

**HOUSE BILL NO. 1276**

Introduced by

Representative Berg

Senator Solberg

1 A BILL for an Act to create and enact a new section to chapter 36-01, a new section to chapter  
2 36-05, and a new section to chapter 36-14 of the North Dakota Century Code, relating to the  
3 confiscation of nontraditional livestock, livestock unfit for sale, and animals imported into the  
4 state; to amend and reenact sections 36-01-05, 36-01-07, 36-01-08, 36-01-08.1, 36-01-08.3,  
5 36-01-08.4, 36-01-13, 36-01-14, 36-01-28, 36-05-01, subsection 4 of section 36-05-13.2,  
6 sections 36-07-07, 36-14-10, 36-14-20, 36-14-21, 36-15-01, 36-15-02, 36-15-08.1, 36-15-09,  
7 36-15-14, 36-15-19, 35-15-21, 36-15-22, and subsection 1 of section 36-21.1-06 of the North  
8 Dakota Century Code, relating to the board of animal health, livestock auction markets,  
9 rendering plants, contagious and infectious livestock diseases, tuberculosis and brucellosis  
10 eradication in animals, and humane treatment of animals; to repeal sections 36-14-04,  
11 36-14-05, 36-14-06, 36-14-07, 36-15-08, and 36-15-12 of the North Dakota Century Code,  
12 relating to horses, cattle, sheep, and swine imported into the state, compensation for owners of  
13 animals infected with tuberculosis or paratuberculosis, and bovine tuberculosis and brucellosis  
14 funds; and to provide a penalty.

**15 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

16 **SECTION 1. AMENDMENT.** Section 36-01-05 of the 1997 Supplement to the North  
17 Dakota Century Code is amended and reenacted as follows:

18 **36-01-05. State veterinarian - Appointment.** The commissioner shall, with the  
19 consent of the board, appoint the state veterinarian and deputy state veterinarian. ~~However,~~  
20 ~~the commissioner's first appointments to the positions of state veterinarian and deputy state~~  
21 ~~veterinarian must be the persons serving in those capacities for the board of animal health on~~  
22 ~~the day before August 1, 1995.~~ The state veterinarian and deputy state veterinarian must be  
23 competent and skilled veterinarians and graduates of a veterinary medicine and surgery course  
24 at a recognized college or university. The commissioner may remove the state veterinarian or

1 deputy state veterinarian for cause. At the request of the board, the commissioner shall  
2 deputize persons licensed to practice veterinary medicine in this state as assistant state  
3 veterinarians. Deputized persons shall serve during periods of emergency and only for the time  
4 period determined by the board.

5 **SECTION 2. AMENDMENT.** Section 36-01-07 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **36-01-07. ~~Bacteriologist and consulting~~ Consulting veterinarian of board - Duties**  
8 **- Compensation.** ~~The professor of veterinary science of the North Dakota state university of~~  
9 ~~agriculture and applied science shall~~ board shall choose a veterinarian on staff at North Dakota  
10 state university to act as bacteriologist and consulting veterinarian to the board. The  
11 ~~bacteriologist~~ term of appointment is open and at the will of the board. At the discretion of the  
12 board, the consulting veterinarian, or any United States department of agriculture approved  
13 laboratory shall make bacteriological or pathological diagnostic examinations of all diseased  
14 animals or portions thereof or of such material as may be forwarded to the bacteriologist by the  
15 board or the commissioner's duly authorized agents. The bacteriologist shall furnish material  
16 ~~for the diagnosis of contagious diseases and instruction as to its use.~~ For services, the  
17 ~~bacteriologist~~ consulting veterinarian or United States department of agriculture approved  
18 laboratory is entitled to receive such compensation as the commissioner may deem proper,  
19 which must be paid out of the fund appropriated for the use of the commissioner.

