

Introduced by

Representatives D. Johnson, Brandenburg, Hatlestad, Howe

Senators Klein, Luick, Wanzek

1 A BILL ~~for an Act to create and enact a new section to chapter 60-01 of the North Dakota~~  
2 ~~Century Code, relating to the definition of agriculture commissioner; and to amend and reenact~~  
3 ~~section 49-02-01, subsection 1 of section 60-02-01, sections 60-02-02, 60-02-03, 60-02-04,~~  
4 ~~60-02-05.1, 60-02-07, 60-02-07.2, 60-02-09, 60-02-09.1, 60-02-10.1, 60-02-11, 60-02-14,~~  
5 ~~60-02-17, 60-02-24, 60-02-27, 60-02-35.1, 60-02-38, 60-02-40, 60-02-41, and 60-02-42,~~  
6 ~~subsection 1 of section 60-02.1-01, sections 60-02.1-02, 60-02.1-03, 60-02.1-04, 60-02.1-06,~~  
7 ~~60-02.1-07, 60-02.1-07.1, 60-02.1-08, 60-02.1-09, 60-02.1-11, 60-02.1-16, 60-02.1-17,~~  
8 ~~60-02.1-19, 60-02.1-22, 60-02.1-26, 60-02.1-27, 60-02.1-29, 60-02.1-30, 60-02.1-32,~~  
9 ~~60-02.1-33, 60-02.1-34, 60-02.1-35, 60-02.1-36, 60-02.1-37, 60-02.1-38, and 60-02.1-39,~~  
10 ~~subsection 1 of section 60-04-01, and sections 60-04-03, 60-04-03.1, 60-04-03.2, 60-04-03.3,~~  
11 ~~60-04-04, 60-04-05, 60-04-06, 60-04-07, 60-04-08, 60-04-09, 60-04-10, 60-05-01, 60-05-02,~~  
12 ~~60-05-03, 60-05-04, 60-06-05, 60-06-06.1, 60-10-01, 60-10-02, 60-10-03, 60-10-05, 60-10-07,~~  
13 ~~60-10-08, 60-10-09, 60-10-10, 60-10-11, 60-10-12, 60-10-14, and 60-10-15 of the North Dakota~~  
14 ~~Century Code, relating to moving the authority over grain, grain buyers, warehousing, deposits,~~  
15 ~~and warehousemen from the public service commission to the agriculture commissioner; to~~  
16 ~~provide a penalty; and to provide a continuing appropriation.~~for an Act to provide for a legislative  
17 management study regarding agricultural issues in the state.

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

19 ~~—~~ **SECTION 1. AMENDMENT.** ~~Section 49-02-01 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

21 ~~—~~ **49-02-01. General jurisdiction of the public service commission over public utilities.**  
22 ~~—~~ The general jurisdiction of the commission shall extend to and include:

23 ~~—~~ 1. ~~Contract and common carriers engaged in the transportation of persons and property,~~  
24 ~~excluding air carriers.~~

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

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

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

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

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

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

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

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

13 ~~**Definition:**~~

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

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

17 ~~1. "Commissioner" means the public service commissioner~~  
18 ~~commissioner.~~

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

21 ~~**60-02-02. Commissioner – Powers and duties.**~~

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

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

26 ~~**60-02-03. Duties and powers of the commissioner.**~~

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

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

1 — ~~2. Investigate all complaints of fraud and injustice, unfair practices, and unfair~~  
2 ~~discrimination.~~

3 — ~~3. Examine and inspect, during ordinary business hours, any licensed warehouse,~~  
4 ~~including all books, documents, and records.~~

5 — ~~4. Require the filing of reports pertaining to the operation of the warehouse.~~

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

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

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

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

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

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

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

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

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

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

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

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

4                   ~~b. (1) Notwithstanding the provisions of subdivision a, the~~  
5                   ~~commission~~commissioner ~~shall license a warehouse annually, for the first~~  
6                   ~~six years of the warehouse's operation.~~

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

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

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

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

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

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

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

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

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

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

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

1 ~~4. If a public warehouseman operates two or more warehouses in the same city or~~  
2 ~~siding, in conjunction with each other and with the same working force, and keeps one~~  
3 ~~set of books and records for all such warehouses, and issues one series of scale~~  
4 ~~tickets, warehouse receipts, checks, and credit sale contracts for the grain stored and~~  
5 ~~purchased therein, only one license is required for the operation of all such~~  
6 ~~warehouses. When two or more warehouses are operated under one license, the~~  
7 ~~license fee is based upon the combined bushel capacity of the warehouses.~~

