an audit annually by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. When the report is in the form and style prescribed by the state auditor, the state auditor shall not conduct an audit of the records of the association.

* SECTION 4. AMENDMENT.) Section 18-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-05-13. ~~STATE AUDITOR TO EXAMINE~~ AUDIT OF BOOKS OF RELIEF ASSOCIATION - REPORT OF UNAUTHORIZED SPENDING TO GOVERNOR - DUTY OF GOVERNOR.) ~~The state auditor, annually, shall examine the~~ The books and accounts of the secretary and treasurer of each firemen's relief association receiving funds under the provisions of this chapter shall be audited as required by section 54-10-14. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, ~~he shall report the facts shall be reported~~ to the governor. Thereupon, the governor shall direct the department of accounts and purchases not to prepare any warrants for the benefits of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state auditor who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. ~~Each firemen's relief association shall pay into the state treasury fees for such annual examinations at the same rate as fixed by section 6-01-21.2* for the examination of the books and accounts of city auditors and city treasurers.~~

** SECTION 5. AMENDMENT.) Section 18-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-09. FUNDS COLLECTED TO BE DEPOSITED.)

1. All funds collected on behalf of the district through the levy of taxes;
2. All donations, contributions, bequests, or annuities, and
3. All borrowed money received by or on behalf of the district shall be deposited in a state or national bank to the credit of the district fund and shall be drawn out only by warrant.

Such claim voucher shall be authorized by the board of directors and shall bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. ~~Once each year at the same time the state examiner*~~

* NOTE: Section 18-05-13 was also amended by section 22 of House Bill No. 1073, chapter 187.

** NOTE: Section 18-10-09 was also amended by section 23 of House Bill No. 1073, chapter 187.

~~examines--other--county--records--he--shall--examine--the--records--of--the
secretary--treasurer--of--the--rural--fire--protection--district,--and--the
cost--of--such--examination--shall--be--paid--by--such--district--The
secretary--treasurer--of--the--rural--fire--protection--district--shall
bring--his--records--to--the--office--of--the--county--auditor--for--such
examination.~~ The books and accounts of the secretary-treasurer
shall be audited or annual reports shall be filed as required by
section 54-10-14.

Approved March 3, 1979

CHAPTER 103

SENATE BILL NO. 2142
(Committee on Agriculture)
(At the request of the Wheat Commission)

WHEAT TAX LEVY INCREASED

AN ACT to amend and reenact section 4-28-07 of the North Dakota Century Code, relating to the wheat tax levy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28-07. WHEAT TAX LEVY.) There is hereby levied and imposed, effective July 1, ~~1959~~ 1979, a tax of ~~two~~ three mills per bushel by weight upon all wheat grown in this state and sold through commercial channels by a producer to a first purchaser, such tax to be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels are not accurately determined at the time of the lien, pledge, or mortgage. At the time of sale, the purchaser shall issue and deliver to the producer a record of the transaction in such manner as the commission may prescribe.

Any producer subject to the deduction provided in this chapter may, within sixty days following such deduction or final settlement, make application by personal letter to the wheat commission for a refund application blank. Upon the return of said blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer shall be refunded the net amount of the deduction collected. If no request for refund shall have been made within the period prescribed above, then the producer shall be presumed to have agreed to such deduction. However, a producer, for any reason, having paid the tax more than once on the same wheat, upon furnishing proof of this to the commission, shall be entitled to a refund of the overpayment.

The commission, to inform the producer, shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed, and to this extent shall cooperate with governmental agencies, state and federal, and private businesses engaged in the purchase of wheat.

Approved March 21, 1979

CHAPTER 104

HOUSE BILL NO. 1495
(Committee on Appropriations)

FLAX UTILIZATION RESEARCH TAX REPEALED

AN ACT to appropriate the remaining moneys in the flax utilization research fund to North Dakota state university for crop byproduct research, to hold all revenues received during the remainder of this biennium available for the purposes of this Act; to repeal chapter 4-28.1 of the North Dakota Century Code, relating to the flax utilization research tax; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - PURPOSE.) There is hereby appropriated from the flax utilization research fund the sum of \$34,195.00, and any other moneys remaining in the fund, to North Dakota state university to be used by the agricultural engineering department for research on the utilization of crop residue, such as flaxstraw or sunflower stalks or hulls, as an energy source. The moneys appropriated herein may be used by North Dakota state university to match federal or private funds available for like research, and such federal or private funds are hereby appropriated. It is the intent of the legislative assembly that this section appropriate all funds remaining in the flax utilization research fund as of July 1, 1979, and that the fund account be thereafter closed.

SECTION 2. FLAX TAX REVENUES HELD.) All revenues held or collected from and after the effective date of this section shall be retained by the wheat commission in the flax utilization research fund to be available pursuant to the appropriation contained in section 1 of this Act. The commission shall not enter into any contracts or agreements for research after the effective date of this section, nor shall any further payments be made from the flax utilization research fund, except according to agreements or contracts made prior to the effective date of this section.

SECTION 3. REPEAL.) Chapter 4-28.1 of the North Dakota Century Code is hereby repealed.

SECTION 4. EMERGENCY.) Section 2 of this Act is hereby declared to be an emergency measure and shall be in force and effect from and after the passage and approval of this Act.

Approved March 8, 1979

CHAPTER 105

SENATE BILL NO. 2410
(Albers)

DAIRY PRODUCTS
REGULATION

AN ACT to create and enact section 4-30-38.1; and to amend and reenact sections 4-30-02, 4-30-12, 4-30-13, 4-30-14, 4-30-16, 4-30-17, 4-30-18, 4-30-19, 4-30-20, 4-30-27, 4-30-33, 4-30-36, 4-30-38, 4-30-39, 4-30-55, and 4-30-56; and to repeal chapter 19-06 and section 4-30-36.1 of the North Dakota Century Code, all relating to dairy products production and regulation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-02. LICENSES REQUIRED - FEES - TERM.) Every producer-processor, peddler, distributor, and every person purchasing milk or milk products for processing or manufacturing, or owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream plant, ice milk plant, cream station, milk plant, and every other business engaged in the processing or manufacturing of milk or milk products and every organization acquiring milk or milk products as an agent for sale on behalf of others and doing business within this state shall obtain the license required by this section for each such place of business. Application for ~~such~~ license shall be made to the dairy commissioner upon ~~such--form~~ forms as the commissioner may require. Upon making application for license, it is implied that consent is given by the applicant for inspection by the state dairy department. If the commissioner finds that the applicant conforms to the North Dakota laws and the rules and regulations of the ~~dairy~~ department, he shall issue a license for conducting ~~such~~ those operations as listed on the application form. If a licensee wishes to conduct operations other than those ~~so~~ listed, he may request that the commissioner approve them, and if the commissioner finds that the proposals are in conformance with North Dakota laws and the rules and ~~regulations~~ of the ~~dairy~~ department, he shall approve them. The license, together with a summary of the North Dakota dairy laws and the rules ~~and-regulations~~ of the ~~dairy~~ department shall be posted conspicuously in each ~~place~~ of licensed business ~~so-licensed~~. All licenses issued under this

section shall expire on the thirtieth day of June of each year and shall not be transferable. The fee for ~~such~~ licenses shall be ~~ten~~ twenty-five dollars. Every organization acquiring milk or milk products as an agent for sale on behalf of others shall, for the purposes of this chapter, be deemed to be a purchaser of milk or cream from a dairy producer.