20 **SECTION 3. AMENDMENT.** Section 36-01-08 of the 1997 Supplement to the North  
21 Dakota Century Code is amended and reenacted as follows:

22 **36-01-08. Duties - Rules - Fees.** The board shall protect the health of the domestic  
23 animals and nontraditional livestock of this state, shall determine and employ the most efficient  
24 and practical means for the prevention, suppression, control, and eradication of dangerous,  
25 contagious, and infectious diseases among the domestic animals and nontraditional livestock of  
26 this state, and shall prevent the escape and release of an animal injurious to or competitive with  
27 agriculture, horticulture, forestry, wild animals, and other natural resource interests. For the  
28 purpose of preventing the escape and release of an animal injurious to or competitive with  
29 agriculture, horticulture, forestry, wild animals, and other natural resource interests, the board  
30 may, by rule, quarantine any such animal, cause any such animal to be killed, regulate or  
31 prohibit the arrival in or departure from this state of any such animal, and at the cost of the

1 owner thereof, the board may detain any animal found to be in violation of any rule or  
2 prohibition. Any matter relating to the health and welfare of domestic animals and  
3 nontraditional livestock and not specifically assigned by statute to another entity is deemed to  
4 be within the authority of the board. The board may make rules to carry into effect the purposes  
5 of this chapter and other duties prescribed in this title. The commissioner shall collect six cents  
6 for each brucellosis tag and each identification tag and eight dollars for each health book the  
7 commissioner distributes. The fees collected by the commissioner must be deposited in the  
8 state general fund.

9 **SECTION 4. AMENDMENT.** Section 36-01-08.1 of the 1997 Supplement to the North  
10 Dakota Century Code is amended and reenacted as follows:

11 **36-01-08.1. ~~Captive wildlife~~ Nontraditional livestock license - Fee.** The board of  
12 animal health may require a license for ~~captive wildlife~~ nontraditional livestock maintained within  
13 this state. The annual fee for a license for a bird species required to be licensed is ~~five~~ ten  
14 dollars. The maximum annual fees for bird species licenses to be paid by a person holding  
15 more than one bird species license is ~~twenty-five~~ fifty dollars. The annual fee for a license for  
16 any other species required to be licensed is ~~ten~~ twenty dollars. The maximum annual fees for  
17 nonbird species licenses to be paid by a person holding more than one nonbird species license  
18 is ~~seventy-five~~ one hundred twenty-five dollars.

19 **SECTION 5. AMENDMENT.** Section 36-01-08.3 of the 1997 Supplement to the North  
20 Dakota Century Code is amended and reenacted as follows:

21 **36-01-08.3. Duties - Evaluations - Report.** The board and the commissioner shall  
22 conduct performance evaluations of the state veterinarian and any assistant state veterinarians;  
23 ~~review the short term and the long term role and mission of the board and its employees;~~  
24 ~~review alternatives for the enhancement of, and the efficient delivery of, services provided by~~  
25 ~~the board and its employees; and evaluate the consolidation and cooperation with the~~  
26 ~~department of agriculture. The board shall report to the governor and the legislative council~~  
27 ~~before September 1, 1996, and each year thereafter.~~

28 **SECTION 6. AMENDMENT.** Section 36-01-08.4 of the 1997 Supplement to the North  
29 Dakota Century Code is amended and reenacted as follows:

30 **36-01-08.4. Ownership of skunks and raccoons prohibited - Exception - Rules -**  
31 **Penalty on primates, wolves, and wolf hybrids.** ~~No~~ A person may not keep a skunk or

1 raccoon in captivity. This section does not apply to a zoo licensed by the ~~regulatory~~  
2 ~~enforcement~~ and animal care program of the animal and plant health inspection service of the  
3 United States department of agriculture. The state veterinarian shall confiscate and dispose of  
4 any animal kept in violation of this section. The board shall adopt rules governing the keeping  
5 of a primate, wolf, or wolf hybrid in captivity and to implement this section. As used in this  
6 section, "primate" does not include a human being; "wolf" means any animal of the species  
7 canis lupus; and "wolf hybrid" means any animal that is any part wolf. ~~A person who willfully~~  
8 ~~violates this section is guilty of a class B misdemeanor.~~

9 **SECTION 7.** A new section to chapter 36-01 of the North Dakota Century Code is  
10 created and enacted as follows:

11 **Confiscation of nontraditional livestock held in violation of this chapter.**

