

AGRICULTURE

CHAPTER 87

HOUSE BILL NO. 1163
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

MARKETING BUREAU PARTICIPATION WITH EXPORT TRADING COMPANIES

AN ACT to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to the marketing bureau participating with export trading companies as part of its marketing function.

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

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Marketing bureau - Participation with export trading companies. To accomplish its purpose of engaging in marketing services for agricultural products, the marketing bureau may participate with export trading companies formed pursuant to Public Law No. 97-290 [96 Stat. 1233; 15 U.S.C. 4001 et seq., 15 U.S.C. 61, 15 U.S.C. 45, 12 U.S.C. 372, 12 U.S.C. 635 a-4, 12 U.S.C. 1843] to accomplish the acquisition and disposal of raw and finished farm products by means of commercial enterprises engaged in distribution, marketing, exporting, importing, and manufacturing of raw and finished farm products. For the purposes of this section "participate" means providing marketing services for North Dakota agricultural commodities to, and gathering and disseminating statistical information on North Dakota agricultural marketing problems for, export trading companies. Additionally, the marketing bureau may provide marketing services for agricultural commodities to, and gather and disseminate statistical information on agricultural marketing problems for, the North Dakota mill and elevator association in its transactions with export trading companies.

Approved March 14, 1985

CHAPTER 88

SENATE BILL NO. 2349
(Senators W. Meyer, Vosper, Dotzenrod)
(Representatives Nicholas, Hedstrom, Gullickson)

FARM CREDIT COUNSELING

AN ACT to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to establishing a farm credit counseling program; to provide an appropriation; and to declare an emergency.

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

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Farm credit counseling program. The commissioner of agriculture shall establish a farm credit counseling program to disseminate information to farmers concerning farm credit problems, and provide advice and counseling regarding farm credit problems. The commissioner of agriculture shall appoint a coordinator of the farm credit counseling program to implement and manage the program. The coordinator of the farm credit counseling program shall hire other necessary personnel and independent contractors to act as farm credit counselors.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$460,000, or so much thereof as may be necessary, to the commissioner of agriculture for the purpose of funding the farm credit counseling program beginning from the effective date of this Act and ending June 30, 1987.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 29, 1985

CHAPTER 89

HOUSE BILL NO. 1413
(Representatives A. Olson, Myrdal, Smette)
(Senators Vosper, Freborg)

COUNTY FAIR MILL LEVY

AN ACT to amend and reenact sections 4-02-03, 4-02-04, and subsection 2 of section 57-15-06.8 of the North Dakota Century Code, relating to county fair mill levies.

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

SECTION 1. AMENDMENT. Section 4-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-03. **Debts - Limitation of amount.** A fair association shall not contract debts or liabilities in excess of the money in the treasury at the time of the contract, except that debts or liabilities may be contracted for in a sum not to exceed two thousand five hundred dollars when this sum is reasonably expected from the receipts of a fair or exposition to be held in the immediate future. The fair association also may contract a debt not to exceed ~~ten~~ twenty thousand dollars for the purchase of real property or for permanent improvements on real property owned by the association if the debt is secured by mortgage on the real property of the association. The directors voting for any debt contracted or incurred in violation of this section shall be liable personally thereon.

SECTION 2. AMENDMENT. Section 4-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-04. **Income and expenses - Membership in association and terms thereof.** An agricultural fair association shall not be conducted for profit and shall have no capital stock. The bylaws of the association shall provide for charges to the public for admission to the grounds, fees for concessions, charges to exhibitors, and rental of the association's property, and the amounts thereof shall not be greater than is sufficient to discharge the association's debts for real estate and improvements thereon, to defray the current expenses of fairs, to carry on the business of the association, and to create a sinking fund in an amount not exceeding five ~~ten~~ twenty thousand dollars. The method of acquiring membership in the association, and

the term of such membership, shall be provided in the association's bylaws.

* SECTION 3. AMENDMENT. Subsection 2 of section 57-15-06.8 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding ~~one-fourth~~ of one mill.

Approved March 22, 1985

* NOTE: Section 57-15-06.8 was also amended by section 138 of Senate Bill No. 2086, chapter 82, and amended by section 3 of Senate Bill No. 2237, chapter 614, and amended by section 1 of Senate Bill No. 2315, chapter 615.

CHAPTER 90

HOUSE BILL NO. 1561
(Representatives Kingsbury, Nowatzki, A. Olson)
(Senators Vosper, Tallackson, Tweten)

SEED COMMISSION MEMBERSHIP

AN ACT to amend and reenact subsection 2 of section 4-09-03 of the North Dakota Century Code, relating to membership of the state seed commission.

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

SECTION 1. AMENDMENT. Subsection 2 of section 4-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The state seed commission, hereafter referred to as commission, shall be a seven-member board consisting of the president of the crop improvement association, the president of the certified potato growers association, the vice president for agriculture, North Dakota state university of agriculture and applied science, the president of the North Dakota agricultural association, an elected member of the North Dakota potato council selected by the North Dakota potato council, a public representative appointed by the commissioner of agriculture the highest elected officer of the red river valley potato growers association who is a North Dakota resident, and the commissioner of agriculture, or his the commissioner's designee, who shall serve as chairman.

Approved March 22, 1985

CHAPTER 91

HOUSE BILL NO. 1603
(Dalrymple)

AGRICULTURAL SEED LIABILITY

AN ACT to create and enact a new section to chapter 4-09 of the North Dakota Century Code, relating to the liability of the state seed commission, seed department, commissioner, and certified or noncertified agricultural seed producers.

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

SECTION 1. A new section to chapter 4-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Liability of seed commission, seed department, commissioner, and certified or noncertified agricultural seed producers. No warranties of any kind, either expressed or implied, including warranties of merchantability, fitness for a particular purpose, or absence of disease, are made by the state seed commission, the seed department, the commissioner or the commissioner's employees, or certified or noncertified agricultural seed producers as to the quantity or quality of the crop produced from the agricultural seeds or as to other produce which is inspected and certified, except as provided in this section. The only warranty made is that the agricultural seeds or other produce were produced, graded, packed, and inspected under the rules of the state seed department or United States department of agriculture. The commissioner and the commissioner's employees function and serve only in an official regulatory manner.

