

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2346

Introduced by

Senators Wanzek, Dotzenrod, Klein, Luick

Representatives D. Johnson, Kempenich

1 ~~A BILL for an Act to create and enact a new section to chapter 60-02, a new section to chapter~~  
2 ~~60-02.1, and a new section to chapter 60-10 of the North Dakota Century Code, relating to~~  
3 ~~records confidentiality for warehousemen and grain buyers and assessment refunds for grain~~  
4 ~~producers; to amend and reenact subsection 5 of section 60-02-07 and sections 60-02-11,~~  
5 ~~60-02.1-07, 60-02.1-37, 60-02.1-38, 60-04-09, 60-04-10, 60-10-01, 60-10-02, 60-10-03,~~  
6 ~~60-10-04, 60-10-05, 60-10-06, 60-10-07, 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 warehouse and grain buyer licensing, scale ticket~~  
8 ~~conversions, claims distributions, assessments and refunds, subrogation, and unlicensed grain~~  
9 ~~buyers; to provide a penalty; to provide a continuing appropriation; and to provide for reports for~~  
10 an Act to create and enact a new section to chapter 60-01, a new section to chapter 60-02, and  
11 three new sections to chapter 60-02.1 of the North Dakota Century Code, relating to the  
12 definition of agriculture commissioner, licensing and bonding for cash grain brokers, and  
13 records confidentiality for warehousemen and grain buyers; and to amend and reenact section  
14 49-02-01, subsection 1 of section 60-02-01, sections 60-02-02, 60-02-03, 60-02-04, 60-02-05.1,  
15 60-02-07, 60-02-07.2, 60-02-09, 60-02-09.1, 60-02-10.1, 60-02-11, 60-02-14, 60-02-17,  
16 60-02-24, 60-02-27, 60-02-35.1, 60-02-38, 60-02-40, 60-02-41, 60-02-42, 60-02.1-01,  
17 60-02.1-02, 60-02.1-03, 60-02.1-04, 60-02.1-06, 60-02.1-07, 60-02.1-07.1, 60-02.1-08,  
18 60-02.1-09, 60-02.1-11, 60-02.1-16, 60-02.1-17, 60-02.1-19, 60-02.1-22, 60-02.1-26,  
19 60-02.1-27, 60-02.1-29, 60-02.1-30, 60-02.1-32, 60-02.1-33, 60-02.1-34, 60-02.1-35,  
20 60-02.1-36, 60-02.1-37, 60-02.1-38, and 60-02.1-39, subsection 1 of section 60-04-01, and  
21 sections 60-04-03, 60-04-03.1, 60-04-03.2, 60-04-03.3, 60-04-04, 60-04-05, 60-04-06,  
22 60-04-07, 60-04-08, 60-04-09, 60-04-10, 60-05-01, 60-05-02, 60-05-03, 60-05-04, 60-06-05,  
23 60-06-06.1, 60-10-01, 60-10-02, 60-10-03, 60-10-05, 60-10-07, 60-10-08, 60-10-09, 60-10-10,  
24 60-10-11, 60-10-12, 60-10-14, and 60-10-15 of the North Dakota Century Code, relating to  
25 moving the authority over grain, grain buyers, warehousing, deposits, and warehousemen from

1 the public service commission to the agriculture commissioner; to provide a penalty; and to  
2 provide a continuing appropriation.

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

4 ~~**SECTION 1. AMENDMENT.** Subsection 5 of section 60-02-07 of the North Dakota Century~~  
5 ~~Code is amended and reenacted as follows:~~

6 ~~5. If required to obtain United States department of agriculture approval of the~~  
7 ~~commission's warehouse inspection program, the~~The commission may require that  
8 ~~the applicant to submit a current financial statement prepared in accordance with~~  
9 ~~generally accepted accounting principles. A financial statement furnished under this~~  
10 ~~subsection is a confidential trade secret and is not a public record.~~

11 ~~**SECTION 2. AMENDMENT.** Section 60-02-11 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

13 ~~**60-02-11. Scale ticket – Contents – Conversion.**~~

14 ~~1. a. Every public warehouseman, upon receiving grain into the warehouse, shall~~  
15 ~~issue a uniform scale ticket for each load of grain received. The scale tickets~~  
16 ~~must be numbered consecutively, and one copy of each ticket must be retained~~  
17 ~~and remain as a permanent record. The original ticket must be delivered to the~~  
18 ~~person from whom the grain is received, upon receipt of each load of grain.~~

19 ~~b. All scale tickets must be converted into cash, noncredit sale contracts, credit sale~~  
20 ~~contracts, or warehouse receipts, within forty-five<sup>thirty</sup> days after the grain is~~  
21 ~~delivered to the warehouse, unless:~~

22 ~~(1) The person to whom the scale ticket is issued signs a form waiving all rights~~  
23 ~~to trust benefits under section 60-04-03.1;~~

24 ~~(2) The form identifies by number each scale ticket to which the waiver applies;~~  
25 ~~and~~

26 ~~(3) The form is signed by the warehouseman.~~

27 ~~c. The commission shall prepare the waiver form required by subdivision b and~~  
28 ~~make the form available to each warehouse.~~

- 1 ~~\_\_\_\_\_ d. The warehouseman shall keep one copy of the signed waiver form with the~~  
2 ~~records of the warehouse, provide one copy to the person who was issued the~~  
3 ~~scale ticket and signed the form, and file one copy with the commission.~~
- 4 ~~\_\_\_\_\_ e. If a warehouseman becomes insolvent under chapter 60-04, a claimant who~~  
5 ~~failed to convert the claimant's grain or sign a waiver under subdivision b, and~~  
6 ~~files a claim pursuant to chapter 60-04 must be treated as a credit-sale contract~~  
7 ~~claimant.~~
- 8 ~~\_\_\_\_\_ 2. Nothing in this chapter requires a warehouseman to receive grain for storage. A~~  
9 ~~warehouseman shall publish and post, in a conspicuous place in the warehouse, a~~  
10 ~~publication identifying whether storage will be available to patrons or whether grain will~~  
11 ~~be accepted via cash or a credit-sale contract arrangement.~~
- 12 ~~\_\_\_\_\_ **SECTION 3.** A new section to chapter 60-02 of the North Dakota Century Code is created~~  
13 ~~and enacted as follows:~~
- 14 ~~\_\_\_\_\_ **Release of records – Confidentiality.**~~
- 15 ~~\_\_\_\_\_ 1. As a condition of licensure under section 60-02-07, an applicant shall agree to provide~~  
16 ~~to the commission, upon request, any financial record the commission deems relevant~~  
17 ~~for purposes related to:~~
- 18 ~~\_\_\_\_\_ a. The issuance or renewal of a public warehouse license; or~~  
19 ~~\_\_\_\_\_ b. An investigation after issuance or renewal of a public warehouse license.~~
- 20 ~~\_\_\_\_\_ 2. As a condition of licensure, an applicant shall file a records release with the~~  
21 ~~commission, authorizing the commission to obtain from any source any financial~~  
22 ~~record the commission deems relevant for purposes related to:~~
- 23 ~~\_\_\_\_\_ a. The issuance or renewal of a public warehouse license; or~~  
24 ~~\_\_\_\_\_ b. An investigation after issuance or renewal of a public warehouse license.~~
- 25 ~~\_\_\_\_\_ 3. Any information obtained by the commission under this section is confidential and may~~  
26 ~~be provided only:~~
- 27 ~~\_\_\_\_\_ a. To federal authorities in accordance with federal law;~~  
28 ~~\_\_\_\_\_ b. To the attorney general, state agencies, and law enforcement agencies, for use in~~  
29 ~~the pursuit of official duties; and~~
- 30 ~~\_\_\_\_\_ c. As directed by an order of a court pursuant to a showing of good cause.~~

1 — **SECTION 4. AMENDMENT.** Section 60-02.1-07 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3 — **60-02.1-07. Grain buyer license – How obtained – Fee – Financial statement.**

4 — Grain buyers must obtain an annual license from the commission. Except as provided in  
5 this section, each license expires on July thirty-first of each year. When a licensee's initial  
6 license is issued effective after May thirty-first, that the license expires on July thirty-first of the  
7 following year. A facility-based grain buyer must obtain a license for each receiving location  
8 operated in the state. If a grain buyer operates two or more facilities in the same city or siding,  
9 in conjunction with each other and with the same working force, and where but one set of books  
10 and records is kept for all such facilities, and scale tickets and checks of but one series are  
11 issued for the grain, purchased, only one license is required for the operation of all such  
12 facilities. The annual license fee for a facility-based grain buyer is three hundred dollars and a  
13 license renewal application that is received after July fifteenth must be assessed an additional  
14 one hundred dollar fee per receiving location.

15 — If required to obtain United States department of agriculture approval of the commission's  
16 grain buyer inspection program, the The commission may require that grain buyers to submit a  
17 current financial statement prepared in accordance with generally accepted accounting  
18 principles. A financial statement furnished under this section is a confidential trade secret and is  
19 not a public record.

20 — **SECTION 5. AMENDMENT.** Section 60-02.1-37 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 — **60-02.1-37. Report of trustee to court – Approval – Distribution.**

23 — 1. — Upon the receipt and evaluation of claims, the commission shall file with the court a  
24 report showing the amount and validity of each claim after recognizing:

25 — a. — Relevant liens or pledges.

26 — b. — Relevant assignments.

27 — c. — Relevant deductions due to advances or offsets accrued in favor of the licensee.

28 — d. — In case of relevant cash claims or checks, the amount of the claim.

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

1 ~~2. The report must also contain the proposed reimbursement to the commission for the~~  
2 ~~expenses of administering the insolvency, the proposed distribution of the trust fund~~  
3 ~~assets to receiptholders, less expenses incurred by the commission in the~~  
4 ~~administration of the insolvency, and the proposed credit-sale contract~~grain ~~indemnity~~  
5 ~~fund payments to credit-sale contract claimants. If the trust fund is insufficient to~~  
6 ~~redeem all receiptholder claims in full, the report should list the funds as prorated.~~

7 ~~3. The court shall set a hearing and the appropriate notice for interested persons to show~~  
8 ~~cause why the commission's report should not be approved and distribution of the~~  
9 ~~trust fund be made as proposed. Copies of the report and notice of hearing must be~~  
10 ~~served by the commission by certified mail upon the licensee and the surety and by~~  
11 ~~ordinary mail upon all persons having claims filed with the commission.~~

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

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

20 ~~6. If the trust fund is insufficient to redeem all receiptholder claims in full, a receiptholder~~  
21 ~~is eligible to receive reimbursement of the remaining amount from the grain indemnity~~  
22 ~~fund, subject to the limitations under section 60-10-06.~~

23 ~~**SECTION 6. AMENDMENT.** Section 60-02.1-38 of the North Dakota Century Code is~~  
24 ~~amended and reenacted as follows:~~

25 ~~**60-02.1-38. Filing fees and court costs -- Expenses.**~~

26 ~~The commission may not be required to pay any filing fee or other court costs or~~  
27 ~~disbursements. The attorney general may appoint outside legal counsel to assist the~~  
28 ~~commission in the prosecution of the action and the cost of employing outside counsel must be~~  
29 ~~paid from the trust fund and the credit-sale contract~~grain ~~indemnity fund as appropriate. 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 sections 60-02.1-28 through 60-02.1-38, must be  
2 reimbursed to the commission from the trust fund and credit-sale contract~~grain~~ indemnity funds  
3 as appropriate.