- 12 1. The state veterinarian, or the state veterinarian's designee, a police officer, sheriff,  
13 or other law enforcement officer shall seize all nontraditional livestock located on  
14 private property from the animal's owner or custodian if probable cause exists to  
15 believe that the animal is being held in violation of this chapter or rules adopted  
16 under this chapter. Unless it is shown that there exists an exigency or occasion as  
17 to require the immediate confiscation, an animal may not be seized until a hearing  
18 is held allowing the owner or custodian to show cause why the animal should not  
19 be confiscated. If exigent circumstances exist, an ex parte order may be issued  
20 authorizing seizure of the animal if probable cause appears to the court that:  
21 a. The animal is in immediate danger of being released into the wild, destroyed,  
22 concealed, removed from the state, or sold or given to an innocent party.  
23 b. The animal is infected with any contagious or infectious disease capable of  
24 being spread to animals or humans.

25 All animals seized must be held subject to the order of a court of competent  
26 jurisdiction. Whenever probable cause exists for a preconfiscation hearing, the  
27 owner or custodian of the animal must be notified in writing that, on the day fixed  
28 for a hearing, which may not be less than three days from the date of receipt of  
29 notice, the owner or custodian may appear or show cause why the animal should  
30 not be confiscated. Notice must be delivered to the owner or custodian by  
31 personal service or registered mail to that person's last-known mailing address. An

- 1           affidavit of service or the post-office registration receipt signed by the owner or  
2           custodian is prima facie evidence of service of notice.
- 3           2. Upon request by the person confiscating the animal, the board, the state  
4           department of health, the game and fish department, any county sheriff's office,  
5           city police department, or other peace officer shall provide assistance in any action  
6           to seize, impound, confiscate, or quarantine any animal suspected of being held or  
7           possessed in violation of this title.
- 8           3. A court having jurisdiction of an alleged offense under this title or rules adopted  
9           under this chapter may order the disposition of all animals that have been  
10           confiscated. This order may be entered only after a hearing duly had upon proper  
11           notice to the owner or custodian and after a finding by the court that the animal  
12           was being held or possessed in violation of this title at the time it was seized.
- 13           4. When any nontraditional livestock is found to be held or possessed contrary to this  
14           chapter, the court may:
- 15           a. Order the animal to be forfeited by its owner or custodian and that the animal  
16           be destroyed or disposed of otherwise. The court may order disposition to a  
17           zoo licensed by the animal care program of the animal and plant health  
18           inspection service of the United States department of agriculture if the zoo  
19           requests possession upon confiscation of the animal; or
- 20           b. Order the return of custody to the owner or custodian upon compliance with  
21           all applicable state and local regulations governing ownership and possession  
22           of nontraditional livestock, including payment of any license fees.
- 23           The court may award reasonable costs of seizure, care, and keeping pending  
24           disposition, and attorneys' fees to the agency bringing an action to confiscate any  
25           nontraditional livestock under this title.
- 26           5. Subject to section 32-12.2-02, the owner of an animal may bring a claim for money  
27           damages, and may recover the amount of actual damages incurred during the time  
28           of seizure, if the owner establishes that before the animal was seized under this  
29           chapter, the agency knew or recklessly failed to determine that the animal, at the  
30           time of seizure, was lawfully owned and licensed in this state or that the animal  
31           was a domestic animal not subject to seizure under this chapter.

1           **SECTION 8. AMENDMENT.** Section 36-01-13 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **36-01-13. Diseased animal to be reported - Records exempt.**

4           1. Any person who discovers, suspects, or has reason to believe that any domestic  
5 animal or nontraditional livestock belonging to that person or belonging to any  
6 other person, is affected by any reportable contagious disease as defined by the  
7 board, shall report that knowledge, suspicion, or belief to:

8           ~~4.~~ a. The state veterinarian or any other agent or representative of the  
9 commissioner; or

10           ~~2.~~ b. Any law enforcement officer of the county or city in which the animal is  
11 present. If a report is made to a law enforcement officer under this  
12 subsection, the officer shall report the facts immediately to the commissioner  
13 or the state veterinarian and failure to do so constitutes a violation of this  
14 chapter.

