

**SENATE BILL NO. 2326**

Introduced by

Senators Klein, Tallackson

Representative DeKrey

1 A BILL for an Act to create and enact three new sections to chapter 4-11 of the North Dakota  
2 Century Code, relating to wholesale potato dealers; to amend and reenact sections 4-11-01,  
3 4-11-02, 4-11-03, 4-11-04, 4-11-06, 4-11-07, 4-11-08, 4-11-09, 4-11-10, 4-11-12, 4-11-13,  
4 4-11-14, 4-11-15, 4-11-16, 4-11-17, 4-11-18, 4-11-19, 4-11-20, 4-11-21, 4-11-22, 4-11-23, and  
5 4-11-24 of the North Dakota Century Code, relating to wholesale potato dealers; to repeal  
6 sections 4-11-05 and 4-11-11 of the North Dakota Century Code, relating to wholesale potato  
7 dealers' licenses and fee schedules; to provide a penalty; to provide for a continuing  
8 appropriation; and to declare an emergency.

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

10 **SECTION 1. AMENDMENT.** Section 4-11-01 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **4-11-01. Definitions.** In this chapter, unless the context ~~or subject matter~~ otherwise  
13 requires:

- 14 1. "Commissioner" means the state seed commissioner.
- 15 2. ~~"Person" means an individual, firm, copartnership, corporation, limited liability~~  
16 ~~company, company, society, or association, and implies both the singular and the~~  
17 ~~plural as the case requires.~~
- 18 ~~3. "Potatoes" "Insolvency" means an unableness or unwillingness to provide payment~~  
19 ~~for potatoes purchased by the dealer.~~
- 20 3. "Potato" means what a tuber commonly are classed as white or Irish potatoes.
- 21 4. "Wholesale potato dealer" means any person who buys or sells, contracts to buy or  
22 sell, potatoes in wholesale lots directly from a grower or grower cooperative, who  
23 sells or handles potatoes in wholesale lots for the purpose of processing or resale,

1                   or who handles potatoes on account of or as an agent for another, ~~any potatoes as~~  
2                   defined herein.

3                   **SECTION 2. AMENDMENT.** Section 4-11-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5                   **4-11-02. Wholesale potato dealer license required.** ~~Ne~~ Before a person may  
6 engage in, ~~or purport to be engaged in,~~ the business of a wholesale potato dealer, ~~or advertise~~  
7 ~~as such, unless he is~~ the person must be licensed to carry on such business by the  
8 commissioner.

9                   **SECTION 3. AMENDMENT.** Section 4-11-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11                   **4-11-03. Application for license - Contents.** ~~The application for license must be~~  
12 ~~made to~~ To obtain a license as a wholesale potato dealer, a person must complete an  
13 application and submit it to the commissioner in writing and under oath, and must set forth.  
14 The application must be signed by the applicant under oath and must include:

15                   1. ~~The place or places where~~ location in which the applicant intends to ~~carry on the~~  
16 ~~business for which the license is desired~~ operate as a wholesale potato dealer.

17                   2. The estimated amount of business to be done monthly.

18                   3. The amount of business done the preceding year, if any.

19                   4. The greatest volume of potatoes, by hundredweight, purchased during any one  
20 month in the preceding calendar year.

21                   5. The greatest value of potatoes purchased during any one month in the preceding  
22 calendar year.

23                   6. ~~The full name of the persons constituting the firm~~ each partner if the applicant is a  
24 ~~copartnership~~ partnership.

25                   5- 7. ~~The name of the officers of the~~ each corporate officer and the state of incorporation  
26 if the applicant is a corporation and where it is incorporated if the applicant is a  
27 corporation.

28                   6- 8. ~~The name of the managers of the~~ each manager and the state of organization if  
29 the applicant is a limited liability company and where it is organized if the applicant  
30 is a limited liability company.

31                   9. The name of every agent employed by the applicant on the date of the application.

