

AGRICULTURE

CHAPTER 79

SENATE BILL NO. 2116
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

DESTRUCTION OF UNDESIRABLE CREATURES

AN ACT to amend and reenact sections 4-01-17.1, 4-01-17.2, and 4-01-17.3 of the North Dakota Century Code, relating to the commissioner of agriculture's cooperation with federal agencies in the destruction of predatory animals, destructive birds, and injurious field rodents.

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

SECTION 1. AMENDMENT. Section 4-01-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-01-17.1. State to cooperate with federal bureau of sport fisheries and wildlife the animal and plant health inspection service and other agencies in destruction of predatory animals, destructive birds, and injurious field rodents. The commissioner of agriculture may cooperate with the United States department of the interior, bureau of sport fisheries and wildlife department of agriculture, animal and plant health inspection service, or other appropriate federal agency, in the control and destruction of: coyotes, wolves, bobcats, and foxes in this state that are injurious to livestock, poultry, and big and small game; injurious field rodents in rural areas; and certain nongame species of birds causing crop damage or substantial economic loss. This control and destruction must be approved by the game and fish commissioner. The commissioner of agriculture may enter into written agreements with the bureau of sport fisheries and wildlife animal and plant health inspection service or other appropriate federal agency, and the game and fish commissioner covering the methods and procedures for the control and destruction of these birds and animals, the extent of supervision by either or both the commissioner of agriculture and the bureau of sport fisheries and wildlife animal and plant health inspection service or other appropriate federal agency, and the use and expenditure of the funds appropriated therefor by the legislative assembly. The commissioner of agriculture, in cooperation with the bureau of sport fisheries and wildlife animal and plant health inspection service or other appropriate federal agency, may enter into agreements with other governmental agencies and with counties,

associations, corporations, or individuals when such cooperation is deemed to be necessary to promote the control and destruction of these birds and animals.

SECTION 2. AMENDMENT. Section 4-01-17.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-01-17.2. Expenditures authorized - Who to approve vouchers - Qualifications of hunters and trappers hired - When bounties not payable. The commissioner of agriculture may make such expenditures from funds available for ~~such purpose for~~ equipment, supplies, and other expenses, including expenditures for personal services of hunters and trappers, as may be necessary to execute the functions imposed upon him by section 4-01-17.1. Hunters and trappers employed under section 4-01-17.1 shall be state residents, but shall not be entitled to bounty provided by state laws for the killing or extermination of these birds and animals. All vouchers for ~~such~~ expenditures made by the commissioner of agriculture under this section shall be approved as to correctness by the duly authorized agent of the bureau of sport fisheries and wildlife animal and plant health inspection service or other appropriate federal agency.

SECTION 3. AMENDMENT. Section 4-01-17.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-01-17.3. Disposition of proceeds of furs, skins, and specimens taken. All furs, skins, and specimens taken by hunters and trappers paid out of funds appropriated to carry out section 4-01-17.1 shall be disposed of in a manner the commissioner of agriculture ~~shall determine~~ determines is in the state's best interests. If ~~such~~ furs, skins, or specimens are sold, the net proceeds of ~~such~~ the sales shall be deposited with the state treasurer to be credited to the general fund.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 80

SENATE BILL NO. 2492
(Freborg)

COUNTY AGENT LEVIES

AN ACT to amend and reenact sections 4-08-15 and 4-08-15.1 of the North Dakota Century Code, relating to county mill levy limitations for county agent work.

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

SECTION 1. AMENDMENT. Section 4-08-15 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-15. Tax levy - Appropriation from county general fund - Both authorized. The board of county commissioners of any county of this state in which a levy for county agent work has been voted on and approved by the people as provided for in sections 4-08-01 and 4-08-03 may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09, not exceeding the limitation in subsection 4 of section 57-15-06.7. The statutory mill levy limitation in effect during any biennium, and not the limitation in effect at the time of a county's vote for county agent work or the number of mills that may have been stated in the ballot for such a vote, is the applicable limitation. If it determines that the amount derived from the levy will not be sufficient for such purpose the board may appropriate additional funds out of the county general fund to cover the deficiency.

SECTION 2. AMENDMENT. Section 4-08-15.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-15.1. County agent work - Additional tax levy. The board of county commissioners of any county, upon passage of a resolution, may submit, at the next regularly scheduled or special election in the county, the question of providing for an additional annual levy not exceeding the limitation in subsection 5 of section 57-15-06.7 for county agent work. If the question submitted is approved by a majority of the electors voting thereon, the county commissioners shall proceed to make the levy. The number of mills approved by the

electors as an additional annual levy may not be increased by the board of county commissioners without voter approval of such increased levy as set out in this section, even if there is a subsequent increase in the mill levy limitation in subsection 5 of section 57-15-06.7. Upon approval of the levy for the county agent work, the board of county commissioners may expend the funds in the manner it deems best adapted to accomplish the purposes set forth by law. The levy may be discontinued upon the passage of a resolution by the board of county commissioners.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 81

HOUSE BILL NO. 1531
(Nowatzki, Kingsbury)

SEED EXPORT CERTIFICATION

AN ACT to create and enact two new subsections to section 4-09-01 and a new section to chapter 4-09 of the North Dakota Century Code, relating to export certification authority of the state seed commissioner; and to amend and reenact section 4-09-19 of the North Dakota Century Code, relating to authority of the state seed commissioner to enter into agreements.

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

SECTION 1. Two new subsections to section 4-09-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

"Pest" means any invertebrate animal, pathogen, parasitic plant, or similar organism causing or capable of causing injury or damage to any plant or part of a plant or any processed, manufactured, or other product of a plant.

"Phytosanitary certificate" means a document issued or authorized by the commissioner indicating that the seed or tubers were inspected and considered to be free from quarantine pests and practically free from injurious pests according to the sanitary requirements of the importing country.