15           2. The records are exempt from open records laws, except those records concerning  
16 diseases that are specifically regulated by mandatory control and eradication  
17 programs or to protect public health.

18           **SECTION 9. AMENDMENT.** Section 36-01-14 of the 1997 Supplement to the North  
19 Dakota Century Code is amended and reenacted as follows:

20           **36-01-14. Protest against killing of diseased animal - Examination of animal by**  
21 **experts - Appointment of experts.** Whenever a domestic animal or nontraditional livestock

22 has been determined to be affected with a contagious or infectious disease and has been

23 ordered killed by the board, the state veterinarian, or an agent or representative of the board,

24 the owner or keeper of the animal must be notified of the order. Notice may be accomplished

25 by sending, by registered mail, a copy of the order to the owner or keeper of the animal, or by

26 having an agent or representative of the board, or a law enforcement officer, serve a copy of

27 the order upon the owner or keeper of the animal. Within twenty-four hours after receiving

28 notice of the order, the owner or keeper may file a protest against the killing of the animal with

29 the board or with the person who has ordered the animal killed. The protest must state under

30 oath, that to the best of the knowledge and belief of the person making the protest, the animal is

31 not infected with any contagious or infectious disease. An examination of the animal or

1 laboratory reports involved then must be made by three experts, one of whom must be  
2 appointed by the board, one by the person making the protest, and the third by the two thus  
3 appointed. All the experts must be persons learned in veterinary medicine and surgery and  
4 graduates of the veterinary course of a recognized college or university.

5 **SECTION 10. AMENDMENT.** Section 36-01-28 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **36-01-28. Enforcement orders - Administrative hearing - Penalty.**

- 8 1. Except when otherwise ordered by a court of competent jurisdiction, the board may  
9 order any domestic animal or nontraditional livestock brought into this state which  
10 is not in compliance with the provisions of this chapter to be returned to the state of  
11 origin, or in the alternative, the board may order the animal slaughtered or  
12 destroyed. The board may grant an exception for any nontraditional livestock if a  
13 zoo licensed by the animal care program of the animal and plant health inspection  
14 service of the United States department of agriculture takes possession upon  
15 confiscation of the animal.
- 16 2. If, after a hearing, the board finds that a person has brought, kept, or received any  
17 domestic animal or nontraditional livestock in this state and the animal or livestock  
18 is not in compliance with the provisions of this chapter or rules adopted under this  
19 chapter, a civil penalty not to exceed five thousand dollars per violation may be  
20 assessed against that person.
- 21 3. Any person who violates any of the provisions of this chapter for which a specific  
22 penalty is not provided, or who knowingly violates any rule adopted by the board of  
23 ~~animal health~~, is guilty of a class B misdemeanor.

24 **SECTION 11. AMENDMENT.** Section 36-05-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **36-05-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
27 requires:

- 28 1. "Commissioner" means the commissioner of agriculture.  
29 2. "Livestock" means horses, mules, asses, cattle, swine, sheep, and goats.  
30 3. "Livestock auction market" means a place or establishment conducted or operated  
31 for compensation or profit as a public market or a private buying station, consisting

1 of pens or other enclosures and their appurtenances, in which livestock is received,  
2 held, or kept for sale and where such livestock is sold or offered for sale, at either  
3 public auction or private sale.

4 **SECTION 12.** A new section to chapter 36-05 of the North Dakota Century Code is  
5 created and enacted as follows:

6 **Livestock unfit for sale.** Livestock may not be offered for sale or sold at any licensed  
7 public livestock auction market if the livestock has a condition including the following:

- 8 1. Is infected with a disease that permanently renders the livestock unfit for human  
9 consumption;
- 10 2. Has severe neoplasia;
- 11 3. Has severe actinomycosis;
- 12 4. Is unable to rise to its feet by itself; or
- 13 5. Has an obviously fractured long bone or other fractures or dislocation of a joint that  
14 renders the livestock unable to bear weight on the affected limb without the limb  
15 collapsing.