Approved March 14, 1985

CHAPTER 92

SENATE BILL NO. 2483
(Kelsh, Krauter)

SUNFLOWER COUNCIL MEMBERS AND DISTRICTS

AN ACT to amend and reenact sections 4-10.2-03 and 4-10.2-04 of the North Dakota Century Code, relating to membership and districts of the North Dakota state sunflower council.

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

SECTION 1. AMENDMENT. Section 4-10.2-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.2-03. North Dakota state sunflower council - Membership - Election - Term. There is hereby established a North Dakota sunflower council. The council shall be composed of one participating grower elected from each of the districts established in section 4-10.2-04. The chairman of the council shall be a member of the council elected by a majority vote of the council. The commissioner of agriculture shall be an ex officio member of the council. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member shall be three years and shall begin on April first of the year of election, except that initially two members shall be elected for a three-year term; two members shall be elected for a two-year term; and two members shall be elected for a one-year term as designated by the commissioner. The term of the representative for district seven must coincide with the term of the representative for district six. If at any time during a member's term the member shall cease to possess any of the qualifications provided for in this chapter, the member's office shall be deemed vacant and the remaining members of the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. The first election shall be held within forty-five days after April 9, 1977, and all elections thereafter shall be conducted within seventy-five days prior to April first. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

SECTION 2. AMENDMENT. Section 4-10.2-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.2-04. Sunflower districts - Establishment. The following sunflower districts are established for the purpose of dividing the state into districts containing as nearly equal sunflower acreages as practicable:

1. District one shall consist of the counties of Cavalier, Pembina, Ramsey, Walsh, Nelson, and Grand Forks.
2. District two shall consist of the counties of Griggs, Steele, Traill, Barnes, and Cass.
3. District three shall consist of the counties of LaMoure, Ransom, Richland, Dickey, and Sargent.
4. District four shall consist of the counties of Burleigh, Kidder, Stutsman, Emmons, Logan, and McIntosh.
5. District five shall consist of the counties of ~~Bottineau~~, Rolette, Towner, ~~McHenry~~, Pierce, Benson, Sheridan, Wells, Eddy, and Foster.
6. District six shall consist of the counties of Divide, Burke, Renville, Williams, Mountrail, Ward, ~~McKenzie~~, ~~Bunn~~, McLean, ~~Golden Valley~~, Billings, Stark, ~~Mercer~~, ~~Oliver~~, Merton, Slope, Hettinger, Grant, Bowman, Adams, and ~~Sieux~~ Bottineau, and McHenry.
7. District seven consists of the counties of Golden Valley, Billings, Stark, Morton, Slope, Hettinger, Grant, Bowman, Adams, Sioux, Dunn, McKenzie, Mercer, and Oliver.

Approved March 22, 1985

CHAPTER 93

SENATE BILL NO. 2284
(Senators Dotzenrod, Tweten)
(Representatives Nowatzki, Kent)

SOYBEAN COUNCIL

AN ACT to establish a North Dakota soybean council; to provide a penalty; and to provide an appropriation.

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

SECTION 1. Definitions. In this Act, unless the context or subject matter otherwise requires:

1. "Commissioner" means commissioner of agriculture or the commissioner's designated representative.
2. "Council" means the North Dakota soybean council.
3. "Designated handler" means any person who initially places soybeans, whether as an owner, agent, or otherwise, into the channels of trade and commerce, or who is engaged in the processing of soybeans into food for human consumption in any form. A grower selling the grower's unharvested soybeans, or delivering the grower's soybeans from the farm on which they are produced to storage facilities, packing sheds, or processing plants, within the state, is not considered to be a designated handler. For the purposes of assessments and reporting, "designated handler" includes a grower selling the grower's unharvested soybeans out-of-state, or delivering the grower's soybeans from the farm where they were produced to any storage facility, packaging shed, or processing plant located outside the state.
4. "Grower" means any person who plants, raises, and harvests soybeans from more than ten acres [4.05 hectares].
5. "Participating grower" means a grower who has not been exempted from the payment of taxes on soybean production under this chapter for a particular year, or a grower who is not exempt from the payment of taxes on soybean production under this Act.

6. "Person" means an individual, partnership, corporation, association, grower, cooperative, or any other business unit.
7. "Processor" means a person who is actively engaged in the processing of soybeans for human consumption.
8. "Soybeans" means any and all varieties of soybeans, excluding edible beans, harvested within the state.

SECTION 2. North Dakota soybean council - Membership - Election - Term. There is hereby established a North Dakota soybean council. The council must be composed of one participating grower elected from each of the districts established in section 3 of this Act. The chairman of the council must be a member of the council elected by a majority vote of the council. The commissioner is an ex officio member of the council. Every elected council member must be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member is three years, beginning on April first of the year of election, except that initially two members must be elected for three-year terms; three members must be elected for two-year terms; and three members must be elected for one-year terms as designated by the commissioner. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter, the member's office is deemed vacant and the council shall, by majority vote, appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. The first election must be held before August 15, 1985, and all elections thereafter shall be conducted between January fifteenth and April first. No elected member of the council is eligible to serve more than two consecutive three-year terms.

SECTION 3. Soybean districts - Establishment. The following soybean districts are established for the purpose of dividing the state into districts containing as nearly equal soybean acreages as practicable:

1. District one consists of Richland County.
2. District two consists of the counties of Ransom, Sargent, Dickey, and LaMoure.
3. District three consists of Cass County.
4. District four consists of the counties of Barnes, Griggs, and Steele.
5. District five consists of Traill County.

6. District six consists of Grand Forks County.
7. District seven consists of the counties of Walsh, Pembina, and Nelson.
8. District eight consists of all remaining North Dakota counties where soybeans are grown.

SECTION 4. Meetings - Quorum - Compensation and expenses of council.