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

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

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

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

19 ~~1. The station is colocated with another licensed public warehouse, the operator of which~~  
20 ~~will take delivery of the grain on behalf of the warehouseman who established the~~  
21 ~~receiving station.~~

22 ~~2. The storage space used by the receiving station is used solely by the receiving station~~  
23 ~~and is not licensed as part of the warehouse that is located at that site.~~

24 ~~3. The grain taken in by the receiving station is not commingled with other grain at that~~  
25 ~~site.~~

26 ~~4. The warehouseman establishing the station requests and receives commission~~  
27 ~~permission from the commissioner to increase licensed capacity to include the space~~  
28 ~~to be used at the receiving station.~~

29 ~~5. Grain received at the receiving station is recorded on scale tickets issued by the~~  
30 ~~warehouseman who established the station and is covered by that warehouseman's~~  
31 ~~bond.~~

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

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

6 ~~**SECTION 10. AMENDMENT.** Section 60-02-09 of the North Dakota Century Code is~~  
7 ~~amended and reenacted as follows:~~

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

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

11 ~~1. Be in a sum not less than five thousand dollars for any one warehouse.~~

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

15 ~~3. Run to the state of North Dakota for the benefit of all persons storing or selling grain in~~  
16 ~~that warehouse.~~

17 ~~4. Be conditioned:~~

18 ~~a. For the faithful performance of the licensee's duties as a public warehouseman.~~

19 ~~b. For compliance with the provisions of law and the rules of the~~

20 ~~~~commission~~commissioner relating to the storage and purchase of grain by such~~  
21 ~~warehouseman.~~

22 ~~5. Specify the location of each public warehouse intended to be covered by such bond.~~

23 ~~6. Be for the specific purpose of:~~

24 ~~a. Protecting the holders of outstanding receipts.~~

25 ~~b. Covering the costs incurred by the ~~commission~~commissioner in the~~  
26 ~~administration of chapter 60-04 in the event of the licensee's insolvency.~~

27 ~~7. Not accrue to the benefit of any person entering into a credit-sale contract with a~~  
28 ~~public warehouseman.~~

29 ~~8. The aggregate liability of the surety under a bond does not accumulate for each~~  
30 ~~successive annual license renewal period during which the bond is in force but, for~~

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

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

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

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

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

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

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

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

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

12 ~~— **60-02-11. Scale ticket – Contents – Conversion.**~~

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

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

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

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

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

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

28 ~~— d. The warehouseman shall keep one copy of the signed waiver form with the~~  
29 ~~records of the warehouse, provide one copy to the person who was issued the~~  
30 ~~scale ticket and signed the form, and file one copy with the~~  
31 ~~commissioner.~~

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

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

7 — ~~**60-02-14. Warehouse receipts – Copy.**~~

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

10 — ~~1. The serial number and date of receipt.~~

11 — ~~2. The kind and grade of grain.~~

12 — ~~3. The dockage and net weight of the grain.~~

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

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

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

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

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

23 ~~Upon surrender of this receipt and payment or tender of all applicable charges, the~~  
24 ~~amount, kind, and grade of grain identified in this receipt will be delivered to the~~

25 ~~person named above or the person's order as rapidly as due diligence, care, and~~

26 ~~prudence will permit. At the option of the holder of this receipt, the amount, kind, and~~

27 ~~grade of grain for which this receipt is issued, upon demand, must be delivered back~~

28 ~~to the holder at any terminal point customarily shipped to, or at the place where~~

29 ~~received, upon the payment of any charges for receiving, handling, storage, and~~

30 ~~insurance and in case of terminal delivery, the payment in addition to the above of the~~

31 ~~regular freight charges on the gross amount called for by this ticket or in lieu thereof, a~~

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

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

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

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

14 ~~Each licensed and bonded public warehouseman shall:~~

15 ~~1.~~ Prepare for each month a report giving facts and information called for on the form of  
16 report prepared by the ~~commission~~commissioner. The report must contain or be  
17 verified by a written declaration that ~~it~~the report is made under the penalties of perjury.  
18 The report may be called for more frequently if the ~~commission~~commissioner deems it  
19 necessary. Information pertaining to the volume of grain handled is a confidential trade  
20 secret and is not a public record. The ~~commission~~commissioner may make the  
21 information available for use by other governmental entities, but the  
22 ~~commission~~commissioner may not release the information in a manner that  
23 jeopardizes the confidentiality of individual licensees.

24 ~~2.~~ File the report with the ~~commission~~commissioner not later than the last day of the  
25 following month, and failure to file this report promptly will be considered cause for  
26 revoking the warehouse license after due notice and hearing.