16 If, in the judgment of a veterinarian licensed in this state and approved by the board of animal  
17 health, the livestock consigned and delivered on the premises of a livestock auction market is in  
18 any of the conditions described above, the veterinarian shall humanely euthanize the livestock  
19 or direct the consignor to immediately remove the livestock from the premises of the livestock  
20 auction market. All expenses incurred for euthanasia and disposal of the livestock under the  
21 provisions of this section are the responsibility of the consignor. Collection of expenses is not  
22 the responsibility of the consignee.

23 **SECTION 13. AMENDMENT.** Subsection 4 of section 36-05-13.2 of the 1997  
24 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 25 4. Fail to notify the commissioner of the receipt of a nonsufficient funds check as  
26 required by section ~~36-04-07.4~~ 36-05-09.1;

27 **SECTION 14. AMENDMENT.** Section 36-07-07 of the 1997 Supplement to the North  
28 Dakota Century Code is amended and reenacted as follows:

29 **36-07-07. Unloading chutes and vehicles used by rendering plant - Regulations**  
30 **governing.** All unloading places or chutes used by a rendering plant or establishment must be

- 1 on cement floors ~~which~~ that can be cleaned and disinfected. Every vehicle used for  
2 transporting carcasses of dead animals to a rendering plant or establishment must:
- 3 1. Be provided with a bed or tank not less than fifty inches [127 centimeters] in width  
4 which is all metal, metal lined, or watertight for at least six inches [15.24  
5 centimeters] above the floor of the box or bed.
  - 6 2. Have a metal lined endgate ~~which~~ that is hinged at the bottom of the bed or box  
7 and is fastened firmly to the top of the bed or box when closed.
  - 8 3. Be so constructed that the sides, top, and endgate thereof will prevent flies and  
9 other insects from entering the vehicle.
  - 10 4. Carry a tank filled with a ~~four percent~~ solution of ~~creosol~~ approved by the state  
11 veterinarian for use as a disinfectant, ~~or other disinfectant as prescribed by the~~  
12 ~~rules adopted by the state board of animal health.~~
  - 13 5. Be disinfected with the solution described in subsection 4 after it has been used for  
14 collecting a dead animal at a farm and before it enters upon any public highway of  
15 this state, and special attention must be given to all those parts of the vehicle  
16 which came in contact with the ground while upon the premises.
  - 17 6. Be thoroughly washed and disinfected with the solution described in subsection 4  
18 or with live steam, or both, after it has been unloaded at the rendering plant.
- 19 The operator of any such vehicle shall ~~disinfect himself~~ wash with disinfectant, paying special  
20 attention to ~~his~~ disinfecting the operator's hands and footwear, with the solution described in  
21 subsection 4 immediately after leaving any farm at which ~~he~~ the operator has collected the  
22 carcass of a dead animal.

23 **SECTION 15.** A new section to chapter 36-14 of the North Dakota Century Code is  
24 created and enacted as follows:

25 **Animals imported into state to have certificate of veterinary inspection -**

26 **Exception.**

- 27 1. All domestic animals and nontraditional livestock brought into this state must be  
28 accompanied by a certificate of veterinary inspection certifying that the animals are  
29 free from symptoms of all contagious and infectious diseases.
- 30 2. A certificate of veterinary inspection is not required for cattle, sheep, or swine  
31 originating directly from a producer's premises and not diverted en route, if the

1           cattle, sheep, or swine are delivered for sale directly to a licensed auction market  
2           or other premises approved by the state veterinarian.

3           **SECTION 16. AMENDMENT.** Section 36-14-10 of the 1997 Supplement to the North  
4 Dakota Century Code is amended and reenacted as follows:

5           **36-14-10. Shipments of ~~cattle, swine, and sheep~~ animals for immediate slaughter.**  
6 Shipments into this state of ~~cattle, swine, and sheep~~ animals for immediate slaughter may be  
7 permitted without a certificate of veterinary inspection only if the ~~livestock~~ animals are not  
8 diverted en route and are delivered directly to a slaughtering establishment approved by the  
9 commissioner of agriculture.