- 1     ~~7. 10.~~ A financial statement prepared in accordance with generally accepted accounting  
2                    principles and showing in a general way the value and character of the assets and  
3                    ~~the amount of~~ liabilities of the applicant.
- 4     ~~8. 11.~~ ~~Statements showing the applicant's eligibility for a similar license~~ A list of similar  
5                    licenses issued to the applicant in other states in which he may have operated or is  
6                    ~~operating at the time of the application.~~

7     ~~The fee for the license must accompany the application.~~

- 8             ~~12.~~ The name of every state that has:
- 9                    a. Denied the applicant's request for similar licensure;
- 10                   b. Denied a request for similar licensure submitted by an agent employed by the  
11                    applicant;
- 12                   c. Issued to the applicant a similar license and thereafter suspended or revoked  
13                    the license; or
- 14                   d. Issued to an agent of the applicant a similar license and thereafter suspended  
15                    or revoked the agent's license.

16             **SECTION 4. AMENDMENT.** Section 4-11-04 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18             **4-11-04. ~~Bond~~ Form of security to accompany application for license ~~—Terms—~~**  
19 **~~Liability under.~~** The commissioner may require the applicant shall execute and file a bond  
20 issued in favor of the commissioner, with the sureties, amount, and form of the bond to be fixed  
21 by the commissioner, or the applicant may give a letter of credit from a bank in lieu of a bond if  
22 approved by the state seed commissioner, conditioned:

- 23                    1. ~~For the faithful performance of his duties as a wholesale potato dealer.~~
- 24                    2. ~~For the observance of all laws relating to the carrying on of the business of a~~  
25                    ~~wholesale potato dealer.~~
- 26                    3. ~~For the payment when due of the purchase price of potatoes purchased by him.~~
- 27                    4. ~~For the prompt settlement and payment of all claims and charges due to this state~~  
28                    ~~for services rendered or otherwise.~~
- 29                    5. ~~For the prompt reporting of sales to all persons consigning potatoes to the licensee~~  
30                    ~~for sale on commission.~~

1           6. ~~For the prompt payment to the persons entitled thereto of the proceeds of all sales,~~  
2           ~~less lawful charges, disbursements, and commissions.~~

3 ~~The bond must cover all wholesale potato business transacted in whole or in part within the~~  
4 ~~state, and the liability for acts thereunder must be only for the period the license is in force. The~~  
5 ~~surety may terminate its liability under such bond at any time by giving the commissioner notice~~  
6 ~~of termination. Such notice must specify that the surety desires to terminate its liability under~~  
7 ~~the bond, and such liability must be terminated thirty days after the receipt of such notice by the~~  
8 ~~commissioner. The commissioner immediately shall notify the licensee to furnish a new bond,~~  
9 ~~and if the licensee fails to furnish a bond satisfactory to the commissioner, he shall suspend or~~  
10 ~~cancel the license of such licensee. No surety is liable for any acts performed by the licensee~~  
11 ~~after the expiration of the aforesaid thirty day period, but the surety is liable, as provided by the~~  
12 ~~terms of the said bond, for any acts performed by the licensee prior to the effective date of such~~  
13 ~~cancellation~~ to file a current financial statement prepared in accordance with generally accepted  
14 accounting principles, a cash bond or a surety bond in an amount and form determined by the  
15 commissioner, or an irrevocable letter of credit. The form of security required by the  
16 commissioner must be conditioned for the faithful performance of the applicant's duties as a  
17 wholesale potato dealer, for compliance with all laws and rules relating to the purchase of  
18 potatoes by the dealer, for prompt payment in the case of insolvency, and for the protection and  
19 benefit of any potato producer in this state during the period the license is in effect.

20           **SECTION 5.** A new section to chapter 4-11 of the North Dakota Century Code is  
21 created and enacted as follows:

22           **Termination of bond - Notice to commissioner.** The surety may terminate its liability  
23 under a bond by giving the commissioner at least ninety days notice of intent to terminate. The  
24 surety on a bond is released from all future liability accruing on the bond after the expiration of  
25 ninety days from the date the commissioner received the notice or on a later date specified by  
26 the surety. This section does not relieve, release, or discharge the surety from any liability  
27 incurred before the expiration of the ninety-day period. Unless the wholesale potato dealer files  
28 a new bond at least thirty days before the surety's liability ceases, the commissioner, without  
29 hearing, shall suspend the wholesale potato dealer's license. The commissioner may not  
30 remove the suspension until a new bond or other form of surety has been filed and approved by  
31 the commissioner.

1           **SECTION 6. AMENDMENT.** Section 4-11-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-11-06. License - Fee - Expiration.** ~~The fee for each license must be set by the state~~  
4 ~~seed commissioner. All licenses expire~~ shall establish the fee for a wholesale potato dealer's  
5 license. The license expires on June thirtieth of each year.