27 ~~3.~~ Keep a separate account of the grain business, if the warehouseman is engaged in  
28 handling or selling any other commodity, and under no circumstances shall may the  
29 grain account and other accounts be mixed.

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

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

3 — ~~60-02-27. Federal grades to control – Grades to be posted.~~

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

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

18 — ~~60-02-35.1. Insurance – Cancellation – Suspension of license.~~

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

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

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

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

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

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

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

13 ~~— 1. — Notify the commission~~commissioner first of its~~the warehouseman's~~ intention to transfer  
14 ~~the warehouse, giving the name and address of the proposed lessee or purchaser.~~

15 ~~— 2. — Furnish a statement of all proper claims that may be filed or pending against the~~  
16 ~~warehouseman pertaining to the storage, inspection, and marketing of grain, together~~  
17 ~~with a statement of:~~

18 ~~— a. — The number of bushels [cubic meters] of grain of each kind and grade in store in~~  
19 ~~the warehouse;~~

20 ~~— b. — The number and amount of receipts outstanding; and~~

21 ~~— c. — The names and addresses of the receipt~~holders.

22 ~~— 3. — Serve notice by registered or certified mail, at least thirty days before the transfer,~~  
23 ~~upon all receipt~~holders having claims against the warehouse to call for delivery of the  
24 ~~grain covered by the receipts, and to pay all storage charges due, the warehouseman~~  
25 ~~in such case to make no charge for redelivery. The commission~~commissioner may  
26 ~~waive the thirty-day notice period upon receipt of written consent of all receipt~~holders.

27 ~~— 4. — Transfer all stored grain undelivered at the expiration of such thirty-day period to its~~the  
28 ~~warehouseman's~~ successor, if licensed, or to the nearest licensed warehouse for  
29 ~~restorage, taking receipts for the same in favor of the owner of the grain so~~  
30 ~~transferred.~~

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

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

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

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

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

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

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

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

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

5 ~~— **SECTION 23. AMENDMENT.** Subsection 1 of section 60-02.1-01 of the North Dakota~~  
6 ~~Century Code is amended and reenacted as follows:—~~

7 ~~— 1. — "Commission~~Commissioner" means the public service ~~commission~~agriculture  
8 ~~commissioner.~~

9 ~~— **SECTION 24. AMENDMENT.** Section 60-02.1-02 of the North Dakota Century Code is~~  
10 ~~amended and reenacted as follows:~~

11 ~~— **60-02.1-02. Commission**~~Commissioner - Powers and duties.

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

14 ~~— **SECTION 25. AMENDMENT.** Section 60-02.1-03 of the North Dakota Century Code is~~  
15 ~~amended and reenacted as follows:~~

16 ~~— **60-02.1-03. Duties and powers of the commission**~~commissioner.

17 ~~— The commission~~commissioner has the duty and power to:

18 ~~— 1. — Exercise general supervision of grain buyers of this state.~~

19 ~~— 2. — Investigate all complaints of fraud and injustice, unfair practices, and unfair~~  
20 ~~discrimination.~~

21 ~~— 3. — Examine and inspect, during ordinary business hours, any books, documents, and~~  
22 ~~records.~~

23 ~~— 4. — Make all proper rules for carrying out and enforcing any law in this state regarding~~  
24 ~~grain buyers.~~

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

27 ~~— **60-02.1-04. Federal licensed inspector -- Appointed by commission.**~~

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

1 ~~—~~ **SECTION 27. AMENDMENT.** Section 60-02.1-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

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

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

12 ~~—~~ **SECTION 28. AMENDMENT.** Section 60-02.1-07 of the North Dakota Century Code is  
13 amended and reenacted as follows:

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

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

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

1 ~~— **SECTION 29. AMENDMENT.** Section 60-02.1-07.1 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

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

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

11 ~~— **SECTION 30. AMENDMENT.** Section 60-02.1-08 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

13 ~~— **60-02.1-08. Bond filed by grain buyer.**~~

14 ~~— Before any license is effective for any grain buyer under this chapter, the applicant for the~~  
15 ~~license shall file a bond with the commissioncommissioner which must:~~

16 ~~— 1. Be in a sum not less than five thousand dollars.~~

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

20 ~~— 3. Run to the state of North Dakota for the benefit of all persons selling grain to or~~  
21 ~~through the grain buyer.~~

22 ~~— 4. Be conditioned:~~

23 ~~— a. For the faithful performance of the licensee's duties as a grain buyer.~~

24 ~~— b. For compliance with the provisions of law and the rules of the~~  
25 ~~commissioncommissioner relating to the purchase of grain by such grain buyer.~~

26 ~~— 5. For facility-based grain buyers, specify the location of each facility intended to be~~  
27 ~~covered by the bond.~~

28 ~~— 6. Be for the specific purpose of:~~

29 ~~— a. Protecting the sellers of grain.~~

30 ~~— b. Covering the costs incurred by the commissioncommissioner in the~~  
31 ~~administration of the licensee's insolvency.~~

1 ~~7.~~ Not accrue to the benefit of any person entering into a credit sale contract with a grain-  
2 buyer.

