

AGRICULTURE

CHAPTER 56

HOUSE BILL NO. 1305

(Representatives Monson, Olson, Nichols)
(Senators Heitkamp, Sand, Thane)

HEMP PRODUCTION STUDY

AN ACT to provide for a study of industrial hemp production by the agricultural experiment station.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. North Dakota agricultural experiment station - Study of industrial hemp production. The North Dakota agricultural experiment station shall study the feasibility and desirability of industrial hemp production in this state. The study may include an analysis of required soils and growing conditions, seed availability, harvest methods, market economies, environmental benefits, and law enforcement concerns. The North Dakota agricultural experiment station shall present its report to the legislative council before August 1, 1998.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 57

SENATE BILL NO. 2025

(Legislative Council)

(Budget Committee on Agriculture and Information Services)

(Senators Robinson, C. Nelson)

(Representative Nicholas)

AGRICULTURAL RESEARCH EXTENSION CENTERS

AN ACT to amend and reenact sections 4-05.1-01, 4-05.1-03, 4-05.1-04, 4-05.1-05, 4-05.1-06, 4-05.1-07, 4-05.1-08, 4-05.1-09, 4-05.1-10, 4-05.1-11, 4-05.1-12, and 4-05.1-15 of the North Dakota Century Code, relating to the agricultural experiment station; and to repeal sections 4-05.1-07.1 and 4-05.1-13 of the North Dakota Century Code, relating to grant funds of the Williston research center and the board of visitors of the north central research center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ **SECTION 1. AMENDMENT.** Section 4-05.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Agricultural experiment station" means the North Dakota state university main research ~~station~~ center, the Dickinson research extension center, the Williston research extension center, the Langdon research extension center, the central grasslands research extension center, the Carrington research extension center, the Hettinger research extension center, the north central research extension center, the agronomy seed farm, and any other department or agency designated by the state board of higher education.
2. "Director" means the director of the North Dakota agricultural ~~experiment station~~.
3. "~~Superintendent~~" "Center director" means an administrator in charge of a research or research extension center.
3. "Station director" means the administrator of the agricultural experiment station.

² **SECTION 2. AMENDMENT.** Section 4-05.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ Section 4-05.1-01 was also amended by section 17 of Senate Bill No. 2064, chapter 50.

² Section 4-05.1-03 was also amended by section 19 of Senate Bill No. 2064, chapter 50.

4-05.1-03. Director - Superintendents Center directors - Research station and research extension centers - Records and information. ~~The director is under the direction of the president of the North Dakota state university of agriculture and applied science. The research station and research extension centers of the North Dakota agricultural experiment station are under the jurisdiction of the station director. Each research or research extension center must be administered by a superintendent center director who shall report to the station director. Each research or research extension center shall keep detailed records of all research activities and publish and disseminate research results and information for the benefit of this state.~~

³ **SECTION 3. AMENDMENT.** Section 4-05.1-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-04. Reports to station director and state board of higher education. Each ~~superintendent center director~~ shall submit a biennial report to the station director on or before the first day of August of each odd-numbered year. Each report must set forth in detail the investigations and experiments made during the preceding fiscal biennium, recommendations for the welfare of the center, the financial condition of the center, how all moneys have been expended, and the results of experiments. The station director shall submit these reports, with a biennial report of the North Dakota state university main research ~~station center~~, to the board of higher education on or before the first day of September of each odd-numbered year. If the board of higher education submits a biennial report to the governor and the secretary of state in accordance with section 54-06-04, the report must include a composite of the reports from ~~the research station and~~ each research and research extension center.

SECTION 4. AMENDMENT. Section 4-05.1-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-05. North Dakota state university main research station center. The North Dakota state university main research ~~station center~~ must be located on the campus of North Dakota state university of agriculture and applied science. The ~~station center~~ is the administrative location of the agricultural experiment station. The ~~station center~~ shall conduct research and coordinate all research activities of the agricultural experiment station. The research must have as a purpose, the development and dissemination of technology important to the production and utilization of food, feed, fiber, and fuel from crop and livestock enterprises. The research must provide for an enhancement of the quality of life, sustainability of production, and protection of the environment. ~~The research station shall keep detailed records of all research activities and publish the information that will be of value to the residents of this state.~~

SECTION 5. AMENDMENT. Section 4-05.1-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-06. Dickinson research extension center. The Dickinson research extension center must be located at or near Dickinson in Stark County. The center shall conduct research on increasing the carrying capacity of native rangeland, with

³ Section 4-05.1-04 was also amended by section 20 of Senate Bill No. 2064, chapter 50.

emphasis on conservation and preservation for future generations. The center shall conduct research on grass production to determine how to best compensate for the vagaries of the weather as it influences forage production in the ~~dryland~~ agriculture of western North Dakota. The center shall conduct research at the ranch location in Dunn County with beef cattle and swine breeding, feeding, management, and disease control for the benefit of livestock producers of western North Dakota and the entire state. The center shall conduct research designed to increase productivity of all agricultural products of the soil by maintaining or improving the soil resource base in the ~~dryland~~ agricultural region of southwestern North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stock; and development of profitable cropping systems that achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 6. AMENDMENT. Section 4-05.1-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-07. Williston research extension center. The Williston research extension center must be located at or near Williston in Williams County. The center shall conduct research designed to increase productivity of all agricultural products of the soil while maintaining or improving the soil resource base in the ~~dryland~~ agricultural region of northwestern North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stocks; and development of profitable cropping systems that achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 7. AMENDMENT. Section 4-05.1-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-08. Langdon research extension center. The Langdon research extension center must be located at or near Langdon in Cavalier County. The center shall conduct research designed to increase productivity of all agricultural products of the soil while maintaining or improving the soil resource base in the ~~dryland~~ agricultural region of northeastern North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stocks; and development of profitable cropping systems that achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 8. AMENDMENT. Section 4-05.1-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-09. Central grasslands research extension center. The central grasslands research extension center must be located within an area bounded by the Missouri River on the west and the James River on the east. The center shall conduct research designed to fulfill needs within an area bounded by the Missouri River on the west and the James River on the east. Research objectives must be to increase the range-carrying capacity of native range, with emphasis on conservation and preservation for future generations; stabilization of grass production to discover how to best compensate for the vagaries of the weather and precipitation as it influences forage production in a ~~dryland~~ agriculture; identification of the impact of different management systems upon beef production in the central region of the

state; and exploration of increased use of crop residues and byproducts for the maintenance of the cow herd.

SECTION 9. AMENDMENT. Section 4-05.1-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-10. Carrington research extension center. The Carrington research extension center must be located at or near Carrington in Foster County. The center shall conduct research designed to determine the potential of irrigated agriculture in the region proposed for irrigation development in the state which must be related to both crop and livestock production. The center shall conduct research designed to increase productivity of all agricultural products of the soil while maintaining or improving the soil resource base in the ~~dryland and irrigated~~ agricultural region of east central North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stocks; and development of profitable cropping and integrated crop and livestock systems that achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 10. AMENDMENT. Section 4-05.1-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-11. Hettinger research extension center. The Hettinger research extension center must be located at or near Hettinger in Adams County. The center shall develop the best available technology in breeding, feeding, management, and disease control pertinent to the production of sheep in the state. The center shall conduct research designed to increase productivity of all agricultural products of the soil while maintaining or improving the soil resource base in southwestern North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stocks; and development of profitable cropping systems that achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 11. AMENDMENT. Section 4-05.1-12 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-12. North central research extension center. The north central research extension center must be located at or near Minot in Ward County. The center shall conduct research designed to increase productivity of all agricultural products of the soil while maintaining or improving the soil resource base in the ~~dryland~~ agricultural region of north central North Dakota by the identification of adapted crop species and superior crop cultivars; propagation and distribution of selected seed stocks; and development of profitable cropping systems which achieve the necessary balance between profitability and conservation of all natural resources. ~~The center shall disseminate research results and information for the benefit of this state.~~

SECTION 12. AMENDMENT. Section 4-05.1-15 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-05.1-15. Agronomy seed farm - Investment of reserve income fund. The state treasurer, at the direction of the ~~superintendent~~ center director of the agronomy seed farm with the approval of the station director ~~of the North Dakota agricultural experiment station~~, shall provide for the investment of available moneys in the

agronomy seed farm reserve income fund. The state treasurer shall credit the investment income to the agronomy seed farm reserve income fund. The moneys in the fund may be spent only within the limits of legislative appropriation.

SECTION 13. REPEAL. Sections 4-05.1-07.1 and 4-05.1-13 of the 1995 Supplement to the North Dakota Century Code are repealed.

Approved March 7, 1997

Filed March 10, 1997

CHAPTER 58

SENATE BILL NO. 2024

(Legislative Council)

(Budget Committee on Agriculture and Information Services)

(Senators Robinson, Kinnoin)

(Representative Martin)

EXTENSION AGENTS

AN ACT to amend and reenact sections 4-08-01, 4-08-02, 4-08-03, 4-08-04, 4-08-05, 4-08-06, 4-08-07, 4-08-09, 4-08-10, 4-08-11, 4-08-12, 4-08-13, 4-08-14, 4-08-15, 4-08-15.1, and subsections 4 and 5 of section 57-15-06.7 of the North Dakota Century Code, relating to the North Dakota state university extension service and extension agents; and to repeal section 9 of chapter 34 of the 1989 Session Laws, relating to extension service area resource centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-08-01 of the North Dakota Century Code is amended and reenacted as follows:

4-08-01. ~~County agent~~ Extension work - Petition - Submitting to vote. Upon the filing with the county auditor of a petition containing the names of twenty percent of the qualified electors of the county as determined by the votes cast for governor in the county at the last preceding election, the board of county commissioners shall submit to the qualified electors at the next general election the question of providing a tax levy for ~~county agent~~ extension work.