4 ~~—~~ **SECTION 7.** A new section to chapter 60-02.1 of the North Dakota Century Code is created  
5 and enacted as follows:

6 ~~—~~ **Release of records – Confidentiality.**

7 ~~—~~ 1. As a condition of licensure under section 60-02.1-07, an applicant shall agree to  
8 provide to the commission, upon request, any financial record the commission deems  
9 relevant for purposes related to:

10 ~~—~~ a. The issuance or renewal of a grain buyer license; or

11 ~~—~~ b. An investigation after issuance or renewal of a grain buyer license.

12 ~~—~~ 2. As a condition of licensure, an applicant shall file a records release with the  
13 commission, authorizing the commission to obtain from any source any financial  
14 record the commission deems relevant for purposes related to:

15 ~~—~~ a. The issuance or renewal of a grain buyer license; or

16 ~~—~~ b. An investigation after issuance or renewal of a grain buyer license.

17 ~~—~~ 3. Any information obtained by the commission under this section is confidential and may  
18 be provided only:

19 ~~—~~ a. To federal authorities in accordance with federal law;

20 ~~—~~ b. To the attorney general, state agencies, and law enforcement agencies for use in  
21 the pursuit of official duties; and

22 ~~—~~ c. As directed by an order of a court pursuant to a showing of good cause.

23 ~~—~~ **SECTION 8. AMENDMENT.** Section 60-04-09 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 ~~—~~ **60-04-09. Report of trustee to court – Approval – Distribution.**

26 ~~—~~ Upon the receipt and evaluation of claims filed with it, the commission shall file with the  
27 court a report showing the amount and validity of each claim after recognizing:

28 ~~—~~ 1. Any proper liens or pledges thereon.

29 ~~—~~ 2. Assignments thereof.

30 ~~—~~ 3. Deductions therefrom by reason of advances or offsets accrued in favor of the  
31 warehouseman.

1 ~~4. In case of cash claims or checks, the amount thereof.~~

2 ~~5. In the case of scale tickets or warehouse receipts, the amount thereof based upon the~~  
3 ~~market price prevailing on the date the commission first received a copy of the written~~  
4 ~~demand required by section 60-04-02.~~

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

7 ~~The report must also contain the proposed reimbursement to the commission for the~~  
8 ~~expenses of administering the insolvency, a proposed distribution of the trust fund assets, less~~  
9 ~~expenses incurred by the commission in the administration of this chapter, and the proposed~~  
10 ~~credit sale contract~~grain indemnity fund payments to credit sale contract claimants as their  
11 ~~interests are determined. If the trust fund is insufficient to redeem all receiptholder claims in full,~~  
12 ~~the fund must be shown prorated in the report in the manner the commission deems fair and~~  
13 ~~equitable. If the trust fund is insufficient to redeem all receiptholder claims in full, a receiptholder~~  
14 ~~is eligible to receive reimbursement of the remaining amount from the grain producers~~  
15 ~~indemnity fund, subject to the limitations under section 60-10-06.~~

16 ~~The court shall set a hearing and the appropriate notice for interested persons to show~~  
17 ~~cause why the commission's report should not be approved and credit sale contract~~grain  
18 ~~indemnity fund payments and distribution of the trust fund be made as proposed, and payments~~  
19 ~~from the credit sale contracts be made as proposed. Copies of the report and notice of hearing~~  
20 ~~must be served by the commission by certified mail upon the warehouseman and the surety~~  
21 ~~and by ordinary mail upon all persons having claims filed with the commission.~~

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

26 ~~Following hearing, the court shall approve or modify the report and issue an order directing~~  
27 ~~payment of the necessary bond proceeds, distribution of the trust fund, payments from the~~  
28 ~~credit sale contract~~grain indemnity fund, and discharge of the commission from its trust.

29 ~~**SECTION 9. AMENDMENT.** Section 60-04-10 of the North Dakota Century Code is~~  
30 ~~amended and reenacted as follows:~~

1 ~~— **60-04-10. Filing fees and court costs – Expenses.**~~

2 ~~— In any action in a state court in this state, the commission shall may not be required to pay~~  
3 ~~any filing fee or other court costs or disbursements if the fees accrue to the county or to the~~  
4 ~~state. The attorney general may employ outside legal services to assist the commission in the~~  
5 ~~prosecution of such the action as in the attorney general's judgment may be necessary and the~~  
6 ~~commission shall deduct the expenses of the same from the trust fund and the credit sale~~  
7 ~~contract grain indemnity fund as appropriate. All other necessary expenses incurred by the~~  
8 ~~commission in carrying out the provisions of this chapter, including adequate insurance to~~  
9 ~~protect the commission, its employees, and others engaged in carrying out the provisions of this~~  
10 ~~chapter, must be reimbursed to the commission from the trust fund and credit sale grain~~  
11 ~~indemnity funds as appropriate.~~

12 ~~— **SECTION 10. AMENDMENT.** Section 60-10-01 of the North Dakota Century Code is~~  
13 ~~amended and reenacted as follows:~~

14 ~~— **60-10-01. Credit sale contracts – Assessment on grain – Submission of assessment.**~~

15 ~~— An assessment at the rate of two tenths one twentieth of one percent is placed on the value~~  
16 ~~of all grain sold in this state under a credit sale contract, as provided for in sections 60-02-19.1~~  
17 ~~and 60-02.1-14. The licensee purchasing the grain shall note the assessment on the contract~~  
18 ~~required under sections 60-02-19.1 and 60-02.1-14 and shall deduct the assessment from the~~  
19 ~~purchase price payable to the seller. The licensee shall submit any assessment collected under~~  
20 ~~this section to the public service commission no later than thirty days after each calendar~~  
21 ~~quarter. The commission shall deposit the assessments received under this section in the~~  
22 ~~credit sale contract grain indemnity fund.~~

23 ~~— **SECTION 11. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is~~  
24 ~~amended and reenacted as follows:~~

25 ~~— **60-10-02. Credit sale contract Grain indemnity fund – Creation – Continuing**~~  
26 ~~**appropriation.**~~

27 ~~— There is created The grain indemnity fund is a special fund in the state treasury the~~  
28 ~~credit sale contract indemnity fund. The state treasurer shall invest available moneys in the fund~~  
29 ~~in accordance with section 21-10-07 and in cooperation with the public service commission and~~  
30 ~~shall deposit any income earned through the investments into the fund. The fund and earnings~~

1 of the fund are appropriated to the public service commission on a continuing basis to be used  
2 exclusively to carry out the intent and purpose of this chapter.

3 ~~— **SECTION 12. AMENDMENT.** Section 60-10-03 of the North Dakota Century Code is~~  
4 ~~amended and reenacted as follows:~~

5 ~~— **60-10-03. Credit-sale contract**Grain indemnity fund ~~--~~ **Suspension of assessment.**~~

6 ~~— At the end of the calendar quarter~~On the thirtieth day of June in years in which the  
7 ~~credit-sale contract~~grain indemnity fund reaches a level of six million dollars by March  
8 ~~thirty first,~~ the public service commission shall suspend collection of the assessment required  
9 by this chapter. ~~If after suspension of collection,~~ in years in which the balance in the fund is less  
10 ~~than three million dollars by March thirty first,~~ the public service commission shall require  
11 collection of the assessment to resume on June thirtieth.

12 ~~— **SECTION 13. AMENDMENT.** Section 60-10-04 of the North Dakota Century Code is~~  
13 ~~amended and reenacted as follows:~~

14 ~~— **60-10-04. Credit-sale contract**Grain indemnity fund ~~--~~ **Eligibility for reimbursement.**~~

15 ~~— A person is eligible to receive indemnity payments from the credit-sale contract~~grain  
16 ~~indemnity fund if:~~

- 17 ~~— 1. After August 1, 2003, the person sold grain to a licensed warehouse or a grain buyer~~  
18 ~~in this state under the provisions of a credit-sale contract;~~
- 19 ~~— 2. After August 1, 2019, the person delivered or sold grain to a licensed warehouse or a~~  
20 ~~grain buyer in the state;~~
- 21 ~~— 3. The licensed warehouse to which the person sold grain or the grain buyer to whom the~~  
22 ~~person sold grain becomes insolvent; and~~
- 23 ~~— 3.4. The licensed warehouse or the grain buyer, as a result of the insolvency, does not fully~~  
24 ~~compensate the person in accordance with the credit-sale contract,~~ noncredit-sale  
25 ~~contract, sale, or storage contract.~~

26 ~~— **SECTION 14. AMENDMENT.** Section 60-10-05 of the North Dakota Century Code is~~  
27 ~~amended and reenacted as follows:~~

28 ~~— **60-10-05. Credit-sale contract**Grain indemnity fund ~~--~~ **Availability of money.**~~

29 ~~— Upon the insolvency of a licensed warehouse or a grain buyer and a declaration that the~~  
30 ~~public service commission serve as the trustee, the public service commission shall make the~~  
31 ~~proceeds of the credit-sale contract~~grain indemnity fund available for use in meeting the

1 ~~licensee's obligations with respect to the reimbursement of any person who delivered or sold~~  
2 ~~grain to the licensee under a credit-sale contract and who was not fully compensated in~~  
3 ~~accordance with the contract, sale, or storage contract.~~

4 ~~— **SECTION 15. AMENDMENT.** Section 60-10-06 of the North Dakota Century Code is~~  
5 ~~amended and reenacted as follows:~~

6 ~~— **60-10-06. Credit-sale contract**Grain indemnity fund **-- Reimbursement limit.**~~

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

11 ~~— **SECTION 16. AMENDMENT.** Section 60-10-07 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

13 ~~— **60-10-07. Credit-sale contract**Grain indemnity fund **-- Prorated claims.**~~

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

19 ~~— **SECTION 17. AMENDMENT.** Section 60-10-09 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

21 ~~— **60-10-09. Credit-sale contract**Grain indemnity fund **-- Reimbursement for**~~  
22 ~~**administrative expenses.**~~

23 ~~— Any expense incurred by the public service commission in administrating the credit-sale~~  
24 ~~contract~~grain indemnity ~~must be reimbursed from the fund before any other claim for indemnity~~  
25 ~~is paid.~~

26 ~~— **SECTION 18. AMENDMENT.** Section 60-10-10 of the North Dakota Century Code is~~  
27 ~~amended and reenacted as follows:~~

28 ~~— **60-10-10. Credit-sale contract**Grain indemnity fund assessment **-- Failure to collect**~~  
29 ~~**assessment -- Penalty.**~~

30 ~~— Any person who knowingly or intentionally refuses or fails to collect the assessment~~  
31 ~~required under this chapter from producers or to submit any assessment collected from~~

1 ~~producers to the public service commission for deposit in the credit sale contract~~grain indemnity-  
2 ~~fund is guilty of a class A misdemeanor.~~

3 ~~—~~ **SECTION 19. AMENDMENT.** ~~Section 60-10-13 of the North Dakota Century Code is~~  
4 ~~amended and reenacted as follows:~~

5 ~~—~~ **60-10-13. Claims.**

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

12 ~~—~~ **SECTION 20. AMENDMENT.** ~~Section 60-10-14 of the North Dakota Century Code is~~  
13 ~~amended and reenacted as follows:~~

14 ~~—~~ **60-10-14. Subrogation.**

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

23 ~~—~~ **SECTION 21. AMENDMENT.** ~~Section 60-10-15 of the North Dakota Century Code is~~  
24 ~~amended and reenacted as follows:~~

25 ~~—~~ **60-10-15. Unlicensed facility-based grain buyer.**

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

1 ~~credit-sale contract indemnity payments received from payments administered by the United~~  
2 ~~States department of agriculture.~~