3 ~~8.~~ The aggregate liability of the surety under a bond does not accumulate for each  
4 successive annual license renewal period during which the bond is in force but, for  
5 losses during any annual license renewal period, is limited in the aggregate to the  
6 bond amount stated or changed by appropriate endorsement or rider.

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

17 ~~SECTION 31. AMENDMENT.~~ Section 60-02.1-09 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 ~~60-02.1-09. Bond cancellation -- Release of surety.~~

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

28 ~~SECTION 32. AMENDMENT.~~ Section 60-02.1-11 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1 — ~~**60-02.1-11. Revocation and suspension.**~~

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

10 — ~~**SECTION 33. AMENDMENT.** Section 60-02.1-16 of the North Dakota Century Code is~~  
11 ~~amended and reenacted as follows:~~

12 — ~~**60-02.1-16. Records required to be kept by grain buyers.**~~

13 — ~~Each grain buyer shall keep such accounts, records, and memoranda concerning the~~  
14 ~~buyer's dealing as such grain buyer as from time to time may be required by the~~  
15 ~~commission commissioner and shall make such reports of purchases of grain as may be~~  
16 ~~required by the rules made adopted by the commission commissioner. The~~  
17 ~~commission commissioner at all times shall must have access to such accounts, records, and~~  
18 ~~memoranda.~~

19 — ~~**SECTION 34. AMENDMENT.** Section 60-02.1-17 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

21 — ~~**60-02.1-17. Reports to be made by grain buyers – Penalty for failure.**~~

22 — ~~Each licensed and bonded grain buyer shall:~~

- 23 — ~~1. — Prepare for each month a report giving facts and information called for on the form of~~  
24 ~~report prepared by the commission commissioner. The report must contain or be~~  
25 ~~verified by a written declaration that it the report is made under the penalties of perjury.~~  
26 ~~The report may be called for more frequently if the commission commissioner deems it~~  
27 ~~necessary. Information pertaining to the volume of grain handled is a confidential trade~~  
28 ~~secret and is not a public record. The commission commissioner may make this~~  
29 ~~information available for use by other governmental entities, but the information may~~  
30 ~~not be released by those entities in a manner that jeopardizes the confidentiality of~~  
31 ~~individual licensees.~~

1 ~~2. File the report with the commissioncommissioner not later than the last day of the~~  
2 ~~following month. Failure to file this report promptly will be considered cause for~~  
3 ~~revoking the grain buyer license after due notice and hearing.~~

4 ~~3. Keep a separate account of the grain business, if the grain buyer is engaged in~~  
5 ~~handling or selling any other commodity, and under no circumstances may the grain~~  
6 ~~account and other accounts be mixed.~~

7 ~~The commissioncommissioner may refuse to renew a license to any grain buyer who fails to~~  
8 ~~make a required report.~~

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

11 ~~**60-02.1-19. Federal grades to control - Grades to be posted.**~~

12 ~~All grain buyers shall purchase grain, except dry edible beans, in accordance with the~~  
13 ~~official grades established from time to time by the secretary of agriculture of the United States,~~  
14 ~~except as otherwise provided in applicable rules and regulations applicable thereto adopted by~~  
15 ~~federal officials pursuant to law. A facility-based grain buyer shall post in a conspicuous place in~~  
16 ~~the buyer's facility the official grades so established and also any change that may be made~~  
17 ~~from time to time. A grain buyer of dry edible beans shall purchase and deliver beans in~~  
18 ~~accordance with the buyer's policy, which must be filed with the commissioncommissioner and,~~  
19 ~~if applicable, posted in a conspicuous place in the buyer's facility. Other grading standards may~~  
20 ~~be used if mutually agreed to in writing by the grain buyer and the owner of the grain. However,~~  
21 ~~the owner may demand the use of federal grading standards. After hearing, the~~  
22 ~~commissioncommissioner may prohibit the use of nonfederal grades.~~

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

25 ~~**60-02.1-22. Insurance - Cancellation - Suspension of license.**~~

26 ~~An insurance company shall give at least sixty days' notice to the commissioncommissioner~~  
27 ~~and the insured by registered mail return receipt requested before cancellation of an insurance~~  
28 ~~policy required in section 60-02.1-21. Unless the grain buyer files proof of new or renewed~~  
29 ~~insurance at least thirty days before the existing policy ceases, the commissioncommissioner,~~  
30 ~~without hearing, shall immediately suspend the grain buyer's license and the suspension may~~

1 not be removed until a new policy has been filed and approved by the  
2 ~~commission~~commissioner.