SECTION 2. AMENDMENT. Section 4-08-02 of the North Dakota Century Code is amended and reenacted as follows:

4-08-02. Form of petition. The petition provided for in section 4-08-01 must be in substantially the following form:

PETITION PROVIDING FOR LEVY FOR ~~COUNTY AGENT~~
EXTENSION WORK

We, the undersigned, qualified electors of _____ County, North Dakota, ~~do hereby respectfully~~ petition the ~~honorable~~ board of county commissioners that it levy a tax sufficient but not to exceed two mills to employ a ~~county~~ an extension agent for the purpose of carrying on ~~county agent~~ extension work in cooperation with the North Dakota state university of agriculture and applied science extension service.

SECTION 3. AMENDMENT. Section 4-08-03 of the North Dakota Century Code is amended and reenacted as follows:

4-08-03. Form of ballot. The question to be voted upon as provided in section 4-08-01 must be submitted on a separate ballot and must be worded as follows:

For ~~county agent~~ extension work _____

Against ~~county agent~~ extension work _____ □

SECTION 4. AMENDMENT. Section 4-08-04 of the North Dakota Century Code is amended and reenacted as follows:

4-08-04. Election held - Candidates presented to county commissioners - Funds available for ~~county agent~~ extension work. When a majority of the votes are cast for ~~county agent~~ extension work, the ~~extension division of the North Dakota state university of agriculture and applied science~~ extension service on the first day of July following the election shall present a candidate or candidates for ~~county~~ extension agent to the board of county commissioners for its selection and final approval. A sum of not less than two thousand dollars must be made available for this purpose from county funds, but in no case may such levy exceed two mills.

SECTION 5. AMENDMENT. Section 4-08-05 of the North Dakota Century Code is amended and reenacted as follows:

4-08-05. Petition for discontinuance of ~~county agent~~ extension work - Form of petition - Election. The question of the discontinuance of ~~county agent~~ extension work may be submitted to the qualified electors in the manner provided in section 4-08-01. A separate ballot worded as is provided in section 4-08-03 must be used at the election. The petition for discontinuing the levy must be in the following form:

We, the undersigned qualified electors of _____ County, North Dakota, ~~do hereby~~ petition the ~~honorable~~ board of county commissioners that it place on the ballot at the next general election the question of discontinuing ~~county agent~~ extension work.

SECTION 6. AMENDMENT. Section 4-08-06 of the North Dakota Century Code is amended and reenacted as follows:

4-08-06. Filing date of petitions for election. No board of county commissioners may place the question of ~~county agent~~ extension work on a ballot without having received a notification from the county auditor that the petitions, as provided for in this chapter, have been filed at least thirty days before the date of election.

SECTION 7. AMENDMENT. Section 4-08-07 of the North Dakota Century Code is amended and reenacted as follows:

4-08-07. Discontinuance of ~~county~~ extension agent - Distribution of funds accumulated. If a majority of the votes cast at an election held under the ~~provisions of~~ section 4-08-05 are against continuing the levy for ~~county agent~~ extension work, the tax levy and the services of the extension agent must be discontinued on the thirty-first day of December following the date of election. If the majority of the votes cast are for the support of ~~county agent~~ extension work, the county commissioners shall continue the tax levy as provided in this chapter. Upon the discontinuance of ~~county agent~~ extension work, accumulated funds remaining in the treasury may be distributed to any other fund or funds deemed expedient by the board of county commissioners.

SECTION 8. AMENDMENT. Section 4-08-09 of the North Dakota Century Code is amended and reenacted as follows:

4-08-09. Budgeting for ~~county~~ extension agent. When the board of county commissioners is authorized to make a levy for the employment of a ~~county~~ an

extension agent, it shall provide a budget ~~which must stipulate that stipulates~~ the salary of the agent, field and office expenses, and allowance for clerical hire. After mutually agreeing upon a budget and after deducting the amount of funds contributed from federal and state funds, the board shall proceed to make a levy or appropriate funds out of the county general fund or both as it may deem necessary to cover the county's share of the budget. Until the office of county extension agent is discontinued, the board shall agree upon a similar budget must be agreed upon and annually ~~such shall make the levy and appropriation must be made by the board.~~

SECTION 9. AMENDMENT. Section 4-08-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-08-10. County Extension agent to submit monthly account of expenditures.

The county extension agent shall submit monthly an accurate itemized account of all expenditures incurred by the county agent in the regular conduct of duties to the North Dakota state university extension service for examination and audit. ~~Where~~ When charges are made by a county an extension agent for money expended in the performance of official duties, all items of one dollar or more ~~so~~ expended and charged for must be covered by a subvoucher or receipt ~~which that~~ must be signed by the person to whom the money was paid. The subvoucher or receipt must show at what place, on what date, and for what; the money expended was paid. The extension agent shall forward the subvouchers or receipts must be forwarded with the bill, claim, account, or demand against the county. ~~Where~~ When charges are made for transportation expenses, they ~~must~~ may not exceed the amounts provided by section 11-10-15, and must be in itemized form showing the mileage traveled, the days when and how traveled, and the purpose thereof, verified by affidavit. The account must be transmitted and recommended for payment by the North Dakota state university extension service which shall audit the same and which may approve or disallow any expense item therein. The North Dakota state university extension service is under the control, and subject to the supervision, of the state board of higher education. Funds appropriated to the North Dakota state university extension service may not be commingled with funds appropriated to North Dakota state university. An appropriation request to defray expenses of the North Dakota state university extension service must be separate from an appropriation request to defray expenses of North Dakota state university.

SECTION 10. AMENDMENT. Section 4-08-11 of the North Dakota Century Code is amended and reenacted as follows:

4-08-11. County agents make monthly report Report to county auditor. A ~~county~~ An extension agent shall file with the county auditor either monthly, or within a mutually agreed upon timeframe not to exceed one year, a statement of his the agent's work, which, in turn, must be presented by the auditor to the board of county commissioners.

SECTION 11. AMENDMENT. Section 4-08-12 of the North Dakota Century Code is amended and reenacted as follows:

4-08-12. Direction and supervision of county agents extension agent. The active direction and supervision of the work of the county extension agent must be carried on by the ~~extension division of the North Dakota state university of agriculture and applied science extension service.~~ The board of county commissioners has general administrative authority and must be consulted frequently with reference to the general policy and the work of the ~~agents agent.~~ The suggestions and directions of the board must be followed when not in conflict with

state and federal laws or regulations governing appropriations for county agent extension work.

SECTION 12. AMENDMENT. Section 4-08-13 of the North Dakota Century Code is amended and reenacted as follows:

4-08-13. Vacancies - How to be filled. In case a vacancy occurs in the position of county extension agent, the procedure for the selection of a successor must be similar to that provided for in the selection of an agent when the work is instituted in the county.

SECTION 13. AMENDMENT. Section 4-08-14 of the North Dakota Century Code is amended and reenacted as follows:

4-08-14. Dissatisfaction with county extension agent - Meeting to be arranged. If the ~~extension division of the North Dakota state university of agriculture and applied science~~ extension service or the board of county commissioners becomes dissatisfied with a county an extension agent, a joint meeting must be arranged at which detailed information as to the misconduct, negligence, or inefficiency of the agent must be presented and such joint action taken as is justified by the evidence.

SECTION 14. AMENDMENT. Section 4-08-15 of the North Dakota Century Code is amended and reenacted as follows:

4-08-15. Tax levy - Appropriation from county general fund - Both authorized. The board of county commissioners of any county of this state in which a levy for county agent extension work has been voted on and approved by the people as provided for in sections 4-08-01 and 4-08-03 may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09, not exceeding the limitation in subsection 4 of section 57-15-06.7. The statutory mill levy limitation in effect during any biennium, and not the limitation in effect at the time of a county's vote for county agent extension work or the number of mills that may have been stated in the ballot for such a vote, is the applicable limitation. If it determines that the amount derived from the levy will not be sufficient for such purpose the board may appropriate additional funds out of the county general fund to cover the deficiency.

SECTION 15. AMENDMENT. Section 4-08-15.1 of the North Dakota Century Code is amended and reenacted as follows:

4-08-15.1. County agent Extension work - Additional tax levy. The board of county commissioners of any county, upon passage of a resolution, may submit, at the next regularly scheduled or special election in the county, the question of providing for an additional annual levy not exceeding the limitation in subsection 5 of section 57-15-06.7 for county agent extension work. If the question submitted is approved by a majority of the electors voting thereon, the county commissioners board shall proceed to make the levy. The number of mills approved by the electors as an additional annual levy may not be increased by the board of county commissioners without voter approval of such increased levy as set out in this section, even if there is a subsequent increase in the mill levy limitation in subsection 5 of section 57-15-06.7. Upon approval of the levy for the county agent extension work, the board of county commissioners may expend the funds in the manner it deems best adapted to accomplish the purposes set forth by law. The levy may be discontinued upon the passage of a resolution by the board of county commissioners.

SECTION 16. AMENDMENT. Subsections 4 and 5 of section 57-15-06.7 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. Counties levying a tax for ~~county agent~~ extension work as provided in section 4-08-15 may levy a tax not exceeding two mills.
5. Counties levying a tax for ~~county agent~~ extension work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.

SECTION 17. REPEAL. Section 9 of chapter 34 of the 1989 Session Laws is repealed.

