

Introduced by

1 A BILL for an Act to create and enact chapters 4.1-52, 4.1-55, and 4.1-56 and section
2 4.1-57-18.1 of the North Dakota Century Code, relating to the North Dakota seed department,
3 seed potatoes, and seed potato control areas; to repeal chapters 4-10 and 4-26 and sections
4 4.1-53-02, 4.1-53-03, 4.1-53-04, 4.1-53-05, 4.1-53-06, 4.1-53-07, 4.1-53-08, 4.1-53-09,
5 4.1-53-10, 4.1-53-11, 4.1-53-62, 4.1-57-20, and 4.1-57-21 of the North Dakota Century Code,
6 relating to seed potatoes, seed potato control areas, and general provisions regarding the North
7 Dakota seed department; to provide a penalty; and to provide a continuing appropriation.

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

9 **SECTION 1.** Chapter 4.1-52 of the North Dakota Century Code is created and enacted as
10 follows:

11 **4.1-52-01. Seed department - Location.**

12 The North Dakota seed department is the official seed-certifying agency of the state. The
13 seed department must be located on the campus of North Dakota state university.

SOURCE: Section 4.1-53-02.

NOTE: This language is relocated from the cited source. No changes have been made.

14 **4.1-52-02. Seed department - Official seal.**

15 The seed department shall use an official departmental seal that has been recorded in the
16 office of the secretary of state.

SOURCE: Section 4.1-53-03.

NOTE: This language is relocated from the cited source. No changes have been made.

17 **4.1-52-03. Seed commission membership.**

18 The seed commission is the governing board of the seed department. The seed
19 commission consists of the following members:

- 20 1. An individual appointed by the North Dakota crop improvement association;

- 1 2. An individual appointed by the North Dakota certified seed potato growers association;
- 2 3. An individual appointed by the North Dakota dry edible bean seed growers
- 3 association;
- 4 4. An individual appointed by the North Dakota agricultural association;
- 5 5. An individual appointed by the North Dakota potato council;
- 6 6. A resident of this state appointed by the northern plains potato growers association;
- 7 7. An individual who operates a seed-conditioning plant approved by the seed
- 8 department, appointed by the North Dakota grain dealers association;
- 9 8. The director of the agricultural experiment station or the director's designee; and
- 10 9. The agriculture commissioner or the agriculture commissioner's designee.

SOURCE: Section 4.1-53-04.

NOTE: This language is relocated from the cited source. No changes have been made.

11 **4.1-52-04. Seed commission - Chairman - Meetings.**

- 12 1. The agriculture commissioner shall serve as the chairman of the seed commission.
- 13 2. The chairman shall call all regular meetings of the seed commission and shall call a
- 14 special meeting within seven days if petitioned to do so by two members of the seed
- 15 commission.
- 16 3. The seed commission shall hold at least two regular meetings each year.

SOURCE: Section 4.1-53-05.

NOTE: This language is relocated from the cited source. No changes have been made.

17 **4.1-52-05. Seed commission - Appointment of proxy.**

18 If a member of the seed commission is unable to attend a meeting of the commission, the
19 member may appoint a proxy. The appointment must be in writing and must be presented to the
20 chairman. The vote of the proxy is final.

SOURCE: Section 4.1-53-06.

NOTE: This language is relocated from the cited source. No changes have been made.

21 **4.1-52-06. Seed commission - Members - Compensation.**

22 Each member of the seed commission, except the agriculture commissioner and the
23 director of the agricultural experiment station, is entitled to receive compensation at the rate of
24 one hundred thirty-five dollars per day and reimbursement for expenses, as provided by law for
25 state officers, if the member is attending a commission meeting or performing duties directed by
26 the commission.

SOURCE: Section 4.1-53-07.

NOTE: This language is relocated from the cited source. No changes have been made.

1 **4.1-52-07. Seed commission - Powers.**

2 The seed commission may:

- 3 1. Establish branch offices and laboratories at locations in this state, other than the
4 campus of North Dakota state university, if the seed commissioner determines that the
5 offices and laboratories are necessary to carry out the duties of the seed commission,
6 the seed commissioner, or the seed department;
7 2. Dismiss the seed commissioner for cause;
8 3. Appoint an acting seed commissioner if the position becomes vacant; and
9 4. Engage in efforts to promote and market certified seed produced in this state.