SECTION 2. AMENDMENT.) Section 4-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-12. LICENSE NEEDED TO SAMPLE, GRADE, OR TEST - TRAINING - EXAMINATION - TERM - FEE.) No person shall sample, grade, or test milk, or milk products for the purpose of determining the value or grade thereof without obtaining a license from the dairy department. In case of illness or necessary absence, a licensee may appoint a substitute for a period not to exceed six days in one calendar year, unless specific approval for a longer period is obtained from the ~~dairy~~ commissioner. The licensee shall be responsible for the acts of his substitute. An applicant for license shall file an application with the ~~dairy~~ department stating the type of sampling, grading, or testing he wishes to be licensed for. Before a license is issued, the applicant must shall receive training in the sampling or grading of milk or milk products as may be required by the department, and shall pass a written examination prepared and given by the ~~dairy~~ department, -he. He shall show that he is conversant with the requirements of this chapter which pertain to ~~such~~ sampling, grading, or testing, and must prove by actual demonstration that he is competent and qualified to perform each type of sampling, grading, and testing listed on his application. The ~~dairy~~ commissioner shall then issue a license which shall state the types of sampling, grading, or testing which the applicant has proven to be able to perform. Additions may be added to the application form and license, without charge, after the license has been issued, upon the request of the licensee and after he has taken any additional training and has satisfactorily passed the required examinations for each ~~such~~ addition. ~~All--examinations--should~~ Examinations shall be given by the ~~dairy~~ department within-fifteen days-after-receiving-the-application four times per year at a time and place or places as the department shall determine. A licensee need not take any examinations when renewing his license unless his ability at performing ~~such~~ sampling, grading, or testing is questioned by the ~~dairy~~ commissioner or his assistants. Retraining or retesting or both may be required by the commissioner at any time when the commissioner reasonably determines it to be necessary. Licenses issued under this section shall expire on December thirtieth of each year, shall be posted conspicuously in the licensee's place of operation, and shall not be transferable. The fee for the annual license shall be five dollars, and a one dollar penalty fee shall be applied after the thirty-first day of January if renewals are not paid prior to that date.

SECTION 3. AMENDMENT.) Section 4-30-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-13. COMPLAINT UPON VIOLATION - NOTICE OF HEARING.) Any person who has information that any person or business licensed under the provisions of this chapter has violated any of its provisions or any rule or regulation of the dairy department, may file with the dairy commissioner, an affidavit, setting forth any such violations and it is hereby made the duty of all peace officers who have information of any such violations committed by such the licensee to file such an affidavit with the dairy department. Such The affidavit shall state the facts constituting the violations charged therein with such clarity and certainty so that the licensee may be reasonably apprised of the offense alleged to have been committed by him. Upon receipt of any such the affidavit, it--shall be--the--duty--of the dairy commissioner to set the matter down for hearing at an early date. The dairy commissioner shall send by registered or certified mail to the licensee a copy of the affidavit together with a notice of the time and place of hearing thereon, which date of hearing shall not be less than ten days after such copy of affidavit and notice has been mailed to the licensee shall investigate the complaint and shall, if he deems action warranted, require retraining, retesting or both, or shall suspend or revoke the license of the licensee under the procedure provided in this chapter.

SECTION 4. AMENDMENT.) Section 4-30-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-14. HEARING - PLACE.) The commissioner of agriculture or the dairy commissioner or his designee may conduct any hearing herein provided for in this chapter. Such hearing Hearings shall be held, at the direction of the commissioner, in the county where the licensed person resides or, in the county in which the licensed premises are located, or in Burleigh County.

SECTION 5. AMENDMENT.) Section 4-30-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-16. WITNESSES - SUBPOENA --FEES.) The commissioner of agriculture or the dairy commissioner shall have the power to subpoena witnesses, to compel their attendance, and to administer oaths as provided for in chapter 28-32. Such witnesses shall be allowed a fee of ten dollars per day, together with their mileage in attending such hearing at the rate of eight and one-half cents per mile, such fees and expenses to be paid by the state treasurer on voucher duly approved by the commissioner of agriculture.

SECTION 6. AMENDMENT.) Section 4-30-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-17. REVIEW BY THE COURT.) The action of the commissioner of agriculture or the dairy commissioner in suspending a license may be appealed to the district court of the county and district in which the hearing provided for in section 4-30-14 is held by procedure applicable to appeals taken in the manner provided in chapter 28-32 of title 28, Judicial Procedure, Civil, as now or

hereafter--amended, except that the ~~commissioner-of-agriculture-or~~
~~the-dairy-commissioner~~ commissioner's order suspending the license
may be stayed by the court appealed to upon filing with the clerk of
~~said~~ the court a bond approved by and in the amount set by the judge
of ~~said~~ the district court for the faithful observance of the laws
of the state and the rules and ~~regulations~~ of the dairy department
relative to the operation of the business licensed during the
pendency of the appeal.

SECTION 7. AMENDMENT.) Section 4-30-18 of the North Dakota
Century Code is hereby amended and reenacted to read as follows:

4-30-18. SAMPLING AND TESTING PROCEDURES - EQUIPMENT -
SUPPLIES.) The procedures, equipment, chemicals, and other
apparatus or substances used in the sampling, grading, or testing of
milk or milk products shall conform to that described in the latest
edition of "Standard Methods for the Examination of Dairy Products"
published by the American Public Health Association, Inc., ~~or--the~~
~~"Official--Methods--of--Analysis--of--the--Association--of--Official~~
~~Agricultural--Chemists"~~, a copy of ~~each-being~~ which shall be on file
in the dairy department. No equipment, chemicals, or other
apparatus or substance used in the sampling, grading, or testing of
milk or milk products which is not in conformance with the
requirements of this chapter shall be sold or offered for sale. The
dairy commissioner may alter, amend, or prohibit any specific
requirement of this section and may approve other sampling, grading,
or testing procedures or equipment by issuing rules and ~~regulations~~
pertaining thereto but only after consulting with the director of
the state laboratories department, the state health officer, and the
chairman of the department of animal science at the North Dakota
state university. The dairy commissioner, where he deems it
appropriate, shall check calibration of farm bulk milk tanks and
equipment.