3 ~~— **SECTION 22.** A new section to chapter 60-10 of the North Dakota Century Code is created~~  
4 ~~and enacted as follows:~~

5 ~~— **Refund of assessment – Form.**~~

6 ~~— 1. To receive a refund of any assessment paid in accordance with this chapter, a grain~~  
7 ~~producer shall submit to the commission a written request for a refund application~~  
8 ~~within one year after the date of the assessment or final settlement.~~

9 ~~— 2. The producer shall complete the refund application and return the application to the~~  
10 ~~commission, together with a record of the assessment collected, within ninety days~~  
11 ~~after the date of the request for the refund application. The commission shall refund to~~  
12 ~~the producer the net amount of the assessment collected from the producer.~~

13 ~~— 3. If a request for a refund is not submitted to the commission within the prescribed time~~  
14 ~~period, the producer is presumed to have agreed to the assessment.~~

15 ~~— 4. A producer who receives a refund of an assessment under this section waives all~~  
16 ~~rights to protection under the grain indemnity fund, unless the producer applies for and~~  
17 ~~is granted reinstatement, as determined by the commission. An applicant for~~  
18 ~~reinstatement must pay back all previous refund amounts to the commission to be~~  
19 ~~considered for reinstatement.~~

20 ~~— 5. A producer who receives a refund of an assessment under this section will~~  
21 ~~continue to be assessed on each subsequent sale, pursuant to section 60-10-01. A~~  
22 ~~producer who received a refund of an assessment under this section, but who did not~~  
23 ~~request a refund of the assessment amount on subsequent sales, may not receive~~  
24 ~~protection under the grain indemnity fund, unless the producer applies for and is~~  
25 ~~granted reinstatement under subsection 4.~~

26 **SECTION 1. AMENDMENT.** Section 49-02-01 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **49-02-01. General jurisdiction of the public service commission over public utilities.**

29 The general jurisdiction of the commission shall extend to and include:

- 30 1. Contract and common carriers engaged in the transportation of persons and property,  
31 excluding air carriers.

2. Telecommunications companies engaged in the furnishing of telecommunications services as provided for in chapter 49-21.

3. Pipeline utilities engaged in the transportation of gas, oil, coal, and water.

4. Electric utilities engaged in the generation and distribution of light, heat, or power.

5. Gas utilities engaged in the distribution of natural, synthetic, or artificial gas.

6. All heating utilities engaged in the distribution of heat.

~~7. Warehouse companies engaged in the marketing, storage, or handling of agricultural products.~~

~~8.~~ All other public utilities engaged in business in this state or in any county, city, township, or other political subdivision of the state.

**SECTION 2.** A new section to chapter 60-01 of the North Dakota Century Code is created and enacted as follows:

**Definition.**

For purposes of this title, "commissioner" means the agriculture commissioner.

**SECTION 3. AMENDMENT.** Subsection 1 of section 60-02-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~"Commissioner"~~ means the public service commissioner agriculture commissioner.

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

**60-02-02. ~~Commissioner~~ - Powers and duties.**

The commissioner has the powers and duties ~~imposed by the provisions of~~ enumerated under this chapter ~~and the powers conferred herein devolve upon the commission.~~

**SECTION 5. AMENDMENT.** Section 60-02-03 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~commission shall have the duty and power to~~ commissioner has the following powers and duties:

1. Exercise general supervision of the public warehouses of this state, including the handling, weighing, and storing of grain, and the management of public warehouses.

- 1        2. Investigate all complaints of fraud and injustice, unfair practices, and unfair
- 2            discrimination.
- 3        3. Examine and inspect, during ordinary business hours, any licensed warehouse,
- 4            including all books, documents, and records.
- 5        4. Require the filing of reports pertaining to the operation of the warehouse.
- 6        5. Make all proper rules for carrying out and enforcing any law in this state regarding
- 7            public warehouses.

8        **SECTION 6. AMENDMENT.** Section 60-02-04 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10        **60-02-04. Federal licensed inspector—~~Appointed by commission.~~**

11        The ~~commission~~commissioner may employ a federal licensed inspector whose duties are  
12 ~~hereinafter prescribed and such~~enumerated under this chapter and may employ other  
13 employees as ~~may be~~ necessary to carry out the provisions of this chapter.

14        **SECTION 7. AMENDMENT.** Section 60-02-05.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16        **60-02-05.1. Notice of procedures for resolving disputes over grain.**

17        A public warehouse shall post a notice containing the procedures specified in section  
18 60-02-05 for resolving disputes. The ~~commission~~commissioner shall prescribe the form of the  
19 notice and shall provide a copy of the notice to each public warehouse. The public  
20 warehouseman shall post the notice in the grain inspection room of the warehouse. The notice  
21 must specifically mention ~~that~~ the procedure for resolving disputes applies to the grade,  
22 dockage, moisture content, and protein content of grain and to the quality factors of grain for  
23 which inspection rules and grades have not been adopted by the secretary of agriculture of the  
24 United States.

25        **SECTION 8. AMENDMENT.** Section 60-02-07 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27        **60-02-07. Public warehouse license - Fee - Financial statement.**

28        A license must be obtained from the ~~commission~~commissioner for each public warehouse in  
29 operation in this state.

- 30        1. a. ~~The commission shall stagger by lot the expiration date of all licenses issued for-~~
- 31            ~~the period beginning August 1, 2015, so that one-half of all the licenses issued-~~

1 ~~expire on July 31, 2016, and one-half of all the licenses issued expire on July 31,~~  
2 ~~2017. Thereafter, all~~All licenses issued under this section must be for a period of  
3 two years and terminate on the thirty-first day of July in the year of expiration.

4 b. (1) Notwithstanding the provisions of subdivision a, the

5 ~~commission~~commissioner shall license a warehouse annually, for the first  
6 six years of the warehouse's operation.

7 (2) An initial annual license application that becomes effective on or after June  
8 first does not expire until July thirty-first of the following calendar year.

9 2. No license may describe more than one public warehouse nor grant permission to  
10 operate any public warehouse other than the one described.

11 3. a. The annual license fee for a public warehouse is:

12 (1) ~~Three~~Four hundred dollars for a warehouse having a maximum capacity of  
13 two hundred thousand bushels [7047.8 cubic meters];

14 (2) ~~Four~~Five hundred fifty dollars for a warehouse having a capacity of more  
15 than two hundred thousand bushels [7047.8 cubic meters] but not more  
16 than five hundred thousand bushels [17619.54 cubic meters]; and

17 (3) ~~Five~~Six hundred fifty dollars for a warehouse having a capacity of more than  
18 five hundred thousand bushels [17619.54 cubic meters].

19 b. The biennial license fee for a public warehouse is:

20 (1) ~~Six~~Seven hundred dollars for a warehouse having a maximum capacity of  
21 two hundred thousand bushels [7047.8 cubic meters];

22 (2) ~~Nine hundred~~One thousand dollars for a warehouse having a capacity of  
23 more than two hundred thousand bushels [7047.8 cubic meters] but not  
24 more than five hundred thousand bushels [17619.54 cubic meters]; and

25 (3) One thousand ~~one~~two hundred dollars for a warehouse having a capacity of  
26 more than five hundred thousand bushels [17619.54 cubic meters].

27 c. An application for an annual license renewal that is received after July fifteenth  
28 must include an additional one hundred dollar fee per warehouse. An application  
29 for a biennial license renewal that is received after July fifteenth must include an  
30 additional two hundred dollar fee per warehouse.

- 1 4. If a public warehouseman operates two or more warehouses in the same city or  
2 siding, in conjunction with each other and with the same working force, and keeps one  
3 set of books and records for all such warehouses, and issues one series of scale  
4 tickets, warehouse receipts, checks, and credit-sale contracts for the grain stored and  
5 purchased therein, only one license is required for the operation of all such  
6 warehouses. When two or more warehouses are operated under one license, the  
7 license fee is based upon the combined bushel capacity of the warehouses.
- 8 5. If required to obtain United States department of agriculture approval of the  
9 ~~commission's~~commissioner's warehouse inspection program, the  
10 ~~commission~~commissioner may require ~~that~~ the applicant submit a current financial  
11 statement prepared in accordance with generally accepted accounting principles. A  
12 financial statement furnished under this subsection is a confidential trade secret and is  
13 not a public record.

14 **SECTION 9. AMENDMENT.** Section 60-02-07.2 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **60-02-07.2. Receiving stations.**

17 A licensed public warehouseman may establish a receiving station without a separate  
18 warehouse license for that facility if all of the following conditions are met:

- 19 1. The station is colocated with another licensed public warehouse, the operator of which  
20 will take delivery of the grain on behalf of the warehouseman who established the  
21 receiving station.
- 22 2. The storage space used by the receiving station is used solely by the receiving station  
23 and is not licensed as part of the warehouse that is located at that site.
- 24 3. The grain taken in by the receiving station is not commingled with other grain at that  
25 site.
- 26 4. The warehouseman establishing the station requests and receives ~~commission~~  
27 permission from the commissioner to increase licensed capacity to include the space  
28 to be used at the receiving station.
- 29 5. Grain received at the receiving station is recorded on scale tickets issued by the  
30 warehouseman who established the station and is covered by that warehouseman's  
31 bond.

- 1       6. Warehouse-receipted grain received at the receiving station is available for redelivery  
2       to the receipt holder at that location even if the station has been closed. A charge for  
3       redelivery must be stated in the warehouseman's redelivery policy.

4       The storage space used by a receiving station need not be physically disconnected from the  
5       facilities of the other licensed warehouse located at that site.

6       **SECTION 10. 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 effective for any public warehouseman under this chapter, the  
10      applicant for the license shall file a bond with the ~~commission~~ commissioner which 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~~ commissioner the surety bond will be canceled ninety days after  
14      receipt of the notice of cancellation.
- 15      3. Run to the state of North Dakota for the benefit of all persons storing or selling grain in  
16      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  
20          ~~commission~~ commissioner relating to the storage and purchase of grain by such  
21          warehouseman.
- 22      5. Specify the location of each public warehouse intended to be covered by such bond.
- 23      6. Be for the specific purpose of:
- 24          a. Protecting the holders of outstanding receipts.
- 25          b. Covering the costs incurred by the ~~commission~~ commissioner in the  
26          administration of chapter 60-04 in the event of the licensee's insolvency.
- 27      7. Not accrue to the benefit of any person entering into a credit-sale contract with a  
28      public warehouseman.
- 29      8. The aggregate liability of the surety under a bond does not accumulate for each  
30      successive annual license renewal period during which the bond is in force but, for

1 losses during any annual license renewal period, is limited in the aggregate to the  
2 bond amount stated or changed by appropriate endorsement or rider.

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

14 **SECTION 11. AMENDMENT.** Section 60-02-09.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **60-02-09.1. Bond cancellation - Release of surety.**

17 The surety on a bond is released from all future liability accruing on the bond after the  
18 expiration of ninety days from the date of receipt by the ~~commission~~commissioner of notice of  
19 cancellation by the surety or on a later date specified by the surety. This provision does not  
20 operate to relieve, release, or discharge the surety from any liability already accrued or which  
21 accrues before the expiration of the ninety-day period. Unless the warehouseman files a new  
22 bond at least thirty days before liability ceases, the ~~commission~~commissioner, without hearing,  
23 shall immediately suspend the warehouseman's license and the suspension may not be  
24 removed until a new bond has been filed and approved by the ~~commission~~commissioner.  
25 ~~When If~~ a license is so suspended, the warehouseman shall give notice of such suspension to  
26 each receipt holder having grain stored in the warehouse. The warehouseman shall further notify  
27 each receipt holder having grain stored in the warehouse that the grain must be removed from  
28 the warehouse or ~~it~~the grain will be priced and redeemed in cash in accordance with section  
29 60-02-41.