SOURCE: Sections 4-10-02 and 4.1-53-08.

NOTE: Subsections 1 through 3 consist of language relocated from Section 4.1-53-08. Subsection 4 was inserted at the committee's request to clarify that various promotional and marketing activities are within the purview of the Seed Commission.

10 **4.1-52-08. Seed commission - Duties.**

11 The seed commission shall:

- 12 1. Appoint a seed commissioner;
13 2. Compensate the seed commissioner; and
14 3. Review the appointment of a seed commissioner, annually.

SOURCE: Section 4.1-53-09.

NOTE: This language is relocated from the cited source. No changes have been made.

15 **4.1-52-09. Seed commissioner - Powers.**

16 The seed commissioner may:

- 17 1. Contract with North Dakota state university for the use of facilities and equipment;
18 2. Contract with any person for any lawful purpose;
19 3. Enter upon real property and access any structure and personal property, at any time,
20 to:
21 a. Inspect, sample, and test seeds, potatoes, including seed potatoes, and other
22 commodities for purposes of determining statutory and regulatory compliance;
23 and
24 b. Inspect records for purposes of determining statutory and regulatory compliance;
25 4. Collect royalty, research, and patent fees; and

- 1 5. Issue phytosanitary certificates if authorized to do so by the United States department
2 of agriculture animal and plant health inspection service or the agriculture
3 commissioner.

SOURCE: Section 4.1-53-10.

NOTE: Subsection 3 contains changes. Under the current law, the Seed Commissioner is authorized to:

Enter upon real property and access any structure and personal property, at any time, to:

- a. Inspect, sample, and test seed for compliance with this chapter; and
- b. Inspect records for compliance with this chapter

4 **4.1-52-10. Seed commissioner - Duties.**

5 The seed commissioner shall:

- 6 1. Manage the seed department;
7 2. Provide, equip, and maintain offices, laboratories, and any other facilities necessary to
8 carry out this chapter, subject to the approval of the seed commission;
9 3. Employ and compensate necessary personnel;
10 4. Permit North Dakota state university to use the seed department facilities and the
11 services of the seed department laboratories at convenient times;
12 5. a. Determine the nature and size of any seed and plant samples required by the
13 seed department in order to conduct official tests or make official determinations;
14 and
15 b. Prescribe the manner in which the seed and plant samples are to be obtained
16 and delivered to the seed department;
17 6. Provide commodity inspection services upon request;
18 7. Establish and charge fees for services, subject to the approval of the seed
19 commission;
20 8. Provide periodic reports to the seed commission regarding the management and
21 operation of the seed department;
22 9. Recommend to the seed commission the biennial budget and annual salary schedules
23 for the seed department;
24 10. Submit the seed department's biennial budget, as approved by the seed commission,
25 to the office of management and budget;

1 11. Do all things necessary to enforce the chapters over which the commissioner has
2 authority and the rules implementing those chapters; and

3 12. Perform any other duties as directed by the seed commission.

SOURCE: Sections 4.1-53-11 and 4.1-57-21.

NOTE: Subsection 11 contains changes. Under current Sections 4.1-53-11 and 4.1-57-21, the Seed Commissioner is mandated to do all things necessary to enforce this chapter and the rules implementing this chapter

4 **4.1-52-11. Seed department fund - Continuing appropriation.**

5 1. The seed commissioner shall forward all moneys received under the chapters over
6 which the commissioner has authority to the state treasurer for deposit in a special
7 fund known as the seed department fund. All moneys in the seed department fund are
8 appropriated on a continuing basis to the seed department to carry out its statutory
9 and regulatory obligations.

10 2. The seed commissioner shall approve all expenditures made pursuant to the chapters
11 over which the commissioner has authority and shall document the expenditures at the
12 time and in the manner required by the office of management and budget.

13 3. The seed commissioner shall provide a report to the house and senate appropriations
14 committees of the legislative assembly, at the time and in the manner directed by the
15 chairmen of the committees. The report must contain a summary of the department's
16 activities during the current biennium and a statement of revenues and expenditures
17 for the ensuing biennium.

18 4. At the direction of the seed commission, the state treasurer shall invest all available
19 moneys in the seed department fund. The state treasurer shall credit twenty percent of
20 the investment income to the general fund and the remaining eighty percent of the
21 investment income to the seed department fund.