SECTION 8. AMENDMENT.) Section 4-30-19 of the North Dakota
Century Code is hereby amended and reenacted to read as follows:

4-30-19. SAMPLING MILK--OR CREAM - CARE OF SAMPLES.) Every
purchaser of ~~milk-or~~ cream from a dairy producer shall take a
representative sample of at least two ounces from each container in
which the ~~milk-or~~ cream is delivered. All the ~~milk-or~~ cream from
one producer may be transferred from the containers in which ~~they~~
are it is received into an empty dump tank or vat and the sample
taken from it. Before emptying any part ~~thereof~~ of the cream or
adding any substance ~~thereto~~ to it and before the sample is taken,
the ~~milk-or~~ cream must be thoroughly mixed. The device used in
taking the sample must be clean and the container used to hold the
sample must be clean and dry. The containers holding the samples
must be kept securely covered and marked or kept by some approved
system whereby they will be readily identifiable with the producer
whose milk cream it represents. Records must be kept which readily
identify the sample with the weight, butterfat content, and the
amount of money paid for ~~said-milk-or~~ the cream. A record of the
weight of all cream held over from one shipment to another shall be

kept and a representative sample taken, held, and identified as a "hold over sample". All samples must be protected from extreme temperatures and retained at least twenty-four hours after testing has been completed.

SECTION 9. AMENDMENT.) Section 4-30-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-20. COMPOSITE--SAMPLES----OPTIONAL---GARE-OF-SAMPLES-
 Every-purchaser-of-milk-from-a-dairy-producer,-as-an-option-to-the
 provisions--of--section-4-30-19,-may-use-composite-samples-which-are
 obtained-by-taking-a-representative-sample-of-the-milk-each-time-the
 milk--is-received-at-the-plant-or-picked-up-at-the-farm-for-a-period
 not-to-exceed-fifteen-days,-after--thoroughly--mixing,-and--before
 emptying--any--part--thereof--or--adding-any-substance-thereto--The
 device-used-to-take-the-sample-must-be-clean-and-the-container--used
 to--hold--the--sample-must-be-clean-and-dry---Approved-preservedatives
 may-be-added--Samples-must-be-held-under--refrigeration--and--shall
 never--be--kept--out--of--refrigeration-for-a-period-any-longer-than
 actually-necessary-in-the-routine-of-sampling,-grading,-or-testing.
 The--sample--containers--must-be-kept-securely-covered-and-marked-or
 kept--by--some--approved--system--whereby--they--will--be--readily
 identifiable--with--the--producer-whose-milk-the-sample-represents.
 SAMPLING OF MILK.) Every purchaser of milk from a dairy producer
 shall collect a minimum sample of two ounces from each bulk tank of
 milk received from a producer. Samples shall be collected and
 maintained in accordance with those procedures contained in the
 latest edition of "Standard Methods for the Examination of Dairy
 Products" published by the American Public Health Association, Inc.
 Records must be kept which readily identify the sample with the
 weight, butterfat content, and the amount of money paid for said the
 milk. All milk samples shall be kept for at least twenty-four hours
 after testing has been completed.

SECTION 10. AMENDMENT.) Section 4-30-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-27. STANDARDS FOR THE PRODUCTION OF MANUFACTURING GRADE
 MILK - COMMISSIONER TO ADOPT RULES.) Milk--for-manufacturing
 purposes--shall-be-produced--from--cows-in-a-healthy-condition-and
 shall-be-from-dairy-farms-where-herds-are-kept-in-conformance--with
 state--laws--and--the--rules--and--regulations--of--the-North-Dakota
 livestock--sanitary--board--and--the--dairy--department--regarding
 tuberculosis,-brucellosis,-and-other-animal-diseases--Cows-shall-be
 fed-properly-and-shall-not-be-fed-any-hay,-silage,-or-other--feeds
 which--contain--any--unwholesome-substances--Milk-from-cows-treated
 with-an-antibiotic-or-other-drug-shall-be-excluded-from--the--market
 for-at-least-seventy-two-hours-unless-the-label-thereon-specifically
 states-otherwise--The-cowyard,-loading,-and-holding-areas-shall--be
 kept--reasonably--clean--and--shall--have--reasonably-good-drainage.
 Milking-barns-and-parlors-shall-be-kept-clean,-well-lighted,-and
 well-ventilated---Gutters-shall-be-of-concrete-or-other-impervious
 material--Manure-shall-be-properly-disposed-of--and--shall--not--be

accessible--to--milking--cows---Flanks--of--milk-cows-shall-be-kept reasonably-clean-and-udders-shall-be-properly-washed-before-milking-

A--milk--house--of--adequate-size-shall-be-provided---Interior walls-and-ceiling-shall-be-tight-and-constructed--of--a--smooth--and easily-cleaned--material--and--shall-be--finished--in-an-approved manner---The--floor--shall-be--of--concrete--or--other--impervious, approved,--material--and--shall-be--sloped-and-drained-to-a-trapped drain---All-openings-out--of--the--milk--house--shall--be--protected against--the-entrance-of-flies,--rodents,--and-sediment,--by-the-use-of doors,--screens,--flaps,--fans,--or--other--approved--methods---Adequate fly--and--rodent--control-methods-must-be-practiced---Doors-shall-be tight-and-self-closing---The-milk-house-shall-be-well-ventilated-and well--lighted-with-artificial-light---Facilities-must-be-provided-to cool-all-milk-to-fifty-degrees-Fahrenheit-or-lower-within-two-hours after-milking--and--must-be--maintained--at-that-temperature-until delivery---If-a-bulk-tank-is-used,--it-shall-be--so--installed--that there--is--at-least-eighteen-inches-of-clearance-between-the-tank-and other-equipment--or-walls-on-the-nonworking-side-and-end-of-the--tank and--twenty-four-inches--on--the-working-side-and-end---Twenty-four inches-on-the-nonworking-side-and-end-and-thirty-six-inches--on--the working--side--and-end-is-strongly-recommended---The-bulk-tank-shall not-be-located-over-a-floor-drain-or--under--a--ventilator---A--two compartment--wash--vat--large-enough-to-submerge-all-utensils--and-an adequate,--safe,--and-clean-supply-of-hot--water--shall--be--provided---The--milk-must-be-protected-from-flies,--rodents,--and-sediment-at-all times---Utensils,--equipment,--and-other-items-used-in--handling--milk shall--be--in-good-condition,--free-from-rust,--and-properly-cleaned, and-shall-be-properly-sanitized-before-use---Garbage--and--wastes shall--be--properly-disposed-of---The-milk-house-must-be-kept-clean and-orderly---All-new--equipment--and--replacement--equipment--shall conform--to-3A-standards-if-standards-have-been-established-for-said equipment--- The commissioner shall adopt rules governing the production and processing of milk for manufactured dairy products. Rules shall, at a minimum, comply with United States department of agriculture minimum standards for manufacturing grade dairy products.