All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of three council members within seven days of receiving the petition. Each member of the council, except the commissioner, will receive the same per day compensation as provided for members of the legislative council under section 54-35-10, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the council, except that no compensation may be paid to any council member who receives compensation or salary as a regular state employee or official.

SECTION 5. Expenditure of funds. The council or its designated agent shall approve every expenditure of funds made pursuant to this Act and submit the approved expenditure upon an itemized voucher to the office of the budget for approval. Items are to be paid by warrant-check issued by the office of management and budget.

SECTION 6. Council powers and duties. In the administration of this Act, the council may:

1. Contract and cooperate with any person or with any governmental department or agency for research, education, publicity, promotion, and transportation for the purposes of this Act.
2. Expend the funds collected pursuant to this Act and appropriated for its administration.
3. Appoint, employ, bond, discharge, fix compensation for, and prescribe the duties of such administrative, clerical, technical, and other personnel as it may deem necessary.
4. Accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the council.
5. Investigate and prosecute in the name of the state any action or suit to enforce the collection or ensure payment of the taxes authorized by this Act, and to sue and be sued in the name of the council.
6. Formulate policies and programs regarding the discovery, promotion, and development of markets and industries for the utilization of soybeans grown within the state.

SECTION 7. Tax levies - Collection - Reports. Effective July 1, 1985, an assessment at the rate of two cents per bushel [35.24 liters] must be levied and imposed upon all soybeans grown in the state or sold to a designated handler. This assessment is due upon any identifiable lot or quantity of soybeans.

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

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

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of soybeans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council, in a manner and at a time prescribed by the council, stating the quantity in individual and total amounts of soybeans received, sold, or shipped by it. The report must state from whom each individual amount was received. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this Act must be paid within thirty days of the end of each quarterly period to the council for deposit in the state treasury to the credit of an account designated "soybean fund" to be used exclusively to carry out this chapter. Quarterly periods end on March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

SECTION 8. Nonparticipating growers - Refunds. Any grower subject to the assessment provided by this Act may, within sixty days following such assessment or final settlement, make application by personal letter to the council for a refund application blank. Upon the return of the refund application blank, if it is properly executed by the grower, returned within sixty days of the date it was mailed to the grower, and accompanied by a record of the assessment by the designated handler, the grower must be refunded the net amount of the assessment collected. If no request for refund is made within the period prescribed above then the grower is

presumed to have agreed to the assessment. However, a grower, for any reason, having paid the tax more than once on the same soybeans, upon furnishing proof of this to the council, is entitled to a refund of the overpayment.

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

SECTION 9. Advisory referendum by growers. Whenever fifteen percent of the participating growers, with not more than fifty percent of the signatory parties from any one district, as disclosed by the records of the council for the preceding year, petition the council, the council shall conduct an advisory referendum among the participating growers of the state to determine whether they wish the legislative assembly to raise or lower the tax imposed by section 7 of this Act. The advisory referendum may be conducted only among participating growers who have paid all taxes assessed pursuant to this enactment for the preceding year, and the ballots must be prepared by the council and mailed to each participating grower at least thirty days prior to the last date for filing ballots. In addition, each ballot must be accompanied by a notice to each participating grower:

1. Of the date of the filing of the petition by the growers for the referendum and the number of signatures contained thereon.
2. Of the date and place where the council will open and tabulate the ballots, which date may not be less than five days after the last date for filing the ballots.
3. Of the last date upon which ballots may be filed with the council, or postmarked if delivered to the council by mail.
4. That any participating grower may attend the meeting of the council at the time the ballots are opened and the votes tabulated.

If a majority of the participating growers voting upon the question are in favor of the proposed change, the council shall certify the result to the commissioner with the request that the commissioner prepare a bill to submit to the next legislative session to modify this Act in conformity therewith.

SECTION 10. Collection of unpaid assessment. If a designated handler fails to pay the assessment provided by this Act, the council may enforce collection in any appropriate court within this state.

SECTION 11. Penalty for nonpayment of assessment. Any designated handler who fails to pay any assessment levied by this Act on the date that the assessment becomes due is delinquent and the council shall levy a penalty on such delinquent payments of ten percent of the assessment due, plus interest at the rate of twelve percent per annum from the due date. The penalty and interest shall be collected in the manner as prescribed by section 10 of this Act.

SECTION 12. Continuing appropriation. All funds received by the council pursuant to this Act are hereby appropriated.

SECTION 13. Records of council - Inspection. All of the records of the council, including acreage reports, tax returns, claims of exemption, and any other data, records, or information retained by the council are public information and must be available for the inspection of any person for any lawful purpose during regular business hours at the office of the council.

SECTION 14. Penalty. Any person who willfully violates this Act is guilty of a class B misdemeanor.

Approved April 4, 1985

CHAPTER 94

HOUSE BILL NO. 1115
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

BEES

AN ACT to create and enact a new section to chapter 4-12.2 of the North Dakota Century Code, relating to requirements for licensing minors as beekeepers; to amend and reenact sections 4-12.2-10 and 4-12.2-18, and subsection 4 of section 4-12.2-22 of the North Dakota Century Code, relating to establishment of pollination locations, issuance of certificates of health, and revocation of beekeepers licenses; and to repeal subsection 12 of section 4-12.2-01 of the North Dakota Century Code, relating to honey houses.

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

SECTION 1. A new section to chapter 4-12.2 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Application of minors for beekeepers license - Liability for minor. A beekeeper who is licensed either as a commercial operator or sideline operator must be at least eighteen years of age. However, an applicant for a beekeepers license who is less than eighteen years of age may be licensed as a commercial operator or sideline operator if the application for license is signed by either the mother, father, or guardian of the applicant. Any civil liability for violation of the beekeeping laws of this chapter by a beekeeper who is less than eighteen years of age must be imputed to the person who has signed the application of that beekeeper for a license, which person is jointly and severally liable with the beekeeper.

SECTION 2. AMENDMENT. Section 4-12.2-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12.2-10. Establishment of pollination locations.

