

Introduced by

Agriculture Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to amend and reenact sections 60-02-03, 60-02-09, 60-02-17, 60-02-25,  
2 60-02-35, 60-02-38, 60-02-40, 60-02-44, 60-02.1-03, 60-02.1-08, 60-02.1-26, 60-02.1-28,  
3 60-02.1-29, 60-02.1-30, 60-02.1-31, 60-02.1-32, 60-02.1-33, 60-02.1-34, 60-02.1-35,  
4 60-02.1-36, 60-02.1-37, 60-02.1-38, 60-04-02, 60-04-03, 60-04-03.1, 60-04-03.3, 60-04-04,  
5 60-04-05, 60-04-06, 60-04-07, 60-04-08, 60-04-09, 60-04-10, 60-10-01, 60-10-02, 60-10-04,  
6 60-10-05, 60-10-06, 60-10-07, 60-10-08, 60-10-09, 60-10-10, 60-10-13, 60-10-14, and 60-10-15  
7 of the North Dakota Century Code, relating to public warehouse and grain buyer licensing,  
8 conditions and attributes of licensure and accepting delivery of grain when a licensee is  
9 insolvent, the insolvency process, the credit-sale contract indemnity fund and the grain  
10 indemnity fund; to repeal sections 60-02-02, 60-02-25.1, 60-02-39, 60-02.1-02, 60-02.1-25,  
11 60-04-03.2, and 60-10-03 of the North Dakota Century Code, relating to duties of the  
12 commission, receiptholders' lien, warehouse closure, grain of insolvent warehouseman as trust  
13 asset, and suspension of indemnity fund assessments; and to provide for a transfer.

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

15

16 **SECTION 1. AMENDMENT.** Section 60-02-03 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **60-02-03. Duties and powers of the commission.**

19 The commission ~~shall have the duty and power to~~may:

- 20 1. ~~Exercise general supervision of the public warehouses of this state, including the~~  
21 ~~handling, weighing, and storing of grain, and the management of public warehouses.~~
- 22 2. Investigate all complaints of fraud and injustice, unfair practices, and unfair  
23 discrimination.

1     ~~3-2.~~   Examine and inspect, during ordinary business hours, any licensed warehouse,  
2                   including all books, documents, and records.

3     ~~4-3.~~   Require the filing of reports pertaining to the operation of the warehouse.

4     ~~5-4.~~   Make all proper rules for carrying out and enforcing any law in this state regarding  
5                   public warehouses.

6           **SECTION 2. AMENDMENT.** Section 60-02-09 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **60-02-09. Bond filed by public warehouseman.**

9           Before any license is ~~issued to~~effective for any public warehouseman under this chapter,  
10 the applicant for ~~such~~the license shall file a bond with the commission which ~~shall~~must:

- 11         1. Be in a sum not less than five thousand dollars for any one warehouse.
- 12         2. Be continuous, unless the corporate surety by certified mail notifies the licensee and  
13           the commission that the surety bond will be canceled ninety days after receipt of the  
14           notice of cancellation.
- 15         3. Run to the state of North Dakota for the benefit of all persons storing or selling grain in  
16           ~~such~~that warehouse.
- 17         4. Be conditioned:
  - 18           a. For the faithful performance of the licensee's duties as a public warehouseman.
  - 19           b. For compliance with the provisions of law and the rules of the commission  
20               relating to the storage and purchase of grain by such warehouseman.
- 21         5. Specify the location of each public warehouse intended to be covered by such bond.
- 22         6. Be for the specific purpose of:
  - 23           a. Protecting the holders of outstanding receipts.
  - 24           b. Covering the costs incurred by the commission in the administration of chapter  
25               60-04 in the event of the licensee's insolvency.
- 26         7. Not accrue to the benefit of any person entering into a credit-sale contract with a  
27           public warehouseman.
- 28         8. ~~In no event shall the~~The aggregate liability of the surety under a bond does not  
29           accumulate for each successive annual license renewal period during which ~~such~~the  
30           bond is in force but, for losses during any annual license renewal period, ~~shall be~~is

1           limited in the aggregate to the bond amount stated or changed by appropriate  
2           endorsement or rider.

3   The commission shall set the amount of the bond and may require an increase in the amount of  
4   any bond, from time to time, as ~~it shall, in its discretion, deem~~the commission deems necessary  
5   to accomplish the purposes of this section. The surety on ~~such a~~the bond must be a corporate  
6   surety company, approved by the commission, and authorized to do business within the state.  
7   The commission may accept cash, a negotiable instrument, or a bond executed by personal  
8   sureties in lieu of a surety bond when, in its judgment, ~~such~~the cash, negotiable instrument, or  
9   personal surety bond properly will protect the holders of outstanding receipts. One bond only  
10 ~~shall~~may be given for any line of elevators, mills, or warehouses, owned, controlled, or operated  
11 by one individual, firm, corporation, or limited liability company, and ~~such~~the bond ~~shall~~must be  
12 construed to cover such elevators, mills, or warehouses, as a whole and not a specific amount  
13 for each.

14       **SECTION 3. AMENDMENT.** Section 60-02-17 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       **60-02-17. Warehouse and storage contract - Storage rates - Terminal delivery.**

17       A warehouse receipt must contain, either on its face or reverse side, the following  
18 warehouse and storage contract:

19       This grain is received, insured, and stored subject to the laws and rules of the state of North  
20       Dakota, the terms of this contract, and the charges and conditions stated herein and as filed  
21       with the North Dakota public service commission. Upon surrender of this receipt and  
22       payment or tender of all applicable charges, the amount, kind, and grade of grain identified  
23       in this receipt will be delivered to the person named above or the person's order as rapidly  
24       as due diligence, care, and prudence will permit. At the option of the holder of this receipt,  
25       the amount, kind, and grade of grain for which this receipt is issued, upon demand, must be  
26       delivered back to the holder at any terminal point customarily shipped to, or at the place  
27       where received, upon the payment of any charges for receiving, handling, storage, and  
28       insurance and in case of terminal delivery, the payment in addition to the above of the  
29       regular freight charges on the gross amount called for by this ticket or in lieu thereof, a  
30       receipt issued by a bonded warehouse or elevator company doing business at the terminal  
31       point. ~~Nothing in this~~This receipt requires~~requires~~does not require the delivery of the identical grain

1 specified herein, but an equal amount of grain of the same kind and grade must be  
2 delivered.