6           **SECTION 7. AMENDMENT.** Section 4-11-07 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **4-11-07. License - Posting.** ~~The wholesale potato dealer shall post the license, or a~~  
9 ~~certified copy thereof, must be kept posted~~ of the license in the office of the licensee at each  
10 ~~place within the state where he~~ at each location where the dealer transacts business.

11           **SECTION 8. AMENDMENT.** Section 4-11-08 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **4-11-08. Refusal, cancellation, or suspension of license - Grounds.**

14           1. ~~The refusal, cancellation, or suspension of~~ commissioner may refuse to issue a  
15 license to operate as a wholesale potato dealer if:

16           a. The applicant was refused a wholesale potato dealer's license in another  
17 state;

18           b. The applicant had a wholesale potato dealer's license suspended or revoked  
19 ~~in another state may constitute grounds for the same action in this state at the~~  
20 ~~discretion of the commissioner. If any licensee or applicant for a license has~~  
21 ~~in his employ in a position of responsibility any person who has held a license~~  
22 ~~to operate as a wholesale potato dealer in this or any other state, and such~~  
23 ~~license has been canceled or suspended, such condition may constitute a~~  
24 ~~ground, at the discretion of the commissioner, for the refusal, suspension, or~~  
25 ~~cancellation of a license in this state while the aforesaid cancellation or~~  
26 ~~suspension is effective.;~~ or

27           c. The applicant employs in a position of responsibility an individual who had a  
28 wholesale potato dealer's license suspended or revoked in another state.

29           2. The commissioner may suspend or revoke a license to operate as a wholesale  
30 potato dealer if:

- 1           a. The dealer was the subject of a license suspension or revocation in another  
2           state;  
3           b. The dealer had a wholesale potato dealer's license suspended or revoked in  
4           another state; or  
5           c. The dealer employs in a position of responsibility an individual who had a  
6           wholesale potato dealer's license suspended or revoked in another state.

7           **SECTION 9. AMENDMENT.** Section 4-11-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **4-11-09. Agent of licensee - Ineligibility.** The commissioner may ~~make the~~  
10 ~~provisions which are specified in section 4-11-08 as grounds for disqualification of a licensee or~~  
11 ~~applicant for a license, or the fact that an individual is ineligible to act as an agent for a potato~~  
12 ~~dealer in another state, operate as grounds for the disqualification of an individual to determine~~  
13 that an individual may not act as an authorized agent for a licensee if the individual was refused  
14 a wholesale potato dealer's license in another state or if the individual had a wholesale potato  
15 dealer's license suspended or revoked in another state.

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

18           **4-11-10. Identification cards required.** ~~The principal~~ A licensed wholesale potato  
19 dealer shall secure obtain from the commissioner an identification card for each ~~of his agents~~  
20 agent and for ~~an~~ each individual licensee operating as ~~his~~ an agent ~~to place the public on~~  
21 ~~notice that the persons soliciting potatoes from place to place are working as agents of a~~  
22 ~~licensed dealer. The agents.~~ Each agent shall carry the identification card ~~with them at all~~  
23 ~~times while~~ whenever the agent is soliciting or transacting potato business for the licensee.  
24 The commissioner shall charge a fee for each identification card ~~is one dollar.~~

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

27           **4-11-12. Licensee to keep accounts** Accounts and records. ~~The licensee A~~  
28 wholesale potato dealer shall keep accurate accounts and records of all transactions as a  
29 ~~wholesale potato dealer and shall retain them, subject to the examination of the commissioner,~~  
30 the records for a ~~period of~~ eighteen months after their respective events. The commissioner is  
31 entitled access to the records at all times.

1           **SECTION 12. AMENDMENT.** Section 4-11-13 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-11-13. ~~Licensee's duty when discontinuing~~ Discontinuation of business - Duty**  
4 **of dealer.** ~~Whenever a licensee~~ If a wholesale potato dealer sells, disposes of, or discontinues  
5 ~~his business~~ the business for which the dealer obtained a license, during the period covered by  
6 ~~his~~ the license, ~~he immediately~~ the dealer shall notify the commissioner in writing and, ~~upon~~  
7 ~~demand~~ at the request of the commissioner, shall produce ~~before the commissioner~~ a full  
8 statement of ~~all of his~~ assets and liabilities as of the date of ~~the transfer or discontinuance of~~  
9 ~~said~~ the business was sold, disposed of, or discontinued.

