

# AGRICULTURE

## CHAPTER 61

### HOUSE BILL NO. 1214

(Representatives Olson, Gerntholz)  
(Senator Nething)

### COUNTY FAIR LEVIES

AN ACT to amend and reenact sections 4-02-04, 4-02-08, 4-02-26, 4-02-27, 4-02-27.2, 4-02-27.3, 4-02-30, 11-23-09, 53-03-03, 53-04.1-04, 53-05-02, subsections 30 and 31 of section 57-15-06.7, and subsection 1 of section 57-15-06.8 of the North Dakota Century Code, relating to fairs, fair associations, carnivals, and amusements and property tax levies for fairs; and to repeal sections 4-02-03, 4-02-09, 4-02-11, 4-02-15, 4-02-32, 4-02-33, 4-02-34, and subsection 3 of section 57-15-06.7 of the North Dakota Century Code, relating to fairs.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 4-02-04 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-04. Income and expenses - Membership in association and terms thereof.** An agricultural fair association may not be conducted for profit and may not have ~~no~~ capital stock. The bylaws of the association ~~shall~~ must provide for charges to the public for admission to the grounds, fees for concessions, charges to exhibitors, and rental of the association's property, and the amounts thereof may not be greater than is sufficient to discharge the association's debts for real estate and improvements thereon, to defray the current expenses of fairs, to carry on the business of the association, and to create a sinking fund in an amount not exceeding twenty thousand dollars. However, if the association is receiving property tax levy funds, the association with the consent of the board of county commissioners may establish a sinking fund in excess of twenty thousand dollars. The method of acquiring membership in the association, and the term of such membership, must be provided in the association's bylaws.

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

**4-02-08. Organization under corporation laws.** A fair association may be organized by three or more persons as in the case of other corporations, with all the rights, privileges, and liabilities pertaining to corporations under the corporation laws of this state, including the rights and privileges specified in sections ~~4-02-03~~, 4-02-04, and 4-02-05.

**SECTION 3. AMENDMENT.** Section 4-02-26 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-26. County fairs - Organized when - Aiding.** A county fair association may be organized in any county having taxable property of a taxable valuation of

not less than seven hundred fifty thousand dollars. The executive officers and directors must be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant must be in writing and must state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in the county sufficient in area for the purpose of its fair and of the value of at least twenty-five hundred dollars. If the board of county commissioners is satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within the county annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax not exceeding the limitation in section 57-15-06.7 which must be collected as other taxes are collected. If the tax is levied, the board of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of the tax levied and shall take the receipt of the association therefor. The board of county commissioners may continue the levy under this section after the first year's grant of aid upon the board's own motion.

**SECTION 4. AMENDMENT.** Section 4-02-27 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-27. Reports required of county fair associations - Tax levies for support thereof.** Any county fair association receiving the aid provided for in this chapter, at the regular meeting of the board of county commissioners held in the month of January following the holding of such county fair, shall make a full report to the board of all moneys received by it from all sources and of all disbursements. The report must show the amount of the debts and the amount of moneys in the treasury of the association, and the amount of any deficit after the payment of its expenses, and must contain an estimate of the amount, if any, which it will be necessary to raise above the estimated ordinary receipts of the association for the purposes of its fair for the ensuing year. The report and estimate must be verified by the oath of the president, or vice president, the secretary, treasurer, and a majority of the board of directors of the association. After the filing and approval of the report, the board of county commissioners shall levy a tax for the current year equal to the estimate contained in the association's report, if the report filed shows that the funds have been expended legally and if the levy is has been approved by the voters or the board of county commissioners, as required by law. The tax levied for the current year may not exceed the limitation in section 57-15-06.7, and the amount levied must be paid to the association as provided in section 4-02-26.

**SECTION 5. AMENDMENT.** Section 4-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

**4-02-27.2. Additional levy in certain counties.** The board of county commissioners of any county ~~having a population in excess of twenty-five thousand, according to the latest federal decennial census; shall~~, when petitioned by at least five percent of the qualified electors of the county, including qualified electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the preceding general election, shall submit to the qualified electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a

county fair and authorizing the board of county commissioners, if the county general fund is deemed insufficient to provide funds therefor, to levy a tax not exceeding the limitation in subsection 2 of section 57-15-06.7. If a majority of the votes cast at the election are in favor of the proposition, including the proposed levy, the tax must be levied and collected as are other property taxes, with the proceeds to be placed into a fund to be known as the "county fair fund". The tax is in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

**SECTION 6. AMENDMENT.** Section 4-02-27.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-02-27.3. Disposition of property.** Any property used for county fair purposes may be sold by the board of county commissioners upon such terms and conditions as the board shall determine, and the proceeds of such sale shall be placed in the county fair fund and used exclusively for county fair purposes, provided that if the county fails to hold a fair within the county for two successive years, any property on hand may be sold and the proceeds of such sale, together with any other unexpended balance in the county fair fund may, at the discretion of the board of county commissioners, be transferred to the county general fund. The levy of the tax authorized by section 4-02-27.2, expenditures of the proceeds thereof, and the conduct of the fair shall be governed by the provisions of sections 4-02-06 through ~~4-02-34~~ 4-02-31 to the extent such sections are consistent with the provisions of section 4-02-27.2 and this section.