SECTION 11. AMENDMENT.) Section 4-30-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-33. STANDARDS FOR DAIRY MANUFACTURING OR PROCESSING PLANT---REQUIREMENTS---COMMISSIONER---TO---APPROVE---NEW PLANTS - COMMISSIONER TO ADOPT RULES.) All--dairy-processing-or manufacturing-plants-shall-be-large-enough-that-there-will-never-be undue--crowding-with-normal-and-expected-volumes-of-business---Dairy plants-shall-not-be-used-for-any-other-purpose--than--the-purchase, handling,--processing,--manufacturing,--or--storage--of-milk-or-milk products--unless--specific--approval--is--obtained--from--the--dairy commissioner--and-shall-be-kept-clean-and-orderly-at-all-times---The premises-surrounding-a-dairy-plant-shall-be-kept-clean-and-orderly. All--outer-doors-and-all-doors-leading-into-rooms-not-used-in-normal dairy-plant-operations-shall--be-solid,--tight-fitting,--and--self-closing---All-openings-from-the-plant-shall-be-screened-or-otherwise

effectively-protected-to-prevent-the-entrance-of-flies,-rodents,-and-sediment.---Floors-shall-be-impervious,-in-good-condition,-graded-to-drain,-and-kept-clean-at-all-times.---Walls-and-ceilings-shall-have-a-smooth,-washable,-light-colored-surface-and-shall-be-kept-clean-and-in-good-repair.---Dairy-plants-shall-be-well-ventilated--to--prevent-odors--and--condensation,-and--shall--be--supplied--with--adequate-artificial-light.---Areas-where-testing-and-washing-are--done--shall-have-an-equivalent-of-at-least-one-watt-of-light-to-each-square-foot-of-floor-space.---All-milk-and-milk-product-containers-and-equipment,-except--single-service-containers,-shall-be-thoroughly-cleaned-after-each-usage.---All-such-containers-shall-be-subjected-to-an-effective-and-approved-bactericidal-process.---After-bactericidal-treatment,-all-bottles,-cans-and-other-multiuse-milk-or-milk-product-containers-and-equipment-shall-be-transported-and-stored-in-such-a-manner-as-to-be-protected-from-contamination.---Pasteurized-milk-or-milk-products-shall-not-be-permitted-to-come-in-contact-with-equipment-which-has-been-in-contact-with-unpasteurized-or-a-lower-grade-of-milk-or-milk-products-unless-such-equipment-has-first-been-thoroughly-cleaned-and-subjected-to-an-effective-and-approved-bactericidal-process.---All-products,-equipment,-and-utensils-used-in-the-plant-shall-be-handled-and-stored-in-a-safe-and-sanitary-manner.---Convenient-hand-washing-facilities-shall-be-provided-with-hot-and-cold-running-water,-soap,-and-approved-towels.---A-common-towel-is-prohibited.---The-hot-and-cold-water-supply-shall-be-adequate-and-convenient-of-a-safe-and-sanitary-quality,-and-shall-be-in-conformance-with-the-state-plumbing-code.---Approved-toilet-facilities-must-be-provided.---No-employee-shall-resume-work-after-using-the-toilet-without-washing-his-hands.---A-plant-must-have-an-adequate-and-safe-sewage-disposal-system.---Wastes-shall-be-properly-disposed-of-in-a-public-sewer,-or-in-containers-which-are-fully-covered-except-when-in-actual-use.---All-employees-working-in-a-dairy-plant-who-come-in-contact-with-milk-or-milk-products,-or-the-equipment-or-utensils-used-in-the-handling,-processing,-or-manufacture-thereof,-shall-have-medical-certificates-which-assure-that-they-are-not-afflicted-with-a-communicable-disease.---All-employees-who-become-ill-with-a-communicable-disease-must-obtain-the-approval-of-and-a-medical-certificate-from-a-medical-doctor-before-returning-to-work.---Employees-shall-keep-themselves-and-their-apparel-as-clean-as-practicable-at-all-times.---Smoking-or-expectorating-is-not-permitted-in-the-part-of-the-plant-where-milk-or-milk-products-are-handled,-processed,-or-manufactured.---Before-the-construction-of-any-new-dairy-manufacturing-or-processing-plant,-and-before-any-major-remodeling,-rebuilding,-or-renovating-plans-are-carried-out,-a-copy-of-the-plans-shall-be-submitted-to-the-dairy-commissioner-for-his-approval.---The-dairy-commissioner-shall-issue-rules-and-regulations-from-time-to-time-relative-to-the-various-dairy-plant-operations. The commissioner shall adopt rules governing the approval of dairy processing and manufacturing plants and standards for grades of dairy products. Rules shall, at a minimum, comply with United States department of agriculture general specifications for approved dairy plants and standards for grades of dairy products. No plant shall be operated or any dairy products sold in violation of these rules.

SECTION 12. AMENDMENT.) Section 4-30-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-36. STANDARDS FOR GRADE A MILK AND MILK PRODUCTS - ADOPTION OF AMENDMENTS.) Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A shall be the same as the minimum requirements of the "Grade A Pasteurized Milk Ordinance, 1965 Recommendations of the United States Public Health Service" and all supplements added thereto. The dairy commissioner may adopt as dairy department regulations any amendments, supplements to, or new editions of said milk ordinance which are in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability and promotion of grade "A" milk and milk products.

SECTION 13. AMENDMENT.) Section 4-30-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-38. TRANSPORTATION OF MILK OR AND CREAM FOR MANUFACTURING, PROCESSING, OR BOTTLING PURPOSES - REQUIREMENTS COMMISSIONER TO ADOPT RULES.) Vehicles-used-in-the-transportation of-milk-or-cream-must-be-kept-clean---if-the-vehicle-is-not enclosed,--other-means-of-protecting--the-milk-or-cream-must-be practiced-such-as-covering-the-containers-with-a-tarp--or--having individual-hoods-over-each-container,--Milk-or-cream-shall-not-be placed-near-hides,--petroleum-products,--live-poultry,--or--other articles--or--substances-which-may-cause-the-milk-or-cream-to-become contaminated-with-flavors-or-sediment. The commissioner shall adopt rules governing the transportation of milk and cream to be used for manufacturing, processing or bottling purposes. No facility or vehicle shall be used or operated in violation of these rules.

SECTION 14.) Section 4-30-38.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-30-38.1. MILK HAULERS - LICENSE REQUIRED - COMMISSIONER TO ADOPT RULES.) No natural person shall operate any tank truck, bulk milk hauler, or other vehicle used or designed to carry bulk raw milk without a license issued by the department. The commissioner shall promulgate rules governing the operation, inspection, design, and licensure of such persons. The license of any person operating a vehicle in violation of this section or the rules of the department shall be subject to revocation or suspension in accordance with procedure established by law. A license to haul milk issued under this section may be issued in conjunction with or as part of any license to sample, grade, or test milk or milk products issued pursuant to section 4-30-12.