3 ~~—~~ **SECTION 37. AMENDMENT.** Section 60-02.1-26 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 ~~—~~ **60-02.1-26. Transfer of facility -- Redemption of receipts.**

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

8 ~~—~~ 1. ~~Notify the commission~~commissioner first of its intention to transfer the facility, giving  
9 the name and address of the proposed lessee or purchaser.

10 ~~—~~ 2. ~~Provide related information as may be required by the commission~~commissioner.

11 ~~—~~ 3. ~~Surrender to the commission~~commissioner the grain buyer's license for cancellation  
12 and at that time the proposed lessee or purchaser shall file in due form for a new  
13 license and tender a new bond for review by the ~~commission~~commissioner,  
14 whereupon, it first being duly satisfied that all the outstanding receipts have been  
15 redeemed, or that the redemption thereof has been provided for, the  
16 ~~commission~~commissioner may permit a new license to become effective for the lessee  
17 or purchaser.

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

20 ~~—~~ **SECTION 38. AMENDMENT.** Section 60-02.1-27 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 ~~—~~ **60-02.1-27. Going out of business -- Redemption of receipts.**

23 ~~—~~ When ~~if~~ a facility-based grain buyer ceases business through closure, the destruction of a  
24 facility by fire or other cause, or through insolvency, such ~~the~~ grain buyer shall redeem all  
25 outstanding receipts at the price prevailing on the date the facility was closed, destroyed, or  
26 became insolvent. The holder of such ~~the~~ receipts, upon due notice, must ~~shall~~ accept this price  
27 and surrender the receipts. Any facility-based grain buyer who voluntarily ceases business or  
28 fails to renew an existing grain buyer license or whose grain buyer license is revoked shall  
29 notify the ~~commission~~commissioner and all receipt holders of such closing and redeem all such  
30 receipts at the price prevailing on the date the business closed or at the option of the owner of  
31 the receipt redeliver the kind, grade, and quantity of grain called for by the receipt. On

1 commingled grain the value of over and under deliveries in quantity, grade, and protein-  
2 shall ~~must~~ be settled in cash and priced on the market on the day of closing.

3 ~~—~~ **SECTION 39. AMENDMENT.** Section 60-02.1-29 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 ~~—~~ **60-02.1-29. Appointment of commissioncommissioner.**

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

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

20 ~~—~~ **SECTION 40. AMENDMENT.** Section 60-02.1-30 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 ~~—~~ **60-02.1-30. Trust fund established.**

23 ~~—~~ Upon the insolvency of any licensee, a trust fund must be established for the benefit of  
24 noncredit sale receiptholders and to pay the costs incurred by the commissioncommissioner in  
25 the administration of the insolvency. The trust fund must consist of the following:

26 ~~—~~ 1. Nonwarehouse receipt grain of the insolvent licensee held in storage or the proceeds  
27 obtained from the conversion of such grain.

28 ~~—~~ 2. The proceeds, including accounts receivable, from any grain sold from the time of the  
29 filing of the claim that precipitated an insolvency until the commissioncommissioner is  
30 appointed trustee must be remitted to the commissioncommissioner and included in  
31 the trust fund.

1 ~~3. The proceeds of insurance policies on destroyed grain.~~

2 ~~4. The claims for relief, and proceeds therefrom from the claims for relief, for damages~~  
3 ~~upon bond given by the licensee to ensure faithful performance of the duties of a~~  
4 ~~licensee.~~

5 ~~5. The claim for relief, and proceeds therefrom from the claim for relief, for the conversion~~  
6 ~~of any grain stored in the warehouse.~~

7 ~~6. Unencumbered accounts receivable for grain sold prior to the filing of the claim that~~  
8 ~~precipitated an insolvency.~~

9 ~~7. Unencumbered equity in grain hedging accounts.~~

10 ~~8. Unencumbered grain product assets.~~

11 ~~**SECTION 41. AMENDMENT.** Section 60-02.1-32 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

13 ~~**60-02.1-32. Notice to receiptholders and credit-sale contract claimants.**~~