30 **SECTION 12. AMENDMENT.** Section 60-02-10.1 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **60-02-10.1. Revocation and suspension.**

2       The ~~commission~~commissioner may suspend or revoke the license of any warehouseman  
3 for cause upon notice and hearing. Notwithstanding any other provisions of this chapter, the  
4 license of a warehouseman must automatically be suspended for failure at any time to have or  
5 to maintain either a bond or insurance policy in the amount and type required. During a  
6 suspension of a license the warehouseman may, upon the ~~commission's~~commissioner's  
7 approval, operate the warehouse and purchase or redeliver grain previously received, but may  
8 not receive additional grain for purchase, storage, shipping, or processing. Grain may be sold  
9 only with the prior approval of the ~~commission~~commissioner.

10       **SECTION 13. AMENDMENT.** Section 60-02-11 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **60-02-11. Scale ticket - Contents - Conversion.**

- 13       1.   a.   Every public warehouseman, upon receiving grain into the warehouse, shall  
14           issue a uniform scale ticket for each load of grain received. The scale tickets  
15           must be numbered consecutively, and one copy of each ticket must be retained  
16           and remain as a permanent record. The original ticket must be delivered to the  
17           person from whom the grain is received, upon receipt of each load of grain.
- 18       b.   All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale  
19           contracts, or warehouse receipts, within forty-five days after the grain is delivered  
20           to the warehouse, unless:
- 21           (1)   The person to whom the scale ticket is issued signs a form waiving all rights  
22               to trust benefits under section 60-04-03.1;
- 23           (2)   The form identifies by number each scale ticket to which the waiver applies;  
24               and
- 25           (3)   The form is signed by the warehouseman.
- 26       c.   The ~~commission~~commissioner shall prepare the waiver form required by  
27           subdivision b and make the form available to each warehouse.
- 28       d.   The warehouseman shall keep one copy of the signed waiver form with the  
29           records of the warehouse, provide one copy to the person who was issued the  
30           scale ticket and signed the form, and file one copy with the  
31           ~~commission~~commissioner.

1       2. Nothing in this chapter requires a warehouseman to receive grain for storage. A  
2       warehouseman shall publish and post, in a conspicuous place in the warehouse, a  
3       publication identifying whether storage will be available to patrons or whether grain will  
4       be accepted via cash or a credit-sale contract arrangement.

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

7       **60-02-14. Warehouse receipts - Copy.**

8       Provision ~~shall~~must be made for a stub record or copy of each warehouse receipt issued by  
9       a warehouseman, showing:

- 10       1. The serial number and date of receipt.
- 11       2. The kind and grade of grain.
- 12       3. The dockage and net weight of the grain.

13       The record or copy ~~shall~~must remain in the possession of the warehouseman for inspection by  
14       the ~~commission~~commissioner and persons properly interested.

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

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

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

20       This grain is received, insured, and stored subject to the laws and rules of the state of  
21       North Dakota, the terms of this contract, and the charges and conditions stated herein  
22       and as filed with the North Dakota ~~public-service-commission~~agriculture commissioner.

23       Upon surrender of this receipt and payment or tender of all applicable charges, the  
24       amount, kind, and grade of grain identified in this receipt will be delivered to the  
25       person named above or the person's order as rapidly as due diligence, care, and  
26       prudence will permit. At the option of the holder of this receipt, the amount, kind, and  
27       grade of grain for which this receipt is issued, upon demand, must be delivered back  
28       to the holder at any terminal point customarily shipped to, or at the place where  
29       received, upon the payment of any charges for receiving, handling, storage, and  
30       insurance and in case of terminal delivery, the payment in addition to the above of the  
31       regular freight charges on the gross amount called for by this ticket or in lieu thereof, a

1 receipt issued by a bonded warehouse or elevator company doing business at the  
2 terminal point. This receipt does not require the delivery of the identical grain specified  
3 herein, but an equal amount of grain of the same kind and grade must be delivered.

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

11 **SECTION 16. AMENDMENT.** Section 60-02-24 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **60-02-24. Reports to be made by public warehouseman - Penalty for failure.**

14 Each licensed and bonded public warehouseman shall:

- 15 1. Prepare for each month a report giving facts and information called for on the form of  
16 report prepared by the ~~commission~~commissioner. The report must contain or be  
17 verified by a written declaration ~~that it~~the report is made under the penalties of perjury.  
18 The report may be called for more frequently if the ~~commission~~commissioner deems ~~it~~  
19 necessary. Information pertaining to the volume of grain handled is a confidential trade  
20 secret and is not a public record. The ~~commission~~commissioner may make the  
21 information available for use by other governmental entities, but the  
22 ~~commission~~commissioner may not release the information in a manner that  
23 jeopardizes the confidentiality of individual licensees.
- 24 2. File the report with the ~~commission~~commissioner not later than the last day of the  
25 following month, and failure to file this report promptly will be considered cause for  
26 revoking the warehouse license after due notice and hearing.
- 27 3. Keep a separate account of the grain business, if the warehouseman is engaged in  
28 handling or selling any other commodity, and under no circumstances ~~shall~~may the  
29 grain account and other accounts be mixed.

30 The ~~commission~~commissioner may refuse to renew a license to any public warehouseman who  
31 fails to make a required report.

1       **SECTION 17. AMENDMENT.** Section 60-02-27 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-02-27. Federal grades to control - Grades to be posted.**

4       All public warehousemen shall purchase and store grain except dry edible beans in  
5 accordance with the official grades established from time to time by the secretary of agriculture  
6 of the United States, except as otherwise provided in rules and regulations applicable thereto  
7 adopted by federal officials pursuant to law. ~~They~~Public warehousemen shall post in a  
8 conspicuous place in ~~their~~the public warehousemen's warehouse the official grades so  
9 established and also any change that may be made from time to time. Warehousemen of dry  
10 edible beans shall purchase, store, and deliver beans in accordance with ~~their~~the policy of the  
11 warehousemen which must be filed with the ~~commission~~commissioner and posted in a  
12 conspicuous place in ~~their~~the warehouse of the public warehousemen. Other grading standards  
13 may be used if mutually agreed to in writing by the warehouseman and the owner of the grain.  
14 However, the owner may demand the use of federal grading standards. The  
15 ~~commission~~commissioner, after hearing, may prohibit the use of nonfederal grades.

16       **SECTION 18. AMENDMENT.** Section 60-02-35.1 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18       **60-02-35.1. Insurance - Cancellation - Suspension of license.**

19       An insurance company shall give at least sixty days' notice to the ~~commission~~commissioner  
20 and the insured by certified mail return receipt requested before cancellation of an insurance  
21 policy required in section 60-02-35. Unless the warehouseman files proof of new or renewed  
22 insurance at least thirty days before the existing policy ceases, the ~~commission~~commissioner,  
23 without hearing, shall immediately suspend the warehouseman's license and the suspension  
24 may not be removed until a new policy has been filed and approved by the  
25 ~~commission~~commissioner. ~~When~~If a license is so suspended, the warehouseman shall give  
26 notice of ~~such~~the suspension to each receipt holder having grain stored in the warehouse. The  
27 warehouseman shall further notify each receipt holder having grain stored in the warehouse ~~that~~  
28 the grain must be removed from the warehouse or ~~it~~the grain will be priced and redeemed in  
29 cash in accordance with section 60-02-41.

30       **SECTION 19. AMENDMENT.** Section 60-02-38 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **60-02-38. Refund of license fee by ~~commission~~commissioner.**

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

8       **SECTION 20. AMENDMENT.** Section 60-02-40 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10       **60-02-40. Transfer of warehouse - Redemption of receipts.**

11       ~~Whenever~~if a public warehouseman desires to transfer a warehouse, either by sale or lease  
12 to any other individual, firm, or corporation, the warehouseman shall:

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

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

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

10       **SECTION 21. AMENDMENT.** Section 60-02-41 of the North Dakota Century Code is  
11       amended and reenacted as follows:

12       **60-02-41. Going out of business - Redemption of receipts.**

13       ~~When~~if a public warehouseman ceases business through the destruction of a warehouse by  
14       fire or other cause, or through insolvency, ~~such~~the warehouseman shall redeem all outstanding  
15       unconverted scale tickets or warehouse receipts at the price prevailing on the date the  
16       warehouse was destroyed or closed because of insolvency. The holder of such receipts, upon  
17       due notice, ~~must~~shall accept this price and surrender the receipts. Any public warehouseman  
18       who voluntarily ceases business or fails to renew an existing warehouse license or whose  
19       warehouse license is revoked shall notify the ~~commission~~commissioner and all outstanding  
20       receipt holders of such closing and redeem all outstanding unconverted scale tickets or  
21       warehouse receipts at the price prevailing on the date the warehouse closed or at the option of  
22       the owner of the receipt redeliver the kind, grade, and quantity of grain called for by the  
23       unconverted scale ticket or warehouse receipt. On commingled grain the value of over and  
24       under deliveries in quantity, grade, and protein ~~shall~~must be settled in cash and priced on the  
25       market on the day of closing.

26       **SECTION 22. AMENDMENT.** Section 60-02-42 of the North Dakota Century Code is  
27       amended and reenacted as follows:

28       **60-02-42. Cease and desist.**

29       ~~Whenever~~if an entity engages in an activity or practice ~~that is~~ contrary to the provisions of  
30       this chapter or related rules, the ~~commission~~commissioner, upon ~~its~~the commissioner's own  
31       motion without complaint, with or without hearing, may order the entity to cease and desist from

1 the activity until further order of the ~~commission~~commissioner. Such orders may include any  
2 corrective action up to and including license suspensions. Cease and desist orders must be  
3 accompanied by a notice of opportunity to be heard on the order within fifteen days of the  
4 issuance of the order.

5 **SECTION 23.** A new section to chapter 60-02 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Release of records - Confidentiality.**

8 1. As a condition of licensure under section 60-02-07, an applicant shall agree to provide  
9 to the commissioner, upon request, any financial record the commissioner deems  
10 relevant for purposes related to:

11 a. The issuance or renewal of a public warehouse license; or

12 b. An investigation after issuance or renewal of a public warehouse license.

13 2. As a condition of licensure, an applicant shall file a records release with the  
14 commissioner, authorizing the commissioner to obtain from any source any financial  
15 record the commissioner deems relevant for purposes related to:

16 a. The issuance or renewal of a public warehouse license; or

17 b. An investigation after issuance or renewal of a public warehouse license.

18 3. Any information obtained by the commissioner under this section is confidential and  
19 may be provided only:

20 a. To federal authorities in accordance with federal law;

21 b. To the attorney general, state agencies, and law enforcement agencies, for use in  
22 the pursuit of official duties; and

23 c. As directed by an order of a court pursuant to a showing of good cause.

24 **SECTION 24. AMENDMENT.** Section 60-02.1-01 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **60-02.1-01. Definitions.**

27 In this chapter, unless the context or subject matter otherwise requires:

28 1. "Cash grain broker" means a person who:

29 a. Is involved in the negotiation of cash grain transactions in the state;

30 b. Receives compensation from at least one party to the transaction; and

1 c. Does not take title to the grain and is not under any financial or contractual  
2 obligation related to the transaction.

3 2. "Commissioner" means the public service commissioner  
4 agriculture commissioner.