**SECTION 7. AMENDMENT.** Section 4-02-30 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-02-30. Tax provided for to be submitted to vote.** ~~Whenever~~ If the board of county commissioners has voted and ordered a tax levied in aid of an agricultural fair; ~~at the next general election the question of continuing the annual levy and collection of the tax must be submitted to a vote of the qualified electors of the county. The county auditor shall certify and give notice of the submission of the question as provided by law. The ballots to be used at the election shall be in the following form:~~

For tax in aid of county fair

Yes

No

~~If a majority of the ballots heretofore or hereafter cast on the question at any election is in favor of continuing the tax, the board of county commissioners shall continue the annual levy hereof as long as the provisions of section 4-02-29 are complied with and until otherwise directed as herein provided.~~

~~Whenever~~ and a petition is addressed to the board, asking the discontinuance of the tax and containing the signatures of the qualified electors of the county in a number equal to twenty percent of the total vote cast in the county at the last preceding general election, and the petition is filed in the office of the county auditor, the board shall submit to the qualified electors of the county at the next succeeding general election the question of whether or not the levying of the tax shall be continued. The ballot must be in the following form:

Shall the board of county commissioners continue the annual levy of a tax in aid of county fair? Yes   
No



1. The location where the game is conducted by the person has been authorized as provided in section 53-04.1-05.
2. The person conducting the game has been issued a license pursuant to this chapter and prominently displays the license at the playing area of the game.
3. Games of chance other than the licensed game are not conducted or engaged in at the amusement concession.
4. The game is posted and the cost to play the game does not exceed ~~one dollar~~ five dollars.
5. A prize is not displayed which cannot be won.
6. Cash prizes in excess of five dollars are not awarded and merchandise prizes are not repurchased.
7. The game is not operated on a build-up or pyramid basis except a trade up of a prize is allowed.
8. ~~The actual retail value of any prize does not exceed twenty-five dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts may not exceed twenty-five dollars.~~
9. Concealed numbers or conversion charts are not used to play the game and the game is not designated or adapted with any control device to permit manipulation of the game by the operator to prevent a player from winning or to predetermine who the winner will be. The object target, block, or object of the game must be attainable and possible to perform under the rules stated from the playing position of the player.
- ~~10.~~ 9. The game is conducted in a fair and honest manner.
10. A person under the age of eighteen may not play any amusement game or device, except bingo, in which cash prizes are awarded.

**SECTION 11. AMENDMENT.** Section 53-05-02 of the North Dakota Century Code is amended and reenacted as follows:

**53-05-02. ~~Outdoor show and carnival~~ Carnivals - When prohibited - Exceptions.** ~~No~~ A person may not conduct any ~~outdoor show~~, circus, or carnival; in any city, or within a radius of ~~six~~ thirty miles [~~9.66~~ 48.28 kilometers] of any city, within this state, at or near which any state, county, or district fair association operates an agricultural and livestock exposition or fair, within a period of ~~eighteen~~ thirty days next preceding the date advertised and set for such exposition or fair, nor during the time of holding the same unless:

1. The officials of such fair or exposition consent to the holding thereof; ~~or~~
2. Such ~~show~~, circus, or carnival is held in conjunction with such fair or exposition; or some other civic-sponsored festival or outdoor event; or
3. The circus or carnival is held outside the boundaries of the county in which the fair or exposition is held.

Nothing in this section ~~contained~~ exempts such ~~outdoor show~~, circus, or carnival from obtaining a proper license or permit, as provided by law, for the holding thereof.

<sup>24</sup> **SECTION 12. AMENDMENT.** Subsections 30 and 31 of section 57-15-06.7 of the North Dakota Century Code are amended and reenacted as follows:

30. Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding ~~one-half of~~ one mill.
31. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one ~~mill~~ and one-half mills.

**SECTION 13. AMENDMENT.** Subsection 1 of section 57-15-06.8 of the North Dakota Century Code is amended and reenacted as follows:

1. Counties levying a tax for multicounty fairs according to section 4-02-37 may levy a tax not exceeding ~~one-half of~~ one mill.

<sup>25</sup> **SECTION 14. REPEAL.** Sections 4-02-03, 4-02-09, 4-02-11, 4-02-15, 4-02-32, 4-02-33, 4-02-34, and subsection 3 of section 57-15-06.7 of the North Dakota Century Code are repealed.

Approved March 31, 1995  
Filed March 31, 1995

---

<sup>24</sup> Section 57-15-06.7 was also amended by section 2 of House Bill No. 1333, chapter 553, and section 14 of House Bill No. 1214, chapter 61, which repealed subsection 3.

<sup>25</sup> Section 57-15-06.7 was also amended by section 2 of House Bill No. 1333, chapter 553, and section 12 of House Bill No. 1214, chapter 61.

# AGRICULTURE

## CHAPTER 62

### SENATE BILL NO. 2283

(Senators Nalewaja, G. Nelson, Streibel)

(Representatives Byerly, Payne, Wald)

## NORTHERN CROPS INSTITUTE, NDSU EXTENSION SERVICE, AND AGRICULTURAL EXPERIMENT STATION APPROPRIATIONS

AN ACT to create and enact a new subsection to section 4-14.2-01 of the North Dakota Century Code, relating to funds appropriated to the northern crops institute; and to amend and reenact sections 4-05.1-02 and 4-08-10 of the North Dakota Century Code, relating to funds appropriated to the North Dakota state university extension service and agricultural experiment station.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 4-05.1-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-05.1-02. Agricultural experiment station.** The North Dakota agricultural experiment station is under the control of and subject to the supervision of the state board of higher education. The agricultural experiment station shall develop research programs involving the basic and applied biological, physical, and social sciences that will enhance agricultural systems and improve the quality of life. Funds appropriated to the agricultural experiment station may not be commingled with funds appropriated to North Dakota state university. Appropriation requests to defray expenses of the agricultural experiment station must be separate from appropriation requests to defray expenses of North Dakota state university.