3 A warehouseman shall publish and post, in a conspicuous place in its warehouse, the fees that  
4 will be assessed for receiving, storing, processing, or redelivering grain and the termination date  
5 of its warehouse receipts. This publication must be filed with the commission as a part of the  
6 warehouse license ~~application~~process or annual renewal. The fees and termination date must  
7 be stated on the warehouse receipt issued for the grain. The fees or termination date may be  
8 changed upon filing a revised publication with the commission.

9 **SECTION 4. AMENDMENT.** Section 60-02-25 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **60-02-25. Bailment not a sale.**

12 Whenever any grain shall ~~be~~is delivered to any public warehouse and an unconverted scale  
13 ticket or a warehouse receipt is issued therefor, ~~such~~the delivery shall ~~be~~is a bailment and not a  
14 sale of the grain so delivered. ~~In no case shall the~~The delivered grain so delivered ~~be liable~~is  
15 not subject to seizure upon process of any court in any action against ~~such~~the bailee, except in  
16 an action by an owner of ~~such~~an unconverted scale ticket or warehouse receipt to enforce the  
17 terms thereof or obtain redelivery of ~~such~~the delivered grain. ~~In the event of the failure or~~  
18 ~~insolvency of the warehouseman, all the grain in the warehouse, whether the same is stored or~~  
19 ~~not, first shall be applied at all times to the satisfaction of receipts issued by the warehouseman.~~

20 **SECTION 5. AMENDMENT.** Section 60-02-35 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **60-02-35. Grain to be kept insured for benefit of owner by warehouseman.**

23 ~~No~~A public warehouseman license may be issued to a public warehouseman ~~is not effective~~  
24 unless all grain in storage or on deposit in the warehouse is kept fully insured at the expense of  
25 the warehouseman for the benefit of the owner at the current market value of the grain against  
26 loss by fire, lightning, internal explosion, windstorm, cyclone, tornado, and such other risks of  
27 direct physical loss as provided by the insurer in a policy approved by the insurance  
28 commissioner. ~~No~~An insurance policy covering grain in a public warehouse may not be  
29 transferred or assigned to any person for any purpose, except for grain that is not on  
30 warehouse receipt or deposit. The insurance policy must be continuous and may only be  
31 canceled in accordance with section 60-02-35.1.

1       **SECTION 6. AMENDMENT.** Section 60-02-38 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-02-38. Refund of license fee by commission.**

4       When requested in writing, the commission shall refund the license fee of a public  
5 warehouse, or so much as in its judgment is just and reasonable, when satisfactory proof is  
6 furnished that the warehouse has been transferred to some other person, and the new owner  
7 has ~~applied for~~obtained a license for the same warehouse for the unexpired period for which the  
8 original license was issued. When a warehouse is destroyed by fire or other cause, the license  
9 fee may be prorated as the commission may determine.

10       **SECTION 7. AMENDMENT.** Section 60-02-40 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **60-02-40. Transfer of warehouse - Redemption of receipts.**

13       Whenever a public warehouseman desires to transfer a warehouse, either by sale or lease  
14 to any other individual, firm, or corporation, the warehouseman shall:

- 15       1. Notify the commission first of its intention to transfer the warehouse, giving the name  
16       and address of the proposed lessee or purchaser.
- 17       2. Furnish a statement of all proper claims that may be filed or pending against the  
18       warehouseman pertaining to the storage, inspection, and marketing of grain, together  
19       with a statement of:
  - 20       a. The number of bushels [cubic meters] of grain of each kind and grade in store in  
21       the warehouse;
  - 22       b. The number and amount of receipts outstanding; and
  - 23       c. The names and addresses of the receiptholders.
- 24       3. Serve notice by registered or certified mail, at least thirty days before the transfer,  
25       upon all receiptholders having claims against the warehouse to call for delivery of the  
26       grain covered by the receipts, and to pay all storage charges due, the warehouseman  
27       in such case to make no charge for redelivery. The commission may waive the  
28       thirty-day notice period upon receipt of written consent of all receiptholders.
- 29       4. Transfer all stored grain undelivered at the expiration of such thirty-day period to its  
30       successor, if licensed, or to the nearest licensed warehouse for restorage, taking  
31       receipts for the same in favor of the owner of the grain so transferred.

1           5. Surrender to the commission its license for cancellation and at such time the proposed  
2           lessee or purchaser shall ~~apply~~file in due form for a new license and tender a new  
3           bond for ~~approval~~review by the commission, whereupon, it first being duly satisfied  
4           that all the outstanding receipts have been redeemed, or that the redemption thereof  
5           has been provided for, the commission may ~~issue~~permit a new license to become  
6           effective for the lessee or purchaser.

7           No sale, lease, or transfer of any warehouse will be recognized ~~or permitted~~ by the commission  
8           except when made in accordance with the provisions of this section.

9           **SECTION 8. AMENDMENT.** Section 60-02-44 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11          **60-02-44. Licensed warehouse capacity and condominium storage.**

12          Unless an entire warehouse facility is used for nonpublic purposes, all physically connected  
13          portions of the facility must be licensed in accordance with this chapter. The warehouseman  
14          shall issue receipt memoranda for all grain received. Facilities that are physically connected to  
15          the licensed warehouse may be sold under a condominium arrangement or leased to other  
16          entities for nonpublic use and sales and lease agreements must be based on the capacity of the  
17          bins involved and not on the number of bushels held in the space. The licensee shall provide  
18          contents insurance and bond coverage for the space. ~~In case of licensee insolvency, the~~  
19          ~~contents of the space must be considered an asset to the trust fund established under~~  
20          ~~chapter 60-04 and owners and lessees are entitled to trust fund protection in a manner equal to~~  
21          ~~all other valid grain receipt holders.~~

22          **SECTION 9. AMENDMENT.** Section 60-02.1-03 of the North Dakota Century Code is  
23          amended and reenacted as follows:

24          **60-02.1-03. Duties and powers of the commission.**

25          The commission has the ~~duty and~~ power to:

- 26          1. ~~Exercise general supervision of grain buyers of this state.~~
- 27          2. Investigate all complaints of fraud and injustice, unfair practices, and unfair  
28          discrimination.
- 29          ~~3.2.~~ Examine and inspect, during ordinary business hours, any books, documents, and  
30          records.