SECTION 15. AMENDMENT.) Section 4-30-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-39. TRANSPORTATION OF PROCESSED OR AND MANUFACTURED PRODUCTS - COMMISSIONER TO ADOPT RULES.) Vehicles--transporting

~~processed--or--manufactured-milk-or-milk-products-shall-be-clean-and enclosed, and shall be insulated or refrigerated if the product is being transported--requires it--Shipments of milk or milk products through this state are not required to be unloaded under the provisions of this chapter.~~ The commissioner shall adopt rules governing the transportation of processed and manufactured milk or milk products. No facility or vehicle shall be used or operated in violation of these rules.

SECTION 16. AMENDMENT.) Section 4-30-55 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-55. ~~SALE OF RAW MILK OR RAW MILK PRODUCTS RESTRICTED--> After the effective date of this chapter, no person may begin selling or offering for sale at wholesale any milk or milk products which are not pasteurized unless specific approval is granted by the dairy commissioner or the local health officer.~~ FOR DIRECT CONSUMER CONSUMPTION.) Milk sold in the raw or unpasteurized condition is restricted to direct sales between the producer and consumer, and the sales are restricted to the premises where produced. Only dairy farms approved by the dairy department may retail raw milk. The dairy department shall regulate the conditions pertaining to the production and retail sale of raw milk. This section shall not apply to the sale of raw milk for processing.

SECTION 17. AMENDMENT.) Section 4-30-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-56. ~~ENFORCEMENT.) The dairy commissioner is authorized and directed to administer and supervise the enforcement of this chapter; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations of any acts prohibited by this chapter or the rules of the department; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both, upon his own initiative. The provisions of this chapter and the rules of the department may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in violation of this chapter shall be subject to seizure and disposition in accordance with an appropriate court order.~~

SECTION 18. REPEAL.) Chapter 19-06 and section 4-30-36.1 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 106

SENATE BILL NO. 2096
(Albers)

DAIRY INDUSTRIES LICENSE REQUIREMENTS

AN ACT to create and enact nine new sections to chapter 4-30 of the North Dakota Century Code, relating to applicants for a dairy industries license satisfying the dairy department as to financial condition or otherwise providing security for payments to dairy producers; to amend and reenact sections 4-30-04, 4-30-07, 4-30-08, and 4-30-15 of the North Dakota Century Code, relating to the dairy department becoming trustee upon default of the licensee, remedies of claimants upon default of the licensee, dairy department appeals or compromises of actions, and suspension or revocation of license and judicial review; and to repeal section 4-30-03 of the North Dakota Century Code, relating to bonding of purchasers of dairy products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FINANCIAL CONDITION - ASSURANCE OF PROMPT PAYMENT.) Each applicant for a license under section 4-30-02 who purchases milk or cream from a dairy producer shall have first satisfied the department that the applicant's financial condition is such as to reasonably assure prompt payment to the dairy producers for purchased milk and cream.

SECTION 2.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT OF BUSINESS OPERATIONS OR FINANCIAL CONDITION - FILING - REVIEW BY BANK OF NORTH DAKOTA - CONFIDENTIAL - AUDITED.) Each applicant for a license under section 4-30-02 who purchases milk or cream from a dairy producer, except cream stations, shall annually file with the department an audited financial statement prepared by an independent certified public accountant or licensed public accountant in accordance with generally accepted accounting practices and principles, verified by the accountant as accurately

representing business operations and financial conditions of the plant business for which the statement is rendered, prepared as of the close of the plant's most recent fiscal year. In lieu of filing an audited financial statement an applicant may file other forms of security as provided in section 3 of this Act. All audited financial statements shall be reviewed by the Bank of North Dakota. All statements shall be confidential and shall not be open for public inspection. The department may require additional statements to be audited by a certified public accountant or a licensed public accountant. The applicant shall pay the cost of any statements and audits made by the department.

SECTION 3.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

SURETY BOND, TRUSTEE AGREEMENT, OTHER SECURITY OR ASSURANCES.) In all cases where it appears that the financial condition of any applicant or licensee who purchases milk or cream from a dairy producer is not adequate to reasonably assure payment to dairy producers when due for the milk or cream to be purchased, or in lieu of annually filing with the department an audited financial statement as required in section 2 of this Act, the department shall require security or other assurances in one of the following forms:

1. The filing of a surety bond acceptable to the department. The amount of the surety bond shall be determined on the basis of average purchases of milk or cream from dairy producers during the previous year. Where payment for milk or cream purchased from dairy producers is made on a weekly basis, the amount of the surety bond shall be in an amount equal to the average weekly purchases of milk or cream. Where payment for milk or cream purchased from dairy producers is made on a semimonthly basis, the amount of the surety bond shall be in an amount equal to the average semimonthly purchases of milk or cream. Where the period of payment for milk or cream purchased from dairy producers is made on a basis involving periods of time greater than semimonthly, the amount of the surety bond shall be in an amount equal to the average purchases of milk or cream for that greater period of time. The amount of the bond for each period of payment shall also include an amount equal to the average purchases for three days following the close of the period of payment. The commissioner shall be named as obligee, but the bond or draft shall be held for the purpose of protecting, and for the benefit of, any dairy producer, and the full and complete payment to the seller for all milk or cream purchased by the licensee. The aggregate liability of the bonding company or the department to all dairy producers shall in no event exceed the amount of the bond.
2. The providing of an amount of protection for dairy producers, from whom milk or cream is purchased, equal to the amount of protection provided in subsection 1, whereby

the security is to be held by the department solely for the protection of dairy producers, in one or more of the following forms:

- a. Cash deposited with a bank or trust company and held under an escrow agreement with the department.
 - b. Bonds of the United States deposited with the department.
 - c. Stocks, bonds, or other marketable securities at current market values, which securities have regularly reported quotations, deposited with the department.
 - d. A certified bank draft, certified check, irrevocable letter of credit, or certificate of deposit held in favor of the department.
3. The filing of an agreement providing for the complete control over all manufactured or processed milk and dairy products by a trustee to be selected at least annually by the dairy producers. The trustee shall make and file a trustee's bond and contracts signed by the owner or operator and the purchaser of the dairy products requiring that payment for all dairy products sold be made to the trustee. The trustee shall maintain a separate bank account for that purpose and shall at least annually render a true and correct account of trustee dealings to the department and to the dairy producers.

SECTION 4.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FINANCIAL BASIS FOR LICENSE - STATEMENT TO PRODUCER - NOTIFICATION TO DEPARTMENT.) All milk or cream purchasers licensed under section 4-30-02 shall inform producers delivering milk and cream of the financial basis on which the license was issued including the type and amount of security, if any, filed under section 3 of this Act by a written statement to each producer patron at least once every year. No person shall receive milk or cream which will increase the amount due and accrued beyond the amount represented as a basis for the issuance of a license without first notifying the department.