10          **SECTION 17. AMENDMENT.** Section 36-14-20 of the 1997 Supplement to the North  
11 Dakota Century Code is amended and reenacted as follows:

12          **36-14-20. Duty of overseer of highways ~~or coroner~~ when carcass of dead animal**  
13 **is found - Fees - Recovery of expense.** If the owner or person in charge of a dead animal  
14 fails to comply with the provisions of section 36-14-19, the overseer of highways, ~~or the county~~  
15 ~~coroner in a district which has no overseer~~, shall comply with the provisions of section 36-14-19  
16 for the owner or person. If burial of the animal is permitted, the burial may be made upon the  
17 premises of the owner or person in charge of the animal at any place more than one thousand  
18 feet [304.8 meters] from any dwelling house or barn. The board of county commissioners shall  
19 allow in payment a sum for disposal services as it deems to be reasonable, and the sum must  
20 be paid as other moneys are paid for services rendered to the county. The owner of the animal  
21 is liable to the county for any amount paid out for disposal services. If the owner does not pay  
22 that amount within thirty days after written demand for payment is made upon ~~him~~ the owner by  
23 the county auditor, the sum may be recovered in a civil action, and the judgment must include  
24 the costs of the suit and a reasonable attorney's fee to be fixed by the court. No property  
25 except absolute exemptions is exempt from sale for the payment of any such judgment. Any  
26 attorney's fee allowed by the court must be paid to the county if the action is brought by the  
27 state's attorney.

28          **SECTION 18. AMENDMENT.** Section 36-14-21 of the 1997 Supplement to the North  
29 Dakota Century Code is amended and reenacted as follows:

30          **36-14-21. Enforcement orders - Administrative hearing - Penalty.**

- 1           1. The board may order any domestic animal or nontraditional livestock brought into  
2           this state which is not in compliance with the provisions of this chapter to be  
3           returned to the state of origin, or in the alternative, the board may order the animal  
4           slaughtered or destroyed.
- 5           2. If, after a hearing, the board finds that a person has brought, kept, or received any  
6           domestic animal or nontraditional livestock in this state and the animals or livestock  
7           are not in compliance with the provisions of this chapter or rules adopted under this  
8           chapter, a civil penalty not to exceed five thousand dollars per violation may be  
9           assessed against that person.
- 10          3. Any person who knowingly violates any rule of the ~~state board of animal health~~, or  
11          who violates any provision of this chapter for which another penalty is not provided,  
12          is guilty of a class A misdemeanor.

13           **SECTION 19. AMENDMENT.** Section 36-15-01 of the 1997 Supplement to the North  
14 Dakota Century Code is amended and reenacted as follows:

15           **36-15-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
16 requires:

- 17          1. "Animals" means ~~neat-cattle~~ bovine animals or bison.
- 18          2. "Board" means the state board of animal health.
- 19          3. "Diseased", when used to describe any animals, means animals infected with  
20          either bovine tuberculosis or ~~paratuberculosis (Johne's disease)~~ brucellosis.
- 21          4. The singular of any term imports the plural and the plural of any term includes the  
22          singular.

23           **SECTION 20. AMENDMENT.** Section 36-15-02 of the 1997 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

25           **36-15-02. Notice of condemnation of diseased animal - Animal to be destroyed**  
26 **within fifteen days - Extension of time.** Whenever any animal has been adjudged by the  
27 board to be infected with bovine tuberculosis or brucellosis, the board or its authorized agent  
28 shall serve a written notice of its decision upon the owner or keeper of the animal before the  
29 condemned animal is killed. The animal must be destroyed within fifteen days after notice of  
30 condemnation, in either a federal or state inspected slaughtering plant, or under the supervision  
31 of an agent of the board. The fifteen-day period may be extended by the state veterinarian if

1 that person deems it advisable due to the circumstances involved in each case, and the  
2 extension must be in writing. The notice must advise the owner or keeper of that person's right  
3 to protest against the diagnosis and determination of the board within twenty-four hours after  
4 the service of the notice upon that person. If no protest is made within such time by the owner  
5 or keeper of the condemned animal, it must be appraised in the manner provided in this  
6 chapter.