Approved March 7, 1997
Filed March 10, 1997

CHAPTER 59

HOUSE BILL NO. 1434

(Representatives Nelson, Warner, Brusegaard, D. Johnson)
(Senators Wanzek, Wogsland)

BAGGED AGRICULTURAL SEED LABELING

AN ACT to create and enact a new section to chapter 4-09 of the North Dakota Century Code, relating to labeling requirements for bagged agricultural seed; and to amend and reenact section 4-09-08 of the North Dakota Century Code, relating to public laboratory services by the state seed commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴ **SECTION 1. AMENDMENT.** Section 4-09-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-09-08. Public laboratory service - ~~Free tests~~ - Fees for ~~additional~~ tests.
~~Any resident of this state may send samples of cereals, flax, sunflower, alfalfa, soybean, and edible bean seed to the commissioner for germination tests. No more than three samples per year per person may be examined and reported on free of charge. The commissioner shall accept samples submitted to the state laboratory for testing and shall determine the types of tests to be conducted on the samples. The commissioner, with the approval of the seed commission, shall prescribe the time of year when seed samples will be accepted for free tests, the fees which will apply to samples submitted by any resident of the state in excess of three, and the fees which will be charged establish and charge fees for all other laboratory tests and services.~~

SECTION 2. A new section to chapter 4-09 of the North Dakota Century Code is created and enacted as follows:

Labeling requirements for bagged agricultural seed.

1. Labelers of bagged agricultural seed labeled and sold exclusively within this state, with the approval of the commissioner, may provide instead of a label or tag printed upon or attached to the bag an affidavit of analysis. The seller shall retain a copy of the affidavit.
2. The affidavit must:
 - a. Include all the labeling requirements as provided in section 4-09-10.
 - b. Be properly delivered with each sale or movement of the seed.
 - c. Contain the date of sale, the name and address of the labeler, the name and address of the seller, if different than the labeler, the name and address of the buyer, and the quantity sold.

⁴ Section 4-09-08 was also amended by section 1 of House Bill No. 1339, chapter 63.

3. Each bag must have the following information stamped on or otherwise attached to the bag:
 - a. For seeds of wheat, durum, barley, oats, rye, soybeans, edible beans, and flax, the commonly accepted name of the kind and variety of each agricultural seed component.
 - b. For seeds other than those listed in subdivision a, the commonly accepted name of the kind or the kind and variety of each agricultural seed component.
 - c. The lot number or other lot identification.
 - d. The name and address of the labeler or packager.
 - e. For seeds of all certified classes, an official certification tag properly attached to or printed on each bag.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 60

HOUSE BILL NO. 1436

(Representatives Nicholas, Axtman, Gorder)
(Senators Nething, Tallackson, Wanzek)

SEED POTATO STANDARDS

AN ACT to create and enact two new sections to chapter 4-10 of the North Dakota Century Code, relating to quality standards and planting records for seed potatoes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 4-10 of the North Dakota Century Code are created and enacted as follows:

Seed potatoes - Certification requirement. A person may not plant seed potatoes in lots of one acre [.405 hectare] or more, for the purpose of selling the crop to be harvested, unless the seed potatoes have been certified by the commissioner as meeting the standards of this chapter, have been certified by another state or province having a similar seed potato quality assurance program, or have been field-inspected and approved by the commissioner. However, the commissioner shall permit North Dakota growers to plant uncertified potatoes grown by them, if the growers are within twelve months of having their own certified parent seed potatoes. If the commissioner has reason to believe that seed potatoes meeting the requirements of this section are not available in sufficient quantities to fulfill planting needs, the commissioner may permit the planting of seed potatoes with a higher disease content, provided that bacterial ring rot is not present and that a serious disease threat is not posed.

Records. Every person who plants potatoes on more than one acre [.405 hectare] shall maintain records indicating the acreage [hectarage], varieties, and source of all seed potatoes planted. The records must be available for inspection by the commissioner for a period of two years.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 61

HOUSE BILL NO. 1437

(Representatives Nicholas, Axtman, Gorder)
(Senators Nething, Tallackson, Wanzek)

SEED POTATO CERTIFICATION

AN ACT to create and enact three new sections to chapter 4-10 of the North Dakota Century Code, relating to quality standards for seed potatoes imported into the state and potato planting records; to amend and reenact section 4-10-22 of the North Dakota Century Code, relating to civil penalties for violating potato grading and inspection laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Three new sections to chapter 4-10 of the North Dakota Century Code are created and enacted as follows:

Imported seed potatoes - Certification requirement. All seed potatoes imported into this state for planting purposes by any person from any state, territory, or country must be accompanied by an official grade certificate describing the grade of the potatoes or a health certificate to certify that the lot of seed potatoes was field inspected by an official certifying agency and is similar to the standards established by this chapter for seed potatoes.

Exported seed potatoes - Certification requirement. All seed potatoes exported from this state must be accompanied by an official grade certificate describing the grade of the potatoes or a health certificate to certify that the lot of seed potatoes was field inspected by the state seed department.

Records. Every person who plants imported seed potatoes on more than one acre [.405 hectare] of land shall maintain records indicating the acreage [hectare], varieties, and sources of all seed potatoes planted. The records must be available for inspection by the commissioner for a period of two years.

SECTION 2. AMENDMENT. Section 4-10-22 of the North Dakota Century Code is amended and reenacted as follows:

4-10-22. Penalties for violation of chapter.

1. Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.
2. Any person who violates any of the provisions of this chapter is subject to a civil penalty not to exceed ~~one~~ five thousand dollars for each violation. Such civil penalty may be adjudicated by the courts or by the state seed department through an administrative hearing pursuant to chapter 28-32.

3. The department may, in accordance with the laws of this state governing injunctions and other process, maintain an action in the name of the state against any person violating any provision of this chapter.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 62

HOUSE BILL NO. 1199

(Representatives Nicholas, Gerntholz)
(Senators Andrist, Robinson)

OILSEED ASSESSMENTS

AN ACT to amend and reenact sections 4-10.2-03, 4-10.2-05, and 4-10.2-08 of the North Dakota Century Code, relating to the North Dakota oilseed council, its members, member compensation, and commodity assessments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-10.2-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.2-03. North Dakota oilseed council - Membership - Election - Term. ~~There is hereby established a~~ The North Dakota oilseed council: ~~The council~~ is composed of one participating sunflower grower elected from each of the districts established in section 4-10.2-04, one participating safflower grower appointed by the governor, one participating crambe grower appointed by the governor, one participating rapeseed or canola grower appointed by the governor, one participating flax grower appointed by the governor, and one member appointed by the director of the agricultural experiment station. The chairman of the council must be a member of the council elected by a majority vote of the council. The commissioner is an ex officio member of the council. Every elected and appointed council member must be a citizen of the state. Every elected member must be a bona fide resident of and participating sunflower grower in the district the member represents. The term of each elected member is three years and begins on April first of the year of election, except that initially two members must be elected for a three-year term; two members must be elected for a two-year term; and two members must be elected for a one-year term as designated by the commissioner. The term of the representative for district seven must coincide with the term of the representative for district six. The term of each appointed member is three years and begins on April first of the year of the appointment, except that initially the flax grower member must be appointed for a three-year term, the member designated by the director of the ~~agriculture~~ agricultural experiment station and the safflower grower member must be appointed for a two-year term, and the rapeseed or canola grower must be appointed for a one-year term. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter, the member's office is 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 North Dakota state university extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. All elections must be conducted ~~within seventy-five days prior to~~ before April first of each year. No elected or appointed member of the council is eligible to serve more than three consecutive three-year terms.

⁵ **SECTION 2. AMENDMENT.** Section 4-10.2-05 of the North Dakota Century Code is amended and reenacted as follows:

4-10.2-05. Meetings - Quorum - Compensation and expenses of council. A majority of the voting members of the council constitutes a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of two council members within seven days of receiving such a petition. Each member of the council; ~~except the commissioner of agriculture, shall receive the sum of twenty-five dollars per day for each day spent in performance of the business of the council and must be reimbursed for expenses incurred in the performance of official duties in the amounts provided by law for state officials~~ is entitled to receive the same per diem compensation as provided for members of the legislative council under section 54-35-10, and to reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any member who receives compensation or salary as a regular state employee or official.

SECTION 3. AMENDMENT. Section 4-10.2-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.2-08. Assessments levied - Continuing appropriation. An assessment at the rate of ~~two~~ three cents per hundredweight [45.36 kilograms] must be levied and imposed upon all sunflower, safflower, rapeseed or canola, and crambe grown in the state or sold to a first purchaser, and an assessment at the rate of two cents per bushel [35.24 liters] must be levied and imposed upon all flax grown in the state or sold to a first purchaser. This assessment is due upon any identifiable lot or quantity of sunflower, safflower, rapeseed or canola, crambe, or flax.

A first purchaser of sunflower, safflower, rapeseed or canola, crambe, or flax shall file an application with the council on forms prescribed and furnished by the council which must contain the name under which the first purchaser is transacting business within the state, the place or places of business, the location of loading and shipping places of agents of the first purchaser, the names and addresses of the several persons constituting the firm partnership, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state, and, if a limited liability company, the limited liability company name and the names and addresses of its principal managers and agents within this state. The council shall issue a certificate to the first purchaser. A first purchaser may not sell, process, or ship any sunflower, safflower, rapeseed or canola, crambe, or flax until it has secured a certificate as required by this section.

The first purchaser of sunflower, safflower, rapeseed or canola, crambe, or flax shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate specified in this section by deducting the assessment from the purchase price of all sunflower, safflower, rapeseed or canola, crambe, or flax subject to the assessment and purchased by the first purchaser.

⁵ Section 4-10.2-05 was also amended by section 2 of Senate Bill No. 2052, chapter 432.