10           **SECTION 13. AMENDMENT.** Section 4-11-14 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **4-11-14. Bonds - Additional required.** The commissioner, ~~whenever he is of the~~  
13 ~~opinion that any bond given by a licensee is inadequate for the proper protection of the public,~~  
14 may at any time require ~~the licensee to give additional bonds in such amounts as from time to~~  
15 ~~time the commissioner may determine, with sureties to be approved by him and conditioned as~~  
16 ~~set forth in section 4-11-04. For the purpose of fixing or changing the amount of such bonds,~~  
17 ~~the~~ an increase in the amount of the wholesale potato dealer's bond. The commissioner may at  
18 any time require verified financial statements ~~of his business from any licensee, and if the~~  
19 ~~licensee~~ from a dealer. ~~If a dealer fails to furnish such~~ the information or ~~fails~~ fails to furnish a new  
20 or higher bond when directed by the commissioner ~~so to do,~~ the commissioner ~~forthwith~~ may  
21 shall suspend ~~such~~ the dealer's license, ~~and after.~~ After providing the dealer with at least ten  
22 days' notice and an opportunity to be heard, a hearing, the commissioner may revoke ~~his~~ the  
23 dealer's license.

24           **SECTION 14. AMENDMENT.** Section 4-11-15 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **4-11-15. Damage claims against bonds - Hearing - Procedure.** Any

27           1. ~~If a person claiming to be damaged by any breach of the conditions of a bond~~  
28 ~~given by a licensee may file with~~ notifies the commissioner a verified statement of  
29 ~~the fact or facts constituting his complaint. Upon the filing of such complaint, the~~  
30 ~~commissioner shall investigate the charges made, and may order a hearing before~~  
31 ~~himself or his duly authorized agent, and shall give the person complained of~~

1           ~~notice of the filing of such complaint and of the time and place of such hearing. At~~  
2           ~~the conclusion of the hearing, the commissioner, or his agent conducting it, shall~~  
3           ~~report his findings and render his conclusion upon the matter complained of to the~~  
4           ~~complainant and respondent in each case. The respondent has fifteen days in~~  
5           ~~which to make effective and satisfy such conclusions. If such settlement is not~~  
6           ~~effected within the time aforesaid, any party aggrieved by the breach of any~~  
7           ~~condition of the bond, after first obtaining the approval of the commissioner, may~~  
8           ~~commence and maintain an action against the principal and sureties on the bond of~~  
9           ~~the party complained of. The written approval of the commissioner to the bringing~~  
10          ~~of the action must be attached to and made a part of the original complaint in such~~  
11          ~~action. Upon commencing such action, the plaintiff shall file a copy of his~~  
12          ~~complaint in the office of the commissioner. The record of the hearing before the~~  
13          ~~commissioner or his agent, when properly certified to, is competent evidence in~~  
14          ~~any court having jurisdiction of such action. If a licensee has become liable to~~  
15          ~~more than one person by reason of breaches of the conditions of the bond and the~~  
16          ~~amount of the bond is insufficient to pay the entire liability to all persons entitled to~~  
17          ~~the protection of the bond, the penalty of the bond, as against the sureties, must be~~  
18          ~~apportioned among the several claimants. In all cases where the liability of the~~  
19          ~~licensee exceeds the amount of his bond, the commissioner shall commence an~~  
20          ~~action for the recovery of the full amount of the bond, and in any action wherein a~~  
21          ~~recovery is had, the commissioner, subject to the approval of the court, shall pass~~  
22          ~~upon and allow or disallow all claims which may be presented to him within sixty~~  
23          ~~days after the recovery on the bond, for full or apportioned payment from the~~  
24          ~~amount recovered. To effect the purposes herein, the commissioner may employ~~  
25          ~~counsel and pay the fee and expenses thereof out of the amount recovered on~~  
26          ~~such bond that a wholesale potato dealer has breached any of the conditions for~~  
27          ~~which security was given under this chapter, the commissioner shall investigate the~~  
28          ~~allegation.~~

- 29          2. The commissioner may hold a hearing to obtain additional testimony and  
30          documentary evidence. If the commissioner determines that the allegation is