SECTION 2. A new section to chapter 4-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Inspection - Export certification - Fees. The commissioner or the commissioner's authorized representative may inspect agricultural seed, flower seed, vegetable seed, tree and shrub seed, and Irish potato tubers when the seed or tubers are offered for export. The commissioner may issue a phytosanitary certificate to plant quarantine officials and may make reasonable charges for this service. Certificates may be withheld if the product does not meet sanitary requirements and if all state licensing and bonding

requirements have not been met. The name and address of the consignee on the phytosanitary certificate is confidential.

SECTION 3. AMENDMENT. Section 4-09-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-19. Cooperation by commissioner with institutions, agencies, and organizations. The commissioner may cooperate and enter into agreements with the United States department of agriculture and with the state departments and agricultural colleges of any of the states, and with organized agricultural fairs or exhibitions, or other organizations or persons in matters relating to the protection, inspection, analysis, testing, registering, and certifying of North Dakota seed, and the promotion and protection of the interests and welfare of North Dakota seed growers and crop producers. The commissioner may recognize and deal with growers, organizations, and institutions as agencies affiliating with ~~him~~ the commissioner in pure seed matters.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 82

SENATE BILL NO. 2110
(Committee on Agriculture)
(At the request of the State Seed Department)

SEED LABELING AND TESTING

AN ACT to create and enact a new subsection to section 4-09-01 and a new subsection to section 4-09-10 of the North Dakota Century Code, relating to definitions of labeler and disease test; to amend and reenact subsections 6, 17, and 18 of section 4-09-01, subsection 1 of section 4-09-03, sections 4-09-05, 4-09-08, 4-09-14.1, 4-09-14.2, 4-09-14.3, 4-09-14.4, subsections 2, 3, and 5 of section 4-09-15, sections 4-09-22, 4-09-23, and 4-09-24 of the North Dakota Century Code, relating to rulemaking authority, free seed tests, seed labeling fee permits, reports, offenses, and enforcement; and to provide a penalty.

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

SECTION 1. AMENDMENT. Subsections 6, 17, and 18 of section 4-09-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Restricted noxious weed seeds" shall mean the seeds of weeds which are highly objectionable in fields, lawns, and gardens, but which can be controlled by good cultural practices or other means. Included herein are the seeds of dodder (*Cuscuta* species ~~except *C. erythraea*~~), wild mustard (~~*Brassica spp.*~~ *Sinapis arvensis* syn. *brassica kaber*), frenchweed (*Thlaspi arvense*), hedge bindweed (*Convolvulus sepium*), wild oats (*Avena fatua*), and quack grass (*Agropyron repens* L. Beauv.); provided, however, that the commissioner may, through promulgation of regulations, add to or delete from the list of seeds included under either classification in subsections 5 and 6 whenever he finds, after due consideration, that such additions or deletions are within the respective classifications;
17. "Germination" shall mean the percentage of seed capable of producing normal seedlings under ordinarily favorable conditions as determined by methods prescribed under the rules established by the seed analysts association of

North America association of official seed analysts, but not including seed which produces weak, malformed, or obviously abnormal sprouts;

18. "Hard seed" shall mean the percentage of seed which, because of hardness or impermeability, do not absorb moisture or germinate under prescribed test but remain hard during the period prescribed for germination of the kind of seed concerned as determined by methods prescribed under the rules established by the seed analysts association of North America association of official seed analysts;

SECTION 2. A new subsection to section 4-09-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Labeler" means the person who furnishes the information required in sections 4-09-10, 4-09-11, 4-09-11.1, and 4-09-22.1.

SECTION 3. AMENDMENT. Subsection 1 of section 4-09-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state seed commission shall be the governing board of the seed department and shall adopt rules and regulations pursuant to chapter 28-32 to effectuate the purposes of this chapter section.

SECTION 4. AMENDMENT. Section 4-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-05. Rules and regulations - Authority to make. The commissioner, with the approval of the commission, from time to time shall adopt, publish, and amend uniform rules and regulations for carrying out the purposes and enforcing the provisions of this chapter and shall alter or suspend the rules and regulations from time to time as he finds necessary. The rules, regulations, definitions of terms, and conditions promulgated by the commissioner shall be approved by the attorney general as to form and legality, filed in the office of the commissioner, and published once in a newspaper of general circulation to be designated by the commissioner, in the city where the commissioner's main office is located. Thereafter, such rules, regulations, and definitions shall have the force and effect of law. An affidavit of publication setting forth the rules, regulations, definitions, or amendments thereto as published, shall be made by the publisher of the newspaper, his agent, or the newspaper manager, and shall be filed in the office of the commissioner. Such affidavits, or copies thereof certified by the commissioner, shall be prima facie evidence of the facts therein contained and of the due adoption and publication of the rules, regulations, definitions, or amendments may adopt rules in conformance with the provision of chapter 28-32.

SECTION 5. AMENDMENT. Section 4-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-08. Public laboratory service - Free tests - Fees for additional tests. Any resident of this state may send samples of cereals, flax, soybean, and edible bean seed to the commissioner for examination, analysis, or test, but not to exceed or germination tests. No more than three samples per year per person shall be examined and reported on free of charge. The commissioner, ~~however,~~ shall through promulgation of regulations prescribe the time of year when seed samples will be accepted for free tests, the fees which will apply to samples submitted by any resident of the state in excess of three, and the fees which will be charged for all other laboratory tests and services.

SECTION 6. A new subsection to section 4-09-10 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

A disease test result for seed borne diseases. For the purpose of this subsection the words "disease test result" have the meaning ascribed to them by regulations promulgated by the state seed commissioner.