5 2.3. "Credit-sale contract" means a written contract for the sale of grain pursuant to which  
6 the sale price is to be paid or may be paid more than thirty days after the delivery or  
7 release of the grain for sale and which contains the notice provided in subsection 7 of  
8 section 60-02.1-14. If a part of the sale price of a contract for the sale of grain is to be  
9 paid or may be paid more than thirty days after the delivery or release of the grain for  
10 sale, only such part of the contract is a credit-sale contract.

11 3.4. "Facility" means a structure in which grain purchased by a grain buyer is received or  
12 held.

13 4.5. "Facility-based grain buyer" means a grain buyer who operates a facility licensed  
14 under the United States Warehouse Act [7 U.S.C. 241-273] where grain is received.

15 5.6. "Grain" means wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, safflower,  
16 sunflower seeds, tame mustard, peas, beans, soybeans, corn, clover, millet, alfalfa,  
17 and any other commercially grown grain or grass seed. "Grain" does not include grain  
18 or grass seeds owned by or in the possession of the grain buyer which have been  
19 cleaned, processed, and specifically identified for an intended use of planting for  
20 reproduction and for which a warehouse receipt has not been issued.

21 6.7. "Grain buyer" means any person, other than a public warehouseman as defined in  
22 chapter 60-02, who purchases or otherwise merchandises grain for compensation.

23 The term does not include:

- 24 a. A producer of grain who purchases grain from other producers to complete a  
25 carload or truckload in which the greater portion of the load is grain grown by the  
26 producer or on-farm feedlot operations in which at least fifty percent of the  
27 livestock is owned by the owner of the farm.
- 28 b. A person who is permitted to sell seed under chapter 4.1-53, if that person buys  
29 grain only for processing and subsequent resale as seed.
- 30 c. A person who is an authorized dealer or agent of a seed company holding a  
31 permit in accordance with section 4.1-53-38.

1 8. "Grain processor" means an entity that purchases grain to process into end products  
2 that are of a substantially different makeup or nature than the original grain.

3 ~~7.9.~~ "Noncredit-sale contract" means a contract for the sale of grain other than a credit-sale  
4 contract.

5 ~~8.10.~~ "Receipts" means scale tickets, checks, or other memoranda given by a grain buyer  
6 for, or as evidence of, the receipt or sale of grain except when such memoranda was  
7 received as a result of a credit-sale contract.

8 ~~9.11.~~ "Roving grain buyer" means a grain buyer who does not operate a facility where grain  
9 is received.

10 **SECTION 25. AMENDMENT.** Section 60-02.1-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **60-02.1-02. ~~Commission~~Commissioner - Powers and duties.**

13 The powers and duties ~~imposed and the powers conferred by this chapter devolve upon the~~  
14 ~~commission~~of the commissioner are enumerated in this chapter.

15 **SECTION 26. AMENDMENT.** Section 60-02.1-03 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **60-02.1-03. Duties and powers of the ~~commission~~commissioner.**

18 The ~~commission~~commissioner has the duty and power to:

- 19 1. Exercise general supervision of grain buyers of this state.
- 20 2. Investigate all complaints of fraud and injustice, unfair practices, and unfair  
21 discrimination.
- 22 3. Examine and inspect, during ordinary business hours, any books, documents, and  
23 records.
- 24 4. Make all proper rules for carrying out and enforcing any law in this state regarding  
25 grain buyers.

26 **SECTION 27. AMENDMENT.** Section 60-02.1-04 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **60-02.1-04. Federal licensed inspector ~~--Appointed by commission.~~**

29 The ~~commission~~commissioner may employ a federal licensed inspector whose duties are  
30 ~~hereinafter prescribed, and such~~enumerated in this chapter and may employ other employees  
31 as ~~may be~~ necessary to carry out the provisions of this chapter.

1       **SECTION 28. AMENDMENT.** Section 60-02.1-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-02.1-06. Notice of procedures for resolving disputes over grain.**

4       A facility-based grain buyer shall post a notice containing the procedures specified in  
5 section 60-02.1-05 for resolving disputes. The ~~commission~~commissioner shall prescribe the  
6 form of the notice and shall provide a copy of the notice to each facility-based grain buyer. The  
7 facility-based grain buyer shall post the notice in the grain inspection room of the facility. The  
8 notice must specifically mention ~~that~~ the procedure for resolving disputes applies to the grade,  
9 dockage, moisture content, and protein content of grain and to the quality factors of grain for  
10 which inspection rules and grades have not been adopted by the secretary of agriculture of the  
11 United States.

12       **SECTION 29. AMENDMENT.** Section 60-02.1-07 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14       **60-02.1-07. Grain buyer license - How obtained - Fee - Financial statement.**

15       Grain buyers ~~must~~shall obtain an annual license from the ~~commission~~commissioner. Except  
16 as provided in this section, each license expires on July thirty-first of each year. ~~When~~If a  
17 licensee's initial license is issued effective after May thirty-first, that license expires on July  
18 thirty-first of the following year. A facility-based grain buyer ~~must~~shall obtain a license for each  
19 receiving location operated in the state. If a grain buyer operates two or more facilities in the  
20 same city or siding, in conjunction with each other and with the same working force, and where  
21 but one set of books and records is kept for all such facilities, and scale tickets and checks of  
22 but one series are issued for the grain, purchased, only one license is required for the operation  
23 of all such facilities. The annual license fee for a facility-based grain buyer is ~~three~~four hundred  
24 dollars and a license renewal application that is received after July fifteenth must be assessed  
25 an additional one hundred dollar fee per receiving location.

26       If required to obtain United States department of agriculture approval of the  
27 ~~commission's~~commissioner's grain buyer inspection program, the ~~commission~~commissioner  
28 may require ~~that~~ grain buyers submit a current financial statement prepared in accordance with  
29 generally accepted accounting principles. A financial statement furnished under this section is a  
30 confidential trade secret and is not a public record.

1       **SECTION 30. AMENDMENT.** Section 60-02.1-07.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-02.1-07.1. Roving grain buyer license - How obtained - Fee.**

4       Roving grain buyers that purchase, solicit, merchandise, or take possession of grain in this  
5 state ~~must~~shall obtain an annual license from the ~~commission~~commissioner. Except as provided  
6 in this section, each license expires on July thirty-first of each year. ~~When~~If a licensee's initial  
7 license is issued effective after May thirty-first, that license expires on July thirty-first of the  
8 following year. The annual license fee for a roving grain buyer is ~~two~~three hundred dollars, and  
9 a license renewal application that is received after July fifteenth must be assessed an additional  
10 one hundred dollar fee.

11       **SECTION 31.** A new section to chapter 60-02.1 of the North Dakota Century Code is  
12 created and enacted as follows:

13       **Cash grain broker license - Application - Bond - How obtained - Fee - Report -**  
14 **Disclosure.**

15       1. Before conducting business in the state, a cash grain broker must submit an  
16 application to obtain an annual license from the commissioner. To conduct business in  
17 the state, a cash grain broker must also register and be in good standing with the  
18 secretary of state. Except as provided in this section, each license expires on July  
19 thirty-first of each year. When a licensee's initial license is issued effective after May  
20 thirty-first, that license expires on July thirty-first of the following year. The annual  
21 license fee of a cash grain broker is two hundred dollars, and a license renewal  
22 application that is received after July fifteenth must be assessed an additional one  
23 hundred dollar fee. A license issued under this section is not transferable.

24       2. An application for licensure must include:

- 25       a. The name under which the applicant intends to conduct business in the state as  
26 a cash grain broker;  
27       b. The name of each partner if the cash grain broker is in a partnership;  
28       c. The name of each corporate officer and the state of incorporation if the cash  
29 grain broker is a corporation;  
30       d. The name of each manager and the state of organization if the cash grain broker  
31 is a limited liability company;

- 1            e. The mailing address of the applicant; and
- 2            f. The location of the principal place of business of the applicant.
- 3            3. The commissioner may refuse to issue, renew, or may revoke a license if:
- 4            a. The licensee or applicant has been convicted of a criminal offense;
- 5            b. The licensee or applicant has failed to comply with the requirements of this
- 6            section;
- 7            c. The commissioner has evidence the licensee negotiated in bad faith; or
- 8            d. Any other reason determined by the commissioner.
- 9            4. A licensed cash grain broker must submit a monthly report to the commissioner by the
- 10           tenth day of each month. The report must include:
- 11           a. The total volume of each commodity brokered in the preceding month; and
- 12           b. The name and contact information of any buyer who had more than two hundred
- 13           fifty thousand dollars in total purchases in transactions brokered by the cash
- 14           grain broker during the preceding month.
- 15           5. A licensed cash grain broker must notify each potential commodity seller of the identity
- 16           of the potential commodity buyer before the final confirmation of the transaction.
- 17           6. Before a license is effective for a cash grain broker under this section, the licensee or
- 18           applicant must file a bond with the commissioner for ten thousand dollars.

19            **SECTION 32.** A new section to chapter 60-02.1 of the North Dakota Century Code is  
20 created and enacted as follows:

21            **Grain processor license - Application - Bond - How obtained - Fee - Report -**  
22 **Disclosure.**

- 23            1. Before conducting business in the state, a grain processor must submit an application
- 24            to obtain an annual license from the commissioner. To conduct business in the state, a
- 25            grain processor must also register and be in good standing with the secretary of state.
- 26            Except as provided in this section, each license expires on July thirty-first of each year.
- 27            When a licensee's initial license is issued effective after May thirty-first, that license
- 28            expires on July thirty-first of the following year. The annual license fee of a grain
- 29            processor is two hundred dollars, and a license renewal application that is received
- 30            after July fifteenth must be assessed an additional one hundred dollar fee. A license
- 31            issued under this section is not transferable.

1     2. An application for licensure must include:

2             a. The name under which the applicant intends to conduct business in the state as  
3             a grain processor;

4             b. The name of each partner if the grain processor is in a partnership;

5             c. The name of each corporate officer and the state of incorporation if the grain  
6             processor is a corporation;

7             d. The name of each manager and the state of organization if the grain processor  
8             is a limited liability company;

9             e. The mailing address of the applicant; and

10            f. The location of the principal place of business of the applicant.

11     3. The commissioner may refuse to issue, renew, or may revoke a license if:

12            a. The licensee or applicant has been convicted of a criminal offense;

13            b. The licensee or applicant has failed to comply with the requirements of this  
14            section;

15            c. The commissioner has evidence the licensee negotiated in bad faith; or

16            d. Any other reason determined by the commissioner.

17     4. A licensed grain processor must submit a monthly report to the commissioner by the  
18     tenth day of each month. The report must include the total volume of each commodity  
19     processed in the preceding month.

20     5. Before a license is effective for a grain processor under this section, the licensee or  
21     applicant must file a bond with the commissioner for ten thousand dollars.

22     **SECTION 33. AMENDMENT.** Section 60-02.1-08 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24     **60-02.1-08. Bond filed by grain buyer.**

25     Before any license is effective for any grain buyer under this chapter, the applicant for the  
26 license shall file a bond with the ~~commission~~ commissioner which must:

27            1. Be in a sum not less than ~~five~~ ten thousand dollars.

28            2. Be continuous, unless the corporate surety by certified mail notifies the licensee and  
29            the ~~commission that~~ commissioner the surety bond will be canceled ninety days after  
30            receipt of the notice of cancellation.