**SECTION 2. AMENDMENT.** Section 4-08-10 of the North Dakota Century Code is amended and reenacted as follows:

**4-08-10. County agent to submit monthly account of expenditures.** ~~As~~ The county agent shall submit monthly an accurate itemized account of all expenditures incurred by the county agent in the regular conduct of his duties must be submitted monthly by him to the extension division of the North Dakota state university of agriculture and applied science extension service for examination and audit. Where charges are made by a county agent for money expended in the performance of official duties, all items of one dollar or more so expended and charged for must be covered by a subvoucher or receipt which must be signed by the person to whom the money was paid. The subvoucher or receipt must show at what place, on what date, and for what, the money expended was paid. The subvouchers or receipts must be forwarded with the bill, claim, account, or demand against the county. Where charges are made for transportation expenses, they must not exceed the amounts provided by section 11-10-15, and must be in itemized form showing the mileage traveled, the days when and how traveled, and the purpose thereof, verified by his affidavit. ~~Such~~ The account must be transmitted and recommended for payment by

the extension division of the North Dakota state university of agriculture and applied science extension service which shall audit the same and which may approve or disallow any expense item therein. The extension division of the North Dakota state university of agriculture and applied science extension service is under the control, and subject to the supervision, of the state board of higher education. Funds appropriated to the North Dakota state university extension service may not be commingled with funds appropriated to North Dakota state university. An appropriation request to defray expenses of the North Dakota state university extension service must be separate from an appropriation request to defray expenses of North Dakota state university.

SECTION 3. A new subsection to section 4-14.2-01 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

Funds appropriated to the northern crops institute may not be commingled with funds appropriated to North Dakota state university. Appropriation requests to defray expenses of the northern crops institute must be separate from appropriation requests to defray expenses of North Dakota state university.

Approved March 21, 1995  
Filed March 23, 1995



## CHAPTER 63

## SENATE BILL NO. 2522

(Senators Wanzek, Krauter)

(Representative Nicholas)

## SEED LABELING AND WEED SEEDS

AN ACT to amend and reenact subsection 13 of section 4-09-01, subdivision a of subsection 1 of section 4-09-10, and subsection 2 of section 4-09-14 of the North Dakota Century Code, relating to the definition of noxious weed seeds, to seed labeling requirements, and prohibited acts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 13 of section 4-09-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

13. "Noxious weed seeds" means the seeds of either of the following classifications:
  - a. "Prohibited noxious weed seeds" means the seeds of perennial weeds which reproduce by seed or spread by underground roots, stems, and other reproductive parts and which, when established, are highly destructive and difficult to control by ordinary good cultural practice including the seeds of leafy spurge (*euphorbia esula* l.), field bindweed (*convolvulus arvensis* l.), Canada thistle (*cirsium arvense* l.), perennial sow thistle (*sonchus arvensis* l.), Russian knapweed (*centaurea picris* pall), absinth wormwood (*artemisia absinthim*), hemp (*cannabis sativa*), musk thistle (*carduus nutans*), spotted knapweed (*centaurea maculosalam*), and hoary cress (*cardaria draba* l.).
  - b. "Restricted noxious weed seeds" means the seeds of weeds which are highly objectionable in fields, lawns, and gardens, but which can be controlled by good cultural practices or other means, including the seeds of dodder (*cuscuta* species), ~~wild mustard (*sinapis arvensis* syn. *brassica kaber*); field pennycress (*thlaspi arvense*);~~ hedge bindweed (*convolvulus sepium*), wild oats (*avena fatua*), and quackgrass (*agropyron repens* l. beauv.).

**SECTION 2. AMENDMENT.** Subdivision a of subsection 1 of section 4-09-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 3. AMENDMENT.** Subsection 2 of section 4-09-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. ~~Further, it~~ It is unlawful for any person in this state to:
  - a. Detach, alter, deface, or destroy any label provided for in this chapter or to alter or substitute seed in any manner with the intent to defeat the purpose of this chapter;
  - b. Disseminate any false or misleading advertisement concerning agriculture or vegetable seed in any manner or by any means;
  - c. Hinder or obstruct in any way any authorized person in the performance of his duties under this chapter;
  - d. Fail to comply with a "stop-sale" order;
  - e. Use on seed labels or tags, or to use or attach to literature, or to state in any manner or form of wording designed as a "disclaimer" or "nonwarranty" clause with the intent to disclaim responsibility of the vendor of the seed for the data on the label required by law;
  - f. Use the words "type" or "trace" on any labeling in connection with the name and description of any agricultural and vegetable seed;
  - g. Move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order, except with the written permission of the commissioner or his agent, and only for the purpose specified in such written permission; ~~or~~
  - h. Use the name of the state seed department or the name of the official laboratory for advertising purposes in connection with seed analyzed or tested by the department or official laboratory, except in the case of registered or certified seed; or
  - i. Plant any seed labeled "for vegetative cover only" with the intent to harvest for seed or grain.

Approved March 27, 1995  
Filed March 28, 1995

**CHAPTER 64****HOUSE BILL NO. 1356**

(Representative Nicholas)

**POTATO CROP QUANTITY AND QUALITY LIABILITY**

AN ACT to amend and reenact section 4-10-12.1 of the North Dakota Century Code, relating to liability for potato crop quantity and quality.