14 ~~Upon its the commissioner's appointment, the commission commissioner may take~~  
15 ~~possession of relevant books and records of the licensee. If the insolvency involves a roving~~  
16 ~~grain buyer, the commission commissioner shall publish a notice of its the commissioner's~~  
17 ~~appointment once each week for two consecutive weeks in all daily newspapers in the state and~~  
18 ~~may notify, by ordinary mail, the holders of record of outstanding receipts and those who are~~  
19 ~~potential credit-sale contract claimants, disclosed by the licensee's records. If the insolvency~~  
20 ~~involves a facility-based grain buyer, the notice must be published once each week for two~~  
21 ~~consecutive weeks in a newspaper in the county in which the warehouse is located. The notice~~  
22 ~~must require outstanding receiptholders and credit-sale contract claimants to file their claims~~  
23 ~~with the commission commissioner along with the receipts, contracts, or other evidence of the~~  
24 ~~claims required by the commission commissioner. If an outstanding receiptholder or credit-sale~~  
25 ~~contract claimant fails to submit a claim within forty-five days after the last publication of the~~  
26 ~~notice or a longer time set by the commission commissioner, the commission commissioner is~~  
27 ~~relieved of further duty in the administration of the insolvency on behalf of the receiptholder or~~  
28 ~~credit-sale contract claimant and the receiptholder may be barred from participation in the trust~~  
29 ~~fund, and the credit-sale contract claimant may be barred from payment for any amount due.~~  
30 ~~Outstanding receiptholders and credit-sale contract claimants are not parties to the insolvency~~  
31 ~~action unless admitted by the court upon a motion for intervention.~~

1 ~~— **SECTION 42. AMENDMENT.** Section 60-02.1-33 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

3 ~~— **60-02.1-33. Remedy of receiptholders.**~~

4 ~~— No receiptholder has~~does not have a separate claim for relief upon any insolvent  
5 licensee's bond, nor for insurance, nor against any person converting grain, nor against any  
6 other receiptholder, except through the trustee, unless, upon demand of five or more  
7 receiptholders, the ~~commission~~commissioner fails or refuses to apply for itsthe commissioner's  
8 own appointment or unless the district court denies the application. This chapter does not  
9 prohibit any receiptholder, either individually or in conjunction with other receiptholders, from  
10 pursuing concurrently any other remedy against the person or property of the licensee.

11 ~~— **SECTION 43. AMENDMENT.** Section 60-02.1-34 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

13 ~~— **60-02.1-34. Commission**Commissioner to marshal trust assets.~~

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

19 ~~— **SECTION 44. AMENDMENT.** Section 60-02.1-35 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

21 ~~— **60-02.1-35. Power of commission**commissioner to prosecute or compromise claims.~~

22 ~~— The commission~~commissioner may:

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

1 ~~— **SECTION 45. AMENDMENT.** Section 60-02.1-36 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

3 ~~— **60-02.1-36. Money received by trustee -- Deposited in Bank of North Dakota.**~~

4 ~~— All funds received by the commissioncommissioner as trustee must be deposited in the~~  
5 ~~Bank of North Dakota.~~

6 ~~— **SECTION 46. AMENDMENT.** Section 60-02.1-37 of the North Dakota Century Code is~~  
7 ~~amended and reenacted as follows:~~

8 ~~— **60-02.1-37. Report of trustee to court -- Approval -- Distribution.**~~

9 ~~— 1. Upon the receipt and evaluation of claims, the commissioncommissioner shall file with~~  
10 ~~the court a report showing the amount and validity of each claim after recognizing:~~

11 ~~— a. Relevant liens or pledges.~~

12 ~~— b. Relevant assignments.~~

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

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

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

17 ~~— 2. The report must also contain the proposed reimbursement to the~~  
18 ~~commissioncommissioner for the expenses of administering the insolvency, the~~  
19 ~~proposed distribution of the trust fund assets to receiptholders, less expenses incurred~~  
20 ~~by the commissioncommissioner in the administration of the insolvency, and the~~  
21 ~~proposed credit sale contract indemnity fund payments to credit sale contract~~  
22 ~~claimants. If the trust fund is insufficient to redeem all receiptholder claims in full, the~~  
23 ~~report should list the funds as prorated.~~

24 ~~— 3. The court shall set a hearing and the appropriate notice for interested persons to show~~  
25 ~~cause why the commission'scommissioner's report should not be approved and~~  
26 ~~distribution of the trust fund be made as proposed. Copies of the report and notice of~~  
27 ~~hearing must be served by the commissioncommissioner by certified mail upon the~~  
28 ~~licensee and the surety and by ordinary mail upon all persons having claims filed with~~  
29 ~~the commissioncommissioner.~~

30 ~~— 4. Any aggrieved person having an objection to the commission'scommissioner's report~~  
31 ~~shall file the objection with the court and serve copies on the~~

1            ~~commission~~commissioner, the licensee, and the surety at least twenty days before the  
2            hearing. Failure to file and serve objections in the time set is a waiver of the objection.  
3     ~~5.~~ Following the hearing, the court shall approve or modify the report and issue an order  
4            directing payment of the necessary bond proceeds, distribution of the trust fund,  
5            payments from the credit sale contract indemnity fund, and discharge of the  
6            ~~commission~~commissioner from its~~the commissioner's~~ trust.