- 1       3. Run to the state of North Dakota for the benefit of all persons selling grain to or
- 2       through the grain buyer.
- 3       4. Be conditioned:
- 4       a. For the faithful performance of the licensee's duties as a grain buyer.
- 5       b. For compliance with the provisions of law and the rules of the
- 6       ~~commission~~commissioner relating to the purchase of grain by such grain buyer.
- 7       5. For facility-based grain buyers, specify the location of each facility intended to be
- 8       covered by the bond.
- 9       6. Be for the specific purpose of:
- 10      a. Protecting the sellers of grain.
- 11      b. Covering the costs incurred by the ~~commission~~commissioner in the
- 12      administration of the licensee's insolvency.
- 13      7. Not accrue to the benefit of any person entering ~~into~~a credit-sale contract with a grain
- 14      buyer.
- 15      8. The aggregate liability of the surety under a bond does not accumulate for each
- 16      successive annual license renewal period during which the bond is in force but, for
- 17      losses during any annual license renewal period, is limited in the aggregate to the
- 18      bond amount stated or changed by appropriate endorsement or rider.

19 The ~~commission~~commissioner may require an increase in the amount of any bond, from time to  
20 time, as ~~it~~the commissioner deems necessary to accomplish the purposes of this section. The  
21 surety on the bond must be a corporate surety company, approved by the  
22 ~~commission~~commissioner, and authorized to do business within the state. The  
23 ~~commission~~commissioner may accept cash, a negotiable instrument, or a bond executed by  
24 personal sureties in lieu of a surety bond when, in ~~its~~the commissioner's judgment, cash, a  
25 negotiable instrument, or a personal surety bond properly will protect the holders of outstanding  
26 receipts. Only one bond may be required for any series of facilities operated by a facility-based  
27 grain buyer, and the bond must be construed to cover those facilities as a whole and not a  
28 specific amount for each.

29       **SECTION 34. AMENDMENT.** Section 60-02.1-09 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **60-02.1-09. Bond cancellation - Release of surety.**

2       The surety on a bond is released from all future liability accruing on the bond after the  
3       expiration of ninety days from the date of receipt by the ~~commission~~commissioner of notice of  
4       cancellation by the surety or on a later date specified by the surety. This provision does not  
5       operate to relieve, release, or discharge the surety from any liability already accrued or which  
6       accrues before the expiration of the ninety-day period. Unless the grain buyer files a new bond  
7       at least thirty days before liability ceases, the ~~commission~~commissioner, without hearing, shall  
8       immediately suspend the grain buyer's license and the suspension may not be removed until a  
9       new bond has been filed and approved by the ~~commission~~commissioner.

10       **SECTION 35. AMENDMENT.** Section 60-02.1-11 of the North Dakota Century Code is  
11       amended and reenacted as follows:

12       **60-02.1-11. Revocation and suspension.**

13       The ~~commission~~commissioner may suspend or revoke the license of any grain buyer for  
14       cause upon notice and hearing. Notwithstanding any other provisions of this chapter, the license  
15       of a grain buyer must automatically be suspended for failure at any time to have or to maintain  
16       either a bond or insurance policy in the amount and type required. During a suspension of a  
17       license a facility-based grain buyer, upon the ~~commission's~~commissioner's approval, may  
18       operate its facility and purchase or redeliver grain previously received, but may not receive  
19       additional grain for purchase, shipping, or processing. Grain may be sold only with the prior  
20       approval of the ~~commission~~commissioner.

21       **SECTION 36. AMENDMENT.** Section 60-02.1-16 of the North Dakota Century Code is  
22       amended and reenacted as follows:

23       **60-02.1-16. Records required to be kept by grain buyers.**

24       Each grain buyer shall keep such accounts, records, and memoranda concerning the  
25       buyer's dealing as such grain buyer as from time to time may be required by the  
26       ~~commission~~commissioner and shall make such reports of purchases of grain as may be  
27       required by the rules ~~made~~adopted by the ~~commission~~commissioner. The  
28       ~~commission~~commissioner at all times ~~shall~~must have access to such accounts, records, and  
29       memoranda.

30       **SECTION 37. AMENDMENT.** Section 60-02.1-17 of the North Dakota Century Code is  
31       amended and reenacted as follows:

1       **60-02.1-17. Reports to be made by grain buyers - Penalty for failure.**

2       Each licensed and bonded grain buyer shall:

- 3       1.    Prepare for each month a report giving facts and information called for on the form of  
4           report prepared by the ~~commission~~commissioner. The report must contain or be  
5           verified by a written declaration ~~that it~~the report is made under the penalties of perjury.  
6           The report may be called for more frequently if the ~~commission~~commissioner deems ~~it~~  
7           necessary. Information pertaining to the volume of grain handled is a confidential trade  
8           secret and is not a public record. The ~~commission~~commissioner may make this  
9           information available for use by other governmental entities, but the information may  
10          not be released by those entities in a manner that jeopardizes the confidentiality of  
11          individual licensees.
- 12       2.    File the report with the ~~commission~~commissioner not later than the last day of the  
13          following month. Failure to file this report promptly will be considered cause for  
14          revoking the grain buyer license after due notice and hearing.
- 15       3.    Keep a separate account of the grain business, if the grain buyer is engaged in  
16          handling or selling any other commodity, and under no circumstances may the grain  
17          account and other accounts be mixed.

18       The ~~commission~~commissioner may refuse to renew a license to any grain buyer who fails to  
19       make a required report.

20       **SECTION 38. AMENDMENT.** Section 60-02.1-19 of the North Dakota Century Code is  
21       amended and reenacted as follows:

22       **60-02.1-19. Federal grades to control - Grades to be posted.**

23       All grain buyers shall purchase grain, except dry edible beans, in accordance with the  
24       official grades established from time to time by the secretary of agriculture of the United States,  
25       except as otherwise provided in applicable rules and regulations ~~applicable thereto~~ adopted by  
26       federal officials pursuant to law. A facility-based grain buyer shall post in a conspicuous place in  
27       the buyer's facility the official grades so established and also any change that may be made  
28       from time to time. A grain buyer of dry edible beans shall purchase and deliver beans in  
29       accordance with the buyer's policy, which must be filed with the ~~commission~~commissioner and,  
30       if applicable, posted in a conspicuous place in the buyer's facility. Other grading standards may  
31       be used if mutually agreed to in writing by the grain buyer and the owner of the grain. However,

1 the owner may demand the use of federal grading standards. After hearing, the  
2 ~~commission~~commissioner may prohibit the use of nonfederal grades.

3 **SECTION 39. AMENDMENT.** Section 60-02.1-22 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-02.1-22. Insurance - Cancellation - Suspension of license.**

6 An insurance company shall give at least sixty days' notice to the ~~commission~~commissioner  
7 and the insured by registered mail return receipt requested before cancellation of an insurance  
8 policy required in section 60-02.1-21. Unless the grain buyer files proof of new or renewed  
9 insurance at least thirty days before the existing policy ceases, the ~~commission~~commissioner,  
10 without hearing, shall immediately suspend the grain buyer's license and the suspension may  
11 not be removed until a new policy has been filed and approved by the  
12 ~~commission~~commissioner.

13 **SECTION 40. AMENDMENT.** Section 60-02.1-26 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **60-02.1-26. Transfer of facility - Redemption of receipts.**

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

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

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

30 **SECTION 41. AMENDMENT.** Section 60-02.1-27 of the North Dakota Century Code is  
31 amended and reenacted as follows:

**60-02.1-27. Going out of business - Redemption of receipts.**

~~When~~If a facility-based grain buyer ceases business through closure, the destruction of a facility by fire or other cause, or through insolvency, ~~such~~the grain buyer shall redeem all outstanding receipts at the price prevailing on the date the facility was closed, destroyed, or became insolvent. The holder of ~~such~~the receipts, upon due notice, ~~must~~shall accept this price and surrender the receipts. Any facility-based grain buyer who voluntarily ceases business or fails to renew an existing grain buyer license or whose grain buyer license is revoked shall notify the ~~commission~~commissioner and all receiptholders of such closing and redeem all such receipts at the price prevailing on the date the business closed or at the option of the owner of the receipt redeliver the kind, grade, and quantity of grain called for by the receipt. On commingled grain the value of over and under deliveries in quantity, grade, and protein ~~shall~~must be settled in cash and priced on the market on the day of closing.

**SECTION 42. AMENDMENT.** Section 60-02.1-29 of the North Dakota Century Code is amended and reenacted as follows:

**60-02.1-29. Appointment of ~~commission~~commissioner.**

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

Upon the filing of the ~~commission's~~commissioner's application, the court may issue ex parte a temporary order to preserve or protect the assets of the trust fund until the court issues ~~its~~an order granting or denying the application.

**SECTION 43. AMENDMENT.** Section 60-02.1-30 of the North Dakota Century Code is amended and reenacted as follows:

1       **60-02.1-30. Trust fund established.**

2       Upon the insolvency of any licensee, a trust fund must be established for the benefit of  
3 noncredit-sale receipt holders and to pay the costs incurred by the ~~commission~~commissioner in  
4 the administration of the insolvency. The trust fund must consist of the following:

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

21       **SECTION 44. 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 receipt holders and credit-sale contract claimants.**

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

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

11 **SECTION 45. AMENDMENT.** Section 60-02.1-33 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **60-02.1-33. Remedy of receiptholders.**

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

21 **SECTION 46. AMENDMENT.** Section 60-02.1-34 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **60-02.1-34. ~~Commission~~Commissioner to marshal trust assets.**

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

29 **SECTION 47. AMENDMENT.** Section 60-02.1-35 of the North Dakota Century Code is  
30 amended and reenacted as follows:

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

The ~~commission~~commissioner may:

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

**SECTION 48. AMENDMENT.** Section 60-02.1-36 of the North Dakota Century Code is amended and reenacted as follows:

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

All funds received by the ~~commission~~commissioner as trustee must be deposited in the Bank of North Dakota.

**SECTION 49. AMENDMENT.** Section 60-02.1-37 of the North Dakota Century Code is amended and reenacted as follows:

**60-02.1-37. Report of trustee to court - Approval - Distribution.**

1. Upon the receipt and evaluation of claims, the ~~commission~~commissioner shall file with the court a report showing the amount and validity of each claim after recognizing:
  - a. Relevant liens or pledges.
  - b. Relevant assignments.
  - c. Relevant deductions due to advances or offsets accrued in favor of the licensee.
  - d. In case of relevant cash claims or checks, the amount of the claim.
  - e. In case of a relevant credit-sale contract or noncredit-sale contract, the amount remaining to be paid based on the terms of the contract.
2. The report must also contain the proposed reimbursement to the ~~commission~~commissioner for the expenses of administering the insolvency, the proposed distribution of the trust fund assets to receiptholders, less expenses incurred by the ~~commission~~commissioner in the administration of the insolvency, and the

1 proposed credit-sale contract indemnity fund payments to credit-sale contract  
2 claimants. If the trust fund is insufficient to redeem all receiptholder claims in full, the  
3 report should list the funds as prorated.

- 4 3. The court shall set a hearing and the appropriate notice for interested persons to show  
5 cause why the ~~commission's~~commissioner's report should not be approved and  
6 distribution of the trust fund be made as proposed. Copies of the report and notice of  
7 hearing must be served by the ~~commission~~commissioner by certified mail upon the  
8 licensee and the surety and by ordinary mail upon all persons having claims filed with  
9 the ~~commission~~commissioner.
- 10 4. Any aggrieved person having an objection to the ~~commission's~~commissioner's report  
11 shall file the objection with the court and serve copies on the  
12 ~~commission~~commissioner, the licensee, and the surety at least twenty days before the  
13 hearing. Failure to file and serve objections in the time set is a waiver of the objection.
- 14 5. Following the hearing, the court shall approve or modify the report and issue an order  
15 directing payment of the necessary bond proceeds, distribution of the trust fund,  
16 payments from the credit-sale contract indemnity fund, and discharge of the  
17 ~~commission~~commissioner from ~~its~~the commissioner's trust.