1. When a person requests the commissioner to allow additional locations for the purpose of pollinating that

person's crop, the commissioner may waive the two-mile [3.22-kilometer] radius restriction if all the following conditions are met:

- 1- a. The applicant owns, leases, or rents the land on which the pollination location is to be located and uses the land for the purpose of growing a commercial seed, fruit, or other crop which depends on bees for pollination. The commissioner shall adopt rules defining these crops for which a location may be allowed for pollination and where necessary shall prescribe time limits for the placement of bees at pollination locations.
- 2- b. The applicant shall provide the department with all pertinent data and information necessary for the department to determine that each pollination location is needed to adequately pollinate the applicant's crop.
- 3- 2. The department may refuse to register a pollination location if the application does not demonstrate justification for the pollination location or specify the number and location of pollination locations needed for the purpose of adequately pollinating the applicant's crop.
- 4- 3. A pollination location may not be sold, leased, transferred, or rented to another person.
4. The department may refuse to register a pollination location if the applicant's bees and equipment have been found to not have at least a two-year disease free history.
5. The commissioner shall adopt rules defining those crops for which a location may be allowed for pollination, and where necessary may prescribe time limits for the placement of bees at pollination locations.

~~Property owners who produce a commercial seed, fruit, or other crop and own and personally manage bees maintained on their property are not subject to this section.~~

SECTION 3. AMENDMENT. Section 4-12.2-18 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12.2-18. Certificate of health - Issuance. At the request of the beekeeper, the commissioner, after an official inspection has been made, the bees and equipment have been found to be disease free, and all fees and civil or criminal penalties have been paid, shall issue a certificate of health signed by the bee inspector. The certificate of health must state that the bees and equipment have

been inspected, the date of the inspection, and that they are apparently free of disease.

SECTION 4. AMENDMENT. Subsection 4 of section 4-12.2-22 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The commissioner may refuse to grant a license to any person found guilty of repeated violations of this chapter or rules adopted under this chapter, or to any person who has failed to pay an adjudicated civil penalty for violation of this chapter within thirty days after a final determination that the civil penalty is owed.

SECTION 5. REPEAL. Subsection 12 of section 4-12.1-01 of the 1983 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1985

CHAPTER 95

HOUSE BILL NO. 1044
(Legislative Council)
(Interim Agriculture Committee)

VOTER APPROVAL OF SOIL CONSERVATION ORDINANCES

AN ACT to amend and reenact section 4-22-29 of the North Dakota Century Code, relating to vote requirements for approval of soil conservation ordinances.

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

SECTION 1. AMENDMENT. Section 4-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-29. Majority required to adopt ordinance - Effect of ordinance after adoption. No ordinance ~~shall~~ will be effective unless it is approved by at least ~~three-fourths~~ two-thirds of the voters voting in the referendum. If a proposed ordinance is approved, the supervisors shall enact it into law. Land use regulations prescribed in any ordinance adopted by the supervisors pursuant to this section ~~shall~~ have the force and effect of law in the district and ~~shall be~~ are binding and obligatory upon all qualified electors living within the district.

Approved March 14, 1985

CHAPTER 96

HOUSE BILL NO. 1621
(Representatives Starke, Nowatzki, Vander Vorst)
(Senators Wright, Bakewell)

SOIL CONSERVATION TRUST LANDS

AN ACT to amend and reenact section 4-22-51 of the North Dakota Century Code, relating to soil conservation trust lands.

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

SECTION 1. AMENDMENT. Section 4-22-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-51. Soil conservation trust lands. The state of North Dakota hereby accepts and declares to be held in trust for the soil conservation districts of the state for use in carrying out the soil conservation program those certain tracts or parcels of land lying and being in the ~~county of Burleigh and state of North Dakota~~ County and more particularly described as follows:

Township one hundred thirty-eight north, range eighty west, fifth principal meridian section fifteen: west one-half section sixteen: that portion of the southeast quarter described as follows: beginning at the southeast corner of said section sixteen, thence running north on the east line of said section 660 feet; thence west parallel with the south line of said section 2310 feet; thence south 660 feet to a point on the south line of said section 2310 feet west of the southeast corner of said section; thence east along the south line of said section 2310 feet to the place of beginning; containing thirty-five acres, more or less.

Subject, however, to the following rights, easements, exceptions, and reservations:

1. Easements for existing or established roads, highways and public utilities, if any.
2. Right reserved by the Department of the Army "to enter thereon and remove gravel and use the established rubbish disposal area as long as any part of Fort Lincoln Military Reservation is used by the department of the Army".

3. Reservation to the United States of America and its assigns of an undivided three-fourths interest in all coal, oil, gas, and other minerals, including three-fourths of all sand, gravel, stone, clay and similar materials, in or under such property, together with the usual mining rights, powers, and privileges, including the right at any and all times, to enter upon the land and use such parts of the surface as may be necessary in prospecting for, mining, saving and removing said minerals or materials, provided that such quantities of sand, gravel, stone, clay and similar materials, as may be required, may be utilized in the operation or improvement of the said lands.

The said lands, having been conveyed to the state of North Dakota by the United States of America for use in carrying out the soil conservation program of the soil conservation districts of the state, are further subject to the condition that they shall be used for public purposes and if at any time cease to be so used shall revert to and become revested in the United States. Upon approval by the United States of America in accordance with the original grant of the trust lands, the trust lands may be leased, sold, conveyed, traded for, or replaced by other land suitable for the benefit of the soil conservation program in this state. No lease, sale, conveyance, trade, or replacement of the trust lands may be made under conditions that will cause or may cause the reversion of the lands back to the United States of America.

The control, custody, possession, supervision, management, and operation, and transfer of the said trust lands and any replacement lands is hereby vested in the North Dakota Association of Soil Conservation Districts for use in carrying out the soil conservation program of the soil conservation districts of the state and the said association in such control, custody, possession, supervision, management, and operation, and transfer shall hold all accumulations of personal property or surplus funds derived from said lands in trust for the soil conservation districts of the state for use in carrying out the soil conservation program. Any transfer, sale, trade, or replacement of trust lands is excepted from section 38-09-01, and the North Dakota association of soil conservation districts may transfer all or a portion of the minerals held by the state or the association which are located under the trust lands. Any funds generated through bonuses, leases, royalties, or otherwise generated by minerals reserved by the association or funds generated from the sale of minerals must be held in trust as provided in this section.