SOURCE: Sections 4.1-53-62 and 4.1-57-20.

NOTE: Subsections 1 and 2 contain changes from Section 4.1-53-62. Under current law, the Seed Commissioner is directed to forward all moneys received under this chapter to the State Treasurer for deposit in a special fund known as the Seed Department fund. All moneys in the Seed Department fund are appropriated on a continuing basis to the Seed Department to carry out "this chapter."

Subsection 1 also provides that the moneys are appropriated to carry out "statutory and regulatory obligations." The reference to "regulatory obligations" is inserted because the prior section authorizes the Seed Commissioner to "enforce the chapters over which the commissioner has authority and the rules implementing those chapters." That phraseology is in current law.

The Seed Commissioner is also directed to approve all expenditures made pursuant to this chapter

Current Section 4.1-57-20 provides that the Seed Commissioner shall forward all moneys received from the collection of fees and other charges under this chapter to the State Treasurer for deposit in a special fund known as the Seed Department fund. All moneys in the Seed Department fund are appropriated on a continuing basis to the state Seed Department to carry out statutory directives.

1 **SECTION 2.** Chapter 4.1-55 of the North Dakota Century Code is created and enacted as
2 follows:

3 **4.1-55-01. Definitions.**

4 In this chapter, unless the context otherwise requires:

- 5 1. "Certification" means a process that includes the random inspection of potato plants
6 growing in the field, the random inspection of seed potatoes after they have been
7 harvested, and a determination that the seed potatoes are within acceptable disease
8 tolerance levels.
- 9 2. "Certified" means a designation, the use of which is authorized by the seed
10 commissioner, to indicate that the seed potatoes have met the requirements for
11 certification.
- 12 3. "Closed container" means a container that is sewn, tied, sealed, glued, nailed, or
13 otherwise secured for handling.
- 14 4. "Inspection" means the examination of a random sample of potato plants or potato
15 tubers in accordance with rules of the seed department or requirements of the United
16 States department of agriculture food safety and inspection service.
- 17 5. "Label" means a tag or device attached to a container, stamped or printed information
18 on a container, or documentation accompanying a container, which sets forth the
19 information required by law.
- 20 6. "Potato" means an Irish potato.
- 21 7. "Selection" means a subgroup of a potato variety and includes clones, lines, strains,
22 and sports.
- 23 8. "Variety" means a subdivision of a kind that:
 - 24 a. Can be differentiated by one or more identifiable morphological, physiological, or
25 other characteristics from other varieties of the same kind;
 - 26 b. Has describable variations in essential and distinct characteristics; and

- 1 c. Will remain unchanged in its essential and distinct characteristics and uniformity
2 when reproduced or reconstituted, as required by the different categories of
3 varieties.

SOURCE: Section 4-10-01.

4 **4.1-55-02. Seed commissioner - Duties.**

5 The seed commissioner shall:

- 6 1. Establish a system for the certification of seed potatoes; and
7 2. Provide for grade inspections of commercial potatoes in accordance with standards
8 established by the United States department of agriculture or by contract.

SOURCE: Section 4-10-02.

NOTE: Current law provides that the "commissioner shall establish potato and other produce grades for the purpose of making inspection and otherwise providing for the proper handling and marketing of the agricultural commodities defined in this chapter under the classifications of 'potatoes' and 'other produce', and shall promulgate rules and regulations prohibiting or otherwise regulating the importation or dissemination within the state of particular detrimental insects and diseases."

Subsection 1 of the proposed language parallels current Section 4.1-53-42, which directs the Seed Commissioner to establish a seed certification system for the state.

Subsection 2 as proposed, would require the Seed Commissioner to provide for grade inspections, as opposed to establishing grades.

Current law also requires the promulgation of "rules and regulations prohibiting or otherwise regulating the importation or dissemination within the state of particular detrimental insects and diseases." If taken literally, this is an impossible requirement. The reference was omitted from the rewrite because the whole purpose of a certification system is to set standards that are designed to control the spread of insects and disease.

9 **4.1-55-03. Seed potato grades.**

- 10 1. Seed potatoes may be graded:
11 a. (1) U.S. No. 1 seed potatoes;
12 (2) U.S. No. 2 seed potatoes; or
13 (3) North Dakota Certified Seed; or
14 b. As otherwise designated by the seed commissioner.
15 2. The U.S. grades must meet all of the requirements and standards established by the
16 United States department of agriculture provided, however, that the seed
17 commissioner may authorize an exception based on size.