1     ~~4.3.~~    Make all proper rules for carrying out and enforcing any law in this state regarding  
2                grain buyers.

3                **SECTION 10. AMENDMENT.** Section 60-02.1-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5                **60-02.1-08. Bond filed by grain buyer.**

6                Before any license is ~~issued to~~effective for any grain buyer under this chapter, the applicant  
7 for ~~such~~the license shall file a bond with the commission which must:

- 8                1. Be in a sum not less than five thousand dollars.
- 9                2. Be continuous, unless the corporate surety by certified mail notifies the licensee and  
10                the commission that the surety bond will be canceled ninety days after receipt of the  
11                notice of cancellation.
- 12               3. Run to the state of North Dakota for the benefit of all persons selling grain to or  
13                through the grain buyer.
- 14               4. Be conditioned:
  - 15                a. For the faithful performance of the licensee's duties as a grain buyer.
  - 16                b. For compliance with the provisions of law and the rules of the commission  
17                relating to the purchase of grain by such grain buyer.
- 18               5. For facility-based grain buyers, specify the location of each facility intended to be  
19                covered by ~~such~~the bond.
- 20               6. Be for the specific purpose of:
  - 21                a. Protecting the sellers of grain.
  - 22                b. Covering the costs incurred by the commission in the administration of the  
23                licensee's insolvency.
- 24               7. Not accrue to the benefit of any person entering into a credit-sale contract with a grain  
25                buyer.
- 26               8. ~~In no event shall the~~The aggregate liability of the surety under a bond does not  
27                accumulate for each successive annual license renewal period during which ~~such~~the  
28                bond is in force but, for losses during any annual license renewal period, ~~shall be~~is  
29                limited in the aggregate to the bond amount stated or changed by appropriate  
30                endorsement or rider.

1 The commission may require an increase in the amount of any bond, from time to time, as it  
2 deems necessary to accomplish the purposes of this section. The surety on ~~such a~~the bond  
3 must be a corporate surety company, approved by the commission, and authorized to do  
4 business within the state. The commission may accept cash, a negotiable instrument, or a bond  
5 executed by personal sureties in lieu of a surety bond when, in its judgment, ~~such~~ cash, a  
6 negotiable instrument, or a personal surety bond properly will protect the holders of outstanding  
7 receipts. Only one bond may be required for any series of facilities operated by a facility-based  
8 grain buyer, and ~~such~~the bond must be construed to cover ~~such~~those facilities as a whole and  
9 not a specific amount for each.

10 **SECTION 11. AMENDMENT.** Section 60-02.1-26 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **60-02.1-26. Transfer of facility - Redemption of receipts.**

13 Whenever a facility-based grain buyer desires to transfer a facility, either by sale or lease to  
14 any other individual, firm, or corporation, the grain buyer shall:

- 15 1. Notify the commission first of its intention to transfer the facility, giving the name and  
16 address of the proposed lessee or purchaser.
- 17 2. Provide related information as may be required by the commission.
- 18 3. Surrender to the commission ~~its~~the grain buyer's license for cancellation and at  
19 ~~such~~that time the proposed lessee or purchaser shall ~~apply~~file in due form for a new  
20 license and tender a new bond for ~~approval~~review by the commission, whereupon, it  
21 first being duly satisfied that all the outstanding receipts have been redeemed, or that  
22 the redemption thereof has been provided for, the commission may ~~issue~~permit a new  
23 license to become effective for the lessee or purchaser.

24 No sale, lease, or transfer of any facility will be recognized ~~or permitted~~ by the commission  
25 except when made in accordance with the provisions of this section.

26 **SECTION 12. AMENDMENT.** Section 60-02.1-28 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **60-02.1-28. Insolvency of grain buyer.**

29 A licensee is insolvent when the licensee refuses, neglects, or is unable upon proper written  
30 demand to make payment for grain purchased or marketed by the licensee or is unable to make  
31 redelivery upon proper written demand. The licensee may not assess receiving or redelivery

1 fees on grain that is redelivered during a suspension, following a revocation, or when the owner  
2 of the grain is taking redelivery because the licensee is unable to pay for the grain.

3 **SECTION 13. AMENDMENT.** Section 60-02.1-29 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-02.1-29. ~~Appointment of commission~~Commission insolvency proceeding.**

6 Upon the insolvency of any roving grain buyer, the commission, on its own motion, shall  
7 apply to the district court of Burleigh County for authority to take all action necessary to act as  
8 trustee of the trust fund described in section 60-02.1-30. If the insolvency involves a  
9 facility-based grain buyer, application must be to the district court of a county in which the  
10 licensee operates a licensed facility. Upon notice to the licensee as the court prescribes, but not  
11 exceeding twenty days, or upon waiver of notice in writing by the licensee, the court shall hear  
12 and determine the application in a summary manner. If the court determines that the licensee is  
13 insolvent within the meaning of this chapter and that it would be in the best interests of the  
14 receiptholders that the commission secure and execute the trust, the court shall issue an order  
15 granting the application, without bond, and the commission shall proceed to exercise its  
16 authority without further direction from the court.

17 Upon the filing of the commission's application, the court may issue ex parte a temporary  
18 order to preserve or protect the assets of the trust fund until the court issues its order granting  
19 or denying the application commence an administrative insolvency proceeding under chapter  
20 28-32 to secure the bond proceeds, identify potential receiptholder and credit-sale claimants,  
21 determine the amount of each claim, determine the recommended payment on each claim from  
22 the insolvency fund and the grain indemnity fund, make payments on claims, and take any  
23 action necessary and appropriate to accomplish the purposes of this chapter.