18 **SECTION 50. AMENDMENT.** Section 60-02.1-38 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **60-02.1-38. Filing fees and court costs - Expenses.**

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

1       **SECTION 51. AMENDMENT.** Section 60-02.1-39 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-02.1-39. Cease and desist.**

4       ~~Whenever~~if an entity engages in an activity or practice that is contrary to the provisions of  
5 this chapter or related rules, the ~~commission~~commissioner, upon ~~its~~the commissioner's own  
6 motion without complaint, with or without hearing, may order the entity to cease and desist from  
7 the activity until further order of the ~~commission~~commissioner. Such orders may include any  
8 corrective action up to and including license suspensions. Cease and desist orders must be  
9 accompanied by a notice of opportunity to be heard on the order within fifteen days of the  
10 issuance of the order.

11       **SECTION 52.** A new section to chapter 60-02.1 of the North Dakota Century Code is  
12 created and enacted as follows:

13       **Release of records - Confidentiality.**

14       1. As a condition of licensure under section 60-02.1-07, an applicant shall agree to  
15 provide to the commissioner, upon request, any financial record the commissioner  
16 deems relevant for purposes related to:

17       a. The issuance or renewal of a grain buyer license; or

18       b. An investigation after issuance or renewal of a grain buyer license.

19       2. As a condition of licensure, an applicant shall file a records release with the  
20 commissioner, authorizing the commissioner to obtain from any source any financial  
21 record the commissioner deems relevant for purposes related to:

22       a. The issuance or renewal of a grain buyer license; or

23       b. An investigation after issuance or renewal of a grain buyer license.

24       3. Any information obtained by the commissioner under this section is confidential and  
25 may be provided only:

26       a. To federal authorities in accordance with federal law;

27       b. To the attorney general, state agencies, and law enforcement agencies for use in  
28 the pursuit of official duties; and

29       c. As directed by an order of a court pursuant to a showing of good cause.

30       **SECTION 53. AMENDMENT.** Subsection 1 of section 60-04-01 of the North Dakota  
31 Century Code is amended and reenacted as follows:

1 1. "~~Commission~~Commissioner" means the ~~public-service-commission~~agriculture  
2 commissioner.

3 **SECTION 54. AMENDMENT.** Section 60-04-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-04-03. Appointment of ~~commission~~commissioner.**

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

17 Upon the filing of the ~~commission's~~commissioner's application, the court may issue ex parte  
18 such temporary order as may be necessary to preserve or protect the assets of the trust fund,  
19 or the value ~~thereof~~of the trust fund, until the court issues ~~its~~an order granting or denying the  
20 application.

21 **SECTION 55. AMENDMENT.** Section 60-04-03.1 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **60-04-03.1. Trust fund established.**

- 24 1. Upon the insolvency of any warehouseman, a trust fund ~~shall~~must be established:
- 25 a. For the benefit of noncredit-sale receipt holders of the insolvent warehouseman,  
26 other than those who have waived their rights as beneficiaries of the trust fund in  
27 accordance with section 60-02-11; and
- 28 b. To pay the costs incurred by the ~~commission~~commissioner in the administration  
29 of this chapter.
- 30 2. The trust fund consists of the following:

- 1 a. The grain in the warehouse of the insolvent warehouseman or the proceeds as
- 2 obtained through the sale of such grain;
- 3 b. The proceeds, including accounts receivable, from any grain sold from the time of
- 4 the filing of the claim that precipitated an insolvency until the
- 5 ~~commission~~commissioner is appointed trustee;
- 6 c. The proceeds of insurance policies upon grain destroyed in the elevator;
- 7 d. The claims for relief, and proceeds ~~therefrom~~from the claims for relief, for
- 8 damages upon any bond given by the warehouseman to ensure faithful
- 9 performance of the duties of a warehouseman;
- 10 e. The claims for relief, and proceeds ~~therefrom~~from the claims for relief, for the
- 11 conversion of any grain stored in the warehouse;
- 12 f. Unencumbered accounts receivable for grain sold ~~prior to~~before the filing of the
- 13 claim that precipitated an insolvency;
- 14 g. Unencumbered equity in grain hedging accounts; and
- 15 h. Unencumbered grain product assets.

16 **SECTION 56. AMENDMENT.** Section 60-04-03.2 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **60-04-03.2. Possession of grain.**

19 Upon ~~its~~the commissioner's appointment by the district court, the ~~commission~~commissioner  
20 shall seek possession of the grain to be included in the trust fund. Upon ~~its~~the commissioner's  
21 possession of any grain in the warehouse, the ~~commission~~commissioner shall sell such grain  
22 and apply the proceeds to the trust fund.

23 **SECTION 57. AMENDMENT.** Section 60-04-03.3 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **60-04-03.3. Joinder of surety - Deposit of proceeds.**

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

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

3 **SECTION 58. 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~~ the commissioner's appointment by the district court, the ~~commission~~ commissioner  
7 may take possession of relevant books and records of the warehouseman. The  
8 ~~commission~~ commissioner shall cause a notice of ~~its~~ the commissioner's appointment to be  
9 published once each week for two consecutive weeks in a newspaper in the county in which the  
10 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  
14 ~~commission~~ commissioner along with the receipts, contracts, or any other evidence of the claims  
15 as required by the ~~commission~~ commissioner. If an outstanding receiptholder or credit-sale  
16 contract claimant fails to submit a claim within forty-five days after the last publication of the  
17 notice or a longer time as prescribed by the ~~commission~~ commissioner, the  
18 ~~commission~~ commissioner is relieved of further duty or action under this chapter on behalf of the  
19 receiptholder or credit-sale contract claimant and the receiptholder or credit-sale contract  
20 claimant may be barred from payment for any amount due. Outstanding receiptholders and  
21 credit-sale contract claimants are not parties to the insolvency action unless admitted by the  
22 court upon a motion for intervention.

23 **SECTION 59. AMENDMENT.** Section 60-04-05 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **60-04-05. Remedy of receiptholders.**

26 ~~No~~ A receiptholder ~~has~~ does not have a separate claim for relief upon the warehouseman's  
27 bond, nor for insurance, nor against any person converting grain, nor against any other  
28 receiptholder, except through the trustee, unless, upon demand of five or more receiptholders,  
29 the ~~commission~~ commissioner fails or refuses to apply for ~~its~~ the commissioner's own  
30 appointment from the district court or unless the district court denies the application for  
31 appointment. This chapter does not prohibit or prevent any receiptholder, either individually or in

1 conjunction with other receiptholders, from pursuing concurrently such other remedy against the  
2 person or property of ~~such~~the warehouseman, for the whole, or any deficiency occurring in the  
3 redemption, of the receipts.

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

6 **60-04-06. ~~Commission~~Commissioner to marshal trust assets.**

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

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

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

23 **SECTION 61. AMENDMENT.** Section 60-04-07 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **60-04-07. Power of ~~commission~~commissioner to prosecute or compromise claims.**

26 The ~~commission~~commissioner may:

- 27 1. Prosecute any action provided in this chapter in any court in this state or in any other  
28 state.
- 29 2. Appeal from any adverse judgment to the courts of last resort.
- 30 3. Settle and compromise any action ~~whenever~~if it is in the best interests of the  
31 receiptholders.

1 4. Settle and compromise any action ~~when~~if it is in the best interests of the credit-sale  
2 contract claimants.

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

6 **SECTION 62. 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~~commissioner as trustee under this  
10 chapter, pending the marshalling of the fund, ~~shall~~must be deposited in the Bank of North  
11 Dakota.

12 **SECTION 63. AMENDMENT.** Section 60-04-09 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **60-04-09. Report of trustee to court - Approval - Distribution.**

15 Upon the receipt and evaluation of claims filed with ~~it~~the commissioner, the  
16 ~~commission~~commissioner shall file with the court a report showing the amount and validity of  
17 each claim after recognizing:

- 18 1. Any proper liens or pledges ~~thereon~~on the claims.
- 19 2. Assignments ~~thereof~~of the claims.
- 20 3. Deductions ~~therefrom~~from the claims by reason of advances or offsets accrued in  
21 favor of the warehouseman.
- 22 4. In case of cash claims or checks, the amount ~~thereof~~of the claims or checks.
- 23 5. In the case of scale tickets or warehouse receipts, the amount ~~thereof~~based upon the  
24 market price prevailing on the date the ~~commission~~commissioner first received a copy  
25 of the written demand required by section 60-04-02.
- 26 6. In the case of a credit-sale or noncredit-sale contract, the amount remaining to be paid  
27 based on the terms of the contract.

28 The report must also contain the proposed reimbursement to the ~~commission~~commissioner  
29 for the expenses of administering the insolvency, a proposed distribution of the trust fund  
30 assets, less expenses incurred by the ~~commission~~commissioner in the administration of this  
31 chapter, and the proposed credit-sale contract indemnity fund payments to credit-sale contract

1 claimants as ~~their~~the interests of the claimants are determined. If the trust fund is insufficient to  
2 redeem all receiptholder claims in full, the fund must be shown prorated in the report in the  
3 manner the ~~commission~~commissioner deems fair and equitable.

4 The court shall set a hearing and the appropriate notice for interested persons to show  
5 cause why the ~~commission's~~commissioner's report should not be approved and credit-sale  
6 contract indemnity fund payments and distribution of the trust fund be made as proposed, and  
7 payments from the credit-sale contracts be made as proposed. Copies of the report and notice  
8 of hearing must be served by the ~~commission~~commissioner by certified mail upon the  
9 warehouseman and the surety and by ordinary mail upon all persons having claims filed with  
10 the ~~commission~~commissioner.

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

15 Following hearing, the court shall approve or modify the report and issue an order directing  
16 payment of the necessary bond proceeds, distribution of the trust fund, payments from the  
17 credit-sale contract indemnity fund, and discharge of the ~~commission~~commissioner from ~~its~~the  
18 commissioner's trust.

19 **SECTION 64. AMENDMENT.** Section 60-04-10 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **60-04-10. Filing fees and court costs - Expenses.**

22 In any action in a state court in this state, the ~~commission shall~~commissioner may not be  
23 required to pay any filing fee or other court costs or disbursements if the fees accrue to the  
24 county or to the state. The attorney general may employ outside legal services to assist the  
25 ~~commission~~commissioner in the prosecution of such action as in the attorney general's  
26 judgment may be necessary and the ~~commission~~commissioner shall deduct the expenses of  
27 the same from the trust fund and the credit-sale contract indemnity fund as appropriate. All  
28 other necessary expenses incurred by the ~~commission~~commissioner in carrying out the  
29 provisions of this chapter, including adequate insurance to protect the ~~commission,~~  
30 its commissioner, the commissioner's employees, and others engaged in carrying out the

1 provisions of this chapter, must be reimbursed to the ~~commission~~commissioner from the trust  
2 fund and credit-sale indemnity funds as appropriate.

3 **SECTION 65. AMENDMENT.** Section 60-05-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **60-05-01. Public elevators and warehouses - ~~Commission~~Commissioner may require**  
6 **uniform accounting system.**

7 The ~~public service commission~~commissioner may require every association, copartnership,  
8 corporation, or limited liability company conducting a public elevator or warehouse in this state  
9 to adopt a uniform accounting system established by ~~such commission~~the commissioner.