SOURCE: Section 4-10-04.

NOTE: Current law states "[u]nclassified lots shall include all potatoes not meeting the requirements of any of the foregoing grades. It is optional, however, to use the unclassified

labeling on any lot of potatoes." Because of subsection 1(b), which authorizes the Seed Commissioner to utilize additional designations, the cited language has been removed.

1 **4.1-55-04. Label requirements.**

- 2 1. a. Except as otherwise provided in this subsection, every container of seed
3 potatoes must be labeled if the potatoes:
4 (1) Were grown in this state;
5 (2) Are transported or shipped into this state; or
6 (3) Are offered for sale or consignment in this state.
7 b. Subdivision a does not apply to potatoes that are not intended for planting
8 purposes.

NOTE: Current law provides that the labeling requirements do not apply to seed potatoes that are being shipped for processing or repacking. In the interest of consistency, the rewrite uses the language of Section 4.1-53-61 and provides that the requirements do not apply to seed potatoes that are not intended for planting purposes.

9 2. The label must:

- 10 a. Be plainly printed in English;
11 b. Indicate the net weight when packed;
12 c. Indicate the correct grade or designation; and
13 d. Meet any other criteria established by the seed commissioner.

SOURCE: Section 4-10-05.

14 **4.1-55-05. Seed potatoes - Certification - Exception.**

- 15 1. a. A person may not plant seed potatoes unless the seed potatoes:
16 (1) Have been certified by the seed commissioner as meeting the standards of
17 this state;
18 (2) Have been certified by another state or province having seed potato
19 standards that are determined by the seed commissioner to meet or exceed
20 the standards of this state; or
21 (3) At the request of the producer, were field inspected and approved for
22 planting by the seed commissioner.

NOTE: Paragraph 3 references a particular set of circumstances under which a producer can be authorized by the Seed Commissioner to plant seed potatoes that are not certified.

- 23 b. Subdivision a does not apply to a person who:
24 (1) Plants less than one acre [.405 hectare] of seed potatoes; or

1 (2) Is within twelve months of having that person's own certified parent seed
2 potatoes.

3 2. The seed commissioner shall permit a North Dakota producer to sell or otherwise
4 transfer certified seed potatoes to another North Dakota producer. The recipient
5 producer may plant the seed potatoes only for commercial production. The seed
6 potatoes may not be recertified or retained for use in the following production cycle.

7 3. If the seed commissioner determines that seed potatoes meeting the requirements of
8 this section are not available in sufficient quantities to fulfill planting needs, the seed
9 commissioner may permit the planting of seed potatoes with a higher disease content,
10 provided that bacterial ring rot is not present and that no other serious disease threat
11 is posed.

12 4. For purposes of this section, a "North Dakota producer" means a person that grows
13 potatoes on property located within this state.

SOURCE: Section 4-10-06.1.

14 **4.1-55-06. Records.**

15 Any producer that plants more than one acre [.405 hectare] of seed potatoes shall maintain
16 records indicating the acreage [hectarage], varieties, and source of all seed potatoes planted.
17 The producer shall retain the records for a period of two years from the completion of planting
18 and make the records available to the seed commissioner upon request.

SOURCE: Section 4-10-06.2.

19 **4.1-55-07. Imported seed potatoes - Certification requirement.**

20 All seed potatoes brought into this state must be accompanied by:

- 21 1. A grade certificate;
22 2. A health certificate indicating that the seed potatoes were field inspected by an official
23 certifying agency and meet standards that are determined by the seed commissioner
24 to be similar to those established by this chapter; and
25 3. Any other documentation required by the jurisdiction of origin for seed potatoes
26 entering that jurisdiction.

SOURCE: Section 4-10-06.3.

27 **4.1-55-08. Exported seed potatoes - Certification requirement.**

28 All seed potatoes leaving this state must be accompanied by:

- 29 1. A grade certificate; and

1 2. If required by the receiving jurisdiction, a health certificate.

SOURCE: Section 4.1-10-06.4.

2 **4.1-55-09. Official inspection locations - Designation.**

3 1. The seed commissioner shall designate the locations at which potato shipment
4 inspections are conducted. In determining the locations, the seed commissioner shall
5 consider the volume of shipments requiring inspection and the expense of maintaining
6 the locations.