SECTION 5.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADDITIONAL SECURITY.) Whenever the department determines that the value of milk or cream purchased or received from producers has increased or that an increase may reasonably be anticipated, so that the total amount of security does not comply with the amount required by subsection 1 or 2 of section 3 of this Act, the department shall require additional security as will afford producers the protection intended by section 3 of this Act. The

department may suspend or revoke any license if the licensee fails to provide the additional security required by the department pursuant to this section.

SECTION 6.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FILING OF SECURITY BEFORE LICENSE YEAR.) Surety bonds or other security for the license year shall be filed with the department not later than the first day of the month before the beginning of each license year. If any applicant or licensee who purchases or receives milk or cream from dairy producers has not filed a surety bond or other security, and has not been relieved from filing a surety bond or other security, by the first day of the month of the license year, the department shall notify producers selling milk or cream to the applicant or licensee that the applicant or licensee has not filed any security or made other provisions for assuring payments for milk or cream purchases, for the license year.

SECTION 7.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FAILURE TO FILE SECURITY - NOTICE TO PRODUCERS.) Whenever an applicant or licensee fails to file a surety bond or other security within the time fixed by section 6 of this Act or the department's demand for additional security, the department shall publish in a newspaper or newspapers having circulation in the area or areas in which the producers whose milk or cream is sold or delivered to the applicant or licensee reside, a notice stating that the department made demand or request of the applicant or licensee; that the applicant or licensee has failed to comply; that the department does not have on file a surety bond or other security as demanded; and that adequate security to protect producers may not be available to them. In addition to published notice to producers, the department shall send by registered mail, a copy of the notice to each producer delivering milk or cream to the applicant or licensee as may be able to be determined from available records and the notice shall be addressed to the producer's last known place of residence.

SECTION 8.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

OUT-OF-STATE DEALERS, PROCESSORS, OR PRODUCERS NOT EXEMPT.) The provisions of sections 1 through 8 of this Act apply to all milk or cream purchasers licensed under section 4-30-02 doing business in whole or in part within the state. The protection to producers afforded by sections 1 through 8 of this Act is available to the producers of any state selling milk or cream to any licensee licensed under section 4-30-02.

SECTION 9.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

RULES FOR ENFORCEMENT OF CHAPTER.) The department is authorized to adopt rules, in accordance with chapter 28-32, consistent with and necessary for the enforcement of this chapter.

SECTION 10. AMENDMENT.) Section 4-30-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-04. DAIRY DEPARTMENT TO BECOME TRUSTEE UPON DEFAULT IN ~~BOND-OR-CERTIFIED-BANK-DRAFT REQUIRED SECURITY.)~~ If any licensee defaults in the provisions of any ~~bond-or-certified-bank-draft-as provided-for-in-section-4-30-03,~~ he required security, the licensee shall be deemed to be insolvent within the meaning of this chapter. The cause of action for damages upon any ~~such-bond-or-draft required security,~~ and the amount recovered in any cause of action for the conversion of milk, or milk products, as the case may be, purchased by ~~such~~ the licensee while such the license is in force and effect, and the assets of the licensee not made subject to any claim in federal bankruptcy by any secured or general creditor within four months of the appointment of the department as trustee under this chapter, shall constitute a trust fund in the hands of the dairy department for all persons having a cause of action against ~~such the licensee on said-bond-or-draft~~ the required security.

SECTION 11. AMENDMENT.) Section 4-30-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-07. REMEDY OF CLAIMANTS - SEPARATE ACTION BY CLAIMANT PERMISSIBLE.) No claimant shall have a separate cause of action against ~~the~~ any licensee's ~~bond-or-certified-bank-draft required security~~ unless the dairy department ~~shall-fail-or-refuse~~ fails or refuses to apply for its own appointment as trustee as provided in this chapter. ~~The-provisions-of-this-chapter-shall-not-prohibit-any~~ Any claimant, either independently or in conjunction with other claimants, ~~from-pursuing~~ may pursue concurrently with the dairy department any other remedy which ~~he--or--they~~ the claimant or claimants may have against the licensee, or against the property of the licensee, for the whole of ~~his-or~~ their claim or claims or for any deficiency which occurs after payments have been made from the trust fund.

SECTION 12. AMENDMENT.) Section 4-30-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-08. APPEAL OR COMPROMISING OF ACTION BY DAIRY DEPARTMENT.) The ~~dairy~~ department may prosecute an action for any claims arising under the provisions of this chapter in any court, may appeal from any adverse judgment to the courts of last resort, and may settle and compromise any such action whenever in its judgment it will be for the best interests of the claimants. Upon payment to it of the amount of any ~~such~~ compromise, or of the full amount of any ~~bond-or-certified-bank-draft~~ required security, the ~~dairy~~ department may exonerate the person compromising or paying ~~the~~ same from further liability growing out of ~~such the~~ the action.

SECTION 13. AMENDMENT.) Section 4-30-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-15. SUSPENSION OR REVOCATION OF LICENSE - JUDICIAL REVIEW.) If, after such hearing, the commissioner of agriculture or the dairy commissioner finds that the violations charged in the affidavit have been established by the evidence, he may order the suspension of the license for a period not to exceed thirty days. If the commissioner of agriculture or the dairy commissioner finds that the licensee has not previously violated the law in the operation of his licensed business, or that no license held by him has previously been suspended, or if it appears to the satisfaction of the commissioner of agriculture or the dairy commissioner that it is reasonable to believe that the licensee will not again commit the offenses charged in the affidavit and that to suspend the license would be unduly severe, then the commissioner of agriculture or the dairy commissioner may, in his discretion, withhold suspension of the license for such period of time as he deems proper. Any proceedings under this chapter for the suspension or revocation of any license, or to otherwise determine compliance with this chapter and the rules and regulations of the dairy department, shall be conducted in accordance with the provisions of chapter 28-32 and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that action be taken as necessary to meet the emergency. Notwithstanding any provision of this chapter, the order shall be effective immediately, but on application to the department an interested person shall be afforded a hearing before the department within ten days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within thirty days after the hearing.

Any person, firm, or corporation whose license for any place of business is suspended shall not be eligible during the period of such the suspension to engage in the purchase, sale, processing, manufacturing, sampling, grading, or testing of milk or milk products at such the place of business either personally, or indirectly by having a financial interest in such the business.