SECTION 7. AMENDMENT. Section 4-09-14.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-14.1. Seed sales - Fee tags or stamps required Seed labeling fee permit - Exception. No person shall sell agricultural, vegetable, flower, or tree or shrub seed within, or for delivery within, this state unless a fee tag or stamp seed labeling fee permit has been obtained from the seed department has been affixed to the seed container or a selling permit and has been issued to the seller pursuant to section 4-09-14.4.

SECTION 8. AMENDMENT. Section 4-09-14.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-14.2. Fee tags or stamps Seed labeling fee permit - Cost added to selling price. The fee tag or stamp required by section 4-09-14.1 shall be attached to the seed container in the prescribed denomination for the quantity of seed in the container. Fee tags or stamps shall be in the form prescribed by the commissioner and sold by the seed department at face value to seed vendors. The cost of fee tags or stamps attached to seed containers shall be added to the selling price of the seed by all wholesalers and processors. Seed sold by one wholesaler to another wholesaler need not be tagged or stamped. The labeler shall remit fees required by section 4-09-14.1 to the state seed department.

SECTION 9. AMENDMENT. Section 4-09-14.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-14.3. Fees. The denomination of a fee tag or stamp fees required by section 4-09-14.1 shall be attached to a seed container pursuant to the following fee schedule:

1. A container containing:

100 to 160 lbs. of seed	.....	eight cents
60 to 99 lbs. of seed	.....	seven cents
30 to 59 lbs. of seed	.....	six cents
15 to 29 lbs. of seed	.....	five cents
1/2 to 14 lbs. of seed	.....	four cents

2. Cereal grains, per 100 pounds [45.36 kilograms], two cents

Flax, soybeans, edible beans, per 100 pounds
[45.36 kilograms], four cents

3. Whenever seed is sold at wholesale or on consignment or commission in packets of eight ounces [226.80 grams] or less, ~~the lot container shall bear packet seed fee stamps. Each stamp the fee shall cost be fifty cents per twenty-five dollars of wholesale value, or fraction thereof, of the packets in the lot container. Each stamp shall be attached in such a manner that it will not be destroyed upon the opening of the lot container. Packet seed stamps shall be purchased by the packet seed packer from the seed department.~~

SECTION 10. AMENDMENT. Section 4-09-14.4 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-14.4. Permit --Issuance in lieu of fee tags or stamps. The commissioner is authorized at his discretion, under such rules as may be promulgated, to issue a permit to any person to sell agricultural, vegetable, flower, and tree and shrub seeds in North Dakota ~~without the use or attachment of fee tags or stamps purchased from the seed department.~~ The person shall apply to the commissioner for a permit and shall furnish the seed department with quarterly statements of all seeds sold in North Dakota. Each quarter statement shall be itemized to show the number of each class of containers referred to in section 4-09-14.3. Statements shall be furnished for each calendar quarterly period, shall be delivered to the commissioner not later than thirty days after the end of each quarterly period, and shall be accompanied by the appropriate fee. Any person to whom a permit is granted shall show such information in connection therewith as the commissioner ~~shall~~ may require as part of the analysis tag label on all seed sold. The commissioner or his authorized agent shall have the right at all reasonable times to examine the records of any permitholder to verify the correctness

of its statements. The commissioner, when requested, may grant a farmer who grows his own seed and sells only his own seed, the right to report annually instead of quarterly.

SECTION 11. AMENDMENT. Subsections 2, 3, and 5 of section 4-09-15 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. ~~Seed or grain~~ Grain which is not intended for sowing purposes;
3. Seed stored by or consigned to a seed cleaning or ~~preessing conditioning~~ preessing conditioning plant for the purpose of cleaning or ~~preessing conditioning~~ preessing conditioning; provided that any labeling or other representation which may be made with respect to uncleaned or ~~unpreessed unconditioned~~ unpreessed unconditioned seed shall be subject to the requirements of this chapter;
5. ~~Seeds which are sold or exchanged by farmers within any community who are not engaged in commercial seed business. A farmer who grows his own seed and sells only his own seed and does not advertise or use a third party as an agent or broker to bring buyer and seller together.~~

SECTION 12. AMENDMENT. Section 4-09-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-22. Prosecution for violations - Duty of attorney general and state's attorney. Upon a complaint by the commissioner, ~~after a hearing as provided in section 4-09-21,~~ alleging a violation of this chapter or of any regulation duly made thereunder, the attorney general, or the state's attorney of the county wherein the case arises, shall cause appropriate legal proceedings to be commenced and prosecuted for the enforcement of the penalties provided in this chapter. ~~No prosecution shall be instituted under this section unless the commissioner has held a hearing as provided in section 4-09-21.~~

SECTION 13. AMENDMENT. Section 4-09-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-23. Seizure and injunction - Action. Any lot of agricultural, flower, tree and shrub, or vegetable seed not in compliance with the provisions of this chapter shall be subject to seizure on complaint of the commissioner, or his agent, to a court of competent jurisdiction in the locality in which the seed is located. In the event that the court finds the seed to be in violation of this chapter and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state. Provided, that in no instance shall the court order such disposition of said seed without first having given the claimant an opportunity to apply to the court for the release of said seed, or permission to process or relabel it in compliance with the provisions of this chapter. Any violation of

This chapter may be enjoined in a court of competent jurisdiction without bringing any other civil or criminal action.