Approved March 27, 1985

CHAPTER 97

HOUSE BILL NO. 1076
(Legislative Council)
(Interim Legislative Audit and Fiscal Review Committee)

INVESTMENT OF AGRICULTURAL COMMODITIES ENTITIES' MONEYS

AN ACT to provide for the state treasurer to invest moneys of the agricultural commodity entities.

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

SECTION 1. Agricultural commodity assessments funds - Investment income allocation. The state treasurer, at the direction of the governing body of the respective agricultural commodity entity, shall provide for the investment of available moneys in the spud fund, sunflower fund, edible bean fund, barley fund, honey fund, turkey fund, milk stabilization fund, dairy promotion commission fund, state wheat commission fund, and the beef commission fund. The state treasurer, by rule, shall establish guidelines to be followed by the agricultural commodity organizations regarding the investment of moneys in each fund. The state treasurer shall credit twenty percent of the investment income derived from each fund to the general fund in the state treasury as payment for accounting, printing, data processing, legal, and other services provided by the state to the agricultural commodity entity. The state treasurer shall credit eighty percent of the investment income derived from each fund to the respective fund. These moneys may be expended only within the limits of legislative appropriation.

Approved March 22, 1985

CHAPTER 98

SENATE BILL NO. 2100
(Senators Naaden, Tallackson)
(Representative Nowatzki)

MILK PRODUCER ASSESSMENT

AN ACT to create and enact a new subsection to section 4-27-06 of the North Dakota Century Code, relating to assessments charged milk producers; to amend and reenact subsection 1 of section 4-27-06 of the North Dakota Century Code, relating to the assessment charged milk producers under the North Dakota Dairy Promotion Act; to repeal subsection 1 of section 4-27-06 of the North Dakota Century Code, relating to assessments charged milk producers; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 1 of section 4-27-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. There is hereby levied on each producer an assessment of one-half of one percent of the gross receipts of ten cents per hundredweight [45.36 kilograms] on all milk or some product therefrom produced in this state and sold by that producer.

SECTION 2. A new subsection to section 4-27-06 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

There is hereby levied an assessment of one-half of one percent of the gross receipts of all milk or some product therefrom produced in this state.

SECTION 3. REPEAL. Subsection 1 of section 4-27-06 of the 1983 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 4. EFFECTIVE DATE. Sections 2 and 3 of this Act become effective upon certification by the dairy commissioner to the secretary of state of the approval of any national referendum held pursuant to the Agricultural Adjustment Act [48 Stat. 31; 7 U.S.C. 608c] to lower the amount levied on milk producers by the United States department of agriculture or of the reduction or elimination of the amount levied on milk producers by the United States department of agriculture.

Approved April 11, 1985

CHAPTER 99

HOUSE BILL NO. 1483
(Representatives Nowatzki, G. Berg, Nicholas)
(Senators W. Meyer, Vosper)

WHEAT COMMISSION MEMBER COMPENSATION

AN ACT to amend and reenact section 4-28-05 of the North Dakota Century Code, relating to compensation of the members of the North Dakota state wheat commission.

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

SECTION 1. AMENDMENT. Section 4-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28-05. Wheat commission - Meeting - Expenses - Legal adviser. Upon call of the governor, the commission shall first meet and organize by electing from the membership a chairman and vice chairman, who shall hold office for one year and until their successors are elected and have qualified. Thereafter the commission shall meet at least once every calendar quarter at such times and places as shall be determined by the commission and may meet in special meetings upon such call and notice as may be prescribed by rules adopted by the commission. Members of the commission shall be reimbursed for actual expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers and ~~shall be paid forty dollars~~ are entitled to receive the same per diem compensation as provided in section 54-35-10 for members of the legislative council for each day actually devoted to official business of the commission. The attorney general shall act as legal adviser to the commission or designate an assistant for that purpose and within the limit of the funds available to the commission it may employ other counsel to advise and represent the commission in its affairs and proceedings.

Approved March 27, 1985

CHAPTER 100

HOUSE BILL NO. 1177
(Committee on Agriculture)
(At the request of the Department of Agriculture)

IMITATION MILK SALES

AN ACT to create and enact a new subsection to section 4-30-01 and three new sections to chapter 4-30 of the North Dakota Century Code, relating to definitions for dairy products regulation, and the sale of imitation milk or imitation milk products and filled dairy products; to amend and reenact sections 4-30-53 and 4-30-56 of the North Dakota Century Code, relating to penalties for violation and enforcement of chapter 4-30 of the North Dakota Century Code, providing for dairy products regulation; to repeal sections 4-30-43 and 4-30-55 of the North Dakota Century Code, relating to the sale of filled dairy products and raw milk; and to provide a penalty.

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

SECTION 1. A new subsection to section 4-30-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Imitation milk" or "imitation milk product" means a food product or food compound made to resemble milk or a milk product when any of the following occurs:

- a. The food physically resembles milk or a milk product. "Physical resemblance" means those characteristics relating to the composition of food, including fat and moisture content, nonfat solids content, and functional ingredient or food additive content such as emulsifiers, stabilizers, flavor, or color additives.
- b. The packaging used resembles the packaging used for milk or for a milk product.
- c. The food product or food compound is displayed in a retail establishment in the same manner as milk or a milk product.

- d. Verbal or pictorial expressions are used on the food products or food compounds, labeling, or in advertisements or other similar devices used to promote the food products or food compounds that state or imply that the food is milk or a milk product.
- e. The food product or food compound in any other way is manufactured, packaged, or labeled so as to resemble the identity, intended use, or physical and sensory properties of milk or a milk product. "Physical and sensory properties" means those characteristics relating to flavor, texture, smell and appearance of a food product or food compound.