10 **SECTION 66. AMENDMENT.** Section 60-05-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **60-05-02. Examination of financial accounts of elevator or warehouse by competent**  
13 **examiner - Request by percentage of stockholders.**

14 The ~~commission~~commissioner may install, and ~~whenever~~if requested by not less than  
15 fifteen percent of the partners, stockholders, or members of any association, copartnership,  
16 corporation, or limited liability company conducting such public elevator or warehouse, shall  
17 install, the uniform system of accounting mentioned in section 60-05-01. The  
18 ~~commission~~commissioner on ~~its~~the commissioner's own motion may, or on request of the  
19 required percentage of partners, stockholders, or members, the ~~commission~~commissioner shall,  
20 send a competent examiner to examine the books and financial accounts of ~~such~~the elevator or  
21 warehouse. ~~Whenever~~if a request for the examination of the accounts of any association,  
22 copartnership, corporation, or limited liability company has been made to the  
23 ~~commission~~commissioner, as provided for in this section, ~~an examination thereafter~~  
24 ~~shall~~subsequent examinations must be made at least once every year until the ~~commission~~  
25 ~~shall be~~commissioner is requested to discontinue such examination by resolution adopted by  
26 the partners, stockholders, or members at any annual meeting. ~~When~~if such examination has  
27 been made, the examiner shall report immediately the results ~~thereof~~of the examination to the  
28 president and the secretary of such association, copartnership, corporation, or limited liability  
29 company and to the ~~commission~~commissioner.

30 **SECTION 67. AMENDMENT.** Section 60-05-03 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1 | **60-05-03. Certificate issued by ~~commission~~commissioner after ~~its~~ examination of**  
2 | **accounts.**

3 | If the ~~commission~~commissioner is satisfied from ~~its~~the commissioner's examination that the  
4 | person, association, copartnership, corporation, or limited liability company examined is solvent  
5 | and ~~its~~the method of doing business is such as is likely to be beneficial to all of its members or  
6 | persons interested therein, the ~~commission~~commissioner shall issue a certificate, countersigned  
7 | by the examiner, to the agent or manager. Such certificate ~~shall~~must be kept posted  
8 | conspicuously in the warehouse or elevator of such person, association, copartnership,  
9 | corporation, or limited liability company and ~~shall~~must state:

- 10 | 1. That said methods of doing business are sound.
- 11 | 2. That such person, association, copartnership, corporation, or limited liability company  
12 | is solvent.
- 13 | 3. That its books and accounts are kept properly.

14 | If the affairs and methods of doing business of such person, association, copartnership,  
15 | corporation, or limited liability company ~~shall~~do not seem sound or satisfactory to the  
16 | ~~commission, it~~commissioner, the commissioner shall issue a certificate or statement,  
17 | countersigned by the person who made the examination, stating in what particular and in what  
18 | respect the business methods practiced or methods of keeping books and accounts of such  
19 | person, association, copartnership, corporation, or limited liability company are not deemed  
20 | safe. The ~~commission~~commissioner shall mail a copy of ~~said~~the statement or certificate to each  
21 | of such shareholders or stockholders as may have requested the ~~commission~~commissioner to  
22 | make such examination. The ~~commission~~commissioner also shall send a copy ~~thereof~~ to the  
23 | president and the secretary of such association, copartnership, corporation, or limited liability  
24 | company.

25 | **SECTION 68. AMENDMENT.** Section 60-05-04 of the North Dakota Century Code is  
26 | amended and reenacted as follows:

27 | **60-05-04. Fees of examiner for installing and examining accounting system.**

28 | For making installation of a uniform accounting system and examining the financial  
29 | accounts of an elevator or public warehouse, an association, copartnership, corporation, or  
30 | limited liability company shall pay the examiner a reasonable fee, as determined by the  
31 | ~~commission~~commissioner. In case any such association, copartnership, corporation, or limited

1 liability company shall wrongfully refuse or neglect to pay such fees, then the  
2 ~~commission~~commissioner may cancel the license to do business. All such fees shall be paid  
3 into the state treasury. The expenses incurred by the examiner under the provisions of this  
4 chapter ~~shall~~must be paid out of the appropriations made by the legislative assembly for this  
5 purpose and such expenses ~~shall~~must be audited and paid in the same manner as other  
6 expenses are audited and paid.

7 **SECTION 69. AMENDMENT.** Section 60-06-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **60-06-05. Sidetracks to be provided ~~by railroad company on its land.~~**

10 Every railroad company or corporation organized under the laws of this state or doing  
11 business ~~therein in this state~~, upon application in writing, shall provide reasonable sidetrack  
12 facilities and running connections between its main track and elevators and warehouses upon  
13 or contiguous to its right of way at such stations. Every such railroad corporation shall permit  
14 connections to be made and maintained in a reasonable manner with its sidetracks to and from  
15 any warehouse or elevator without reference to its size, cost, or capacity, ~~whereif~~if grain or  
16 potatoes are or may be stored. The railroad company is not required to construct or furnish any  
17 sidetracks except upon its own land or right of way. Such elevators and warehouses may not be  
18 constructed within one hundred feet [30.48 meters] of any existing structure and must be at safe  
19 fire distance from the station buildings so as not to conflict essentially with the safe and  
20 convenient operation of the road. ~~Whereif~~if stations are ten miles [16.09 kilometers] or more  
21 apart the railroad company, ~~whenif~~if required so to do by the ~~public-service-~~  
22 ~~commission~~commissioner, shall construct and maintain a sidetrack for the use of shippers  
23 between such stations.

24 **SECTION 70. AMENDMENT.** Section 60-06-06.1 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **60-06-06.1. Determination - Appropriation.**

27 Any party may petition the ~~public-service commission~~commissioner to determine rights  
28 governed under this chapter. The ~~commission~~commissioner shall determine the matter in  
29 accordance with chapter 28-32 and the parties' rights of appeal are as limited by chapter 28-32.  
30 The value of a leaseholder's improvements may not be considered in determining a reasonable  
31 lease rate or selling price. The parties to such a proceeding shall pay the expenses of the

1 proceeding, as determined by the ~~commission~~commissioner, directly to the entities owed. The  
2 ~~commission~~commissioner may adopt rules to carry out this section.

3 **SECTION 71. 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 of one percent is placed on the value of all grain  
7 sold in this state under a credit-sale contract, as provided for in sections 60-02-19.1 and  
8 60-02.1-14. The licensee purchasing the grain shall note the assessment on the contract  
9 required under sections 60-02-19.1 and 60-02.1-14 and shall deduct the assessment from the  
10 purchase price payable to the seller. The licensee shall submit any assessment collected under  
11 this section to the ~~public service commission~~commissioner no later than thirty days after each  
12 calendar quarter. The ~~commission~~commissioner shall deposit the assessments received under  
13 this section in the credit-sale contract indemnity fund.

14 **SECTION 72. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **60-10-02. Credit-sale contract indemnity fund - Creation - Continuing appropriation.**

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

23 **SECTION 73. AMENDMENT.** Section 60-10-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **60-10-03. Credit-sale contract indemnity fund - Suspension of assessment.**

26 At the end of the calendar quarter in which the credit-sale contract indemnity fund reaches a  
27 level of six million dollars, the ~~public service commission~~commissioner shall suspend collection  
28 of the assessment required by this chapter. If after suspension of collection the balance in the  
29 fund is less than three million dollars, the ~~public service commission~~commissioner shall require  
30 collection of the assessment.

1       **SECTION 74. AMENDMENT.** Section 60-10-05 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **60-10-05. Credit-sale contract indemnity fund - Availability of money.**

4       Upon the insolvency of a licensed warehouse or a grain buyer and a declaration ~~that~~ the  
5 ~~public service commission~~ commissioner serve as the trustee, the ~~public service-~~  
6 ~~commission~~ commissioner shall make the proceeds of the credit-sale contract indemnity fund  
7 available for use in meeting the licensee's obligations with respect to the reimbursement of any  
8 person who sold grain to the licensee under a credit-sale contract and who was not fully  
9 compensated in accordance with the contract.

10       **SECTION 75. AMENDMENT.** Section 60-10-07 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **60-10-07. Credit-sale contract indemnity fund - Prorated claims.**

13       If claims for indemnity payments from the credit-sale contract indemnity fund exceed the  
14 amount in the fund, the ~~public service commission~~ commissioner shall prorate the claims and  
15 pay the prorated amounts. As future assessments are collected, the ~~public service-~~  
16 ~~commission~~ commissioner shall continue to forward indemnity payments to each eligible person  
17 until the person receives the maximum amount payable in accordance with this chapter.

18       **SECTION 76. AMENDMENT.** Section 60-10-08 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20       **60-10-08. Reimbursement for later insolvencies.**

21       The ~~public service commission~~ commissioner shall ensure ~~that~~ all persons eligible for  
22 payment from the indemnity fund as a result of an insolvency are fully compensated to the  
23 extent permitted by this chapter before any payments from the indemnity fund are initiated as a  
24 result of a later insolvency. The chronological order of insolvencies is determined by the date  
25 the ~~public service commission~~ commissioner is appointed trustee under section 60-02.1-29 or  
26 60-04-03.

27       **SECTION 77. AMENDMENT.** Section 60-10-09 of the North Dakota Century Code is  
28 amended and reenacted as follows:

1       **60-10-09. Credit-sale contract indemnity fund - Reimbursement for administrative**  
2 **expenses.**

3       Any expense incurred by the ~~public service commission~~commissioner in administering the  
4 credit-sale contract indemnity must be reimbursed from the fund before any other claim for  
5 indemnity is paid.

6       **SECTION 78. AMENDMENT.** Section 60-10-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **60-10-10. Credit-sale contract indemnity fund assessment - Failure to collect**  
9 **assessment - Penalty.**

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

14       **SECTION 79. AMENDMENT.** Section 60-10-11 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       **60-10-11. Revocation and suspension.**

17       The ~~commission~~commissioner may suspend or revoke the license of any licensee for cause  
18 upon notice and hearing for violation of this chapter.

19       **SECTION 80. AMENDMENT.** Section 60-10-12 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21       **60-10-12. Cease and desist.**

22       If a person engages in an activity or practice that is contrary to this chapter or rules adopted  
23 by the ~~commission~~commissioner, the ~~commission~~commissioner, upon ~~its~~the commissioner's  
24 own motion without complaint and with or without a hearing, may order the person to cease and  
25 desist from the activity until further order of the ~~commission~~commissioner. The order may  
26 include any corrective action up to and including license suspension. A cease and desist order  
27 must be accompanied by a notice of opportunity to be heard on the order within fifteen days of  
28 the issuance of the order.

29       **SECTION 81. AMENDMENT.** Section 60-10-14 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **60-10-14. Subrogation.**

2       Money paid from the credit-sale contract indemnity fund in satisfaction of a valid claim  
3       constitutes a debt obligation of the person against whom the claim was made. The  
4       ~~commission~~commissioner may take action on behalf of the fund against a person to recover the  
5       amount of payment made, plus costs and attorney's fees. Any recovery for reimbursement to  
6       the fund must include interest computed at the weight average prime rate charged by the Bank  
7       of North Dakota. Upon payment of a claim from the credit-sale contract indemnity fund, the  
8       claimant shall subrogate ~~its~~the interest of the claimant, if any, to the ~~commission~~commissioner  
9       in a cause of action against all parties, to the amount of the loss that the claimant was  
10      reimbursed by the fund.

11      **SECTION 82. AMENDMENT.** Section 60-10-15 of the North Dakota Century Code is  
12      amended and reenacted as follows:

13      **60-10-15. Unlicensed facility-based grain buyer.**

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