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

**SECTION 1. AMENDMENT.** Section 4-10-12.1 of the North Dakota Century Code is amended and reenacted as follows:

4-10-12.1. ~~Liability of the state seed commission, state seed department, commissioner and his employees, and certified seed potato producers -~~ Potato crop quantity and quality. The state seed commission, state seed department, commissioner and ~~his~~ the commissioner's employees, ~~and~~ certified seed potato producers, and wholesale potato dealers licensed under chapter 4-11 make no warranty of any kind, expressed or implied as to the quantity or quality of the crop produced from the seed potatoes or through other produce inspected and certified, including merchantability, fitness for a particular purpose, or absence of disease. The only representation is that the potatoes or other produce were produced, graded, packed, and inspected under the rules ~~and regulations~~ of the state seed department or United States department of agriculture. The commissioner and ~~his~~ the commissioner's employees function and serve only in an official regulatory manner.

Approved April 4, 1995

Filed April 4, 1995

**CHAPTER 65****HOUSE BILL NO. 1196**

(Representatives Johnson, Kempenich, Rennerfeldt)  
(Senator Wanzek)

**OILSEED COUNCIL MEMBERSHIP**

AN ACT to amend and reenact section 4-10.2-03 of the North Dakota Century Code, relating to membership on the oilseed council.

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

**SECTION 1. AMENDMENT.** Section 4-10.2-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

Approved March 24, 1995  
Filed March 27, 1995

**CHAPTER 66****HOUSE BILL NO. 1124**  
(Representative Dorso)**AGRICULTURAL COMMODITY GROUP REPORTS,  
TAXES, AND REFUNDS**

AN ACT to create and enact a new section to House Bill No. 1134, as approved by the fifty-fourth legislative assembly, relating to declaring an emergency relating to funding for ethanol production subsidies; to amend and reenact sections 4-10.4-08, 4-10.4-09, 4-24-10, 4-28-07, and 4-28-08 of the North Dakota Century Code, relating to agricultural commodity group reports, commodity taxes, and refunds; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 4-10.4-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-10.4-08. Tax levied.**

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

remit the tax to the council on all barley sold by ~~him~~ the grower outside the state.

**SECTION 2. AMENDMENT.** Section 4-10.4-09 of the North Dakota Century Code is amended and reenacted as follows:

**4-10.4-09. Nonparticipating growers - Refunds.**

1. Any ~~person~~ grower who sells barley to a first purchaser in this state and who is subject to the tax provided in this chapter and who objects to the collection of the tax, may within sixty days following the collection, make application by personal letter to the council for a refund application blank. Upon return of this blank, properly executed by the applicant and accompanied by a true copy of the invoice or invoices delivered by the purchaser to the grower, the council shall; ~~within sixty days after receiving the application,~~ refund to the grower the net amount of the tax collected. If no request for refund is made within sixty days after the collection of the tax, the grower is conclusively presumed to have agreed to the deduction. However, a grower, for any reason, having paid the tax more than once on the same barley, upon furnishing proof of this to the council, is entitled to a refund of the overpayment.
2. The council shall develop and disseminate information and instructions relating to the purpose of the barley tax and the manner in which refunds may be claimed, and shall cooperate with state and federal governmental agencies and private businesses engaged in the purchase of barley.

**SECTION 3. AMENDMENT.** Section 4-24-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 4. AMENDMENT.** Section 4-28-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-28-07. Wheat tax levy.** A tax of five mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels by a producer to a first purchaser in this state. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels [liters] are not accurately determined at the time of the lien, pledge, or mortgage. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in such manner as the commission may prescribe.

Any producer who sells wheat to a first purchaser in this state and who is subject to the deduction provided in this chapter may, within sixty days following such deduction or final settlement, make application by personal letter to the wheat commission for a refund application blank. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected. If no request for refund has been made within the period prescribed above, then the producer is presumed to have agreed to such deduction. However, a producer, for any reason, having paid the tax more than once on the same wheat, upon furnishing proof of this to the commission, is entitled to a refund of the overpayment.

The commission, to inform the producer, shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed, and to this extent shall cooperate with governmental agencies, state and federal, and private businesses engaged in the purchase of wheat.

**SECTION 5. AMENDMENT.** Section 4-28-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-28-08. State wheat commission fund - Continuing appropriation.** Each first purchaser shall make quarterly reports and returns to the commission, on such forms as must be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, ~~1959~~, and with 1995. The commission shall prescribe the forms to be used. With each ~~such~~ report and return, the first purchaser shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a special revolving fund ~~to be known as the "state wheat commission fund"~~. All money in the state wheat commission fund is appropriated on a continuing basis to the commission for carrying out the purposes of this chapter. Expenditures from ~~such the~~ fund may be made upon vouchers duly approved by the commission to carry out ~~the provisions~~ of this chapter. Regular audits of the commission's accounts must be conducted in accordance with chapter 54-10.

**SECTION 6.** A new section to House Bill No. 1134, as approved by the fifty-fourth legislative assembly, is created and enacted as follows:

**SECTION 5. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure.

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 11, 1995

Filed April 12, 1995



## CHAPTER 67

## HOUSE BILL NO. 1177

(Representatives Aarsvold, Belter)

(Senators Lindaas, Naaden)

**SOYBEAN PROMOTION ASSESSMENTS**

AN ACT to amend and reenact sections 4-10.5-07 and 4-10.5-08 of the North Dakota Century Code, relating to assessments for soybean promotion.

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

**SECTION 1. AMENDMENT.** Section 4-10.5-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-10.5-07. Tax levies - Collection - Reports.** Effective ~~July 1, 1985~~ August 1, 1995, an assessment at the rate of ~~two cents per bushel [35.24 liters]~~ one-half of one percent of the value of the sale must be levied and imposed upon all soybeans ~~grown in the state or~~ sold to a designated handler. This assessment is due upon any identifiable lot or quantity of soybeans.