24 **SECTION 14. AMENDMENT.** Section 60-02.1-30 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **60-02.1-30. ~~Trust~~Insolvency fund established.**

27 Upon the insolvency of any licensee, a ~~trust~~an insolvency fund must be established for the  
28 benefit of noncredit-sale receiptholders and to pay the costs incurred by the commission in the  
29 administration of the insolvency. The ~~trust~~insolvency fund must consist of the following:

- 30 1. ~~Nonwarehouse receipt grain of the insolvent licensee held in storage or the proceeds~~  
31 ~~obtained from the conversion of such grain.~~

- 1       2.   ~~The proceeds, including accounts receivable, from any grain sold from the time of the~~
- 2           ~~filing of the claim that precipitated an insolvency until the commission is appointed~~
- 3           ~~trustee must be remitted to the commission and included in the trust fund.~~
- 4       3.   ~~The proceeds of insurance policies on destroyed grain.~~
- 5       4.   The claims for relief, and proceeds therefrom, for damages upon bond given by the
- 6           licensee to ensure faithful performance of the duties of a licensee.
- 7       5.   ~~The claim for relief, and proceeds therefrom, for the conversion of any grain stored in~~
- 8           ~~the warehouse.~~
- 9       6.   ~~Unencumbered accounts receivable for grain sold prior to the filing of the claim that~~
- 10           ~~precipitated an insolvency.~~
- 11       7.   Unencumbered equity in grain hedging accounts.
- 12       8.   Unencumbered grain product assets.

13       **SECTION 15. AMENDMENT.** Section 60-02.1-31 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **60-02.1-31. Joinder of and notice to surety - Deposit of proceeds.**

16       ~~Each~~The commission shall join each surety on the insolvent licensee's bonds ~~must be~~  
17 ~~joined~~ as a party to the insolvency proceeding. If it is in the best interests of the receiptholders,  
18 ~~the court~~commission may order a surety to deposit some or all of the penal sum of the bond into  
19 ~~the trustee's trust~~insolvency account pending determination of the surety's liability under the  
20 bond.

21       **SECTION 16. AMENDMENT.** Section 60-02.1-32 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **60-02.1-32. Notice to receiptholders and credit-sale contract claimants.**

24       ~~Upon its appointment~~an insolvency, the commission may take possession of relevant books  
25 and records of the licensee. If the insolvency involves a roving grain buyer, the commission  
26 shall publish a notice of ~~its appointment~~the insolvency and the commencement of the  
27 insolvency proceeding once each week for two consecutive weeks in all daily newspapers in the  
28 state and may notify, by ordinary mail, the holders of record of outstanding receipts and those  
29 who are potential credit-sale contract claimants, disclosed by the licensee's records. If the  
30 insolvency involves a facility-based grain buyer, the notice must be published once each week  
31 for two consecutive weeks in a newspaper in the county in which the warehouse is located. The

1 notice must require outstanding receiptholders and credit-sale contract claimants to file their  
2 claims with the commission along with the receipts, contracts, or other evidence of the claims  
3 required by the commission. If an outstanding receiptholder or credit-sale contract claimant fails  
4 to submit a claim within forty-five days after the last publication of the notice or a longer time set  
5 by the commission, the commission is relieved of further duty in the administration of the  
6 insolvency on behalf of the receiptholder or credit-sale contract claimant and the receiptholder  
7 or credit-sale contract claimant may be barred from ~~participation in the trust fund~~payment for  
8 any amount due. Outstanding receiptholders and credit-sale contract claimants are not parties  
9 to the insolvency action unless admitted by the ~~court~~commission upon a motion for intervention.

10 **SECTION 17. AMENDMENT.** Section 60-02.1-33 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **60-02.1-33. Remedy of receiptholders.**

13 No receiptholder has a separate claim for relief upon any insolvent licensee's bond, ~~nor for~~  
14 ~~insurance, nor against any person converting grain, nor against any other receiptholder, except~~  
15 through the ~~trustee~~commission, unless, upon demand of five or more receiptholders, the  
16 commission fails or refuses to ~~apply for its own appointment or unless the district court denies~~  
17 ~~the application~~commence an insolvency proceeding and join the surety. This chapter does not  
18 prohibit any receiptholder, either individually or in conjunction with other receiptholders, from  
19 pursuing concurrently any other remedy against the person or property of the licensee.

20 **SECTION 18. AMENDMENT.** Section 60-02.1-34 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **60-02.1-34. Commission ~~to~~ marshall trust assets may maintain suit.**

23 ~~Upon its appointment, the commission shall marshall all of the trust fund assets.~~ The  
24 commission may maintain suits in the name of the state of North Dakota for the benefit of all  
25 receiptholders against the licensee's bonds, insurers of grain, any person who may have  
26 converted any grain, and any person who may have received preferential treatment by being  
27 paid by the insolvent licensee after the first default.

28 **SECTION 19. AMENDMENT.** Section 60-02.1-35 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **60-02.1-35. Power of commission to prosecute or compromise claims.**

31 The commission may:

- 1        1.    Prosecute any action provided in sections 60-02.1-28 through 60-02.1-38 in any court
- 2            in this state or in any other state.
- 3        2.    Appeal from any adverse judgment to the courts of last resort.
- 4        3.    Settle and compromise any action when it will be in the best interests of the
- 5            receiptholders and credit-sale contract claimants.
- 6        4.    Upon payment of the amount of any settlement or of the full amount of any bond,
- 7            exonerate the person so paying from further liability growing out of the action.
- 8        5.    Take any other action necessary and appropriate to accomplish the purposes of this
- 9            chapter.

10        **SECTION 20. AMENDMENT.** Section 60-02.1-36 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12        **60-02.1-36. Money received by trustee - Deposited in Bank of North Dakota.**

13        All funds received by the commission ~~as trustee~~under this chapter must be deposited in the  
14 Bank of North Dakota.