7 **SECTION 21. AMENDMENT.** Section 36-15-08.1 of the 1997 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9 **36-15-08.1. Owner entitled to compensation for cattle animals infected with ~~or~~  
10 ~~exposed to brucellosis or bovine tuberculosis~~ - Board of animal health may make rules  
11 governing payments.** When, in the discretion and judgment of the board of animal health, a  
12 ~~herd of cattle~~ an animal is so seriously infected with ~~bovine~~ brucellosis, or bovine tuberculosis  
13 as to warrant disposal of the ~~entire herd~~ animal and all other exposed animals, the board is  
14 hereby authorized to approve indemnity payments, as funds are appropriated, on ~~all cattle in~~  
15 ~~such herds~~ the animals in accordance with the limits set forth in section 36-15-09. The board  
16 may make reasonable rules governing the payment of such compensation within the limits  
17 prescribed in this chapter.

18 **SECTION 22. AMENDMENT.** Section 36-15-09 of the 1997 Supplement to the North  
19 Dakota Century Code is amended and reenacted as follows:

20 **36-15-09. Return of appraisalment - Payment of claims for diseased animals.** The  
21 return of an appraisalment made under this chapter must be in writing and signed by the board  
22 or by the agent thereof which made the appraisalment, or by the members of the board of  
23 appraisers if a reappraisalment is made after a protest, and by the owner of the condemned  
24 animal. The return must be certified by the commissioner of agriculture to the state auditor,  
25 who shall draw a warrant upon the state treasurer in favor of the owner of the animal. The  
26 amount of indemnity paid by this state, however, must be, in the case of an animal condemned  
27 because it is infected with bovine tuberculosis or paratuberculosis brucellosis, one-third of the  
28 difference between the appraised value of the animal and the net value of the salvage received  
29 by the owner, however, the indemnity payments may not exceed twenty-five dollars for each  
30 grade animal or fifty dollars for each registered purebred animal, except, that if the federal  
31 government fails to provide an amount of indemnity equal to that provided by the state, the

1 owner must be paid one-half of the difference between the appraised value of the animal and  
2 the net value of the salvage thereof. Before any indemnity payment is made for such registered  
3 purebred animals, a certificate of registration in a recognized herdbook must be submitted to  
4 the state veterinarian prior to the date set for slaughter of said animal. This state is not liable  
5 for indemnity under this chapter in excess of the amount appropriated for the payment of such  
6 indemnity by the legislative assembly and the state is not liable for indemnity for any animal  
7 killed during a biennium after the appropriation for such biennium has been exhausted.

8 **SECTION 23. AMENDMENT.** Section 36-15-14 of the 1997 Supplement to the North  
9 Dakota Century Code is amended and reenacted as follows:

10 **36-15-14. ~~Cattle~~ Animals not to be permitted to enter state or area circumscribed**  
11 **by board for testing purposes.** The ~~commissioner~~ state veterinarian shall enforce the  
12 tuberculin testing or the brucellosis testing of all ~~cattle~~ animals entering the state as prescribed  
13 by rule or in a circumscribed area as established by the board in accordance with the provisions  
14 of this chapter providing for the eradication of bovine tuberculosis or brucellosis, as the case  
15 may be, and the rules of the board relating to eradication. Whenever a circumscribed area is  
16 established by the board as an area in which all ~~cattle~~ animals are to be tuberculin tested or  
17 brucellosis tested, as the case may be, and the test is undertaken under the direction of the  
18 board, no other ~~cattle~~ animals may be permitted to enter the area except under a special permit  
19 and restrictions provided by the board unless:

- 20 1. If the animals in the area ~~is~~ are to be tuberculin tested, the ~~cattle~~ animals entering  
21 the area have been tuberculin tested under the direction of an agent of the board  
22 or are accompanied by a proper tuberculin test certificate ~~of veterinary inspection.~~
- 23 2. If the animals in the area ~~is~~ are to be brucellosis tested, the ~~cattle~~ animals entering  
24 the area have been brucellosis tested under the direction of an agent of the board  
25 or are accompanied by a proper brucellosis test certificate ~~of veterinary inspection.~~

26 **SECTION 24. AMENDMENT.** Section 36-15-19 of the 1997 Supplement to the North  
27 Dakota Century Code is amended and reenacted as follows:

28 **36-15-19. Penalty for violation of provisions relating to testing of livestock**  
29 **animals.** Any person who refuses to assist in or attempts to prevent the board or the  
30 commissioner from carrying out this chapter, or who violates any of the provisions of this  
31 chapter relating to the testing of ~~cattle~~ animals, is guilty of a class B misdemeanor.