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

Every designated handler of soybeans shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate of ~~two cents per bushel [35.24 liters]~~ one-half of one percent of the value of the sale by deducting the assessment from the purchase price of all soybeans subject to the assessment and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of soybeans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council, in a manner and at a time prescribed by the council, stating the quantity in individual and total amounts of soybeans received, sold, or shipped by it. The report must state from whom each individual amount was received. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid within thirty days of the end of each quarterly period to the council for deposit in the state treasury to the credit of an account designated "soybean fund" to be used exclusively to carry out this chapter. Quarterly periods end on March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Regular audits of the council's

accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

**SECTION 2. AMENDMENT.** Section 4-10.5-08 of the North Dakota Century Code is amended and reenacted as follows:

**4-10.5-08. Nonparticipating growers - Refunds.** Any grower subject to the assessment provided by this chapter may, within ~~sixty~~ ninety days following such assessment or final settlement, make application by personal letter to the council for a refund application blank. Upon the return of the refund application blank, if it is properly executed by the grower, returned within sixty days of the date it was mailed to the grower, and accompanied by a record of the assessment by the designated handler, the grower must be refunded the net amount of the assessment collected. If no request for refund is made within the period prescribed above then the grower is presumed to have agreed to the assessment. However, a grower, for any reason, having paid the tax more than once on the same soybeans, upon furnishing proof of this to the council, is entitled to a refund of the overpayment.

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

Approved March 27, 1995

Filed March 28, 1995

## CHAPTER 68

HOUSE BILL NO. 1343  
(Representative Nicholas)

## CORN UTILIZATION COUNCIL ELECTIONS

AN ACT to amend and reenact section 4-10.6-02 of the North Dakota Century Code, relating to membership elections of the North Dakota corn utilization council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-10.6-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-10.6-02. North Dakota corn utilization council - Members - Election - Term.** The North Dakota corn utilization council must be composed of one member elected from each district established by section 4-10.6-03. The chairman of the council must be a member of the council elected by a majority vote of the council. Each member must be a resident of and participating grower in the district the member represents. The term of each member is four years, beginning on April first of the year of election, except that initially three members must be elected for four-year terms; two members must be elected for three-year terms; and two members must be elected for two-year terms as designated by the commissioner. If at any time during a member's term the member ceases to possess any of the qualifications required by this chapter, the member's office is deemed vacant and the council shall appoint a qualified participating grower from any district to complete the term of office. ~~For the initial council, the North Dakota corn growers association shall nominate two candidates for each position. Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district. Additional candidates may be nominated by written petition of twenty-five growers from the respective district. A list of all the candidates must be presented to the commissioner who shall cooperate with the cooperative extension service and hold the first election no later than August 15, 1991. The council shall administer all elections thereafter, and may request the assistance of the commissioner. Beginning in 1993, the elections~~ Elections must be conducted no later than April first of each year. ~~Prior to~~ Before the expiration of a member's term, the council shall appoint a nominating committee made up of ~~three~~ participating growers who reside in the member's district. The committee shall nominate ~~two~~ a resident participating growers grower as ~~candidates~~ a candidate for the office. ~~Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district.~~ Additional candidates may be nominated by a written petition of ~~twenty-five~~ five growers from the district. No council member may serve more than two consecutive four-year terms. When a member's office is vacant, the council, before beginning the nominating process, shall ~~publish~~ notify growers of the vacancy and pending election by letter or by publishing a conspicuous notice of the vacancy, in the official newspaper of every county in the district.

Approved April 4, 1995  
Filed April 4, 1995

## CHAPTER 69

## SENATE BILL NO. 2195

(Agriculture Committee)

(At the request of the Milk Stabilization Board)

## MILK MARKETING BOARD

AN ACT to amend and reenact subsection 2 of section 4-18.1-03, subsections 1, 2, 6, and 7 of section 4-18.1-04, sections 4-18.1-12, 4-18.1-17, subsection 2 of section 4-18.1-18, and section 4-18.1-22 of the North Dakota Century Code, relating to renaming the milk stabilization board the milk marketing board, the executive officer of the milk marketing board, and assessments by the milk marketing board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 4-18.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Board" means the state agency created by this chapter, to be known as the North Dakota milk ~~stabilization~~ marketing board.

**SECTION 2. AMENDMENT.** Subsections 1, 2, 6, and 7 of section 4-18.1-04 of the North Dakota Century Code are amended and reenacted as follows:

1. There is hereby created a milk ~~stabilization~~ marketing board to consist of five members appointed by the governor. The board consists of one person who is a dairy farmer selling to a processor, who must be selected by the governor from two names submitted to ~~him~~ the governor by the North Dakota milk producers association; one person who is a processor, who must be selected by the governor from two names submitted to ~~him~~ the governor by the North Dakota dairy industries association; one person who is a retailer, who must be selected by the governor from two names submitted to ~~him~~ the governor by the North Dakota association of food retailers; and two persons must be selected by the governor who are consumers, and who are not otherwise engaged in the milk business. ~~No~~ An appointee may not have held elective or appointive public office during the period of two years immediately preceding ~~his~~ appointment and ~~no~~ no appointee may not hold any other public office, either elective or appointive, during ~~his~~ the term of office as a member of the board. Not more than three members of the board may, at the time of the appointment or thereafter during their respective terms of office, reside on the same side of a continuous line following the eastern boundaries of Bottineau, McHenry, Wells, Kidder, Logan, and McIntosh Counties.
2. The members of ~~said milk stabilization~~ the board must be appointed within thirty days after passage and approval of this chapter. The term of office of one member expires on July 1, 1968; the term of office of one member expires on July 1, 1969; the term of office of one member expires on July 1, 1970; the term of office of one member expires on July 1, 1971; the term of office of one member expires on July 1, 1972;

and each succeeding member holds ~~his~~ office for a term of five years and until ~~his~~ a successor has been appointed and qualified. Any vacancy must be filled by appointment by the governor ~~as heretofore stated~~.