15        **SECTION 21. AMENDMENT.** Section 60-02.1-37 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17        **60-02.1-37. Report of trustee to court - ~~Approval~~and order of commission -**  
18 **Distribution.**

- 19        1.    Upon the receipt and evaluation of claims, the commission shall ~~file with the court~~issue  
20            a notice consistent with chapter 28-32, together with a report showing the amount and  
21            validity of each claim after recognizing:
  - 22            a.    Relevant liens or pledges.
  - 23            b.    Relevant assignments.
  - 24            c.    Relevant deductions due to advances or offsets accrued in favor of the licensee.
  - 25            d.    In case of relevant cash claims or checks, the amount of the claim, ~~with interest~~  
26            ~~from the date of default at the weighted average prime rate charged by the Bank~~  
27            ~~of North Dakota.~~
  - 28            e.    In case of a relevant credit-sale contract or noncredit-sale contract, the amount  
29            remaining to be paid based on the terms of the contract.
- 30        2.    The report must also contain the proposed reimbursement to the commission for the  
31            expenses of administering the insolvency, the proposed distribution of the

1 ~~trust~~insolvency fund assets, less expenses incurred by the commission in the  
2 administration of the insolvency, and the proposed indemnity fund payments to  
3 receptholder and credit-sale contract claimants. If the ~~trust~~insolvency fund is  
4 insufficient to redeem all receptholder claims in full, the report should list the funds as  
5 prorated.

6 3. The ~~court~~commission shall set a hearing and issue the appropriate notice at least  
7 forty-five days before the hearing, for interested persons to show cause why the  
8 commission's report should not be ~~approved~~become final, and grain indemnity fund  
9 payments and distribution of the insolvency fund be made as proposed. Copies of the  
10 report and notice of hearing must be served by the commission by certified mail upon  
11 the licensee and the surety and by ordinary mail upon all persons having claims filed  
12 with the commission.

13 4. Any aggrieved person having an objection to the commission's report shall file the  
14 objection with the ~~court~~commission and serve copies on ~~the commission~~, the licensee,  
15 and the surety at least ~~ten~~twenty days before the hearing. Failure to file and serve  
16 objections in the time set is a waiver of the objection.

17 5. Following the hearing, the ~~court~~commission shall ~~approve~~adopt or modify the report  
18 and issue an order directing payment of the necessary bond proceeds, distribution of  
19 the ~~trust~~insolvency fund, and ~~discharge of the commission from its trust~~payments from  
20 the grain indemnity fund.

21 **SECTION 22. AMENDMENT.** Section 60-02.1-38 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **60-02.1-38. Filing fees and court costs - Expenses.**

24 The commission may not be required to pay any filing fee or other court costs or  
25 disbursements. The attorney general may appoint outside legal counsel to assist the  
26 commission in the prosecution of ~~the action~~any proceeding and the cost of employing outside  
27 counsel ~~may~~must be paid from the ~~trust~~insolvency fund and the grain indemnity fund. All other  
28 necessary expenses incurred by the commission in carrying out the provisions of this chapter,  
29 including adequate insurance to protect the commission, its employees, and others engaged in  
30 carrying out the provisions of sections 60-02.1-28 through 60-02.1-38, ~~may~~must be  
31 ~~paid~~reimbursed to the commission from the ~~trust fund~~insolvency and grain indemnity funds.

1       **SECTION 23. AMENDMENT.** Section 60-04-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-04-02. Insolvency of warehouseman.**

4       A licensee is insolvent when the licensee refuses, neglects, or is unable upon proper written  
5 demand to make payment for grain purchased or marketed by the licensee or to make  
6 redelivery or payment for grain stored.

7       **SECTION 24. AMENDMENT.** Section 60-04-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **60-04-03. ~~Appointment of commission~~Commission insolvency proceeding.**

10       Upon the insolvency of any warehouseman, the commission, on its own motion, shall apply-  
11 ~~to the district court of a county in which the warehouseman operates a licensed warehouse for~~  
12 ~~authority to take all action necessary and appropriate to secure and act as trustee of the trust~~  
13 ~~fund described in section 60-04-03.1. Upon such notice to the warehouseman as the court shall~~  
14 ~~prescribe, but not exceeding twenty days, or upon waiver of such notice in writing by the~~  
15 ~~warehouseman, the court shall proceed to hear and determine such application in a summary~~  
16 ~~manner. If it shall appear to the court that such warehouseman is insolvent within the meaning~~  
17 ~~of this chapter and that it would be for the best interests of the receiptholders that the~~  
18 ~~commission secure and execute such trust, the court shall issue an order granting the~~  
19 ~~application, without bond, whereupon the commission shall proceed to exercise its authority~~  
20 ~~without further direction from the court.~~

21       Upon the filing of the commission's application, the court may issue ex parte such  
22 temporary order as may be necessary to preserve or protect the assets of the trust fund, or the  
23 value thereof, until the court issues its order granting or denying the applicationcommence an  
24 administrative insolvency proceeding under chapter 28-32 to secure the bond proceeds, identify  
25 potential receiptholder and credit-sale claimants, determine the amount of each claim,  
26 determine the recommended payment on each claim from the insolvency fund and the grain  
27 indemnity fund, make payments on claims, and take any action necessary and appropriate to  
28 accomplish the purposes of this chapter.

29       **SECTION 25. AMENDMENT.** Section 60-04-03.1 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **60-04-03.1. ~~Trust~~Insolvency fund established.**

2       1. Upon the insolvency of any warehouseman, a ~~trust~~an insolvency fund shallmust be  
3       established:

4       a. For the benefit of noncredit-sale receiptholders of the insolvent warehouseman,  
5       other than those who have waived their rights as beneficiaries of the trust fund in  
6       accordance with section 60-02-11; and

7       b. To pay the costs incurred by the commission in the administration of this chapter.