Every first purchaser shall keep as a part of its permanent records a record of all purchases, sales, and shipments of raw sunflower, safflower, rapeseed or canola, crambe, or flax, which may be examined by the council at all reasonable times. Every first purchaser shall report to the council stating the quantity of sunflower, safflower, rapeseed or canola, crambe, or flax received, sold, or shipped by it. The report must be made at the times and in the manner prescribed by the council. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid to the council for deposit in the state treasury to the credit of a special revolving account or accounts designated "oilseed fund". All money in the oilseed fund is appropriated on a continuing basis to the council to be used exclusively to carry out the intent and purposes of this chapter. Assessments collected from each crop must be used, for the purposes of this chapter, on each respective crop. However, for flax, emphasis should be given to utilize the assessment, except for that portion of the assessment necessary to administer the flax assessment, for nutritional and therapeutic research. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 3, 1997
Filed April 3, 1997

CHAPTER 63

HOUSE BILL NO. 1339

(Representatives Lloyd, Aarsvold)
(Senators G. Nelson, Wogsland)

DRY BEAN ASSESSMENTS

AN ACT to amend and reenact sections 4-09-08, 4-09-10, 4-09-14.3, 4-10.3-01, 4-10.3-02, 4-10.3-03, 4-10.3-04, 4-10.3-05, 4-10.3-08, 4-10.3-09, 4-24-09, and 4-24-10 of the North Dakota Century Code, relating to the North Dakota dry bean council and the assessment on dry beans; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶ **SECTION 1. AMENDMENT.** Section 4-09-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-09-08. Public laboratory service - Free tests - Fees for additional tests. Any resident of this state may send samples of cereals, flax, sunflower, alfalfa, soybean, and ~~edible~~ dry bean seed to the commissioner for germination tests. No more than three samples per year per person may be examined and reported on free of charge. The commissioner, with the approval of the seed commission, shall prescribe the time of year when seed samples will be accepted for free tests, the fees which will apply to samples submitted by any resident of the state in excess of three, and the fees which will be charged for all other laboratory tests and services.

SECTION 2. AMENDMENT. Section 4-09-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-09-10. Labeling requirements for agricultural seed. Each container of agricultural seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for planting purposes within this state must bear thereon or have attached thereto in a conspicuous place, or there must be properly delivered with bulk sales or movements of said seed, a plainly written or printed label or tag in the English language giving the following information, which statement may not be modified or denied in the labeling or on another label attached to the container:

1. a. In seeds of wheat, durum, barley, oats, rye, soybeans, ~~edible~~ dry beans, and flax the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. Variety identification is not required for seeds labeled "for vegetative cover only".

⁶ Section 4-09-08 was also amended by section 1 of House Bill No. 1434, chapter 59.

- b. In all other seeds not named in subdivision a the commonly accepted name of the kind or the kind and variety of each agricultural seed component in excess of five percent of the whole and the percentage of weight of each.
 - c. When more than ten percent of the whole consists of an aggregate of agricultural seed components, each present in an amount not exceeding five percent of the whole, each component in excess of one percent of the whole must be named together with the percentage by weight of each. All components must be listed in the order of their predominance. Where more than one component is named, the word "mixture", or the word "mixed", must be shown conspicuously on the label.
2. Lot number or other lot identification.
3. Origin, state or foreign country where grown. If the origin is unknown, that fact must be stated.
4. Percentage by weight of all weed seeds.
5. The name and rate of occurrence per pound [453.59 grams] of each kind of restricted noxious weed seeds present, if the restricted noxious weed seeds are present singly or collectively in amounts:
 - a. In seeds of grasses and small seeded legumes, in excess of thirteen seeds per pound [453.59 grams]; and
 - b. In other agricultural seeds including the cereals, oil seed crops, millets, and seeds of similar size, in excess of five seeds per pound [453.59 grams].
6. Percentage by weight of agricultural seed which may be designated as crop seed, other than those required to be named on the label.
7. Percentage by weight of inert matter.
8. For each agricultural seed:
 - a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired.
 - b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired.
 - c. The calendar month and year the test was completed to determine such percentages.
9. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state.
10. For treated seeds as defined in this chapter, for which a separate label may be used:
 - a. A word or statement indicating that the seed has been treated;

- b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied seed protectant pesticide; and
 - c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food or feed or oil purposes". The caution for mercurials and similar toxic substances must be a poison statement or symbol.
11. That the seed container itself is a hermetically sealed container as defined by rules adopted by the commissioner.
 12. A disease test result for seedborne diseases. For the purpose of this subsection, the words "disease test result" have the meaning ascribed to them by rules adopted by the commissioner.

SECTION 3. AMENDMENT. Section 4-09-14.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-09-14.3. Fees. The fees required by section 4-09-14.1 shall be pursuant to the following fee schedule:

1. A container containing:

100 to 160 lbs. of seed	eight cents
60 to 99 lbs. of seed	seven cents
30 to 59 lbs. of seed	six cents
15 to 29 lbs. of seed	five cents
1/2 to 14 lbs. of seed	four cents
2. Cereal grains, per 100 pounds [45.36 kilograms], two cents. Flax, soybeans, ~~edible~~ dry beans, per 100 pounds [45.36 kilograms], four cents.
3. Seeds sold in bulk, and not specified in subsection 2, per 100 pounds, [45.36 kilograms], six cents.
4. Whenever seed is sold at wholesale or on consignment or commission in packets of eight ounces [226.80 grams] or less, the fee shall be fifty cents per twenty-five dollars of wholesale value, or fraction thereof, of the packets in the lot container.

SECTION 4. AMENDMENT. Section 4-10.3-01 of the North Dakota Century Code is amended and reenacted as follows:

4-10.3-01. Legislative policy. ~~It is hereby declared that the~~ The production, development, marketing, and promotion of ~~edible~~ dry beans in ~~North Dakota~~ this state is important to the general welfare of the people of North Dakota; ~~that it.~~ It is in the public interest that better methods of production, processing, and marketing of ~~edible~~ dry beans and that advertising and promoting of ~~edible~~ dry beans grown in ~~North Dakota~~ this state be fostered, encouraged, developed, and improved so the ~~edible~~ dry bean industry within the state, the people directly or indirectly employed by said industry and the people of North Dakota should be benefited thereby, the accomplishment of which requires and demands the establishment of a North Dakota ~~edible~~ dry bean council for the purposes and with the objectives of contributing to the stabilization and improvement of the agricultural economy of this

state. This chapter ~~must~~ does not be construed to abrogate or limit in any way the rights, powers, duties, and functions of the office of the commissioner of agriculture or any other agency of the state, but is supplementary thereto and in aid and cooperation therewith; ~~nor may this.~~ This chapter be construed to does not authorize the North Dakota ~~edible~~ dry bean council to engage in competitive business enterprises, it being the intended purpose of this chapter that the council, through research and advertising, shall promote North Dakota-grown ~~edible~~ dry beans.

SECTION 5. AMENDMENT. Section 4-10.3-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.3-02. Definitions. Whenever used in this chapter:

1. "Commissioner" means commissioner of agriculture or the commissioner's designated representative.
2. "Council" means the North Dakota ~~edible~~ dry bean council.
3. "Designated handler" means any person who initially places ~~edible~~ dry beans, whether as an owner, agent, or otherwise, into the channels of trade and commerce, or any person who is engaged in the processing of beans into food for human consumption in any form. A grower selling the grower's unharvested ~~edible~~ dry beans, or delivering the grower's ~~edible~~ dry beans from the farm on which they are produced to storage facilities, packing sheds, or processing plants within the state is not considered to be a designated handler. For the purposes of assessments and reporting, "designated handler", includes a grower selling the grower's unharvested ~~edible~~ dry beans out of state, or delivering the grower's ~~edible~~ dry beans from the farm where they were produced to any storage facilities, packing sheds, or processing plants located outside the state.
4. "~~Edible~~ Dry beans" means any and all varieties of ~~edible~~ dry beans, excluding soybeans, harvested within the state.
5. "Grower" means any person who plants, raises, and harvests ~~edible~~ dry beans from more than ten acres [4.05 hectares].
6. "Hundredweight" means a one hundred pound unit [45.36 kilograms] or a combination of packages making a one hundred pound unit [45.36 kilograms] or any shipment of ~~edible~~ dry beans based on invoices or bills of lading records.
7. "Participating grower" means a grower who has not exempted himself from the payment of taxes on ~~edible~~ dry bean production under this chapter for a particular year, or a grower who is not exempt from the payment of taxes on ~~edible~~ dry bean production under this chapter.
8. "Person" means an individual, partnership, corporation, limited liability company, association, grower, cooperative, or any other business unit.
9. "Processor" means a person who is actively engaged in the processing of ~~edible~~ dry beans for human consumption.

SECTION 6. AMENDMENT. Section 4-10.3-03 of the North Dakota Century Code is amended and reenacted as follows:

4-10.3-03. North Dakota state ~~edible~~ dry bean council - Membership - Election - Term. ~~There is hereby established a~~ The North Dakota ~~edible~~ dry bean council. ~~The council~~ is composed of one participating grower elected from each of the districts established in section 4-10.3-04. The chairman of the council must be a member of the council elected by a majority vote of the council. The commissioner of agriculture is an ex officio member of the council. Every elected council member must 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 is three years and begins on April first of the year of election, except that initially one member must be elected for a three-year term; two members must be elected for two-year terms; and two members must be elected for one-year terms as designated by the commissioner. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter, the member's office is 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~~ Elections must be held ~~within forty-five days after April 20, 1977, and all elections thereafter must be conducted within seventy-five days prior to~~ before April first of each year. No elected member of the council is eligible to serve more than two consecutive three-year terms.