6. The board shall employ ~~an executive secretary~~ a director who ~~shall serve~~ serves under the direction and at the pleasure of the board and whose qualifications, ~~and~~ duties, and compensation must be determined by the board. The ~~executive secretary~~ director shall serve as financial officer of the board and is authorized to accept money paid to the board in accordance with this chapter. Before ~~entering upon the discharge of his~~ duties ~~beginning employment~~, ~~he~~ the director shall execute and file a bond in an amount as may be fixed by the board or as may be provided by law for public officers.
7. The board shall employ, in addition to the ~~executive secretary~~ director, such assistants and employees, permanent and temporary, as may be necessary to carry out the duties and responsibilities of the board under ~~the provisions of~~ this chapter. The board shall determine the qualifications, duties, and compensation of such employees. The board may employ a licensed attorney of the state of North Dakota as its legal counsel, who shall serve on a full-time or a part-time basis, and the board may obtain the services of such additional attorneys as it deems necessary. The board may also contract for auditing, economic research, and other technical services, whenever it determines that such services are needed.

**SECTION 3. AMENDMENT.** Section 4-18.1-12 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-18.1-12. Assessments by the board - Continuing appropriation.** In order to obtain funds for the administration and enforcement of the provisions of this chapter, the board shall levy an assessment upon all licensed processors of not more than ~~eight twelve~~ cents per hundredweight [45.36 kilograms] ~~after June 30, 1995, and before July 1, 1997,~~ on milk or milk equivalents used for the manufacture of milk products and frozen dairy products processed by such processors. ~~The board shall levy an assessment of not more than thirteen cents per hundredweight [45.36 kilograms] after June 30, 1997, and before July 1, 1999, and not more than fourteen cents per hundredweight [45.36 kilograms] after June 30, 1999.~~ However, this assessment is not applicable to milk products or frozen dairy products sold in other states.

This assessment must be paid quarterly on or before the fifteenth of July, October, January, and April of each year. Each such payment must be equal to the assessment due in connection with milk products and frozen dairy products processed during the calendar quarter which ends on the last day of the preceding month.

All such assessments must be deposited by the board in the state treasury in a special revolving fund to be known as the "milk ~~stabilization~~ marketing fund". All expenses incurred in connection with the enforcement and administration of this chapter, including the salaries of employees and assistants must be paid out of the said "milk ~~stabilization~~ marketing fund". All money in the milk ~~stabilization~~ marketing fund is appropriated on a continuing basis to the board for carrying out the purposes of this chapter. Regular audits of the board's accounts must be conducted in accordance with chapter 54-10.

**SECTION 4. AMENDMENT.** Section 4-18.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**4-18.1-17. Remedies.**

1. The board may refuse to license or may suspend or revoke the license of any person, except a dairy farmer, who violates any provision of this chapter, any provision of a stabilization plan issued by the board, or any ~~regulation~~ rule issued by the board. In lieu of a suspension or revocation the board may assess a civil penalty not to exceed five hundred dollars per day for each violation or continuing violation, and may collect such civil penalty by a civil proceeding in any appropriate court. Any moneys received by the board as the result of an election by a licensee to pay a penalty in lieu of a license suspension must be placed in the milk ~~stabilization~~ marketing fund. Such penalties must be construed as civil and not criminal in nature.
2. The board or its authorized agent may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this chapter or to enforce compliance with any stabilization plan or regulation of the board or to obtain a judicial interpretation of any of the foregoing; and, in addition to any other remedy, the board, upon approval by a majority of its members, may apply to the district court for relief by injunction, mandamus, or any other appropriate remedy in equity. In such actions the board is not required to give or post bond in any action to which it is a party whether upon appeal or otherwise. All legal actions may be brought by or against the board in the name of the North Dakota milk ~~stabilization~~ marketing board, a state agency.

**SECTION 5. AMENDMENT.** Subsection 2 of section 4-18.1-18 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Whenever the ~~executive secretary~~ director has reason to believe that a licensee has violated this chapter or any ~~regulation~~ rule or stabilization plan issued by the board, ~~he~~ the director may file a complaint against such licensee with the board and shall serve a copy of the complaint on the licensee in which ~~he~~ the director shall set forth the nature of the alleged violation. The board after a hearing and after finding that the licensee has violated any provisions of this chapter, a provision of a stabilization plan or a ~~regulation~~ rule issued by the board may suspend or revoke ~~his~~ the licensee's license.

**SECTION 6. AMENDMENT.** Section 4-18.1-22 of the North Dakota Century Code is amended and reenacted as follows:

4-18.1-22. **Local advisory boards.** Whenever a public hearing is scheduled by the ~~milk stabilization~~ board in any marketing area for the purpose of establishing prices, the board may, at least ten days prior to the date set for such hearing, appoint a local advisory board, the function of which is to assist and advise the ~~milk stabilization~~ board in matters pertaining to the production and marketing of milk in said marketing area. If a local advisory board is appointed, the local advisory board shall consist of two producers, two processors, and two retailers who are actively engaged in milk production, processing, and marketing in the area. Such local advisory board shall meet with the ~~milk stabilization~~ board at the call of the ~~milk stabilization~~ board before, during, or after such public hearing to establish prices. The members of such local advisory board shall receive twenty-five dollars per diem for each day actually spent in the performance of such duties, plus mileage and expenses in an amount equal to that received by state officers. In no event may there be more than three meetings or conferences between the ~~milk stabilization~~ board and such local advisory board; and in all events such local advisory board shall cease to exist when the ~~milk stabilization~~ board promulgates its stabilization plan established prices following the public hearing heretofore mentioned.