8       2. The ~~trust~~insolvency fund consists of the following:

9       a. ~~The grain in the warehouse of the insolvent warehouseman or the proceeds as-~~  
10      ~~obtained through the sale of such grain;~~

11      b. ~~The proceeds, including accounts receivable, from any grain sold from the time of~~  
12      ~~the filing of the claim that precipitated an insolvency until the commission is~~  
13      ~~appointed trustee;~~

14      c. ~~The proceeds of insurance policies upon grain destroyed in the elevator;~~

15      d. ~~The claims for relief, and proceeds therefrom, for damages upon any bond given~~  
16      ~~by the warehouseman to ensure faithful performance of the duties of a~~  
17      ~~warehouseman;~~

18      e. ~~The claims for relief, and proceeds therefrom, for the conversion of any grain-~~  
19      ~~stored in the warehouse;~~

20      f. ~~Unencumbered accounts receivable for grain sold prior to the filing of the claim-~~  
21      ~~that precipitated an insolvency;~~

22      g. ~~Unencumbered equity in grain hedging accounts; and~~

23      h. ~~Unencumbered grain product assets.~~

24      **SECTION 26. AMENDMENT.** Section 60-04-03.3 of the North Dakota Century Code is  
25      amended and reenacted as follows:

26      **60-04-03.3. Joinder of and notice to surety - Deposit of proceeds.**

27      The commission shall join the surety on the warehouseman's bond ~~must be joined~~ as a  
28      party to the insolvency proceeding ~~upon a motion by the commission when the commission~~  
29      ~~believes that proceeds from the warehouseman's bond may be needed to redeem outstanding~~  
30      ~~receipts issued by the warehouseman.~~ When it appears in the best interests of the  
31      receiptholders, the ~~court~~commission may order the surety to deposit the penal sum of the bond,

1 ~~or so much thereof as may be deemed necessary, into the trustee's trust~~insolvency account  
2 pending a final determination of the surety's liability under the bond.

3 **SECTION 27. AMENDMENT.** Section 60-04-04 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-04-04. Notice to receiptholders and credit-sale contract claimants.**

6 ~~Upon its appointment by the district court~~an insolvency, the commission may take  
7 possession of relevant books and records of the warehouseman. The commission shall cause a  
8 notice of ~~its appointment~~the insolvency and the commencement of the insolvency proceeding to  
9 be published once each week for two consecutive weeks in a newspaper in the county in which  
10 the warehouse is located and may notify by ordinary mail the holders of record of outstanding  
11 receipts and those who are potential credit-sale contract claimants, as shown by the  
12 warehouseman's records. The notices must require outstanding receiptholders and credit-sale  
13 contract claimants to file their claims against the warehouseman with the commission along with  
14 the receipts, contracts, or ~~such~~any other evidence of the claims as required by the commission.  
15 If an outstanding receiptholder or credit-sale contract claimant fails to submit a claim within  
16 forty-five days after the last publication of the notice or ~~such~~a longer time as prescribed by the  
17 commission, the commission is relieved of further duty or action under this chapter on behalf of  
18 the receiptholder or credit-sale contract claimant and the receiptholder or credit-sale contract  
19 claimant may be barred from ~~participation in the trust fund~~payment for any amount due.  
20 Outstanding receiptholders and credit-sale contract claimants are not parties to the insolvency  
21 action unless admitted by the ~~court~~commission upon a motion for intervention.

22 **SECTION 28. AMENDMENT.** Section 60-04-05 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **60-04-05. Remedy of receiptholders.**

25 No receiptholder has a separate claim for relief upon the warehouseman's bond, ~~nor for~~  
26 ~~insurance, nor against any person converting grain, nor against any other receiptholder, except~~  
27 ~~through the trustee~~commission, unless, upon demand of five or more receiptholders, the  
28 commission fails or refuses to ~~apply for its own appointment from the district court or unless the~~  
29 ~~district court denies the application for appointment~~commence an insolvency proceeding and  
30 join the surety. This chapter does not prohibit or prevent any receiptholder, either individually or  
31 in conjunction with other receiptholders, from pursuing concurrently ~~such~~any other remedy

1 against the person or property of such ~~the~~ warehouseman, for the whole, or any deficiency  
2 occurring in the redemption, of the receipts.

3 **SECTION 29. AMENDMENT.** Section 60-04-06 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-04-06. Commission ~~to marshal trust assets~~ may maintain suit.**

6 ~~Upon its appointment by the district court, the~~ The commission may maintain suits at law or  
7 in equity, or any special proceeding, in the name of the state of North Dakota, upon its own  
8 relation, but for the benefit of all such receiptholders against:

- 9 1. The insurers of grain;
- 10 2. The warehouseman's bond;
- 11 3. Any person who may have converted any grain; or
- 12 4. Any receiptholder who shall have received more than its just and pro rata share of  
13 grain;

14 ~~for the purpose of marshalling all of the trust fund assets and distributing the same among the~~  
15 ~~receiptholders. The commission shall seek possession of any grain in the warehouse before~~  
16 ~~recourse is had against the insurers of grain, and the remedy against the insurers of grain shall~~  
17 ~~be exhausted before recourse is had against the bond, and against the bond before recourse is~~  
18 ~~had against the person honestly converting grain, unless the commission shall deem it~~  
19 ~~necessary to the redemption of the receipts that all the above remedies be pursued at the same~~  
20 ~~time.~~

21 **SECTION 30. AMENDMENT.** Section 60-04-07 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **60-04-07. Power of commission to prosecute or compromise claims.**

24 ~~The commission shall have power~~ may:

- 25 1. ~~To prosecute~~ Prosecute any action provided in this chapter in any court in this state or  
26 in any other state.
- 27 2. ~~To appeal~~ Appeal from any adverse judgment to the courts of last resort.
- 28 3. ~~To settle~~ Settle and compromise any action whenever, ~~in its judgment, this will be for it~~  
29 is in the best interests of the receiptholders and credit-sale contract claimants.

1       4. Upon payment of the amount of ~~such~~the compromise or of the full amount of any  
2       insurance policy, bond, or conversion claim, to exonerate the person so compromising  
3       or paying in full from further liability growing out of the action.

4       5. Take any other action necessary and appropriate to accomplish the purposes of this  
5       chapter.

6       **SECTION 31. AMENDMENT.** Section 60-04-08 of the North Dakota Century Code is  
7       amended and reenacted as follows:

8       **60-04-08. Money received by trustee - Deposited in Bank of North Dakota.**

9       All moneys collected and received by the commission ~~as trustee~~ under this chapter,  
10      ~~pending the marshalling of the fund,~~ shall must be deposited in the Bank of North Dakota.

11      **SECTION 32. AMENDMENT.** Section 60-04-09 of the North Dakota Century Code is  
12      amended and reenacted as follows:

13      **60-04-09. Report of trustee to court - Approval and order of commission - Distribution.**

14      Upon the receipt and evaluation of claims filed with it, the commission shall ~~file with the~~  
15      ~~court~~ issue a notice consistent with chapter 28-32, together with a report showing the amount  
16      and validity of each claim after recognizing:

17      1. Any proper liens or pledges thereon.