SECTION 2. A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Prohibition against sales of imitation milk or imitation milk products and filled dairy products. No person may sell any food product or food compound that is imitation milk, an imitation milk product, or a filled dairy product unless:

1. The food product or food compound bears a statement on the main display panel of the package or container stating that the food product or food compound is "imitation milk", or an "imitation milk product" or a "filled dairy product", or that it "contains imitation milk", "contains imitation milk product", or "contains filled dairy product", in letters not less than one-half the size of the product name, but in no case may the letters be smaller than eighteen-point type size.
2. In the case of imitation milk or imitation milk products, the label on the food product or food compound shall clearly state the major differences in ingredients and nutritional value between the imitation milk or imitation milk product and the milk or milk product it imitates or resembles.
3. In the case of filled dairy products, the label on the food product or food compound shall clearly state the major differences in ingredients and nutritional value between the filled dairy product and any milk and milk product it imitates or resembles.

SECTION 3. A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Exception for uses as directed by physicians. This chapter does not prohibit the manufacture or sale of filled dairy products or imitation milk and imitation milk products when such foods are clearly labeled to show their composition and the fact that they are sold customarily for use as directed by order of a physician and are

prepared and designed for medicinal or special dietary use and prominently so labeled.

SECTION 4. A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Sale of foods not imitation milk, imitation milk products, or filled dairy products. This chapter does not prohibit the manufacture or sale of proprietary foods which are clearly not imitation milk, imitation milk products, or filled dairy products, which do not contain imitation milk, imitation milk product, or filled dairy product, and which are not conducive to substitution, confusion, deception, and fraud upon the purchasers of milk, milk products, or filled dairy products by their manufacture or sale.

SECTION 5. AMENDMENT. Section 4-30-53 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-53. Penalty for violation of chapter - Additional civil penalty - Failure to pay civil penalty. Any person violating any of the provisions of this chapter or the rules of the dairy department for which another criminal penalty is not specifically provided is guilty of a class B misdemeanor. In addition, the dairy commissioner may assess a civil penalty not to exceed five hundred dollars per day for each violation or continuing violation, and may collect such civil penalty by a civil proceeding in any appropriate court may be imposed. The civil penalty may be imposed by the courts in a civil proceeding or by the dairy commissioner through an administrative hearing pursuant to chapter 28-32. If a civil penalty is imposed by the dairy commissioner through an administrative hearing and the civil penalty is not paid, the dairy commissioner may collect the civil penalty by a civil proceeding in any appropriate court. The dairy commissioner may suspend or revoke a license issued pursuant to this chapter for failure to pay a civil penalty within thirty days after a final determination is made that the civil penalty is owed.

SECTION 6. AMENDMENT. Section 4-30-56 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-56. Enforcement. The commissioner is authorized and directed to administer and supervise the enforcement of this chapter; to provide for periodic inspections and investigations he deems necessary to disclose violations of any acts prohibited by this chapter or the rules of the department; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both, upon his own initiative. The provisions of this chapter and the rules of the department may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products, imitation milk, or imitation milk products, illegally held or otherwise involved in violation of this chapter shall be subject to seizure and disposition in accordance with an appropriate court order.

SECTION 7. REPEAL. Sections 4-30-43 and 4-30-55 of the North Dakota Century Code are hereby repealed.

CHAPTER 101

HOUSE BILL NO. 1119
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

STANDARDS FOR GRADE A MILK

AN ACT to amend and reenact section 4-30-36 of the North Dakota Century Code, relating to the minimum standards for grade A milk.

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

SECTION 1. AMENDMENT. Section 4-30-36 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-36. Standards for grade A milk and milk products - Adoption of amendments. Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A shall be the same as the minimum requirements of the "Grade A Pasteurized Milk Ordinance, 1978 Recommendations of the United States Public Health Service" and all supplements added thereto except that the minimum requirements for ~~total~~ solids not fat in all grade A milk is eight and one-half percent and the butterfat content of grade A whole milk is three and one-fourth percent. The dairy commissioner may adopt as dairy department regulations any amendments, supplements to, or new editions of said milk ordinance which are in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability and promotion of grade "A" milk and milk products.

Approved February 6, 1985

CHAPTER 102

SENATE BILL NO. 2318
(J. Meyer, Dotzenrod)

COUNTY PEST COORDINATOR

AN ACT to amend and reenact section 4-33-11 of the North Dakota Century Code, relating to financing of local pest control programs.

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

SECTION 1. AMENDMENT. Section 4-33-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-33-11. Authority for financing local control programs - County pest coordinator.

1. The governing body of any political subdivision of this state may appropriate money for the control of pests. If state funds are involved, such money shall be expended according to control plans approved by the commissioner. The governing body of a political subdivision shall determine the portion, if any, of control program costs that should be paid by the political subdivision. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in such event the governing body may, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that such levy shall not exceed the limitation in subsection 1 of section 57-15-28.1.
2. The board of county commissioners for any county shall designate a person to serve as county pest coordinator. The county weed control officer may serve in that capacity if approved by the board of county commissioners. The county pest coordinator shall administer local and private funds in cooperation with state and federal pest control programs. When state funds are involved, the county pest coordinator shall submit county and township control plans to the commissioner of agriculture for approval.

Approved March 22, 1985

CHAPTER 103

SENATE BILL NO. 2137
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

PESTICIDE REGULATION

AN ACT to create and enact three new sections to chapter 4-35, a new subsection to section 4-35-05, a new subsection to section 4-35-23, and a new subsection to section 4-35-24 of the North Dakota Century Code, relating to reports of damage from pesticide application, pesticide stop-sale orders, definition of applicator, civil penalties for violation of pesticide laws, and enforcement of payment of civil penalties; to amend and reenact section 4-35-09, subsection 4 of section 4-35-12, and section 4-35-21 of the North Dakota Century Code, relating to pesticide act requirements and enforcement; and to repeal sections 28-01-40 and 28-01-41 of the North Dakota Century Code, relating to reports of pesticide accidents or loss.