SECTION 7. AMENDMENT. Section 4-10.3-04 of the North Dakota Century Code is amended and reenacted as follows:

4-10.3-04. ~~Edible~~ Dry bean districts - Establishment. The following ~~edible~~ dry bean districts are established for the purpose of dividing the state into districts containing as nearly equal ~~edible~~ dry bean acreages as practicable:

1. District one consists of the counties of Benson, Bottineau, Burke, Cavalier, Divide, McHenry, Mountrail, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, Walsh, Ward, and Williams.
2. District two consists of Grand Forks County.
3. District three consists of the counties of Barnes, Billings, Burleigh, Dunn, Eddy, Foster, Golden Valley, Griggs, Kidder, McKenzie, McLean, Mercer, Nelson, Oliver, Sheridan, Steele, Stutsman, and Wells.
4. District four consists of Traill County.
5. District five consists of the counties of Adams, Bowman, Cass, Dickey, Emmons, Grant, Hettinger, LaMoure, Logan, McIntosh, Morton, Ransom, Richland, Sargent, Sioux, Slope, and Stark.

⁷ **SECTION 8. AMENDMENT.** Section 4-10.3-05 of the North Dakota Century Code is amended and reenacted as follows:

4-10.3-05. Meetings - Quorum - Compensation and expenses of council. A majority of the voting members of the council constitutes a quorum for the transaction of all business in carrying out the duties of the council. ~~All~~ The chairman shall call meetings of the council must be called by the chairman except. ~~The chairman shall call all special meetings which must be called by the chairman~~ on the petition of three council members within seven days of receiving ~~such a~~ the petition. Each member of the council; ~~except the commissioner of agriculture;~~ shall receive the sum of twenty five dollars per day for each day spent in performance of the business of the council and ~~must be reimbursed for expenses incurred in the performance of official duties in the amounts provided by law for state officials is~~ entitled to receive the same per diem compensation as provided for members of the legislative council under section 54-35-10, and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any member who receives compensation or salary as a regular state employee or official.

SECTION 9. AMENDMENT. Section 4-10.3-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.3-08. Tax levies - Collection - Reports - Continuing appropriation. Effective July 1, 1977, an

1. An assessment at the rate of five ten cents per hundredweight [45.36 kilograms] must be levied and imposed upon all edible dry beans grown in the this state, delivered into this state, or sold to a designated handler. This assessment is due upon any identifiable lot or quantity of edible dry beans.
2. A designated handler of edible dry beans shall file an application with the council on forms prescribed and furnished by the council which must 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 designated handler, the names and addresses of the several persons constituting the firm partnership, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state, and, if a limited liability company, the limited liability company name and the names and addresses of its principal managers and agents within this state.
3. The council shall issue a certificate to the designated handler. A designated handler may not sell, process, or ship any edible dry beans until it has furnished a certificate as required by this section.
4. The first designated handler in North Dakota of edible dry beans shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate of five ten cents per hundredweight [45.36 kilograms] by deducting the assessment from the

⁷ Section 4-10.3-05 was also amended by section 3 of Senate Bill No. 2052, chapter 432.

purchase price of all ~~edible~~ dry beans subject to the assessment and purchased by the designated handler.

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

SECTION 10. AMENDMENT. Section 4-10.3-09 of the North Dakota Century Code is amended and reenacted as follows:

4-10.3-09. Nonparticipating growers - Refunds. Any grower subject to the assessment provided in this chapter may, within sixty days following such assessment or final settlement, make application by personal letter to the ~~edible~~ dry bean council for a refund application blank. Upon the return of ~~said~~ the blank, properly executed by the grower, accompanied by a record of the assessment by the designated handler, the grower must be refunded the net amount of the assessment collected. If no request for refund has been made within the period prescribed above then the grower is presumed to have agreed to such assessment. However, a grower, for any reason, having paid the tax more than once on the same ~~edible~~ dry beans, upon furnishing proof of this to the council, is entitled to a refund of the overpayment. The council, to inform the grower, shall develop and disseminate information and instructions relating to the purpose of the ~~edible~~ dry bean 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 ~~edible~~ dry beans.

SECTION 11. AMENDMENT. Section 4-24-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-24-09. Agricultural commodity assessments funds - Investment income allocation. The state treasurer, notwithstanding any other provision of law to the contrary, shall invest in accordance with section 21-10-07 all available moneys in the spud fund, oilseed fund, ~~edible~~ dry bean fund, barley fund, soybean fund, corn fund, honey fund, turkey fund, milk stabilization fund, dairy promotion commission fund, state wheat commission fund, and the beef commission fund. The investment of moneys must be made in cooperation with the governing body of the respective agricultural commodity entity. The state treasurer, by rule, shall establish, in cooperation with the agricultural commodity organizations, guidelines to be followed regarding the investment of moneys in each fund. The state treasurer shall credit twenty percent of the investment income derived from each fund to the general fund in the state treasury as payment for accounting, printing, data processing, legal, and other services when provided without cost by the state to the agricultural commodity

entity. The state treasurer shall credit eighty percent of the investment income derived from each fund to the respective fund.

SECTION 12. AMENDMENT. Section 4-24-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-24-10. Agricultural commodity promotion groups to report to legislative assembly - Report contents. Between the first and tenth legislative day of each regular legislative session, the North Dakota potato council, the North Dakota oilseed council, the North Dakota ~~edible~~ dry bean council, the North Dakota barley council, the North Dakota soybean council, the North Dakota corn utilization council, the North Dakota beekeepers association, the North Dakota turkey federation, the North Dakota milk stabilization board, the North Dakota dairy promotion commission, the North Dakota state wheat commission, and the North Dakota beef commission must file a uniform report at a public hearing before the standing agriculture committee of each house of the legislative assembly. The presiding officer of each house of the legislative assembly may direct that the reports be filed with some other standing committee of that house. Each report must contain a summary of the activities of the commodity group during the current biennium, a single-page uniform statement of revenues and expenditures for the next biennium. Each report, except the reports of the North Dakota beekeepers association and the North Dakota turkey federation, must also include a state auditor's report on the commodity group's single-page uniform statement of revenues and expenditures for the previous two fiscal years.

SECTION 13. EFFECTIVE DATE. This Act becomes effective on July 1, 1997.

SECTION 14. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 3, 1997
Filed April 3, 1997

CHAPTER 64

HOUSE BILL NO. 1185

(Representatives Rennerfeldt, Monson, Aarsvold)
(Senators Kinnoin, Urlacher, Thane)

BARLEY ASSESSMENTS

AN ACT to amend and reenact sections 4-10.4-03, 4-10.4-08, and 4-10.4-12 of the North Dakota Century Code, relating to the state barley council and the tax assessment on barley production.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-10.4-03 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-03. Council - Membership - Election - Term. The council is composed of one participating grower elected from each of the districts established in section 4-10.4-04. The chairman of the council must be an elected member of the council elected by a majority vote of the council. The commissioner is an ex officio member of the council and does not have a vote. Every elected council member must 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 is three years and begins on April first of the year of election, except that initially two members must be elected for a three-year term; two members must be elected for a two-year term; and one member must be elected for a one-year term as designated by the commissioner. Notwithstanding the terms provided for members elected before August 1, 1997, the board, before December 31, 1997, shall determine by lot the order of subsequent elections for its members so that two members are elected for a four-year term during 1998, and one member is elected for a four-year term during each of the subsequent three years. The term of each member elected after July 31, 1997, is four years and begins on April first of the year of election. If at any time during a member's term a member ceases to possess any of the qualifications provided for in this chapter, the member's office is 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. All such elections must be completed at least sixty days prior to expiration of the members' terms. No ~~elected~~ member ~~of serving on~~ the council before August 1, 1997, is eligible to serve more than two consecutive ~~three-year~~ four-year terms. No member elected to the council after July 31, 1997, is eligible to serve more than three consecutive four-year terms.

SECTION 2. AMENDMENT. Section 4-10.4-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.4-08. Tax levied.

1. A tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] must be levied and imposed upon all barley grown in the state, delivered into the state, or sold to a first purchaser in the state. This tax is due upon any identifiable lot or quantity of barley.

2. Every first purchaser of barley shall collect the tax imposed by this section by charging and collecting from the seller the tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] by deducting the tax from the purchase price of all barley subject to the tax and purchased by the first purchaser.
3. Every first purchaser shall keep as a part of its permanent records a record of all purchases, sales, and shipments of barley, which may be examined by the council at all reasonable times. Every first purchaser shall report to the council by the ~~twentieth~~ thirtieth day of each calendar quarter stating the quantity of barley received, sold, or shipped by it; ~~except that if less than twenty five thousand bushels [880.98 cubic meters] have been purchased, in any calendar quarter, the tax may be reported and remitted with the following quarter's return, provided that all taxes collected must be remitted at least annually.~~ The remittance of the tax as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid to the council for deposit in the state treasury to the credit of an account or accounts designated "barley fund" to be used exclusively to carry out the intent and purposes of this chapter. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.
4. The tax provided for by this section must be deducted as provided by this chapter whether the barley is stored or sold in this or any other state, but if agreements have not been made with dealers and first purchasers outside of the state for collecting the tax, the grower shall remit the tax to the council on all barley sold by the grower outside the state.

SECTION 3. AMENDMENT. Section 4-10.4-12 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-12. Penalty for nonpayment of tax. Any first purchaser who fails to pay any tax levied by this chapter on the date the tax becomes due is delinquent ~~and the.~~ The council shall may levy a penalty on the delinquent payments of ten percent of the tax due, plus interest at the rate of six percent per annum from the due date. The council shall collect ~~the~~ any penalty and interest in the manner prescribed by section 4-10.4-11.