18      2. Assignments thereof.

19      3. Deductions therefrom by reason of advances or offsets accrued in favor of the  
20      warehouseman.

21      4. In case of cash claims or checks, the amount thereof, ~~with interest at the weighted-~~  
22      ~~average prime rate charged by the Bank of North Dakota since the date of the~~  
23      ~~insolvency.~~

24      5. In the case of scale tickets or warehouse receipts, the amount thereof based upon the  
25      market price prevailing on the date of the insolvency, ~~with interest at the weighted-~~  
26      ~~average prime rate charged by the Bank of North Dakota since the date of the~~  
27      ~~insolvency~~ commission first received a copy of the written demand required by section  
28      60-04-02.

29      6. In the case of a credit-sale or noncredit-sale contract, the amount remaining to be paid  
30      based on the terms of the contract.

1 The report must also contain the proposed reimbursement to the commission for the  
2 expenses of administering the insolvency, a proposed distribution of the ~~trust fund assets~~bond  
3 proceeds in the insolvency fund, less an appropriate portion of the expenses incurred by the  
4 commission in the administration of this chapter, and the proposed indemnity fund payments to  
5 receiptholder and credit-sale contract claimants as their interests are determined. If the  
6 ~~trust~~insolvency fund is insufficient to redeem all receiptholder claims in full, the ~~fund~~claims must  
7 be shown prorated in the report in the manner the commission deems fair and equitable.

8 The ~~court shall set~~commission shall hold a hearing and the appropriate notice at least forty-  
9 five days before the hearing, for interested persons to show cause why the commission's report  
10 should not be ~~approved~~become final, and grain indemnity fund payments and distribution of the  
11 insolvency fund be made as proposed. Copies of the report and notice of hearing must be  
12 served by the commission by certified mail upon the warehouseman and the surety and by  
13 ordinary mail upon all persons having claims filed with the commission.

14 Any aggrieved person having an objection to the commission's report shall file the objection  
15 with the ~~court~~commission and serve copies on ~~the commission~~, the warehouseman, and the  
16 surety at least ~~ten~~twenty days before the hearing. Failure to file and serve objections in the time  
17 set is a waiver of the objection.

18 Following hearing, the ~~court~~commission shall ~~approve~~adopt or modify the report and issue  
19 an order directing payment of the necessary bond proceeds, from insolvency fund and  
20 distribution offrom the ~~trust~~grain indemnity fund, ~~and discharge of the commission from its trust~~.

21 **SECTION 33. AMENDMENT.** Section 60-04-10 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **60-04-10. Filing fees and court costs - Expenses.**

24 ~~Upon the application to the district court as provided in this chapter, or in~~In any action in a  
25 state court in this state, the commission shall not be required to pay any filing fee or other court  
26 costs or disbursements if the fees accrue to the county or to the state. The attorney general  
27 may employ outside legal services to assist the commission in the prosecution of ~~such~~  
28 actionany proceeding as in the attorney general's judgment may be necessary and ~~may~~shall  
29 deduct the expense of the same from the ~~trust~~grain indemnity fund and the insolvency fund. All  
30 other necessary expenses incurred by the commission in carrying out the provisions of this  
31 chapter, including adequate insurance to protect the commission, its employees, and others

1 engaged in carrying out the provisions of this chapter, ~~may~~must be ~~deducted~~reimbursed to the  
2 commission from the ~~trust fund~~insolvency and grain indemnity funds.

3 **SECTION 34. AMENDMENT.** Section 60-10-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-10-01. ~~Credit-sale contracts~~ – Assessment on grain - Submission of assessment.**

6 An assessment at the rate of ~~two tenths~~two one-hundredths of one percent is placed on the  
7 value of all grain sold in this state under a noncredit-sale contract, credit-sale contract, as  
8 provided for in sections 60-02-19.1 and 60-02.1-14, or for cash. The licensee purchasing the  
9 grain shall note the assessment on the check, noncredit-sale contract, or credit-sale contract  
10 required under sections 60-02-19.1 and 60-02.1-14, and shall deduct the assessment from the  
11 purchase price payable to the seller. The licensee shall submit any assessment collected under  
12 this section to the public service commission no later than thirty days after the last day of each  
13 calendar quarter. An assessment at the same rate is placed on all grain delivered for storage in  
14 this state when a receipt holder claim based on stored grain is payable by the commission under  
15 chapter 60-04. The licensee receiving grain for storage shall note the potential assessment on  
16 the warehouse receipt. In the event of an insolvency proceeding, the commission shall deduct  
17 the assessment from the amount payable to a receipt holder from the grain indemnity fund for a  
18 claim based on stored grain. The commission shall deposit the assessments received under this  
19 section in the ~~credit-sale contract~~grain indemnity fund.

20 **SECTION 35. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **60-10-02. ~~Credit-sale contract~~ Grain indemnity fund - ~~Creation~~ – Continuing**  
23 **appropriation.**

24 ~~There is created~~The grain indemnity fund is a special fund in the state treasury ~~the~~  
25 ~~credit-sale contract indemnity fund~~. The state treasurer shall invest available moneys in the fund  
26 in accordance with section 21-10-07 and in cooperation with the public service commission and  
27 shall deposit any income earned through the investments into the fund. The fund and earnings  
28 of the fund are appropriated to the public service commission on a continuing basis to be used  
29 exclusively to carry out the intent and purpose of this chapter.