7     ~~SECTION 47. AMENDMENT.~~ Section 60-02.1-38 of the North Dakota Century Code is  
8     amended and reenacted as follows:

9     ~~60-02.1-38. Filing fees and court costs -- Expenses.~~

10    ~~The commission~~commissioner may not be required to pay any filing fee or other court costs  
11    or disbursements. The attorney general may appoint outside legal counsel to assist the  
12    ~~commission~~commissioner in the prosecution of the action and the cost of employing outside  
13    counsel must be paid from the trust fund and the credit sale contract indemnity fund as  
14    appropriate. All other necessary expenses incurred by the ~~commission~~commissioner in carrying  
15    out the provisions of this chapter, including adequate insurance to protect the ~~commission,~~  
16    ~~its~~commission, the commissioner's employees, and others engaged in carrying out the  
17    provisions of sections 60-02.1-28 through 60-02.1-38, must be reimbursed to the  
18    ~~commission~~commissioner from the trust fund and credit sale contract indemnity funds as  
19    appropriate.

20    ~~SECTION 48. AMENDMENT.~~ Section 60-02.1-39 of the North Dakota Century Code is  
21    amended and reenacted as follows:

22    ~~60-02.1-39. Cease and desist.~~

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

30    ~~SECTION 49. AMENDMENT.~~ Subsection 1 of section 60-04-01 of the North Dakota  
31    Century Code is amended and reenacted as follows: \_\_\_\_\_

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

3 — **SECTION 50. AMENDMENT.** Section 60-04-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 — **60-04-03. Appointment of commissioner.**

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

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

21 — **SECTION 51. AMENDMENT.** Section 60-04-03.1 of the North Dakota Century Code is  
22 amended and reenacted as follows:

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

24 — 1. — Upon the insolvency of any warehouseman, a trust fund shall~~must~~ be established:

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

28 — b. — To pay the costs incurred by the ~~commission~~commissioner in the administration  
29 of this chapter.

30 — 2. — The trust fund consists of the following:

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

16       ~~**SECTION 52. AMENDMENT.** Section 60-04-03.2 of the North Dakota Century Code is~~  
17       ~~amended and reenacted as follows:~~

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

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

23       ~~**SECTION 53. AMENDMENT.** Section 60-04-03.3 of the North Dakota Century Code is~~  
24       ~~amended and reenacted as follows:~~

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

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

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

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

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

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

23 ~~—~~ **SECTION 55. AMENDMENT.** Section 60-04-05 of the North Dakota Century Code is  
24 amended and reenacted as follows:

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

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

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

4 ~~— **SECTION 56. AMENDMENT.** Section 60-04-06 of the North Dakota Century Code is~~  
5 ~~amended and reenacted as follows:~~

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

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

11 ~~— 1.—~~ The insurers of grain;

12 ~~— 2.—~~ The warehouseman's bond;

13 ~~— 3.—~~ Any person who may have converted any grain; or

14 ~~— 4.—~~ Any receiptholder who shall have received more than its~~the receiptholder's~~ just and  
15 pro rata share of grain;

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

23 ~~— **SECTION 57. AMENDMENT.** Section 60-04-07 of the North Dakota Century Code is~~  
24 ~~amended and reenacted as follows:~~

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

26 ~~—~~ The commissioner may:

27 ~~— 1.—~~ Prosecute any action provided in this chapter in any court in this state or in any other  
28 state.

29 ~~— 2.—~~ Appeal from any adverse judgment to the courts of last resort.

30 ~~— 3.—~~ Settle and compromise any action whenever if it is in the best interests of the  
31 receiptholders.