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 65**HOUSE BILL NO. 1328**

(Representatives Aarsvold, Lloyd, Nicholas)

SOYBEAN ASSESSMENT REFUNDS

AN ACT to repeal section 4-10.5-08 of the North Dakota Century Code, relating to soybean assessment refunds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 4-10.5-08 of the 1995 Supplement to the North Dakota Century Code is repealed.

Approved March 13, 1997

Filed March 13, 1997

CHAPTER 66

SENATE BILL NO. 2124

(Senator Andrist)

DRY PEA AND LENTIL COUNCIL

AN ACT to provide for the creation of the dry pea and lentil council; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. In this Act, unless the context otherwise requires:

1. "Commissioner" means the commissioner of agriculture or the commissioner's designee.
2. "Council" means the North Dakota dry pea and lentil council.
3. "Dry peas and lentils" means the range of pulse crops including lentils, dry peas, chickpeas, and lupins.
4. "First purchaser" means any person, firm, corporation, association, partnership, agent, or broker buying, accepting for sale, or otherwise acquiring dry peas and lentils after harvest from a grower. The term includes a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, when the actual or constructive possession of lentils and dry peas is taken as part of payment of or in satisfaction of the mortgage, pledge, lien, or claim.
5. "Grower" means any person who plants, raises, or harvests dry peas and lentils, and includes both the owner and the tenant jointly, a person, partnership, association, corporation, limited liability company, cooperative, trust, sharecropper, and any other, and all business units, devices, and arrangements.
6. "Participating grower" means a grower who has not claimed any refunds for the payment of taxes on dry peas and lentils produced under this Act for the previous or current year.

SECTION 2. Dry pea and lentil council - Membership - Term. There is a North Dakota dry pea and lentil council. The council is composed of one participating grower elected from each of the districts established in section 4 of this Act. The chairman of the council must be a member of the council elected by a majority vote of the council. The commissioner of agriculture is an ex officio member of the council. Every elected member of the council must 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 is three years and begins on April first of the year of election, except that initially one member must be elected for a three-year term; two members must be elected for two-year terms; and two members must be elected for one-year terms as designated by the commissioner. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this Act, the member's office is deemed vacant and the council, by majority vote, shall appoint another qualified grower from the affected district for

the remainder of the term of the office vacated. No elected member of the council is eligible to serve more than three consecutive three-year terms.

SECTION 3. Dry pea and lentil council - Election. 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 must be held within forty-five days after the effective date of this Act, and all elections thereafter must be conducted prior to April first. Prospective candidates for the council must have planted dry peas or lentils in the previous year or intend to plant dry peas or lentils in the coming year. County election meetings are to be announced in the official newspaper of the county not less than five days nor more than thirteen days prior to the meeting. Any current or prospective participating dry pea and lentil grower is eligible to vote. Elected county representatives shall then meet in district caucus to elect one person from that group to act as the district representative.

SECTION 4. Dry pea and lentil districts - Establishment. The following dry pea and lentil districts are established for the purpose of dividing the state into districts containing as nearly equal dry pea and lentil acreage as practicable:

1. District one consists of the counties of Burke, Divide, McKenzie, Mountrail, and Williams.
2. District two consists of the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, and Slope.
3. District three consists of the counties of Benson, Bottineau, McHenry, Pierce, Renville, Rolette, Towner, and Ward.
4. District four consists of the counties of Burleigh, Emmons, Kidder, Logan, McIntosh, McLean, Sheridan, and Wells.
5. District five consists of all remaining North Dakota counties where dry peas and lentils are grown.

⁸ **SECTION 5. Meetings - Quorum - Compensation of council members.** A majority of the voting members of the council constitute a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of three council members within seven days of receiving the petition. Each member of the council is entitled to receive the same per diem compensation as provided for members of the legislative council under section 54-35-10, and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council, except that no compensation under this section may be paid to any member who receives compensation or salary as a regular state employee or official.

⁸ Section 4-10.7-05 was amended by section 9 of Senate Bill No. 2052, chapter 432.

SECTION 6. Expenditure of funds. The council or its designated agent shall maintain an account of all receipts as authorized by this Act. Expenditures of funds made pursuant to this Act must be recorded on itemized vouchers and records maintained in accordance with standards adopted by the state auditor. The accounts and records of the council are open to inspection by the designated state auditors without notice.

SECTION 7. Council powers and duties. In the administration of this Act, the council may:

1. Contract and cooperate with any person or with any governmental department or agency for research, education, publicity, promotion, and transportation for purposes of this Act.
2. Expend funds collected pursuant to this Act for its administration.
3. Appoint, employ, bond, discharge, fix the compensation for, and prescribe the duties of such administrative, clerical, technical, and other personnel as it deems necessary.
4. Accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the council.
5. Investigate and prosecute in the name of the state any action or suit to enforce the collection or ensure payment of the taxes authorized by this Act, and to sue and be sued in the name of the council.
6. Formulate the general policies and programs of markets and industries for the utilization of dry peas and lentils grown within the state.

SECTION 8. Certification of first purchasers. A first purchaser of dry peas and lentils shall file an application with the council on forms prescribed and furnished by the council. The forms must contain the name under which the first purchaser is transacting business within the state, the first purchaser's places of business, the location of loading and shipping places of agents of the first purchaser, 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 first purchaser. A first purchaser may not sell, process, or ship any dry peas or lentils until the first purchaser has furnished a certificate as required by this section.

SECTION 9. Assessment. Effective on the effective date of this Act, an assessment at the rate of one percent of the net value of dry peas and lentils must be levied and imposed upon all dry peas and lentils grown in the state or sold to a first purchaser. This assessment is due upon any identifiable lot or quantity of dry peas or lentils.

SECTION 10. Collection of assessment. Every first purchaser of dry peas or lentils shall collect the assessment from the seller by deducting the assessment from the net purchase price of all dry peas and lentils subject to the assessment and purchased by the first purchaser.

Each first purchaser shall keep as part of the first purchaser's permanent records a record of all purchases, sales, and shipments of dry peas and lentils, which may be examined by the council at any and all reasonable times. Each first

purchaser shall report to the council, in a manner and at a time prescribed by the council, the quantity in individual and total amounts of dry peas and lentils received, sold, or shipped by the first purchaser. The report must state from whom each individual amount was received. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this Act must be paid within thirty days of the end of each calendar quarter. Regular audits of the council's accounts may be conducted in accordance with chapter 54-10 and submitted to the commissioner.

SECTION 11. Nonparticipating growers - Refunds. Any grower subject to the assessment provided by this Act, within sixty days following the assessment or final settlement, may apply to the council for a refund application. Upon the return of the properly executed refund application and within sixty days of the date it was mailed to the grower, and accompanied by a record of the assessment collected the council shall issue a refund to the grower. If no request for refund is made within sixty days of sale, then the grower is presumed to have agreed to the assessment. However, a grower, having paid the tax more than once on the same dry peas or lentils, is entitled to a refund of the overpayment upon furnishing proof to the council.

The council, to inform the grower, shall develop and disseminate information and instructions relating to the purpose of the dry pea and lentil tax and manner in which refunds may be claimed, and to this extent shall cooperate with governmental agencies and private businesses engaged in the purchase of dry peas and lentils.

SECTION 12. Advisory referendum by growers. Whenever fifteen percent of the participating growers, with not more than fifty percent of the signatory parties from any one district, as disclosed by the records of the council for the preceding year, petition the council, the council shall conduct an advisory referendum among the participating growers of the state to determine whether they wish the legislative assembly to raise or lower the tax imposed by section 9 of this Act. The advisory referendum may be conducted only among participating growers who have paid all taxes assessed pursuant to this Act for the preceding year, and the ballots must be prepared by the council and mailed to each participating grower at least thirty days prior to the last date for filing ballots. In addition, each ballot must be accompanied by a notice to each participating grower:

1. Of the date of the filing of the petition by the growers for the referendum and the number of signatures contained thereon.
2. Of the date and place where the council will open and tabulate the ballots, which may not be less than five days after the last date for filing the ballots.
3. Of the last date upon which ballots may be filed with the council, or postmarked if delivered to the council by mail.
4. That any participating grower may attend the meeting of the council at the time the ballots are opened and the votes tabulated.

If the majority of the participating growers voting upon the question are in favor of the proposed change, the council shall certify the result to the commissioner with the request that the commissioner prepare a bill to implement the change and to submit it to the next legislative assembly.

SECTION 13. Collection of unpaid assessments. If a first purchaser fails to pay the assessment as provided in this Act, the council may enforce collection in any appropriate court within the state.

SECTION 14. Penalty for nonpayment of assessments. A first purchaser who fails to pay any assessment levied by this Act on the date that the assessment becomes due is delinquent and the council may levy a penalty on the delinquent payments of ten percent of the assessment due, plus interest at the rate of twelve percent per annum from the due date. The penalty and interest must be collected in the manner prescribed by this Act.

SECTION 15. Continuing appropriation. All funds received by the council pursuant to this Act are hereby appropriated as a standing and continuing appropriation for the purposes of this Act.

SECTION 16. Records of the council - Inspection. All records of the council, including acreage reports, tax returns, claims of exemption, and any other data, records, or information retained by the council are public information and must be made available within a reasonable amount of time for the inspection of any person for any lawful purpose during regular business hours at the office of the council.

SECTION 17. Penalty. Any person who willfully violates this Act is guilty of a class B misdemeanor.