Approved April 11, 1995

Filed April 12, 1995

## CHAPTER 70

## HOUSE BILL NO. 1313

(Representatives Sveen, Froseth)

(Senator O'Connell)

## STATE FORESTER DUTIES AND NURSERY LOCATION

AN ACT to create and enact a new section to chapter 4-19 of the North Dakota Century Code, relating to the powers of the state forester; to amend and reenact sections 4-19-01, 4-19-02, and 4-19-03 of the North Dakota Century Code, relating to the duties of the state forester, the state nursery, and the distribution of planting stock; and to repeal sections 4-19-01.1 and 4-19-04 of the North Dakota Century Code, relating to the qualifications of district foresters and assistance provided by the state forester.

## BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-19-01 of the North Dakota Century Code is amended and reenacted as follows:

**4-19-01. State forester - Appointment - Qualifications - Duties.** The board of higher education shall appoint the state forester.

1. The state forester must be a graduate of an accredited school of forestry with a minimum education of a bachelor of science degree in forestry. The office of the state forester must be located in Bottineau. The state forester shall serve as the director of the state forest service and, subject to the approval of the board of higher education and the president of North Dakota state university, may employ assistants and secure office facilities and equipment necessary for the administration of this chapter and the performance of the powers and duties of the office.
2. The state forester shall:
  - a. Have general supervision of the raising and distribution of seeds and forest tree planting stock as provided in this chapter.
  - b. Promote practical forestry, and compile and disseminate information relative to practical forestry to landowners, community groups, schools, and other organizations interested in forestry.
  - c. Publish the results of work by issuing and distributing bulletins, lecturing before farmers' institutes and other organizations interested in forestry, and in other ways as will reach the public. Encourage the development, use, and wise stewardship of forest resources.
  - d. Provide assistance to landowners, producers, and public bodies relating to forestry, reforestation, protection of forest resources, prevention and suppression of fires, planting of trees and shrubs, and the growing, harvesting, marketing, and management of forest resources.



**SECTION 2. AMENDMENT.** Section 4-19-02 of the North Dakota Century Code is amended and reenacted as follows:

**4-19-02. State nursery - Maintenance - Purpose.** A state nursery, under the direction of the state forester, must be maintained ~~in connection with the state school of forestry at Towner~~. The nursery shall propagate seeds and forest tree planting stock adapted to the climatic conditions of this state.

**SECTION 3. AMENDMENT.** Section 4-19-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-19-03. Distribution of seeds and planting stock.** Seeds and planting stock from the state nursery may be distributed by the state forester to citizens and landowners of this state upon payment by them of a price not greater than one hundred ten percent of the cost to the state of production in the case of planting stock or collection in the case of seeds, and the cost of transportation from the nursery; ~~except that planting stock distributed for the specific purpose of highway beautification plantings may be distributed free of charge. The seeds and planting stock may be used to establish or reestablish forests, windbreaks, shelterbelts, living snow fences, farm woodlots, Christmas tree plantings, wildlife habitats, and other conservation tree plantings, and for erosion control and water quality management.~~

**SECTION 4.** A new section to chapter 4-19 of the North Dakota Century Code is created and enacted as follows:

Powers - Cooperative state agreements. Under the general supervision of the board of higher education, the state forester is authorized to:

1. Establish procedures for the administration of this chapter.
2. Provide grants to, and enter into cooperative agreements with, public and private entities for purposes consistent with this chapter.
3. Establish councils to advise the state forester on the administration of this chapter.

**SECTION 5. REPEAL.** Section 4-19-04 of the North Dakota Century Code and section 4-19-01.1 of the 1993 Supplement to the North Dakota Century Code are repealed.

Approved April 3, 1995  
Filed April 3, 1995

## CHAPTER 71

### SENATE BILL NO. 2151

(Senators Tomac, Solberg, Wanzek)

(Representatives Kerzman, Brown)

(At the request of the North Dakota Beef Commission)

## BEEF COMMISSION MEMBERSHIP AND PURPOSES

AN ACT to create and enact a new subsection to section 4-34-05 of the North Dakota Century Code, relating to beef promotion; and to amend and reenact subsection 2 of section 4-34-01, sections 4-34-02, 4-34-03, 4-34-04, and 4-34-11 of the North Dakota Century Code, relating to the North Dakota beef commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 4-34-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. To support beef promotion, research, and ~~educational education~~ activities of the national ~~livestock and meat board and its beef industry council~~ promotion and marketing organizations with not less than fifty percent of the assessments collected.

**SECTION 2. AMENDMENT.** Section 4-34-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-34-02. Definitions.** Unless the context otherwise requires:

1. "Beef producer" means any person or firm engaged in the production of cattle.
2. "Cattle" means live domesticated bovine animals regardless of age.
3. "Cattle feeder" means any person or firm engaged in the growing of cattle or finishing of cattle for slaughter.
4. "Commission" means the North Dakota beef commission.
5. "Dairy producer" means any person or firm engaged in the production and sale of milk from cows.
6. "Livestock auction markets" has the same definition as contained in subsection 2 of section 36-05-01.
7. "Livestock dealer" has the same definition as contained in section 36-04-01.
8. ~~"Livestock terminal markets" means the public livestock market located at West Fargo and known as the West Fargo stockyards.~~

9. "Person" includes individuals, corporations, limited liability companies, partnerships, trusts, associations, cooperatives, and any and all other business units.