SECTION 14. AMENDMENT. Section 4-09-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-24. Penalty - Criminal - Civil. Any person who violates any of the provisions, or who refuses to comply with any of the requirements of this chapter, or of any regulation duly made hereunder shall be guilty of an infraction:

1. A person who violates this chapter or any rules adopted under this chapter is guilty of a class A misdemeanor.
2. When construing and enforcing the provisions of this chapter, the act, omission or failure of any officer, agent, or other person acting for or employed by any person must in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.
3. 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 through an administrative hearing pursuant to chapter 28-32.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 83

HOUSE BILL NO. 1545
(Representatives Mydral, Starke)
(Senators Axtman, Bakewell)

STATE SEED COMMISSION MEMBERSHIP

AN ACT to amend and reenact subsection 2 of section 4-09-03 of the North Dakota Century Code, relating to the 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 1985 Supplement to 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 a representative of the North Dakota agricultural association, an elected member of the North Dakota potato council selected by the North Dakota potato council, the highest elected officer of the red river valley potato growers association who is a North Dakota resident, a representative of the North Dakota grain dealers association who also operates a state-approved seed conditioning plant selected by the board of directors of the North Dakota grain dealers association, and the commissioner of agriculture, or the commissioner's designee, who shall serve as chairman. The dean of the school of agriculture of the North Dakota state university of agriculture and applied science is an advisory, nonvoting member of the commission.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 84

SENATE BILL NO. 2112
(Committee on Agriculture)
(At the request of the State Seed Department)

CERTIFIED SEED VARIETY PROTECTION

AN ACT to create and enact a new section to chapter 4-09 of the North Dakota Century Code, relating to the sale of certified varieties of seed protected by the Plant Variety Protection Act.

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:

Plant Variety Protection Act. Any seed advertised, offered for sale, or sold by variety name and for which a certificate of plant variety protection has been issued under the Plant Variety Protection Act, as amended, [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C. 2481 et seq.] as being for sale only as a class of certified seed must be certified by an official seed certifying agency in order for the seed to be advertised, offered for sale, or sold by variety name in the state of North Dakota. Seed from a certified lot may be labeled as to variety name when used in a blend or mixture by or with approval of the owner of the variety.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 85

HOUSE BILL NO. 1209
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

BEES

AN ACT to amend and reenact subsections 3 and 11 of section 4-12.2-01, sections 4-12.2-04.1 and 4-12.2-07, subsection 2 of section 4-12.2-09, subsection 4 of section 4-12.2-10, and section 4-12.2-12 of the North Dakota Century Code, relating to beekeeping; and to repeal subsection 17 of section 4-12.2-01 and subsection 2 of section 4-12.2-06 of the North Dakota Century Code, relating to definitions and fees for beekeeping.

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

SECTION 1. AMENDMENT. Subsections 3 and 11 of section 4-12.2-01 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. "Bees" means any stage of the common honeybee, Apis Mellifera & honey producing insects of the genus Apis, including all life stages of such insects. The word "bees" as used in this chapter is not limited to the common honey bee but includes Africanized bees.
11. "Hobby operator" means any beekeeper who maintains twenty-three one hundred or fewer colonies of bees.

SECTION 2. AMENDMENT. Section 4-12.2-04.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12.2-04.1. Application of minors for beekeepers license - Liability for minor. A beekeeper who is licensed either as a commercial operator or ~~sideline~~ hobby 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~~ hobby 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 3. AMENDMENT. Section 4-12.2-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12.2-07. Registration of an apiary.

1. Each beekeeper shall ~~register~~ make application for registration of all apiaries which are under the beekeeper's control within the state. The application forms for registration shall be furnished by the department. The applicant shall provide the following information on the form provided:
 - a. The applicant's name, place of residence, and post-office address.
 - b. The location of each apiary, setting forth specifically the type of apiary, the location to the nearest section, quarter section, township, and range, and, if within the corporate limits of a city, the number or name of the lot, block, and addition in the city.
 - c. The name of the property owner on whose property the apiary is located; where the registrant is not the property owner, a copy of the lease or other document from the property owner granting the applicant permission to maintain an apiary at that location. The lease or other document is adequate for subsequent registrations if the parties to the agreement remain the same.
 - d. Any other information the department may require under rules adopted by it for the protection, safety, and welfare of the public and the beekeeping industry.
2. New commercial apiaries may be submitted for registration with the department at any time.
3. Priority in time of application gives the superior right to occupy a location.
4. A beekeeper may maintain or establish an apiary only after application is made and registration of the apiary is approved by the department.

SECTION 4. AMENDMENT. Subsection 2 of section 4-12.2-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A ~~hobbyist or sideline beekeeper~~ hobby operator has territorial rights to one location. For purposes of this subsection, "territorial rights" means the right to exclusively occupy a location in the area within two miles [3.22 kilometers] of that location except that apiaries registered prior to a new yard with territorial rights may not be canceled. Apiaries established pursuant to sections 4-12.2-10, 4-12.2-11, and 4-12.2-12 are not subject to this subsection.

SECTION 5. AMENDMENT. Subsection 4 of section 4-12.2-10 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The department may refuse to register a pollination location if the ~~applicant's beekeeper's~~ bees and equipment have been found to not have at least a two-year disease free history.

SECTION 6. AMENDMENT. Section 4-12.2-12 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12.2-12. Establishment of noncommercial locations. The two-mile [3.22-kilometer] radius restriction does not apply to a noncommercial apiary established by ~~either~~ a hobby ~~or sideline~~ operator. A commercial operator may not maintain a noncommercial apiary.

SECTION 7. REPEAL. Subsection 17 of section 4-12.2-01 and subsection 2 of section 4-12.2-06 of the 1985 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 86

HOUSE BILL NO. 1318
(Representative O. Hanson)
(Senator Bakewell)

ALFALFA LEAFCUTTER BEES

AN ACT to create and enact chapter 4-12.3 of the North Dakota Century Code, relating to the keeping of alfalfa leafcutter bees; to provide a penalty; and to provide an appropriation.