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

SECTION 1. A new section to chapter 4-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reports of loss through pesticide application required. No civil action may be commenced arising out of the application of any pesticide by any applicator inflicting damage on property other than property within the target area of the pesticide application, unless the claimant has filed a verified report of loss with the commissioner of agriculture, together with proof of service of the verified report of loss upon the applicator allegedly responsible and, if the claimant is not the person for whom the work was done, then also the person for whom the work was done, within a period of sixty days from the occurrence of the loss or within sixty days from the date the claimant knew the loss had occurred. If the damage is alleged to have been occasioned to growing crops, the report must be filed prior to the time when fifty percent of the crop was harvested. If, however, the applicator does not inform the claimant of the legal requirements for the claimant to file a verified report of loss, the claimant shall have one year from the date of the incident to file a verified report of loss.

SECTION 2. A new section to chapter 4-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Contents of verified reports of damage. Any verified report of the loss arising out of the application of any pesticide by any applicator required by this chapter, must include, so far as known to the claimant: the name and address of the claimant, the type, kind, and location of property allegedly injured or damaged, the date the alleged injury or damage occurred, the name of applicator allegedly responsible for the loss or damage, and if the claimant is not the same person for whom the work was done, the name of the owner or occupant of the property for whom the applicator was rendering labor or services.

SECTION 3. A new section to chapter 4-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Stop-sale" orders. Where an emergency exists requiring immediate action to protect the public health and safety, based on inspection or tests, the commissioner of agriculture may issue and enforce a stop-sale order to the distributor of any pesticide when the commissioner finds that the pesticide is being offered for sale in violation of this chapter, and the order must direct that the pesticide be held at a designated place until released in writing by the commissioner. The owner or custodian of the pesticide may petition a court of competent jurisdiction in the county where the pesticide is found for an order releasing the product for sale in accordance with the findings of the court.

SECTION 4. A new subsection to section 4-35-05 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Applicator" means any person who applies a pesticide to land.

SECTION 5. AMENDMENT. Section 4-35-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-09. Commercial applicator's license. No person who would be a commercial applicator if certified shall purchase, use, or supervise the use of a restricted use pesticide without a commercial applicator's license issued by a county treasurer, unless exempted by this chapter, and without first complying with the certification standards and requirements of this chapter, or other restrictions as may be determined by the board. The board shall require an annual fee of twenty dollars for each commercial applicator's license issued and a fee of five dollars for taking the examination, both of which are is to be paid to the county treasurer, who shall deposit the fees fee in the county general fund. The license shall expire on December thirty-first of each year. If the county extension agent finds the applicant qualified to apply pesticides in the classifications he has applied for after such examinations examination as the board shall require by regulation, and the

applicant meets all other requirements of this chapter, the county treasurer of the appropriate county shall issue a commercial applicator's license limited to the classifications ~~he~~ the applicant is qualified in. If a ~~license~~ certification is not to be issued as applied for, the county extension agent shall inform the applicant in writing of the reasons therefor. Individuals licensed pursuant to this section shall be deemed certified commercial applicators for the use of restricted use pesticides.

SECTION 6. AMENDMENT. Subsection 4 of section 4-35-12 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The board shall require each pesticide dealer to demonstrate to the county extension agent ~~his~~ knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, disposal, and use and application of pesticides by satisfactorily passing an examination, after which the county treasurer shall issue a license of qualification. ~~A fee of five dollars shall be charged when an examination is requested and given.~~

*** SECTION 7. AMENDMENT.** Section 4-35-21 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-21. Reports of pesticide accidents or loss.

1. The board shall, by regulation, require the reporting to the commissioner of agriculture of pesticide accidents.
2. Any person claiming damages from a pesticide application inflicting damage on property other than property within the target area of the pesticide application shall report such the loss in accordance with sections 28-01-40 and 28-01-41 this chapter. Where damage is alleged to have occurred and the claimant has filed a report of loss in accordance with sections 28-01-40 and 28-01-41 this chapter, the claimant shall permit the commissioner, the ~~licensee~~ applicator, and his representatives to observe, during reasonable hours, the lands or nontarget organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the ~~licensee~~ applicator. The number of ~~licensee's~~ applicator's representatives who may make an observation under this subsection may be limited by the board.
3. A ~~commercial~~ An applicator shall inform any person employing him to apply to land any pesticide of the reporting requirements of section 28-01-40 this chapter.

* NOTE: Section 4-35-21 was also amended by section 1 of House Bill No. 1432, chapter 104.

SECTION 8. A new subsection to section 4-35-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

In addition to the criminal sanctions which may be imposed pursuant to subsections 1 and 2, a person found guilty of violating this chapter or the rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the commissioner of agriculture through an administrative hearing pursuant to chapter 28-32.

SECTION 9. A new subsection to section 4-35-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

If a civil penalty pursuant to section 4-35-23 is imposed by the commissioner of agriculture through an administrative hearing and the civil penalty is not paid, the commissioner may collect the civil penalty by a civil proceeding in any appropriate court. Additionally, the commissioner may suspend or revoke a license or certification issued pursuant to this chapter for failure to pay a civil penalty within thirty days after a final determination is made that the civil penalty is owed.

* SECTION 10. REPEAL. Sections 28-01-40 and 28-01-41 of the 1983 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 30, 1985

* NOTE: Section 28-01-40 which was repealed by section 10 of Senate Bill No. 2137 was amended by section 2 of House Bill No. 1432, chapter 104.

CHAPTER 104

HOUSE BILL NO. 1432
(Stofferahn, R. Berg)

PESTICIDE LOSS REPORTS

AN ACT to amend and reenact sections 4-35-21 and 28-01-40 of the North Dakota Century Code, or in the alternative to amend and reenact the new section to chapter 4-35 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2137, as approved by the forty-ninth legislative assembly, relating to reports of loss through pesticide application.

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

* SECTION 1. AMENDMENT. Section 4-35-21 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-21. Reports of pesticide accidents or loss.

1. The board shall, by regulation, require the reporting to the commissioner of agriculture of pesticide accidents.
2. Any person claiming damages from a pesticide application, except where the claimant was the operator or applicator of the pesticide, shall report such loss in accordance with sections 28-01-40 and 28-01-41. Where damage is alleged to have occurred and the claimant has filed a report of loss in accordance with sections 28-01-40 and 28-01-41, the claimant shall permit the commissioner, the licensee, and his representatives to observe, during reasonable hours, the lands or nontarget organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee. The number of licensee's representatives who may make an observation under this subsection may be limited by the board.