7 2. Upon request, the seed commissioner may provide inspection services at locations
8 other than those designated in subsection 1. The seed commissioner may charge a
9 fee for conducting any inspections requested under this subsection.

SOURCE: Section 4-10-07.

10 **4.1-55-10. Potatoes shipped into state - Labeling requirement - Exception.**

11 If seed potatoes are shipped into this state, the person receiving the potatoes shall ensure
12 that the potatoes are labeled:

- 13 1. In the same manner as required for potatoes grown in this state; or
14 2. In accordance with the requirements of the state, territory, or country of origin, if
15 permitted by the seed commissioner.

SOURCE: Section 4-10-10.

NOTE: Current law references potatoes "grown or originating in this state." The reference to origination is redundant and therefore omitted.

16 **4.1-55-11. Grade inspection certificate - Prima facie evidence.**

17 A grade inspection certificate issued by the seed commissioner is prima facie evidence that
18 the seed potatoes described in the certificate were of the grade, quality, and condition indicated
19 on the certificate at the time of inspection.

SOURCE: Section 4-10-12.

20 **4.1-55-12. Liability - Potato crop quantity and quality.**

21 A warranty of any kind, either expressed or implied, including a warranty of merchantability,
22 fitness for a particular purpose, absence of disease, varietal identity, or selection identity, is not
23 made by the seed commission, the seed department, the seed commissioner, or any certified
24 seed potato producer, as to the quantity or quality of the crop produced from the seed potatoes
25 that were inspected and certified. The sole warranty is that the potatoes were inspected under
26 the rules of the seed department or the United States department of agriculture. The seed
27 commissioner functions and serves only in an official regulatory manner.

SOURCE: Section 4-10-12.1.

NOTE: Under current law, a warranty is not made by the Seed Commission, the Seed Department, the Seed Commissioner, certified seed potato producers, or wholesale potato dealers. Because wholesale potato dealers have their own chapter, the reference to them has been removed from this section and recreated within Chapter 4.1-57. See Section 4.

1 **4.1-55-13. Plant and seed records - Exempt.**

2 The following records of the seed commission are exempt from section 44-04-18:

- 3 1. Records of any plant or seed inspection, analysis, or testing and germination, purity,
4 variety, or disease determinations conducted by the seed department on a
5 fee-for-service basis for nonpublic entities or persons; and
6 2. Information received by the seed commissioner under this chapter from a nonpublic
7 entity or person that the nonpublic entity or person determines is proprietary
8 information or a trade secret.

SOURCE: Section 4-10-23.

NOTE: The language of this section was initially located in the chapter pertaining to agricultural seed. Because it cross-referenced Chapter 4-10, the language was inserted in Chapter 4-10 during the 2009-10 interim. The committee is asked to review this section to ensure that the language is appropriate to the seed potato certification process.

9 **4.1-55-14. Prohibitions.**

- 10 1. A person may not offer for sale, sell, transport, or ship any seed potatoes that:
11 a. Are not labeled in accordance with this chapter; or
12 b. Are labeled with information the person knows is false or misleading.
13 2. A person that sells seed may not alter the label or a grade inspection certificate issued
14 by the seed commissioner.

SOURCE: Sections 4-10-05(5) and 4-10-14.

NOTE: Current law provides that the vendor of seed may not alter the label or certificate furnished by [an] "inspector." Although a grade inspection certificate may be furnished by an inspector, it is in fact issued by the Seed Commissioner. This change is reflected in subsection 2. The committee may wish to determine whether the prohibition set forth in subsection 2 should be limited to seed vendors or extended to other persons.

15 **4.1-55-15. Seizure of seed potatoes - Liability.**

- 16 1. The seed commissioner may seize any seed potatoes, if the seed commissioner
17 believes that the seed potatoes are mislabeled.
18 2. The seed commissioner may hold any seed potatoes seized under this section until
19 they are:
20 a. Graded or reconditioned to meet the claims on their label; or
21 b. Properly relabeled.

- 1 3. The seed commissioner is not liable for any loss or damage, or any other costs due to
2 seizure when acting in accordance with this chapter and any applicable rules.
3 4. A person aggrieved by a seizure under this section may request a hearing pursuant to
4 chapter 28-32.