- 1           supportable, the commissioner shall apply to the district court of the county in  
2           which the claim is alleged to have occurred for appointment as trustee.
- 3           3. Upon notice to the wholesale potato dealer as the court may prescribe or upon  
4           waiver of notice by the dealer, the court shall hear the matter in a summary  
5           manner. If the court determines that the dealer has breached any condition for  
6           which security was given under section 4-11-04, and if the court determines that it  
7           would be in the best interest of all persons holding claims against the dealer that  
8           the commissioner execute the trust, the court shall issue an order appointing the  
9           commissioner as a trustee, without bond. The commissioner shall proceed in the  
10          manner provided for in this chapter.
- 11          4. The commissioner, as trustee, shall notify all persons having claims against the  
12          dealer by certified mail that the claims must be filed with the commissioner by a  
13          date certain. Any person who fails to file a claim within the time allotted is barred  
14          from participation in any fund marshalled by the commissioner under this chapter.
- 15          5. All moneys collected and received by the commissioner as trustee must be  
16          deposited in the Bank of North Dakota pending the marshalling of the fund.

17          **SECTION 15.** A new section to chapter 4-11 of the North Dakota Century Code is  
18 created and enacted as follows:

19          **Recovery of trust fund - Report - Notice to claimants.** Upon recovery of the trust  
20 fund, or so much of the fund as is possible to recover or as is necessary to pay all outstanding  
21 claims, the commissioner shall file the report in court showing the amount payable on each  
22 claim. If the fund is insufficient to pay all claims in full, the commissioner shall prorate the fund  
23 among the claimants. The court shall notify the claimants by mail regarding the proposed  
24 distribution and direct that the claimants show cause why the report should not be approved  
25 and distribution made in accordance with the report. After holding a hearing on the matter, the  
26 court shall approve or modify the report, issue an order directing the distribution of the fund, and  
27 discharge the commissioner from all duties as trustee.

28          **SECTION 16.** A new section to chapter 4-11 of the North Dakota Century Code is  
29 created and enacted as follows:

30          **Representation of commissioner by attorney general.** The attorney general shall  
31 represent the commissioner in any action or proceeding brought under this chapter and may

1 employ legal assistance when necessary. Any expenses incurred by the attorney general in  
2 providing representation to the commissioner may be deducted from the trust fund.

3 **SECTION 17. AMENDMENT.** Section 4-11-16 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **4-11-16. Inspection of potatoes - Right to demand - Certificate of inspection.**

6 1. Whenever potatoes are ready for sale or are on their way to market, the owner,  
7 conveyor, prospective buyer, or any other interested party may demand and is  
8 entitled to inspection of ~~said~~ the potatoes and to an inspection certificate as  
9 ~~otherwise~~ provided for by law.

10 2. Whenever potatoes are shipped to or received by a wholesale potato dealer for  
11 handling, purchase, or sale in this state and ~~said~~ the dealer at wholesale finds the  
12 ~~same potatoes~~ to be ~~in a~~ spoiled, damaged, unmarketable, ~~or in~~ unsatisfactory  
13 condition, ~~or~~ mislabeled, or misrepresented in any way, unless both parties waive  
14 inspection before sale or other disposition ~~thereof~~, the wholesale potato dealer  
15 shall cause the ~~same~~ potatoes to be examined by an inspector assigned by the  
16 commissioner for that purpose. The inspector shall execute and deliver a  
17 certificate to the dealer, stating the day, the time, and the place of ~~such~~ inspection  
18 and the condition of ~~such~~ the potatoes. The dealer shall mail or deliver a copy of  
19 ~~such~~ the certificate to the shipper of the inspected potatoes ~~inspected~~.

20 **SECTION 18. AMENDMENT.** Section 4-11-17 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **4-11-17. Consignee of potatoes to make report.** A wholesale potato dealer ~~of~~  
23 ~~potatoes~~ to whom potatoes have been shipped or consigned for sale ~~on a commission basis or~~  
24 ~~on consignment or under any circumstances wherein the~~ and to whom title to said potatoes  
25 ~~remains with the shipper~~ has not yet passed shall provide the shipper, within a reasonable time  
26 after receiving ~~the same, shall make~~ the potatoes, a written report ~~to the shipper showing~~  
27 detailing the exact potatoes' time of arrival, the quantity, the quality, and the price per unit of  
28 ~~the potatoes, and at the same time, he shall.~~ At the time of providing the report, the wholesale  
29 potato dealer shall pay the shipper the net amount due ~~him~~ the shipper for the potatoes.