* NOTE: Section 4-35-21 was also amended by section 7 of Senate Bill No. 2137, chapter 103.

3. A commercial applicator shall inform any person employing him to apply to land any pesticide of the reporting requirements of section 28-01-40.

* SECTION 2. AMENDMENT. If Senate Bill No. 2137, of the forty-ninth legislative assembly, does not become effective, section 28-01-40 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-40. Reports of loss through pesticide application required. No civil action shall be commenced arising out of the use or application of any herbicide, insecticide, fungicide, or agricultural chemical by any applicator or operator, unless the claimant has filed a verified report of the loss with the state of North Dakota agriculture commissioner, together with proof of service of such verified report of loss upon the operator or applicator allegedly responsible and, if the claimant is not the person for whom such work was done, then also the person for whom such work was done within a period of sixty days from the occurrence of such loss or within sixty days from the date the claimant knew such loss had occurred, provided, however, if the damage is alleged to have been occasioned to growing crops, the report shall be filed prior to the time when fifty percent of the crop was harvested. No verified report of loss is required when the claimant was the operator or applicator of the herbicide, insecticide, fungicide, or agricultural chemical.

SECTION 3. AMENDMENT. If Senate Bill No. 2137, as approved by the forty-ninth legislative assembly, becomes effective, the new section to chapter 4-35 of the North Dakota Century Code, as created by section 1 of Senate Bill No. 2137, is hereby amended and reenacted to read as follows:

Reports of loss through pesticide application required. No civil action may be commenced arising out of the application of any pesticide by any applicator inflicting damage on property other than property within the target area of the pesticide application, unless the claimant has filed a verified report of loss with the commissioner of agriculture, together with proof of service of the verified report of loss upon the applicator allegedly responsible and, if the claimant is not the person for whom the work was done, then also the person for whom the work was done, within a period of sixty days from the occurrence of the loss or within sixty days from the date the claimant knew the loss had occurred. If the damage is alleged to have been occasioned to growing crops, the report must be filed prior to the time when fifty percent of the crop was harvested. If, however, the applicator does not inform the claimant of the legal requirements for the claimant to file a verified report of loss, the claimant shall have one year from the date of the incident to file a verified report of loss. No verified report of loss is required when the claimant was the operator or applicator of the herbicide, insecticide, fungicide, or agricultural chemical.

Approved March 29, 1985

* NOTE: Section 28-01-40 was repealed by section 10 of Senate Bill No. 2137, chapter 103.

CHAPTER 105

SENATE BILL NO. 2495
(Senators Kusler, Wright)
(Representatives Vander Vorst, Riehl)

AGRICULTURAL DEVELOPMENT ACT LOANS

AN ACT to amend and reenact subsection 1 of section 4-36-03 of the North Dakota Century Code, relating to qualifications for loans under the Agricultural Development Act.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 4-36-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Agriculture or agricultural enterprise" means and includes, ~~but is not limited to,~~ the real and personal property constituting farms, ranches, and other agricultural commodity producers; agriculturally related businesses; agriculturally related sewage, liquid and solid waste collection, disposal, treatment, and drainage services, and facilities; and agriculturally related antipollution and air, water, ground, and subsurface pollution abatement and control facilities and services; agriculturally related permanent soil and water conservation projects, including the installation of tiling for drainage, planting of perennial grasses, legumes, shrubs or trees, the establishment of grassed waterways, and the construction of terraces, or any other permanent soil and water conservation practice approved by the local soil conservation or water resource district; and conservation farm equipment or any type of no-till or minimum-till machinery and equipment.

Approved April 4, 1985

* NOTE: Section 4-36-03 was also amended by section 8 of House Bill No. 1404, chapter 136.

CHAPTER 106

HOUSE BILL NO. 1135
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

AGRICULTURE IN THE CLASSROOM

AN ACT to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to the establishment of an agriculture in the classroom program and council.

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

SECTION 1. A new chapter to title 4 of the North Dakota Century Code is hereby created and enacted to read as follows:

Agriculture in the classroom program. Recognizing the need to promote and foster an understanding of the agricultural economy of the state of North Dakota and the values of rural lifestyles, an agriculture in the classroom program is hereby established to be administered by an agriculture in the classroom council in conjunction with the commissioner of agriculture.

Agriculture in the classroom council. An agriculture in the classroom council is hereby established. The council consists of twelve members to be appointed by the commissioner of agriculture. One member must be the commissioner of agriculture or the commissioner's designee, and one member must be the superintendent of public instruction or the superintendent's designee.

Purpose - Powers and duties. The agriculture in the classroom council shall develop agricultural curriculum activities and train teachers in these agricultural curriculum activities for grades kindergarten through twelve in this state's public school system. The council shall work with all educators, including the superintendent of public instruction, the state department of vocational education, the United States department of agriculture, and the state commissioner of agriculture in accomplishing its purpose. The council shall render services consistent with this purpose which include:

1. Consultations with the state superintendent of public instruction, the state department of vocational education,

the state commissioner of agriculture, and the United States department of agriculture.

2. Preparation of instructional, informational, and reference publications on the North Dakota agricultural economy and rural lifestyles.
3. Provide training programs for public school teachers in developed agricultural curriculum activities.
4. Encourage research on and identification of new instructional, informational, and reference publications relating to this state's agricultural economy and rural lifestyles.
5. Monitor the quality and condition of the agriculture in the classroom program.

Gifts and grants. In order to carry out its duties under this chapter, the agriculture in the classroom council may contract for and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources. Additional income must be spent for the purpose designated, if any, in the gift, grant, or donation.

Expenses of council members. Members of the agriculture in the classroom council may not receive any compensation for their services on the council, but are entitled to be reimbursed for their expenses incurred in performing their duties in the amounts provided by law for state employees.

Approved March 27, 1985