~~10.~~ 9. "Selling agency" means any person engaged in the business of buying or selling in commerce livestock on a commission basis.

**SECTION 3. AMENDMENT.** Section 4-34-03 of the North Dakota Century Code is amended and reenacted as follows:

**4-34-03. North Dakota beef commission - Appointments - Vacancies - Qualifications.** There is hereby created a North Dakota beef commission consisting of nine members who must be appointed by the governor. The commission must be composed of three beef producers, one cattle feeder, one dairy producer, one public livestock market representative, and three representatives at large. The commission may also appoint up to two nonvoting ex officio members.

Three initial members must be appointed for one year; three members must be appointed for two years; and three members must be appointed for three years. All subsequent members must be appointed for three years unless the appointment is to fill a vacancy in which case such appointment must be for the unexpired term. No members may serve more than two successive three-year terms. In the event a position on the commission becomes vacant for any reason, the unexpired term of such position must be filled in the same mode and manner as the original appointments.

Each member must be a citizen and a resident of this state, must be or have been actually engaged in that phase of the cattle industry ~~he~~ the member represents for a period of five years, and must have during that period derived a substantial portion of ~~his~~ the member's income therefrom.

**SECTION 4. AMENDMENT.** Section 4-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**4-34-04. Nomination of members.** With the exception of the representatives at large, who must be of the governor's own choosing, the members of the commission must be appointed by the governor from nominations made to him by the following organizations: to represent beef producers, by the North Dakota stockmen's association; to represent cattle feeders, by the North Dakota cattle feeders ~~association~~ council; to represent dairy producers, by the North Dakota state milk producers association; to represent public livestock markets, by the North Dakota livestock ~~auction markets~~ marketing association ~~and the board of governors at the West Fargo stockyards.~~

Not less than two nominations must be submitted for each office to be filled. ~~Provided, however, that nominations for the representative of the public livestock markets must be made, one each, by the board of governors of the West Fargo stockyards and by the North Dakota livestock auction markets association.~~ Upon the expiration of the initial appointments, only those organizations which have the authorization to nominate candidates representing the specific classification for which an opening or openings exist are eligible to submit nominations. The initial appointments must be made immediately after the effective date of this chapter.

**SECTION 5.** A new subsection to section 4-34-05 of the North Dakota Century Code is created and enacted as follows:

The commission may appoint up to two nonvoting ex officio members for a term of one year that may be extended on an annual basis and the commission shall adopt policies to further define ex officio member eligibility and term limitations.

**SECTION 6. AMENDMENT.** Section 4-34-11 of the North Dakota Century Code is amended and reenacted as follows:

**4-34-11. Refund of assessments.** Any person who has made payment of assessments under this chapter or who has had payment of assessments made on that person's behalf may request and receive a refund, unless prohibited by federal law, and provided that a written request and application for the refund is made within sixty days from the date the assessments were due. Applications for refunds must be made by the seller himself in such form as is reasonably required by the commission, and shall provide the commission with sufficient information to identify assessments.

Approved March 10, 1995  
Filed March 10, 1995

**CHAPTER 72****HOUSE BILL NO. 1104**

(Representatives Nicholas, Kerzman)

(Senators Kelsh, Freborg, Tomac)

(At the request of the Commissioner of Agriculture)

**PESTICIDE AND CONTAINER DISPOSAL PROGRAM**

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

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

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

1. The definitions contained in section 4-35-05 apply to this section.
2. In consultation with an advisory board consisting of the state health officer, state engineer, state geologist, director of the North Dakota state university extension service, administrative officer of the state soil conservation committee, two individuals representing agribusiness organizations, two individuals representing farm organizations, and one member of the legislative assembly, all of whom must be selected by the commissioner of agriculture, the commissioner of agriculture shall design and implement a project to:
  - a. Collect and either recycle or dispose of unusable pesticides and empty pesticide containers. The commissioner shall provide for the establishment and operation of temporary collection sites for the containers and pesticides. The commissioner may limit the type and quantity of containers and pesticides acceptable for collection.
  - b. Promote proper pesticide container management. In consultation with the director of the North Dakota state university extension service, the commissioner shall promote proper methods of pesticide container management, including information on the variety of pesticide containers available.
  - c. Evaluate recycling options and investigate markets and business opportunities to encourage recycling of containers for resource recovery.
3. Any entity collecting pesticide containers or unusable pesticides shall manage and dispose of the containers and pesticides in compliance with applicable federal and state requirements. When called upon, any state agency shall assist the commissioner in implementing the project.
4. For services rendered in connection with the design and implementation of this project, the member of the legislative assembly who is a member of the advisory board is entitled to compensation and expense reimbursement in the amounts provided for in section 54-35-10 and the other members selected by the commissioner of agriculture are entitled

to reimbursement for mileage and travel expenses in the same manner and for the same amounts provided for state employees and officials. Compensation and expense reimbursement must be paid from the environment and rangeland protection fund.

**SECTION 2. Project scope and evaluation - Proposed legislation.** The project described in section 1 of this Act must occur in areas to be determined by the commissioner of agriculture in consultation with the advisory board under subsection 2 of section 1 of this Act. Before December 1, 1996, the commissioner of agriculture shall determine whether the project implemented under section 1 of this Act should be continued. If the commissioner determines that the project should be continued or expanded, the commissioner shall introduce appropriate legislation in the fifty-fifth legislative assembly.

**SECTION 3. EXPIRATION DATE.** This Act is effective through July 31, 1997, and after that date is ineffective.

Approved March 10, 1995  
Filed March 10, 1995