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

SECTION 1. Chapter 4-12.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-12.3-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Bee" means any stage of the alfalfa leafcutter bee, *megachile rotundata (fabricius)*.
2. "Beekeeper" means any person who owns, leases, or manages alfalfa leafcutter bees for pollination or the production of alfalfa, either for personal or commercial use.
3. "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.
4. "Disease" means any disease, parasite, or pathogen that affects bees.
5. "Equipment" means grooved boards, shelters, trays, incubators, cell removers, tumblers, and other apparatus used in rearing bees.
6. "Nesting materials" means equipment, laminates, and other apparatus used in nesting bees.
7. "Wild trap" means to trap bees on property not owned or leased by the trapper.

4-12.3-02. Commissioner - Duties. The commissioner shall:

1. Adopt rules containing minimum standards for the presence of disease in bees to be certified, imported, possessed, or controlled in this state.
2. Prior to the adoption, amendment, or repeal of any rule shall consult with members of the alfalfa leafcutter bee industry.

4-12.3-03. Emergency orders and rules. Where an emergency exists requiring immediate action, the commissioner may, without notice or hearing:

1. Issue an order reciting the existence of the emergency and requiring that the necessary action be taken to meet the emergency; or
2. Adopt emergency rules which recite the existence of an emergency and provide a solution to the emergency.

An emergency order or emergency rule is effective immediately, but may not be effective for more than ninety days.

4-12.3-04. State alfalfa leafcutter bee inspector - Appointment - Qualifications. The commissioner shall appoint a person qualified by scientific training or practical experience as state alfalfa leafcutter bee inspector. The bee inspector shall be furnished with all supplies, equipment, and support necessary to carry out this chapter. The commissioner shall, on the recommendation of the inspector, appoint and dismiss deputy inspectors to assist the inspector in performing the inspector's duties.

4-12.3-05. Bee inspector - Duties - Powers.

1. The state bee inspector shall inspect bees, equipment, and nesting materials within this state as required by this chapter.
2. Any bees, equipment, and nesting materials may be inspected for the purpose of ascertaining the existence of any disease, for the treatment or destruction of such disease of bees, or for the purpose of enforcing this chapter.
3. The inspector or any deputy inspector may enter upon private property during reasonable hours for the purpose of inspection. Access may not be denied or hindered by any person while the inspector or the inspector's deputy is acting in an official capacity.
4. The beekeeper shall follow the instruction and supervision of the inspector or deputy inspector for the treatment, control, and eradication of any disease found in or on bees, equipment, buildings, or nesting materials.

5. If the beekeeper does not comply with the instructions given by the inspector or the deputy inspector, the inspector may cause the specified treatment to be applied or, if necessary, may cause the infected bees to be destroyed. A beekeeper may not recover damages or compensation for the loss of any diseased bees or equipment destroyed or damaged pursuant to this chapter or any rules adopted pursuant to this chapter.
6. After the inspection or handling of any diseased bees, equipment, building, or nesting materials, the inspector or deputy inspector shall take the measures necessary to prevent the spread of any bee disease.
7. Prior to the adoption, amendment, or repeal of any rule, the inspector or deputy inspector, shall consult with members of the alfalfa leafcutter bee industry.

4-12.3-06. Inspection and certification - Fees.

1. No person may import, possess, or control bees in this state unless the bees are certified annually under this section.
2. To certify bees, a person shall file a completed application form provided by the commissioner together with the certification and laboratory fees prescribed by the commissioner. The application must include the following:
 - a. Name and place of residence;
 - b. The locations of the shelters to the nearest quarter section and number of bees to be registered; and
 - c. Other necessary information prescribed by the commissioner.
3. After receipt of an application for certification, a sample of the total population of bees to be certified must be selected by the beekeeper, the inspector, or the deputy inspector in a manner prescribed by the commissioner. The sample must be inspected for disease. If no disease in excess of certification standards is found, the sample must be reported within certifiable limits.
4. When the commissioner receives a completed application form, the bees and equipment have been found to be within certifiable limits, and all fees and civil and criminal penalties have been paid, the commissioner shall issue a certificate for the bees. The certificate must state that the bees and equipment have been inspected, the date of

the inspection, and that they are apparently within certifiable limits.

5. The commissioner shall specify the date by which any applicant must apply for recertification the following year. An applicant for recertification who applies for recertification after the date specified must be assessed a penalty equal to ten percent of the certification fee.

4-12.3-07. Restrictions on importing bees and equipment.

1. Prior to the importation of any bee, the importer shall file a completed application form as required under section 4-12.3-04 and arrange with the commissioner a date and time for inspection.
2. Prior to certification, each bee, bee container, and all equipment used to transport the bees may be quarantined.
3. No bees may be imported except in loose cells or as adults. No bees may be imported in a drilled board, soda straw, or other equipment that prevents adequate inspection of the bee.
4. A representative sample of the population of bees imported must be inspected as the basis for certification.
5. No person may import used equipment or nesting materials.
6. No bee may be certified unless all other requirements of section 4-12.3-04 are met.

4-12.3-08. Restrictions on rearing, moving, and trapping bees.

1. No person may rear any bee in a drilled board, soda straw, or other nesting material from which samples of loose larval cells cannot readily be obtained.
2. No person may move any quarantined bee, equipment, or nesting material except by special permit issued by the commissioner.
3. No person may wild trap or attempt to wild trap bees unless that person has been issued a permit to wild trap in accordance with rules adopted by the commissioner.
4. The permits issued under subsections 2 and 3 must be issued under rules adopted by the commissioner. The commissioner shall adopt a schedule of fees for each permit.