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

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

6 ~~**SECTION 58. AMENDMENT.** Section 60-04-08 of the North Dakota Century Code is-~~  
7 ~~amended and reenacted as follows:~~

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

9 ~~All moneys collected and received by the commissioncommissioner as trustee under this-~~  
10 ~~chapter, pending the marshalling of the fund, shallmust be deposited in the Bank of North-~~  
11 ~~Dakota.~~

12 ~~**SECTION 59. AMENDMENT.** Section 60-04-09 of the North Dakota Century Code is-~~  
13 ~~amended and reenacted as follows:~~

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

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

18 ~~1. Any proper liens or pledges thereonon the claims.~~

19 ~~2. Assignments thereofof the claims.~~

20 ~~3. Deductions therefromfrom the claims by reason of advances or offsets accrued in-~~  
21 ~~favor of the warehouseman.~~

22 ~~4. In case of cash claims or checks, the amount thereofof the claims or checks.~~

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

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

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

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

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

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

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

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

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

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

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

3 ~~—~~ **SECTION 61. AMENDMENT.** Section 60-05-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

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

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

10 ~~—~~ **SECTION 62. AMENDMENT.** Section 60-05-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

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

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

30 ~~—~~ **SECTION 63. AMENDMENT.** Section 60-05-03 of the North Dakota Century Code is  
31 amended and reenacted as follows:

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

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

10 ~~— 1. That said methods of doing business are sound.~~

11 ~~— 2. That such person, association, copartnership, corporation, or limited liability company~~  
12 ~~is solvent.~~

13 ~~— 3. That its books and accounts are kept properly.~~

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

25 ~~— **SECTION 64. AMENDMENT.** Section 60-05-04 of the North Dakota Century Code is~~  
26 ~~amended and reenacted as follows:~~

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

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

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

7 — **SECTION 65. AMENDMENT.** Section 60-06-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

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

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

24 — **SECTION 66. AMENDMENT.** Section 60-06-06.1 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 — **~~60-06-06.1. Determination – Appropriation.~~**

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

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

3 ~~—~~ **SECTION 67. AMENDMENT.** Section 60-10-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

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

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

14 ~~—~~ **SECTION 68. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is  
15 amended and reenacted as follows:

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

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

23 ~~—~~ **SECTION 69. AMENDMENT.** Section 60-10-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

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

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

1 — ~~**SECTION 70. AMENDMENT.** Section 60-10-05 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

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

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

10 — ~~**SECTION 71. AMENDMENT.** Section 60-10-07 of the North Dakota Century Code is~~  
11 ~~amended and reenacted as follows:~~

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

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

18 — ~~**SECTION 72. AMENDMENT.** Section 60-10-08 of the North Dakota Century Code is~~  
19 ~~amended and reenacted as follows:~~

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

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

27 — ~~**SECTION 73. AMENDMENT.** Section 60-10-09 of the North Dakota Century Code is~~  
28 ~~amended and reenacted as follows:~~

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

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

6 — ~~**SECTION 74. AMENDMENT.** Section 60-10-10 of the North Dakota Century Code is~~  
7 ~~amended and reenacted as follows:~~

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

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

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

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

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

19 — ~~**SECTION 76. AMENDMENT.** Section 60-10-12 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

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

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

29 — ~~**SECTION 77. AMENDMENT.** Section 60-10-14 of the North Dakota Century Code is~~  
30 ~~amended and reenacted as follows:~~

1 ~~— **60-10-14. Subrogation.**~~

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

11 ~~— **SECTION 78. AMENDMENT.** Section 60-10-15 of the North Dakota Century Code is~~  
12 ~~amended and reenacted as follows:~~

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

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

22 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - AGRICULTURAL ISSUES - GRAIN**  
23 **BUYERS, ROVING GRAIN BUYERS, GRAIN HANDLING FACILITIES, FERTILIZER, SOIL**  
24 **AMENDMENTS, SEED, AND FUEL.** During the 2019-20 interim, the legislative management  
25 shall consider studying agricultural issues in the state, including studying grain buyers, roving  
26 grain buyers, grain brokers, and grain handling facilities under title 60; and issues related to  
27 prepayment for fertilizer, soil amendments, seed, and fuel in situations of insolvency. The study  
28 must include a review of the current law, industry practices, and background checks relating to  
29 grain buyers, roving grain buyers, grain brokers, and handling facilities and a review of any  
30 potential efficiencies that may exist, methods of maintaining financial security during the grain  
31 buying process including consideration of facility operating capital to ensure adequate solvency

1 during licensing, and the process of confidential financial and physical audits. The study also  
2 must include a review of the law pertaining to grain handling facility asset lists to determine if  
3 changes are required to ensure producers are protected from facility insolvency if an end  
4 product is refined and no longer reflects the original product, the indemnity fund under title 60,  
5 and grain handling facility bonding requirements. The legislative management shall report its  
6 findings and recommendations, together with any legislation required to implement the  
7 recommendations, to the sixty-seventh legislative assembly.