30 **SECTION 19. AMENDMENT.** Section 4-11-18 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **4-11-18. Sales reports unsatisfactory - Remedy of shipper.** Whenever a shipper,  
2 after demand, receives no remittance or report of sale of potatoes, or is dissatisfied with the  
3 remittance, sale, or report thereof, ~~he may complain in writing to, the shipper may file a~~  
4 complaint with the commissioner who shall investigate the matter complained of. Upon receipt  
5 of a complaint, the commissioner shall initiate an investigation.

6           **SECTION 20. AMENDMENT.** Section 4-11-19 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **4-11-19. Rules and regulations.** The commissioner may adopt rules ~~and regulations,~~  
9 ~~consistent with this chapter, to enforce to implement~~ to implement this chapter, to govern the rates charged  
10 by wholesale potato dealers, and the buying, selling, advertising, and trading practices of  
11 wholesale potato dealers, ~~and to provide necessary definitions of terms and conditions relative~~  
12 ~~to this chapter. Any rules and regulations adopted by the commissioner must be adopted~~  
13 ~~pursuant to chapter 28-32.~~

14           **SECTION 21. AMENDMENT.** Section 4-11-20 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **4-11-20. ~~Conducting hearings and canceling licenses~~ - Application of chapter**  
17 **~~28-32 Investigation - Hearing - Action on license.~~** ~~The~~ If the commissioner may receive  
18 ~~complaints~~ receives a complaint against any person dealing in, shipping, transporting, storing,  
19 or selling potatoes, ~~and may make any and all necessary investigations relative to the handling~~  
20 ~~of, storing, shipping, or dealing in potatoes at wholesale, and he~~ the commissioner may initiate  
21 an investigation. The commissioner and his the commissioner's agents, at all times, shall have  
22 access, at all times, to all buildings, yards, warehouses, storage, and transportation facilities,  
23 and railway cars in which any potatoes are kept, stored, handled, or transported, and may take  
24 any necessary samples. The After an investigation, the commissioner, upon complaint being  
25 filed with him for any alleged violation of the provisions of this chapter or the regulations issued  
26 thereunder, or upon information furnished by any of his agents or by any other person, forthwith  
27 may suspend and, upon ten days' notice and an opportunity to be heard, may suspend the  
28 license of any wholesale potato dealer. The commissioner shall schedule, provide notice of,  
29 and hold a hearing on the suspension within ten days of the action. After receiving both  
30 testimony and documentary evidence, the commissioner may reverse the suspension, continue  
31 the suspension, or revoke and cancel any the wholesale potato dealer's license or any. If

1 appropriate, the commissioner may demand the return of any agent's identification card issued  
2 by him the commissioner. Any hearing held ~~on any complaint or information received by the~~  
3 ~~commissioner under this section~~ must be conducted pursuant to in accordance with chapter  
4 28-32. Any aggrieved party may appeal a decision of the commissioner under this section to  
5 the district court in ~~the manner provided by~~ in accordance with chapter 28-32.

6 **SECTION 22. AMENDMENT.** Section 4-11-21 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **4-11-21. Fees and collections - ~~Disposition~~ Revolving fund - Continuing**  
9 **appropriation.** ~~All~~ The commissioner shall deposit all moneys arising from the collection of  
10 fees and other charges under ~~the provisions of this chapter~~ must be deposited by the  
11 ~~commissioner~~ with the state treasurer ~~to be credited~~ for credit to the seed department revolving  
12 fund, ~~and.~~ Moneys in this fund must be disbursed, ~~within the limits of legislative appropriations~~  
13 ~~therefrom,~~ upon order of the commissioner, with the approval of the office of management and  
14 budget, and funds so approved by the office of management and budget are appropriated on a  
15 continuing basis.