4-12.3-09. Abandoned apiary and abandoned equipment - Seizure, destruction, or sale. Any bees, equipment, or nesting materials not regularly maintained and attended to in accordance with this chapter

or which comprise a hazard or threat to disease control in the beekeeping industry may be considered abandoned and will be subject to seizure by the state bee inspector. Any bees not properly maintained so as to prevent possible spread of disease may be considered abandoned. Any diseased bees, equipment, or nesting materials which have been seized may, when necessary, be immediately burned or otherwise destroyed and any bees, equipment, or nesting materials not destroyed may be sold at public auction. The proceeds, after the cost of sale are deducted, shall be returned to the former owner or the former owner's estate; provided, however, that before causing the bees, equipment, or nesting materials to be sold, the state bee inspector must give the beekeeper a written notice at least five days prior to the date on which the property will be sold. This notice is to be given by registered mail or by personal service upon the owner, or person in charge, of such property.

4-12.3-10. Penalties - Criminal - Civil - Certificate revocation or nonrenewal.

1. A person who violates this chapter or any rules adopted under this chapter is guilty of a class A misdemeanor.
2. In addition to criminal sanctions that may be imposed pursuant to subsection 1, a person found guilty of violating this chapter or 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 adjudicated by the courts or by the commissioner through an administrative hearing.
3. The commissioner may, in accordance with the laws of this state, maintain an appropriate civil action in the name of the state against any person violating this chapter or rules adopted under this chapter.
4. The commissioner may refuse to grant a certificate 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 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,000, or so much thereof as may be necessary, to the commissioner of agriculture for the purpose of defraying the expenses of this Act for the biennium beginning July 1, 1987, and ending June 30, 1989.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 87

HOUSE BILL NO. 1030
(Legislative Council)
(Interim Agriculture Committee)

STATE AND DISTRICT FORESTERS

AN ACT to create and enact a new section to chapter 4-19 of the North Dakota Century Code, relating to qualifications of district foresters; and to amend and reenact sections 4-19-01 and 57-57-01 of the North Dakota Century Code, relating to the appointment and duties of the state forester.

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

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

4-19-01. State forester - ~~Who to be Appointment - Qualifications - Duties. A member of the staff of the state school of forestry designated by the The~~ board of higher education shall be appoint the state forester. He

1. The state forester must be a graduate of an accredited school of forestry with a minimum education of a bachelor of science degree in forestry. The office of the state forester must be located in Bottineau.
2. The state forester shall have:
 - a. Have general supervision of the raising and distribution of seeds and forest tree planting stock as hereinafter provided; shall promote in this chapter.
 - b. Promote practical forestry, and compile and disseminate information relative thereto; and shall publish to practical forestry.
 - c. Publish the results of such work by issuing and distributing bulletins, lecturing before farmers' institutes and other organizations interested in forestry, and in such other ways as most practically will reach the public.

SECTION 2. A new section to chapter 4-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

District foresters - Qualifications. All district foresters under the supervision of the state forester must be graduates of an accredited school of forestry with a minimum education of a bachelor of science degree in forestry.

SECTION 3. AMENDMENT. Section 57-57-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-01. Definitions. As used in this chapter, unless the context or subject matter otherwise clearly requires:

1. "State forester" means the president of the North Dakota school of forestry or his legally constituted successor, state forester appointed under section 4-19-01 and, where reasonable, the agents and personnel under his the state forester's control.
2. "Woodland" means an area of land normally supporting a growth of natural or planted forest cover.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 88

HOUSE BILL NO. 1111
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

NURSERIES

AN ACT to amend and reenact sections 4-21.1-01, 4-21.1-02, 4-21.1-03, 4-21.1-04, 4-21.1-05, 4-21.1-06, 4-21.1-11, 4-21.1-12, 4-21.1-13, 4-21.1-14, and 4-21.1-16 of the North Dakota Century Code, relating to inspection, certification, and licensing of nurseries and nursery stock; and to repeal sections 4-21.1-07, 4-21.1-08, 4-21.1-09, 4-21.1-10, 4-21.1-15, and 4-21.1-17 of the North Dakota Century Code, relating to nursery stock dealers and agents licenses, special inspections, late filing of license applications and the deposit of funds.

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

SECTION 1. AMENDMENT. Section 4-21.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-01. Definitions. The following terms as used in In this chapter, except where the context or subject matter otherwise requires, shall include both the singular and the plural and shall be construed to mean:

1. "Commissioner" means the commissioner of the department of agriculture of this state or any designated representative to whom authority to act in his stead has been or hereafter may be delegated.
2. "Pest" means any insect, disease, or other organism of any character, causing or capable of causing injury to nursery stock. Alternate hosts of crop diseases shall be construed as being included.
3. "Infested" means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.

4. "Nursery stock" means all plants and plant parts capable of propagation or growth, except field, vegetable, and flower seed.
 5. "Certificate" means a document issued or authorized by the commissioner indicating that nursery stock is not contaminated with a pest.
 6. "Nursery" means any place where nursery stock is propagated or grown for sale or distribution.
 7. "Nurseryman" means any person who owns, leases, manages, or is in charge of a nursery.
 8. "Dealer" means any person, not a grower of nursery stock, who obtains nursery stock for the purpose of sale or distribution.
 9. "Person" means any individual, corporation, company, society, association, government agency, or other entity.
 10. "Agent" means any person who solicits orders for nursery stock under the control of a nurseryman, dealer, or other agent.
 11. "Place of business" means each separate location from which nursery stock is being distributed or offered for sale.
 12. "Viable nursery stock" means nursery stock that is capable of living and accomplishing the purpose for which it is grown, whether for foliage, flowers, fruit, or special use.
- "Certificate of inspection" means a document issued or authorized by the commissioner stating that nursery stock is practically free from damaging pests.
2. "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.
 3. "Grower" means any person who takes a reproductive part of nursery stock and increases its size and development for at least one full growing season. This includes a person producing nursery stock from tissue culture.
 4. "Infested" means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.
 5. "Non-hardy" means plant species, varieties and cultivars that will not survive climatic conditions in North Dakota.