SOURCE: Section 4-10-15.

NOTE: Current law provides that the seed potatoes may be held until " . . . they are labeled or marked with the grade or essential details as indicated by the official report or certificate of the commissioner" From an operational perspective, mislabeled seed potatoes must be graded or reconditioned to meet the claims on their label or their label must be changed. The rewrite reflects this.

5 **4.1-55-16. Enforcement - Hearing.**

- 6 1. If the seed commissioner believes that a violation of this chapter or the rules
7 implementing this chapter may have occurred, the seed commissioner may hold a
8 hearing.
9 2. If based on the testimony and evidence presented at the hearing the seed
10 commissioner determines that a violation has occurred or if the person involved fails to
11 appear, the seed commissioner may impose the civil penalty provided for in this
12 chapter or consult with the attorney general regarding the institution of further legal
13 proceedings.

SOURCE:Section 4-10-19.

14 **4.1-55-17. Penalties.**

- 15 1. Any person willfully violating this chapter is guilty of a class A misdemeanor.
16 2. Any person willfully violating this chapter is subject to a civil penalty in an amount not
17 exceeding five thousand dollars for each violation. The civil penalty may be imposed
18 by a court in a civil proceeding or by the seed commissioner.

SOURCE: Section 4-10-22.

19 **SECTION 3.** Chapter 4.1-56 of the North Dakota Century Code is created and enacted as
20 follows:

21 **4.1-56-01. Definition.**

22 As used in this chapter, unless the context otherwise requires, "potato" means an Irish
23 potato.

SOURCE: Section 4-26-02.

1 **4.1-56-02. Seed potato control area - Proposal - Notice of meeting.**

2 1. In order to form a seed potato control area, five individuals who own land within the
3 proposed area shall schedule and provide notice of a meeting that is open to all
4 landowners and occupants in the proposed area.

5 a. The notice must define the boundaries of the proposed seed potato control area.

6 b. The notice must be published at least twice, for two successive weeks, in the
7 official newspaper of each county containing land in the proposed seed potato
8 control area.

9 2. If consented to by a majority of the landowners and occupants present at the meeting,
10 a petition to form a seed potato control area may be circulated among all landowners
11 in the proposed area.

SOURCE: Section 4-26-03.

12 **4.1-56-03. Seed potato control area - Petition for formation.**

13 The petition to be circulated, as provided in section 4.1-55-02, must:

14 1. Describe the boundaries of the proposed seed potato control area; and

15 2. State the quality of seed that may be planted within the proposed seed potato control
16 area.

SOURCE: Section 4-26-04.

17 **4.1-56-04. Seed potato control area - Creation.**

18 1. Once the petition has been signed by at least eighty percent of the persons owning
19 land in the proposed seed control area, the petition may be presented to the seed
20 commissioner for approval.

21 2. If the seed commissioner determines that the petition meets the requirements of this
22 chapter, the seed commissioner may order the creation of:

23 a. The seed potato control area as described in the petition; or

24 b. A seed potato control area having boundaries that are not as extensive as those
25 set forth in the petition.

26 3. a. In the order establishing the seed potato control area, the seed commissioner
27 shall prescribe the quality of seed potatoes that may be planted within the control
28 area. The quality prescribed may differ from that set forth in the petition.

- 1 b. After the establishment of a seed potato control area, the seed commissioner
2 may issue an order changing the quality of seed potatoes that may be planted
3 within the control area.

SOURCE: Section 4-26-05.

4 **4.1-56-05. Seed potato control area - Governance committee.**

- 5 1. Each seed potato control area must be governed by a committee consisting of three
6 individuals who are appointed by the seed commissioner from a list of landowners or
7 occupants within the control area.
8 2. The terms of office for members of the governance committee and its rules of
9 operation must be provided for in the seed potato control area's bylaws and agreed to
10 by at least eighty percent of the landowners or occupants within the control area.
11 3. If fewer than three qualified individuals are willing or able to serve as members of the
12 governance committee, the governance committee shall consist of the lesser number.
13 If, however, no qualified individual is willing or able to serve on the governance
14 committee, the seed commissioner shall dissolve the seed potato control area.

SOURCE: Section 4-26-06.