Approved March 21, 1997
Filed March 21, 1997

CHAPTER 67

HOUSE BILL NO. 1059

(Legislative Council)
(Government Organization Committee)

POULTRY ADVISORY BOARD REPEALED

AN ACT to amend and reenact sections 4-13.2-03 and 19-07-02 of the North Dakota Century Code, relating to the poultry advisory board; and to repeal section 4-13.2-04 of the North Dakota Century Code, relating to the poultry advisory board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-13.2-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-13.2-03. Purposes - Duties. The commissioner of agriculture may ~~promulgate~~ adopt rules and regulations pursuant to chapter 28-32 to effectuate the purposes of this chapter, and the commissioner of agriculture, or the commissioner's designee, shall enforce ~~the provisions of this chapter. It is the duty of the~~ The commissioner of agriculture ~~to~~ shall:

1. Work toward improving poultry breeding and ~~to~~ cooperate with the board of animal health in controlling and eradicating communicable diseases of poultry.
2. Act as the official state agency for North Dakota in cooperation with the bureau of animal industry, United States department of agriculture, for the purpose of furthering the objectives and supervising the state's participation in the national poultry improvement plan.
3. Act as the state agency to cooperate with the United States department of agriculture, to provide federal-state grading service for poultry and poultry products offered for sale at the retail level, to supervise the federal-state poultry grading service, and to enforce regulations at the retail level as to identification by grade of all poultry sold.
4. Promote generally the welfare and improvement of the poultry industry and the marketing of poultry and poultry products within the state through such means and in such manner as may be deemed by the commissioner conducive to such improvement.
5. Enforce the licensing and bonding requirements provided by this chapter.
6. Administer ~~the "Turkey Promotion Act", as provided in~~ chapter 4-13.1, at the advice of the North Dakota turkey federation.
7. ~~Consult with the advisory board as to the selection of the individual who would represent the poultry division in the department of agriculture if a change in personnel should be needed.~~

SECTION 2. AMENDMENT. Section 19-07-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-07-02. Rulemaking power. The commissioner of agriculture, ~~after consultation with the poultry advisory board,~~ may adopt appropriate rules pursuant to chapter 28-32 to establish registration of egg dealers and to establish standards for candling, grading, and inspecting eggs as to size, quality, purity, strength, holding requirements, transportation, labeling, and sanitation. The commissioner of agriculture must be guided in establishing ~~such~~ the standards by United States department of agriculture regulations governing the grading and inspecting of eggs ~~after consultation with the poultry advisory board.~~ The state department of health may adopt appropriate rules pursuant to chapter 28-32 to establish standards for proper labeling and temperature during the retail storage and sale of shell eggs.

SECTION 3. REPEAL. Section 4-13.2-04 of the 1995 Supplement to the North Dakota Century Code is repealed.

Approved February 11, 1997

Filed February 11, 1997

CHAPTER 68

SENATE BILL NO. 2172 (Senators Watne, Schobinger)

SOIL CONSERVATION DISTRICT ELECTIONS

AN ACT to amend and reenact sections 4-22-17, 4-22-22, and 4-22-48 of the North Dakota Century Code, relating to the election of soil conservation district supervisors and consolidation of soil conservation districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-22-17 of the North Dakota Century Code is amended and reenacted as follows:

4-22-17. Nominating petitions - Petitions required - Final filing date. Any person running for the office of supervisor shall present to the county auditor of the county in which the district lies a petition giving that person's name; ~~post-office and mailing address;~~ and the title and term of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. When a district lies in more than one county, the petition must be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties in which such district lies the name and mailing address of the candidate filing such petition. At the same time, the county auditor, or auditors in the case of multicounty districts, shall also certify to the secretary of state the name and mailing address of each person filing a nominating petition according to this section. No person may participate directly or indirectly in the nomination for more than one person for each office to be filled. The final filing date for nominating petitions is no later than sixty days before the day of the election and not later than four p.m. of such day.

Upon receipt of the petition or the certification as provided in this section, the county auditor shall without fee place the name of the candidate so nominated on the no-party ballot at the ensuing general election.

⁹ **SECTION 2. AMENDMENT.** Section 4-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses. At the general election to be held in 1972, three district supervisors must be elected. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors must be elected at the first general election following the district's

⁹ Section 4-22-22 was also amended by section 1 of House Bill No. 1088, chapter 69, and section 32 of Senate Bill No. 2064, chapter 50.

organization. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state ~~within fifteen days~~ before four p.m. on the tenth day following any general election a certified abstract of the votes cast in the county at such election for each candidate for district supervisor. ~~At the time that the county auditor transmits the certified abstract of the votes cast for each candidate, the county auditor shall file with the secretary of state a certificate showing the name and address of each candidate.~~ The secretary of state shall canvass the returns and issue certificates of election under chapter 16.1-15.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates must be elected on a nonpartisan ballot. In case the office of any supervisor, for any reason, becomes vacant, the remaining members of the board of supervisors shall, with the advice and consent of the ~~state~~ committee, fill the vacancy by appointment. If vacancies occur in the office of two supervisors, the remaining supervisor and the ~~state~~ committee shall fill the vacancy; and in case the offices of all supervisors of a district become vacant, the ~~state~~ committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy holds office until the next general election. A supervisor elected to fill a vacancy serves the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors must be appointed by a majority of the three elected supervisors and have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors must be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the ~~state~~ committee.

The supervisors of soil conservation districts are entitled to receive, upon a majority vote of the supervisors, twenty-five dollars for attending each regular or special meeting as compensation for their services. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other meetings approved by the state soil conservation committee, which expenses must be paid from appropriations available to the state committee. The compensation and all other expenses including travel incurred by district supervisors while transacting district business and not specifically authorized by the state soil conservation committee must be paid from district funds.

¹⁰ **SECTION 3. AMENDMENT.** Section 4-22-48 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-22-48. Conduct of referendum - Canvass of votes. A referendum upon the question of consolidating two or more soil conservation districts must be conducted in accordance with the laws of the state prescribing the conduct of general elections. After the polls are closed, the board of election shall ~~proceed to~~ canvass the votes and the clerk of the board shall certify to the board of supervisors of the clerk's district and to the state committee the result of the referendum. ~~The clerk shall then securely wrap the ballots cast at the referendum and shall express or mail the ballots to the secretary of the state committee. The committee shall also canvass the ballots and verify the result. The secretary of the committee shall file the ballots in the secretary's office. Upon the expiration of two years after such ballots were canvassed by the state committee they may be destroyed.~~

The state committee shall publish the results of the referendum ~~after having canvassed the ballots and if the committee finds that~~ and if a majority of the ballots cast on the question in each district are for consolidation, the committee shall file with the secretary of state a statement certifying that the consolidated district has been duly and regularly established.

Approved March 19, 1997
Filed March 19, 1997

¹⁰ Section 4-22-48 was also amended by section 34 of Senate Bill No. 2064, chapter 50.

CHAPTER 69

HOUSE BILL NO. 1088

(Representatives Jacobs, Kempenich, Sabby)
(Senators Krauter, Heitkamp)

SOIL CONSERVATION DISTRICT SUPERVISOR COMPENSATION

AN ACT to amend and reenact section 4-22-22 of the North Dakota Century Code, relating to the compensation of soil conservation district supervisors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹ **SECTION 1. AMENDMENT.** Section 4-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses. At the general election to be held in 1972, three district supervisors must be elected. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors must be elected at the first general election following the district's organization. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state within fifteen days following any general election a certified abstract of the votes cast in the county at ~~such~~ the election for each candidate for district supervisor. At the time that the county auditor transmits the certified abstract of the votes cast for each candidate, the county auditor shall file with the secretary of state a certificate showing the name and address of each candidate.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates must be elected on a nonpartisan ballot. In case the office of any supervisor, for any reason, becomes vacant, the remaining members of the board of supervisors shall, with the advice and consent of the state committee, fill the vacancy by appointment. If vacancies occur in the office of two supervisors, the remaining supervisor and the state committee shall fill the vacancy; and in case the offices of all supervisors of a district become vacant, the state committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy holds office until the next general election. A supervisor

¹¹ Section 4-22-22 was also amended by section 2 of Senate Bill No. 2172, chapter 68, and section 32 of Senate Bill No. 2064, chapter 50.

elected to fill a vacancy serves the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors must be appointed by a majority of the three elected supervisors and have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors must be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the state committee.

The supervisors of soil conservation districts are entitled to receive, upon a majority vote of the supervisors, up to twenty-five dollars for attending each regular or special meeting or for attending other meetings or events in the performance of their official duties as compensation for their services. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other meetings ~~approved by the state soil conservation committee, which expenses must be paid from appropriations available to the state committee.~~ The compensation and all other expenses including travel incurred by district supervisors while transacting district business ~~and not specifically authorized by the state soil conservation committee~~ must be paid from district funds.

Approved March 5, 1997
Filed March 6, 1997

CHAPTER 70

HOUSE BILL NO. 1362

(Representatives Gerntholz, Huether, Sabby)
(Senators Robinson, Wanzek)

AGRICULTURAL HALL OF FAME

AN ACT to create and enact two new sections to chapter 4-24 of the North Dakota Century Code, relating to induction in the North Dakota agricultural hall of fame; and to amend and reenact section 4-24-08 of the North Dakota Century Code, relating to the North Dakota agricultural hall of fame.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-24-08 of the North Dakota Century Code is amended and reenacted as follows:

4-24-08. North Dakota winter show - Official site. ~~The official site of the North Dakota winter show, an annual exhibition, is designated to be the city of held in Valley City. No other event may be designated as, nor call itself, the North Dakota winter show, or any similar name designed to confuse the public with the exhibition sponsored every year in the city of Valley City by the North Dakota winter show, a nonprofit corporation organized under the laws of this state. The North Dakota winter show is the official site of the North Dakota agricultural hall of fame.~~

SECTION 2. Two new sections to chapter 4-24 of the North Dakota Century Code are created and enacted as follows:

North Dakota agricultural hall of fame - Establishment - Induction. The North Dakota agricultural hall of fame is established for the purpose of honoring individuals who have made outstanding contributions to the state's agricultural industry.