6. "Nursery" means any place where nursery stock is propagated, grown or offered for sale.
7. "Nursery stock" means all trees, shrubs, and woody vines and parts thereof which are capable of propagation or growth; except seed. Only those plants that are intended for outdoor planting are considered nursery stock.
8. "Person" means any individual, corporation, company, society, association, government agency, or other entity.
9. "Pest" means any invertebrate animal, pathogen, parasitic plant or other similar organism which can cause damage to nursery stock.
10. "Place of business" means each separate location from which nursery stock is being offered for sale.
11. "Viable nursery stock" means nursery stock that is capable of living and accomplishing the purpose for which it is grown, whether for foliage, flowers, fruit or special use.

SECTION 2. AMENDMENT. Section 4-21.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-02. Administration rules, and regulations - Rulemaking authority. The commissioner shall have the responsibility for administration of the provisions of this chapter. The commissioner shall appoint a state entomologist and is authorized to assign functions provided for in this chapter to any unit of his department or designated representative and to delegate any authority provided for in this chapter, to be exercised under the commissioner's general supervision. The commissioner shall promulgate may adopt such rules and regulations as are necessary for the efficient execution of the provisions of this chapter pursuant to chapter 28-32 as are necessary to carry out the purposes and provisions of this chapter.

SECTION 3. AMENDMENT. Section 4-21.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-03. Authority for inspection. To effectuate the purposes of this chapter, the The commissioner shall inspect all nurseries nursery stock being grown in North Dakota at least once each year and may enter and inspect any nursery or place of business, or step and inspect, in a reasonable manner, any nursery stock in transit within the state during normal business hours.

SECTION 4. AMENDMENT. Section 4-21.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-04. Authority for abatement - Removal from sale. Whenever the The commissioner finds nursery stock that is not viable, not certified, or is infested with a pest, or finds that a pest exists

in any nursery or place of business, or is in transit on any nursery stock in this state, he may, upon giving notice to the owner or his the owner's agent in possession, seize, condemn, destroy, treat, or remove from sale, or otherwise dispose of the pest or nursery stock at the owner's expense in a manner the commissioner deems necessary to suppress, control, eradicate, or to prevent or retard the spread of a pest, any nursery stock offered for sale that is found to be not viable, not accompanied by a certificate of inspection, not labeled correctly, or infested with a pest.

SECTION 5. AMENDMENT. Section 4-21.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-05. Certification of nursery stock. A certificate of inspection may be issued annually by the commissioner for nursery stock grown in licensed nurseries within North Dakota that is found to be practically free from damaging pests and is found to have otherwise complied with the provisions of this chapter. Certificates shall expire December thirty-first unless canceled at an earlier date. Special or temporary certificates may be issued to persons requesting special inspection. Certification may be withheld when nursery stock is infested with a pest or if weeds or other objects prevent the commissioner from making an adequate inspection of the nursery stock. All nursery stock purchased, being offered for sale, or distributed within the state North Dakota shall be from officially inspected sources. A copy of a certificate of inspection from the state of origin shall accompany each commercial lot or shipment of nursery stock that is sold transported into or distributed within the state offered for sale within North Dakota. If the shipment requires a federal inspection certificate or tag, it must also be attached. All reproductions of the North Dakota certificate of inspection needed for shipping purposes, other than an actual copy of the original certificate, must be approved by the commissioner.

SECTION 6. AMENDMENT. Section 4-21.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-06. Nursery license - Fee. No person shall be engaged as a nurseryman sell nursery stock without a license from issued by the commissioner. Licenses shall expire December thirty-first unless revoked at an earlier date. Application An application for renewal of license and requests for inspection with any information requested by the commissioner shall be submitted and accompanied by a fee of ten fifty dollars on or before December thirty-first each year. A nursery may serve as a dealer under a nursery license. A separate license is required for each place of business. The fee for each additional license, other than the principal place of business, is ten dollars. No license may be issued to a grower unless the grower has been issued a certificate of inspection.

SECTION 7. AMENDMENT. Section 4-21.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-11. Labeling and standards for nursery stock. No person shall sell, or offer for sale, or distribute any nursery stock not securely labeled in accordance with the international code of nomenclature for cultivated plants with the complete correct botanical or approved recognized common name. All nonhardy trees and shrubs, as designated by the commissioner, must be labeled with the statement "nonhardy in North Dakota". All nursery stock offered for sale or distribution shall be in a viable condition and shall be stored and displayed under conditions that will maintain its viability. Materials used to coat the aerial parts of the plant that change the appearance of the plant surface so as to prevent adequate inspection are prohibited.

SECTION 8. AMENDMENT. Section 4-21.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-12. Misrepresentation. It is unlawful for any person to misrepresent the name, age, origin, grade, variety, quality, or hardiness of any nursery stock being offered for sale or distribution, or to misrepresent by name or otherwise that he is a nurseryman or conducts a nursery business when such is not the case.

SECTION 9. AMENDMENT. Section 4-21.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-13. Reciprocal agreements. The commissioner may enter into reciprocal agreements with officers of other states for the recognition of official licenses and inspection certificates. Nursery stock owned by persons from such states may be sold or delivered in this state without a license or fee if like privileges are accorded to persons from this state. Any nonresident nurseryman or dealer, having a place of business in this state, shall obtain a license and pay the fees required as a dealer.

SECTION 10. AMENDMENT. Section 4-21.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-14. Exemptions. The commissioner may exempt certain nursery stock, nurseries, dealers, or persons dealing in the sale of annual vegetable and floral plants from all or part of the sections of this chapter. Exemptions from licenses and fees include:

1. Persons growing and propagating nursery stock for research or experimental purposes.
2. Soil conservation districts selling nursery stock for the prevention of soil and wind erosion or other conservation plantings.
3. Persons growing nursery stock for noncommercial purposes or that the commissioner designates as exempt.