15 **4.1-56-06. Governance committee - Powers.**

16 The governance committee may:

- 17 1. Expend moneys collected pursuant to this chapter;
18 2. Employ and compensate necessary personnel;
19 3. Accept gifts, grants, and donations of money, property, and services to carry out this
20 chapter; and
21 4. Do all things necessary and proper to enforce this chapter and any rules adopted to
22 implement this chapter.

SOURCE: Section 4-26-07.

23 **4.1-56-07. Governance committee - Duties.**

24 The governance committee shall:

- 25 1. Keep a record of its expenses;
26 2. Submit the record to the seed commissioner at the time and in the manner required by
27 the seed commissioner; and
28 3. Provide reports at the time and in the manner required by the seed commissioner.

SOURCE: Section 4-26-07(2) and (3).

1 **4.1-56-08. Prohibition.**

2 A person may not plant or authorize the planting of seed potatoes other than those
3 permitted within the seed potato control area.

SOURCE: Section 4-26-09.

4 **4.1-56-09. Assessment.**

- 5 1. The governance committee may impose an assessment at a rate determined by the
6 committee, but not exceeding two and one-half cents per hundredweight
7 [45.36 kilograms] on all seed potatoes produced within the control area.
8 2. Any person producing seed potatoes within the control area shall pay the assessment
9 at the time and in the manner required by the governance committee.

SOURCE: Sections 4-26-07(4) and 4-26-09.

10 **4.1-56-10. Shipment of potatoes - Payment of assessment.**

11 A person producing seed potatoes in a seed potato control area may not ship or transport
12 the seed potatoes out of the area unless the person pays the assessment provided for in this
13 chapter.

SOURCE: Section 4-26-10.

14 **4.1-56-11. Seed commissioner - Orders.**

15 The seed commissioner may by order:

- 16 1. Alter the boundaries of the seed potato control area;
17 2. Assign additional powers and duties to the governance committee;
18 3. Prescribe requirements for seed selection, seed treatment, field isolation, cultural
19 practices, disease removal, and insect control;
20 4. Prescribe requirements for the governance committee with respect to seed potato
21 control efforts;
22 5. Prescribe or authorize seed quality for use within the control area;
23 6. Provide for the inspection, testing, and approval of seed to be used within the control
24 area; and
25 7. Set forth additional requirements or prohibitions with respect to activities within the
26 seed potato control area.

SOURCE: Section 4-26-08.

NOTE: Current law authorizes the Seed Commissioner to adopt rules governing the topics set forth in this section. Because the topics are applicable only to the operation of one particular seed control area, it is suggested that the Seed Commissioner have the authority

to issue appropriate orders. The Seed Commissioner still has general rulemaking authority under Chapter 28-32.

1 **4.1-56-12. Seed potato control area - Dissolution.**

2 Upon a showing of good cause, or as otherwise authorized by this chapter, the seed
3 commissioner may order the dissolution of a seed potato control area.

SOURCE: Section 4-26-11.

4 **4.1-56-13. Penalty.**

5 Any person violating this chapter is guilty of a class B misdemeanor.

SOURCE: Section 4-26-12.

6 **SECTION 4.** Section 4.1-57-18.1 of the North Dakota Century Code is created and enacted
7 as follows:

8 **4.1-57-18.1. Liability - Potato crop quantity and quality.**

9 A warranty of any kind, either expressed or implied, including a warranty of merchantability,
10 fitness for a particular purpose, absence of disease, varietal identity, or selection identity, is not
11 made by wholesale potato dealers licensed under this chapter, as to the quantity or quality of
12 the crop produced from the seed potatoes that were inspected and certified. The sole warranty
13 is that the potatoes were inspected under the rules of the seed department or the United States
14 department of agriculture.

NOTE: Under current law, a warranty is not made by the Seed Commission, the Seed Department, the Seed Commissioner, certified seed potato producers, or wholesale potato dealers. Because wholesale potato dealers have their own chapter, the reference to them was been removed from proposed Chapter 4.1-55 and recreated within Chapter 4.1-57.

15 **SECTION 5. REPEAL.** Chapters 4-10 and 4-26 and sections 4.1-53-02, 4.1-53-03,
16 4.1-53-04, 4.1-53-05, 4.1-53-06, 4.1-53-07, 4.1-53-08, 4.1-53-09, 4.1-53-10, 4.1-53-11,
17 4.1-53-62, 4.1-57-20, and 4.1-57-21 of the North Dakota Century Code are repealed.