SECTION 14. REPEAL.) Section 4-30-03 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1979

CHAPTER 107

HOUSE BILL NO. 1191
(Conmy)

VENUE OF VARIOUS ACTIONS

AN ACT to amend and reenact sections 4-30-05, 6-07-14, 25-09-05, 32-12-02, 36-04-11, 36-04-13, 52-06-27, 57-08-01, 57-08-02, 60-04-03, and 65-10-01 of the North Dakota Century Code, relating to the venue of various actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-30-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-05. APPLICATION BY DAIRY DEPARTMENT FOR APPOINTMENT OF TRUSTEE - HEARING - APPOINTMENT.) Upon the insolvency of a licensee as defined in section 4-30-04, the dairy department shall apply to the district court of ~~Burleigh--County~~ the county in which the licensee maintains its principal place of business for the appointment of itself as trustee. Upon such notice to the licensee as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the licensee, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the licensee is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the licensee for the purchase price of milk or milk products sold to such licensee or to his agent that the dairy department shall execute such trust, the court shall issue an order appointing the dairy department as a trustee, without bond, and the dairy department shall proceed in the manner set out in this chapter without further direction from the court.

SECTION 2. AMENDMENT.) Section 6-07-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-14. RECOURSE OF AGGRIEVED BANK - INJUNCTION IN DISTRICT COURT ~~OF-BURLEIGH-COUNTY~~ - APPEAL TO SUPREME COURT.) Any bank deeming itself aggrieved by the action of the state banking board in taking possession of its assets, within ten days after such possession has been taken, may apply to the district court of

Burleigh-County the county in which the bank is located for an order enjoining further proceedings by the state banking board or by the receiver appointed by it. The court, after notifying the state examiner commissioner to appear at a specified time and place to show cause why further proceedings should not be enjoined, and after hearing, may dismiss such application or enjoin the state banking board and the receiver appointed by it from further proceedings and may direct them to surrender the business and assets of such bank. The application may be heard at any time after five days' notice to the state--examiner commissioner, or at any time prior thereto with the consent of the state--examiner commissioner. Application for an injunction shall be made on the verified complaint of the bank, a copy of which must be served on the state--examiner commissioner. The state--examiner commissioner, at least two days before the time set for hearing, shall serve upon counsel for the applicant and file in the court an answer to the complaint. If the state banking board makes no appearance within the time limited, the court shall proceed to hear the proofs of the applicant and may enter judgment as in a default in other civil actions. Such judgment entered either after hearing on the merits or by default shall be a final judgment from which either party may appeal to the supreme court in the same manner as from a final judgment in a civil action. Notice of such appeal must be filed within ten days after notice of entry of such judgment.

SECTION 3. AMENDMENT.) Section 25-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. INABILITY TO PAY ALL OR PART OF EXPENSES.)

1. The patient, former patient, his responsible relatives, or the executor--administrator, personal representative or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives or their estates' inability to pay. Upon receipt of such application, the supervising department shall direct the county social service board of the county from which the patient was admitted to determine whether the patient, former patient, or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county social service board. The determination made by the supervising department may be appealed to the district-court-of-Burleigh-County-or ~~the~~ district court of the county of residence of the patient or his responsible relatives. Any patient, former patient, responsible relative, guardian, executor, or administrator personal representative who seeks relief for the payment of the cost of care and treatment by filing an

application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

2. The patient, former patient, ~~executor,--administrator~~ personal representative, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state school. Such application shall be accompanied by proof of the patient's or the estate of the patient's inability to pay. Upon receipt of such application, the supervising department shall direct the county social service board of the county from which the patient was admitted to determine whether the patient, former patient, or the patient's estate is able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county social service board. The determination made by the supervising department may be appealed to the ~~district court of Burleigh County or--the~~ district court of the county of residence of the patient. Any patient, former patient, guardian, ~~executor, or administrator~~ personal representative who seeks relief for the payment of the cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

SECTION 4. AMENDMENT.) Section 32-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12-02. ACTION AGAINST STATE - WHEN AUTHORIZED - WHERE BROUGHT - UNDERTAKING FOR COSTS.) An action respecting the title to property, or arising upon contract, may be brought in the district court against the state the same as against a private person. ~~When such~~ Such actions ~~are not of a local nature they~~ shall be brought in

the county ~~of Burleigh~~ in which the property is situated, or the county in which the plaintiff resides. The plaintiff at the time of commencing such action shall file an undertaking with sufficient surety to be approved by the clerk of court to the effect that he will pay any judgment for costs that may be rendered against him.

SECTION 5. AMENDMENT.) Section 36-04-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-11. HEARING HAD BEFORE LICENSE REVOKED - REGULATIONS GOVERNING - APPEAL FROM ORDER.) Before any license issued shall be revoked, the licensee shall be furnished with a copy of the complaint made against him, and a hearing shall be had thereon before the department to determine whether or not ~~such~~ the license shall be revoked. The licensee shall be given notice of ~~such~~ the hearing at least fifteen days prior thereto. ~~Such~~ The notice may be served either by registered or certified mail addressed to the given address of the licensee or in the manner provided by ~~this code and~~ the North Dakota Rules of Civil Procedure for the service of a summons. At the time and place fixed for the hearing, the department, or any member or duly authorized agent thereof, shall take and receive evidence, administer oaths, examine witnesses, and take the testimony offered, and shall submit and file the same with the department. The department upon the evidence received, shall make and file an order either dismissing the proceedings or revoking the license. The aggrieved party may take an appeal to the district court of ~~Burleigh County~~ the county in which the licensee maintains its principal place of business.

SECTION 6. AMENDMENT.) Section 36-04-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-13. APPLICATION BY DEPARTMENT FOR APPOINTMENT OF TRUSTEE - HEARING - APPOINTMENT.) Upon the insolvency of a dealer as defined in section ~~36-04-12~~ 36-04-01, the department shall apply to the district court of ~~Burleigh County~~ the county in which the dealer maintains its principal place of business for the appointment of itself as trustee. Upon such notice to the dealer as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the dealer, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the dealer is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the dealer for the purchase price of livestock or wool sold to such dealer or to his agent that the department shall execute such trust, the court shall issue an order appointing the department as a trustee, without bond, and the department shall proceed to perform its duties as such trustee in the manner set out in this chapter without further direction from the court.

SECTION 7. AMENDMENT.) Section 52-06-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-27. JUDICIAL REVIEW OF DECISION - PETITION - FILING.) A party to proceedings before the bureau may obtain a judicial review of the decision of the bureau by filing a petition for such review within thirty days after the date of mailing the bureau's decision to such party at his last known address, or in the absence of mailing, within thirty days after delivery of the decision to such party. The petition for review shall be filed in the district court of ~~Burleigh-County~~ the county in which the petitioner resides, and shall be verified and shall state the grounds upon which review is sought. All other parties to the proceeding before the bureau shall be parties respondent. The bureau shall be deemed to be a party to any such proceeding. If the bureau is a party respondent the petition shall be served upon it by leaving with it or its chairman or any other representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer or petition, the bureau shall certify and file with the court a verified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the bureau's findings, conclusions, and decision therein. Upon the filing of a petition for review by the bureau or upon the service of the petition upon it, the bureau forthwith shall send by registered or certified mail to each other party to the proceeding a copy of such petition and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this section the finding of the bureau as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the review by the court shall be confined to questions of law. Such proceedings shall be heard by the court and shall be given precedence over all other civil cases except cases arising under the workmen's compensation statute of this state. An appeal may be taken from the decision of the district court of ~~Burleigh-County~~ to the supreme court of the state of North Dakota in the same manner as is provided in civil cases. Upon the final termination of such judicial proceeding, the bureau shall enter an order in accordance with the mandate of the court.