1. To be eligible for induction into the North Dakota agricultural hall of fame, an individual must:
 - a. Have reached the age of forty-five;
 - b. Have been involved in the state's agricultural industry for a minimum of twenty years; and
 - c. Be nominated for induction by a member of the North Dakota agricultural hall of fame committee.
2. The nomination provided for in this section must be in writing and must include the nominee's personal history, including education, employment, history of contributions to and achievements in the state's agricultural industry, participation in professional organizations, career-related activities and civic contributions, honors, and awards, if possible a statement from the candidate, and the date and signature of the nominator.

3. The North Dakota agricultural hall of fame committee shall select inductees by majority vote. The selections must be based on the nominee's record of accomplishment in the state's agricultural industry. The committee shall give due consideration to the nominee's participation in organizations represented by members of the North Dakota agricultural hall of fame committee.

North Dakota agricultural hall of fame committee - Members.

1. The North Dakota agricultural hall of fame committee consists of the following individuals, each of whom must be selected by the governing body of the entity or the official to be represented:
 - a. A representative of the North Dakota winter show;
 - b. A representative of agricultural media;
 - c. A representative of vocational agriculture;
 - d. A representative of the North Dakota stockmen's association;
 - e. A representative of the North Dakota grain growers association;
 - f. A representative of the North Dakota oilseed council;
 - g. A representative of county extension agents;
 - h. A representative of the commissioner of agriculture;
 - i. A representative of the North Dakota pork producers;
 - j. A representative of the North Dakota sheep producers;
 - k. A representative of the national agricultural marketing association;
 - l. A representative of the North Dakota implement dealers association;
 - m. A representative of the North Dakota farm bureau;
 - n. A representative of the North Dakota farmers union;
 - o. A representative of the national farmers organization.
2. The committee, by a two-thirds majority, may add a new agricultural organization to the North Dakota agricultural hall of fame committee. The committee, by a majority, may remove the name of an organization that no longer exists from the North Dakota agricultural hall of fame committee.
3. The representative of the North Dakota winter show shall serve as the chairman of the committee and the secretary of the North Dakota winter show shall serve as the secretary of the committee. The chairman shall determine the time and location of all committee meetings.

4. The committee may induct no more than three nominees into the North Dakota agricultural hall of fame in 1998 and no more than two nominees each year thereafter. Any person who is nominated for induction into the North Dakota agricultural hall of fame and receives at least one vote is automatically considered for induction the following year. The nominee may provide the committee with updated or additional information to be considered.

5. The committee shall select the inductees by secret ballot and shall announce the selection at the North Dakota agricultural hall of fame banquet, to be held each year during the North Dakota winter show. Inductees must receive a plaque and have their photographs displayed at the North Dakota agricultural hall of fame.

Approved April 3, 1997

Filed April 3, 1997

CHAPTER 71

HOUSE BILL NO. 1115

(Agriculture Committee)

(At the request of the Wheat Commission)

WHEAT TAX LEVY

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-28-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-28-07. Wheat tax levy. A tax of ~~five~~ eight mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels to a first purchaser in this state. The tax must 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 [liters] are not accurately determined at the time of the lien, pledge, or mortgage. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in ~~such~~ the manner as prescribed by the commission ~~may prescribe~~.

Any producer who sells wheat to a first purchaser in this state and who is subject to the deduction provided in this chapter ~~may~~, within sixty days following ~~such~~ the deduction or final settlement, may make application by personal letter to the wheat commission for a refund application blank. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected. If no request for refund has been made within the period prescribed above, then the producer is presumed to have agreed to ~~such~~ the 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, is 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 April 3, 1997

Filed April 3, 1997

CHAPTER 72**HOUSE BILL NO. 1433**

(Representatives D. Johnson, Brandenburg, Nelson)
(Senators O'Connell, Wanzek, Solberg)

PESTICIDE CONTROL BOARD FUNDS

AN ACT to create and enact a new section to chapter 4-35 of the North Dakota Century Code, relating to the receipt of funds by the pesticide control board to establish a minor use pesticide fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

Commissioner of agriculture - Pesticide control board - Recovery of funds.

The commissioner of agriculture may accept, on behalf of the pesticide control board, funds received for expenses paid by the pesticide control board relating to the registration of pesticides or donations offered to or for the benefit of the pesticide control board. All moneys received under this section must be deposited in the minor use pesticide fund to pay expenses relating to the registration of pesticides or for the specific purpose for which they are given. The pesticide control board shall attempt, whenever possible, to recover funds expended relating to the registration of pesticides and shall adopt rules to administer provisions of this section.

SECTION 2. MINOR USE PESTICIDE FUND - CONTINUING APPROPRIATION. The minor use pesticide fund is created as a special fund in the state treasury. All moneys in the fund are appropriated on a continuing basis to the pesticide control board for the purpose of conducting or commissioning studies, investigations, and evaluations regarding the registration and use of pesticides for minor crops, minor uses, and emergency uses.

SECTION 3. TRANSFER. The office of management and budget shall transfer \$250,000, or so much of the sum as may be necessary, from the environment and rangeland protection fund to the minor use pesticide fund, for the biennium beginning July 1, 1997, and ending June 30, 1999.

Approved April 8, 1997
Filed April 8, 1997

CHAPTER 73

SENATE BILL NO. 2315 (Senators Thane, Krauter, Tomac) (Representatives Carlisle, Thompson)

CHEMICAL APPLICATOR FINANCIAL RESPONSIBILITY

AN ACT to create and enact a new section to chapter 4-35 of the North Dakota Century Code, relating to proof of financial responsibility for persons engaged in commercial chemical application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

Proof of financial responsibility. A commercial pesticide applicator certificate may not be issued or renewed unless the applicant furnishes proof of financial responsibility as provided in this section. Minimum financial responsibility must be demonstrated annually in the amount of one hundred thousand dollars, and may be demonstrated by a notarized letter from an officer of a financial institution or from a certified public accountant attesting to the existence of net assets equal to at least one hundred thousand dollars, a performance bond, or a general liability insurance policy. The performance bond or insurance policy must contain a provision requiring the issuing company to notify the commissioner of agriculture at least ten days before the effective date of cancellation, termination, or other modification of the bond or insurance policy. The commissioner of agriculture must immediately request the suspension of the certification of a person who fails to maintain the minimum financial responsibility standards of this section. If there is any recovery against the certificate holder, the holder must demonstrate continued compliance with the minimum standards of this section. An employee of a commercial pesticide application business is not required to meet these standards separately if the business documents compliance with the minimum financial responsibility standards of this section. An application for reinstatement of a suspended certificate under this section must be accompanied by proof of satisfaction of any judgment previously rendered. A rancher is exempt from this section if the rancher is required to obtain a commercial pesticide applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1998.

Approved April 2, 1997
Filed April 3, 1997

CHAPTER 74

SENATE BILL NO. 2083

(Senators Tomac, G. Nelson)

(Representatives Aarsvold, Nicholas)

(At the request of the Commissioner of Agriculture)

PESTICIDE AND CONTAINER DISPOSAL PROGRAM

AN ACT to provide for the continuation of an agricultural pesticide and pesticide container disposal program; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Pesticide and pesticide container disposal program - Pesticide container management - Compensation.

1. The definitions contained in section 4-35-05 apply to this section.
2. In consultation with an advisory board consisting of the state health officer, director of the North Dakota state university extension service, two individuals representing agribusiness organizations, and two individuals representing farm organizations, all of whom must be selected by the commissioner of agriculture, the commissioner of agriculture shall continue to implement the project authorized by section 1 of chapter 72 of the 1995 Session Laws, which is known as project safe send. The purpose of the project is to:
 - a. Collect and either recycle or dispose of unusable pesticides and empty pesticide containers. The commissioner shall provide for the establishment and operation of temporary collection sites for the containers and pesticides. The commissioner may limit the type and quantity of containers and pesticides acceptable for collection.
 - b. Promote proper pesticide container management. In consultation with the director of the North Dakota state university extension service, the commissioner shall promote proper methods of pesticide container management, including information on the variety of pesticide containers available.
 - c. Evaluate recycling options and investigate markets and business opportunities to encourage recycling of containers for resource recovery.
3. Any entity collecting pesticide containers or unusable pesticides shall manage and dispose of the containers and pesticides in compliance with applicable federal and state requirements. When called upon, any state agency shall assist the commissioner in implementing the project.
4. For services rendered in connection with the design and implementation of this project, the members selected by the commissioner of agriculture are entitled to reimbursement for mileage and travel expenses in the same manner and for the same amounts provided for state employees

and officials. Compensation and expense reimbursement must be paid from the environment and rangeland protection fund.

SECTION 2. Project scope and evaluation - Proposed legislation. The project described in section 1 of this Act must occur in areas to be determined by the commissioner of agriculture in consultation with the advisory board under subsection 2 of section 1 of this Act. Before December 12, 1998, the commissioner of agriculture shall determine whether the project implemented and continued under section 1 of this Act should be continued. If the commissioner determines that the project should be continued or expanded, the commissioner shall introduce appropriate legislation in the fifty-sixth legislative assembly.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 1999, and after that date is ineffective.

Approved April 2, 1997
Filed April 3, 1997