1           **SECTION 25. AMENDMENT.** Section 36-15-21 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **36-15-21. Calfhood vaccination against brucellosis required - Penalty.** No person  
4 may bring into this state any female cattle over the maximum vaccination age as prescribed in  
5 the brucellosis eradication uniform methods and rules approved and published by the United  
6 States department of agriculture, animal and plant health inspection service, ~~for dairy or~~  
7 ~~breeding purposes within this state~~, that have not been officially calfhood vaccinated against  
8 brucellosis. Female cattle originating from free states that do not require North Dakota-origin  
9 female cattle to be calfhood brucellosis vaccinated are exempt from the requirements of this  
10 section. A person who brings cattle into this state from other free states that reciprocate shall  
11 prove that the cattle were located in that state for a period of at least sixty days. "Officially  
12 calfhood vaccinated" means a bovine female animal vaccinated against brucellosis under the  
13 supervision of a federal or state veterinary official or an accredited veterinarian within age limits  
14 prescribed by the board in compliance with United States department of agriculture uniform  
15 methods and rules, with a vaccine approved by the North Dakota state veterinarian, and  
16 permanently identified as such a vaccinee and reported at the time of vaccination to the  
17 appropriate state or federal agency cooperating in the eradication of brucellosis. However, the  
18 board may grant an exception to the provisions of this section. An appeal may be taken from  
19 the decision of the board under the provisions of chapter 28-32. Any person who brings into  
20 this state or acquires within this state any cattle contrary to the provisions of this section, is  
21 guilty of a class A misdemeanor.

22           **SECTION 26. AMENDMENT.** Section 36-15-22 of the 1997 Supplement to the North  
23 Dakota Century Code is amended and reenacted as follows:

24           **36-15-22. Enforcement orders - Administrative hearing - Penalty.**

- 25           1. The board may order ~~cattle~~ animals brought into the state which are not in  
26 compliance with the provisions of this chapter to be returned to their state of origin,  
27 or in the alternative, the board may order the ~~cattle~~ animals to be slaughtered or  
28 destroyed.
- 29           2. If, after a hearing, the board finds that a person has brought, kept, or received  
30 ~~cattle~~ animals in this state and the ~~cattle~~ animals are not in compliance with the  
31 provisions of this chapter or rules adopted under this chapter, a civil penalty not to

1            exceed ~~two five thousand five hundred~~ two thousand five hundred dollars per violation may be assessed  
2            against that person.

3            **SECTION 27. AMENDMENT.** Subsection 1 of section 36-21.1-06 of the 1997

4 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5            1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody  
6            of, and care for any animal found abandoned, unjustifiably exposed to cold or  
7            inclement weather, or not properly fed and watered. Any sheriff or police officer  
8            may use reasonable means to enter a motor vehicle and remove an animal that  
9            has been left in the vehicle in violation of section 36-21.1-03.1. It is a responsibility  
10           of such sheriff, police officer, licensed veterinarian, or investigator to care for the  
11           same until it is redeemed by the owner and when necessary may deliver the  
12           animal to another person or facility to be sheltered, cared for, and furnished  
13           suitable food and drink. In all cases the owner, if known, must be immediately  
14           notified, or if the owner is unknown, notice must be given by publication in the  
15           manner prescribed by law. Such notice must inform the owner that such animal  
16           may be sold, or otherwise disposed of, pursuant to court order if the animal is not  
17           redeemed within five days after receiving the notice or after publication.

18           **SECTION 28. REPEAL.** Section 36-15-12 of the North Dakota Century Code and  
19           sections 36-14-04, 36-14-05, 36-14-06, 36-14-07, and 36-15-08 of the 1997 Supplement to the  
20           North Dakota Century Code are repealed.