SECTION 8. AMENDMENT.) Section 57-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-08-01. ACTION TO REVIEW ASSESSMENT OF PUBLIC UTILITY.) If any company whose property has been valued and assessed for taxation purposes by the state board of equalization under the constitution or statutes of this state, or against whom any tax is levied or assessed by said board, feels aggrieved for any reason with the assessment so made, such the company may bring an action in the district court of Burleigh-County the county in which the company maintains its principal place of business in this state, against the state and any subdivisions thereof which may be interested, for relief therefrom. Any such action must be brought on or before the date on which the taxes to be collected under the assessment involved become due.

SECTION 9. AMENDMENT.) Section 57-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-08-02. PROCEDURE - ACTION FOR RELIEF BY UTILITY FROM ASSESSMENT.) ~~The district court of Burleigh County shall have jurisdiction over any action brought under section 57-08-01, whether such action is brought against the state only or against the state and one or more of its subdivisions jointly.~~ At any time after such an action is brought pursuant to section 57-08-01, the district court, either before or during trial, may allow the plaintiff to pay to the state or municipalities interested any part of the taxes involved in the action under such agreement as may be made between the plaintiff or plaintiffs and the attorney general ~~in~~ on behalf of all defendants, or under such terms as the court may fix. Such agreement, when ratified by the court, shall be binding upon all parties to the action. At the time the action is brought, the plaintiff shall be required to file with the clerk of the district court ~~of Burleigh County~~ a bond payable to the state of North Dakota, in such form as may be fixed by ~~said~~ the district court, and in an amount sufficient to cover all anticipated costs of the action, said bond to be approved as to amount and form by the clerk of ~~said~~ the district court. The decision of the district court in such action shall be subject to appeal to the supreme court in the manner now provided by statute for appeal in civil actions. No application need be submitted to the board of county commissioners before such action is commenced.

SECTION 10. AMENDMENT.) Section 60-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-04-03. APPOINTMENT OF COMMISSION AS TRUSTEE.) Upon the insolvency of any warehouseman, the commission shall apply to the district court of Burleigh the county in which the warehouseman maintains his principal place of business for appointment of itself as trustee of ~~said~~ the trust fund defined in section 60-04-02. Upon such notice to said warehouseman as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by said warehouseman, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court or to the judge thereof, that such warehouseman is insolvent within the meaning of this chapter and that it would be for the best interests of the receipt holders that the commission shall execute such trust, he shall issue an order appointing the commission trustee, without bond, of said fund, whereupon the commission shall proceed to perform its duties as such trustee without further direction from said court.

SECTION 11. AMENDMENT.) Section 65-10-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-01. APPEAL FROM DECISION OF BUREAU.) If the final action of the bureau denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted,

or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the ~~claimant's right claim~~, or if the bureau allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the district court of the county wherein the injury was inflicted or of ~~a county agreed-to-by-stipulation-of-the-appellant-and-the-bureau~~ the county in which the claimant resides. An employer may also appeal a decision of the bureau in any injury case in the manner prescribed in this section. An appeal involving injuries ~~received--under allegedly covered by~~ insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Any appeal under this section shall be taken in the manner provided in chapter 28-32. Any appeal to the district court shall be heard on the record, transmitted from the bureau, and, in the discretion of the court, additional evidence may be presented pertaining to the questions of law involved in the appeal.

Approved March 8, 1979

CHAPTER 108

HOUSE BILL NO. 1452
(Representative Nicholas)
(Senator Redlin)

BEEF COMMISSION PURPOSES

AN ACT to amend and reenact subsection 3 of section 1 and section 6 of chapter 59 of the 1977 Session Laws of North Dakota, relating to the purpose and use of assessments by the beef commission and effective date of the Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 as contained in section 1 of chapter 59 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

3. ~~To--support--research--efforts--toward--solving--problems, primarily health, involved in the production of North Dakota beef cattle with no less than twenty-five percent of available annual funds.~~ To sponsor, initiate, and encourage research designed to solve problems in beef production, primarily in, but not limited to, animal health and human nutrition with no less than twenty-five percent of available annual funds.

SECTION 2. AMENDMENT.) Section 6 of chapter 59 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 6. EFFECTIVE DATE.) The provisions of this Act shall become effective only upon the passage of a referendum, provided by the Beef Research and Information Act [94 Pub. L. 294; 90 Stat. 529; 7 U.S.C. 2901 et seq.], before July 1, 1981, and upon the date assessments for sales of beef under the Beef Research and Information Act are imposed by or on behalf of the beef board.

Approved March 3, 1979

CHAPTER 109

HOUSE BILL NO. 1178
(Committee on Agriculture)
(At the request of the Agriculture Department)

PESTICIDE DEALER LICENSE RENEWAL

AN ACT to create and enact subsection 6 of section 4-35-12 of the North Dakota Century Code, relating to renewal of a pesticide dealer license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 6 of section 4-35-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Any person holding a current valid license may renew such license for the next year without taking another examination unless the board determines additional knowledge related to pesticides makes a new examination necessary or that a new evaluation is necessary to assure a continuing level of competence and ability to distribute pesticides safely and properly.

Approved March 3, 1979

CHAPTER 110

SENATE BILL NO. 2155
(Committee on Agriculture)
(At the request of the Disaster Emergency Services)

PESTICIDE ACCIDENT REPORTS

AN ACT to amend and reenact section 4-35-21 of the North Dakota Century Code, relating to reports of pesticide accidents or loss.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-35-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-21. REPORTS OF PESTICIDE ACCIDENTS~~7--INCIDENTS7~~ OR LOSS.)

1. The board shall, by regulation, require the reporting to the commissioner of agriculture of ~~significant~~ pesticide accidents ~~or incidents involving pesticides by commercial and private applicators and dealers.~~
- 2- Any person claiming damages from a pesticide application shall report such loss in accordance with sections 28-01-40 and 28-01-41. Where damage is alleged to have occurred and the claimant has filed a report of loss in accordance with sections 28-01-40 and 28-01-41, the claimant shall permit the commissioner, the licensee, and his representatives to observe, during reasonable hours, the lands or nontarget organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee. The number of licensee's representatives who may make an observation under this subsection may be limited by the board.
- 3- 2. A commercial applicator shall inform any person employing him to apply to land any pesticide of the reporting requirements of section 28-01-40.

Approved March 8, 1979