30 **SECTION 36. AMENDMENT.** Section 60-10-04 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1        **60-10-04. ~~Credit-sale contract~~ Grain indemnity fund - Eligibility for reimbursement.**

2        A person is eligible to receive indemnity payments from the ~~credit-sale contract~~ grain  
3 indemnity fund if:

4        1. After August 1, 2003, the person sold grain to a licensed warehouse or a grain buyer  
5 in this state under the provisions of a credit-sale contract;

6        2. After August 1, 2017, the person delivered or sold grain to a licensed warehouse or a  
7 grain buyer in this state;

8        3. The licensed warehouse to which the person sold grain or the grain buyer to whom the  
9 person sold grain becomes insolvent; and

10       3.4. The licensed warehouse or the grain buyer, as a result of the insolvency, does not fully  
11 compensate the person in accordance with the ~~credit-sale contract, noncredit-sale~~  
12 ~~contract, sale, or storage contract.~~

13        **SECTION 37. AMENDMENT.** Section 60-10-05 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15        **60-10-05. ~~Credit-sale contract~~ Grain indemnity fund - Availability of money.**

16        Upon the insolvency of a licensed warehouse or a grain buyer ~~and a declaration that the~~  
17 ~~public service commission serve as the trustee,~~ the public service commission shall commence  
18 an insolvency proceeding under chapter 60-04 to make the proceeds of the credit-sale-  
19 contract grain indemnity fund available for use in meeting the licensee's obligations with respect  
20 to the reimbursement of any person who delivered or sold grain to the licensee ~~under a~~  
21 ~~credit-sale contract~~ and who was not fully compensated in accordance with the sale, contract,  
22 or storage contract.

23        **SECTION 38. AMENDMENT.** Section 60-10-06 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25        **60-10-06. ~~Credit-sale contract~~ Grain indemnity fund - Reimbursement limit.**

26        The amount payable to any eligible person from the ~~credit-sale contract~~ grain indemnity fund  
27 for each insolvency may not exceed the lesser of eighty percent of the amount owed to that  
28 eligible person in accordance with all of that person's unsatisfied credit-sale contracts, storage  
29 contracts, noncredit-sale contracts, or sales, or ~~two~~ four hundred eighty thousand dollars.

30        **SECTION 39. AMENDMENT.** Section 60-10-07 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1        **60-10-07. ~~Credit-sale contract~~Grain indemnity fund - Prorated claims.**

2        If claims for indemnity payments from the ~~credit-sale contract~~grain indemnity fund exceed  
3 the amount in the fund, the public service commission shall prorate the claims and pay the  
4 prorated amounts. As future assessments are collected, the public service commission shall  
5 continue to forward indemnity payments to each eligible person until the person receives the  
6 maximum amount payable in accordance with this chapter.

7        **SECTION 40. AMENDMENT.** Section 60-10-08 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9        **60-10-08. Reimbursement for later insolvencies.**

10        The public service commission shall ensure that all persons eligible for payment from the  
11 grain indemnity fund as a result of an insolvency are fully compensated to the extent permitted  
12 by this chapter before any payments from the indemnity fund are initiated as a result of a later  
13 insolvency. The chronological order of insolvencies is determined by the date the public service  
14 commission ~~is appointed trustee under~~first received a copy of the written demand required by  
15 ~~section 60-02.1-2960-02.1-28~~ or ~~60-04-0360-04-02~~.

16        **SECTION 41. AMENDMENT.** Section 60-10-09 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18        **60-10-09. ~~Credit-sale contract~~Grain indemnity fund - Reimbursement for**  
19 **administrative expenses.**

20        Any expense incurred by the public service commission in administering the ~~credit-sale-~~  
21 ~~contract~~grain indemnity fund ~~is reimbursable~~must be reimbursed from the fund before any other  
22 claim for indemnity is paid.

23        **SECTION 42. AMENDMENT.** Section 60-10-10 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25        **60-10-10. ~~Credit-sale contract~~Grain indemnity fund assessment - Failure to collect**  
26 **assessment - Penalty.**

27        Any person who knowingly or intentionally refuses or fails to collect the assessment  
28 required under this chapter from producers or to submit any assessment collected from  
29 producers to the public service commission for deposit in the ~~credit-sale contract~~grain indemnity  
30 fund is guilty of a class A misdemeanor.

1       **SECTION 43. AMENDMENT.** Section 60-10-13 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-10-13. Claims.**

4       A claim concerning a grain buyer must be administered in a manner consistent with chapter  
5 60-02.1. A claim concerning a state licensed grain warehouse must be administered in a  
6 manner consistent with chapter 60-04. A payment may not be made from the ~~credit-sale-~~  
7 ~~contract~~grain indemnity fund for a claim based on losses resulting from the sale of grain to a  
8 person not licensed under chapter 60-02, chapter 60-02.1, or the United States Warehouse Act  
9 [Pub. L. 106-472; 114 Stat. 2061; 7 U.S.C. 241 et seq.].

10       **SECTION 44. AMENDMENT.** Section 60-10-14 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **60-10-14. Subrogation.**

13       Money paid from the ~~credit-sale-~~contractgrain indemnity fund in satisfaction of a valid claim  
14 constitutes a debt obligation of the person against whom the claim was made. The commission  
15 may take action on behalf of the fund against a person to recover the amount of payment made,  
16 plus costs and attorney's fees. Any recovery for reimbursement to the fund must include interest  
17 computed at the weight average prime rate charged by the Bank of North Dakota. Upon  
18 payment of a claim from the ~~credit-sale-~~contractgrain indemnity fund, the claimant shall  
19 subrogate its interest, if any, to the commission in a cause of action against all parties, to the  
20 amount of the loss that the claimant was reimbursed by the fund.

21       **SECTION 45. AMENDMENT.** Section 60-10-15 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **60-10-15. Unlicensed facility-based grain buyer.**

24       This chapter also applies to a facility-based grain buyer, as defined in section 60-02.1-01,  
25 which is licensed under the United States Warehouse Act but which does not possess a state  
26 grain buyer license. The commission ~~has the duty and power to~~may examine and inspect,  
27 during regular business hours, all books, documents, and records related to collections and  
28 remittances pertaining to the ~~credit-sale-~~contractgrain indemnity fund. In the case of insolvency,  
29 ~~credit-sale-~~contract payments to valid claimants must be reduced by an amount equal to the  
30 ~~credit-sale-~~contract indemnity payments received from payments administered by the United  
31 States department of agriculture.

1       **SECTION 46. REPEAL.** Sections 60-02-02, 60-02-25.1, 60-02-39, 60-02.1-02, 60-02.1-25,  
2 60-04-03.2, and 60-10-03 of the North Dakota Century Code are repealed.

3       **SECTION 47. TRANSFER.** On August 1, 2017, the state treasurer shall transfer the  
4 balance of the credit-sale contract indemnity fund to the grain indemnity fund.