16 **SECTION 23. AMENDMENT.** Section 4-11-22 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **4-11-22. Enforcement of chapter.** The commissioner is charged with the enforcement  
19 of ~~the provisions of this chapter and of the all~~ rules and regulations made and published  
20 ~~thereunder.~~ Upon complaint made by the commissioner or any other person, the adopted to  
21 implement this chapter. The attorney general ~~and or~~ the state's attorney in the county where  
22 ~~the a~~ case arises shall prosecute ~~all~~ violations of this chapter and of the rules and regulations  
23 ~~made and published thereunder.~~

24 **SECTION 24. AMENDMENT.** Section 4-11-23 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **4-11-23. Violations of chapter defined - Penalty.**

- 27 1. Any A person subject to the provisions of this chapter, who is guilty of a class A  
28 misdemeanor if the person:
- 29 4. a. Makes any false statement or report as to the grade, condition, markings,  
30 quality, or quantity of potatoes received or delivered, or ~~act~~ acts in ~~any a~~

- 1 manner ~~so as~~ designed to deceive the consignor or purchaser ~~thereof~~ of the  
2 potatoes;
- 3 ~~2-~~ b. Refuses to accept, on agreed terms, any shipment for which the person has  
4 contracted for by him, unless ~~such~~ the refusal is based ~~upon~~ on a state  
5 inspection certificate, secured with reasonable promptness after ~~the~~ receipt of  
6 ~~such~~ the shipment, and showing that the kind or quality of potatoes is ~~other~~  
7 ~~than~~ not that which was purchased or ordered by him;
- 8 ~~3-~~ c. Fails to account for potatoes or to ~~make settlement therefor~~ pay for potatoes  
9 within the time limited in required by this chapter, ~~or who violates or fails to~~  
10 ~~comply with the terms or conditions of any contract entered into by him for the~~  
11 ~~purchase or sale of potatoes~~;
- 12 ~~4-~~ d. Breaches any contract entered by the person for the purchase or sale of  
13 potatoes;
- 14 e. Purchases for ~~his~~ the person's own account any potatoes received on  
15 consignment, either directly or indirectly, without the consent of the consignor;
- 16 ~~5-~~ f. Issues ~~any~~ false or misleading market quotations, ~~or cancels~~;
- 17 g. Cancels any quotations during the period advertised by ~~him~~ the person;
- 18 ~~6-~~ h. ~~Makes or collects any commission or charge in excess of that shown in his~~  
19 ~~schedule filed with the commissioner~~ any false or misleading statement on an  
20 application for licensure as a wholesale potato dealer;
- 21 ~~7-~~ i. Increases the sales charges on shipped potatoes ~~shipped to him~~ by means of  
22 "dummy" or fictitious sales;
- 23 ~~8-~~ j. Fails to keep accurate records and financial accounts of all transactions as a  
24 wholesale potato dealer;
- 25 ~~9-~~ k. Receives potatoes from foreign states or countries for sale or resale, ~~either~~  
26 ~~within or without~~ outside this state, and ~~give~~ gives the purchaser the  
27 impression through any method of advertising or description that the ~~said~~  
28 potatoes are ~~of~~ from a source other than their true origin; or
- 29 ~~10-~~ l. Violates ~~any of the provisions of this chapter, or any rule or regulation made~~  
30 ~~or published thereunder by the commissioner~~;

1 ~~is guilty of a class A misdemeanor, and his license forthwith may be suspended, revoked, or~~  
2 ~~canceled by the commissioner upon ten days' notice and an opportunity to be heard. Upon~~  
3 ~~conviction of such offense, or upon conviction in any federal court for violation of the federal~~  
4 ~~statutes relative to the adopted to implement this chapter.~~

5       2. If the commissioner is notified that a wholesale potato dealer has been convicted of  
6 an offense listed in this section, of an offense involving fraudulent use of the mails,  
7 or of any other criminal acts act pertaining to the conduct of his business the  
8 person as a wholesale potato dealer, the commissioner forthwith shall revoke and  
9 cancel the license of the person so convicted provide at least ten days' notice and  
10 hold a hearing to determine whether the wholesale potato dealer's license should  
11 be suspended or revoked.

12       **SECTION 25. AMENDMENT.** Section 4-11-24 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14       **4-11-24. Cooperation with ~~federal and state~~ governmental agencies.** The  
15 commissioner may cooperate with ~~the United States department of agriculture and with other~~  
16 ~~federal authorities entities,~~ and with ~~the state and municipal authorities~~ local entities, of this and  
17 other states, and may do ~~and perform such acts and all~~ things as may be necessary and proper  
18 ~~in carrying to carry out the purposes of this chapter.~~

19       **SECTION 26. REPEAL.** Sections 4-11-05 and 4-11-11 of the North Dakota Century  
20 Code are repealed.

21       **SECTION 27. EMERGENCY.** This Act is declared to be an emergency measure.