SECTION 11. AMENDMENT. Section 4-21.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-21.1-16. Penalties - Criminal - Civil - License Revocation or Nonrenewal.

1. Any person violating any of the provisions of who violates this chapter shall be deemed or any rules adopted pursuant to it is guilty of a class A B misdemeanor.
2. Any person who violates any of the provisions of this chapter, or rules adopted pursuant to it is subject to a civil penalty not to exceed five hundred dollars for each violation. The civil penalty may be adjudicated by the courts or by the commissioner through an administrative hearing pursuant to chapter 28-32.
3. The department may, in accordance with the laws of this state, maintain an appropriate civil action in the name of the state against any person violating this chapter or rules adopted under this chapter.
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 12. REPEAL. Sections 4-21.1-07, 4-21.1-08, 4-21.1-09, 4-21.1-10, 4-21.1-15, and 4-21.1-17 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 89

SENATE BILL NO. 2398
(Senator Hilken)
(Representative Schindler)

SOIL CONSERVATION DISTRICT SUPERVISORS

AN ACT to amend and reenact section 4-22-22 of the North Dakota Century Code, relating to compensation of soil conservation district supervisors.

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

SECTION 1. AMENDMENT. Section 4-22-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses. At the general election to be held in 1972, three district supervisors shall be elected. The candidate receiving the largest number of votes shall be elected for a six-year term; the candidate receiving the second highest number of votes shall be elected for a four-year term; and the candidate receiving the third highest number of votes shall be elected for a two-year term. At each succeeding general election, one supervisor shall be elected for a term of six years, or until ~~his~~ the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors shall be elected at the first general election following the district's organization. The candidate receiving the largest number of votes shall be elected for a six-year term; the candidate receiving the second highest number of votes shall be elected for a four-year term; and the candidate receiving the third highest number of votes shall be elected for a two-year term. At each succeeding general election, one supervisor shall be elected for a term of six years, or until ~~his~~ the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state within fifteen days following any general election a certified abstract of the votes cast in ~~his~~ the county at such election for each candidate for district supervisor. At the time that the county auditor transmits the certified abstract of the votes cast for each candidate, ~~he~~ the county auditor shall file with the secretary of state a certificate showing the name and address of each candidate.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates shall be elected on a nonpartisan ballot. In case the office of any supervisor shall, for any reason, become vacant, the remaining members of the board of supervisors shall, with the advice and consent of the state committee, fill the vacancy by appointment. ~~In the event that~~ If vacancies ~~shall~~ occur in the office of two supervisors, the remaining supervisor and the state committee shall fill the vacancy; and in case the offices of all supervisors of a district ~~shall~~ become vacant, the state committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy shall hold office until the next general election. A supervisor elected to fill a vacancy shall serve the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors shall be appointed by a majority of the three elected supervisors and shall have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors shall be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the state committee.

The supervisors of soil conservation districts shall be entitled to receive no, upon a majority vote of the supervisors, twenty-five dollars for attending each regular or special meeting as compensation for their services other than. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other meetings approved by the state soil conservation committee, which expenses shall be paid from appropriations available to the state committee. All The compensation and all other expenses including travel incurred by district supervisors while transacting district business and not specifically authorized by the state soil conservation committee shall be paid from district funds.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 90

SENATE BILL NO. 2111
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

PLANT PEST CONTROL

AN ACT to amend and reenact sections 4-33-01, 4-33-02, and 4-33-12 of the North Dakota Century Code, relating to control of plant pests.

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

SECTION 1. AMENDMENT. Section 4-33-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-33-01. Definitions. ~~The following terms as used in In this chapter, except where unless the context or subject matter otherwise requires, shall include both the singular and the plural and shall be construed, respectively, to mean:~~

1. "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with a pest.
2. "Commissioner" means the commissioner of the department of agriculture of North Dakota or any designated representative to whom authority to act in his stead has been or hereafter may be delegated the commissioner's authorized representative.
3. "Host" means any plant or plant product upon which a pest is dependent for completion of any portion of its life cycle.
4. "Infested" means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.
5. "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved.

6. "Permit" means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.
7. "Person" means any individual, corporation, company, society, or association, or other business entity.
8. "Pest" means any insect, disease, or other organism of any character whatsoever, causing or capable of causing, directly or indirectly, injury or invertebrate animal, pathogen, parasitic plant, or similar organism which can cause damage to any plants a plant or parts part thereof or any processed, manufactured, or other products product of plants or any other pest that the commissioner may designate as detrimental to agriculture.
9. "Phytosanitary certificate" means an international document issued or authorized by the commissioner stating that a plant or plant product is considered free from quarantine pests and practically free from injurious pests and that they are considered to conform with the current phytosanitary regulations of the importing country.
10. "Plant" means agronomic field crops, horticultural crops, and native and tame grasses used for livestock production.
11. "Regulated article" means any article of any character as described in the quarantine carrying or capable of carrying the plant pest against which the quarantine is directed.

SECTION 2. AMENDMENT. Section 4-33-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-33-02. Administration - Rules and regulations Rulemaking authority - State agricultural entomologist. The commissioner shall have the responsibility for administration of the provisions of this chapter. The commissioner is authorized to assign functions provided for in this chapter to any unit of his department and to delegate any authority provided for in this chapter to any designated representative, to be exercised under his general supervision shall employ a qualified entomologist to serve as state agricultural entomologist and to carry out the survey, control, and quarantine provisions of this chapter. The individual must be a graduate in agricultural entomology from an accredited college or university and must be stationed in Bismarck. The commissioner shall promulgate may adopt such rules and regulations as are necessary for the efficient execution of the provisions of this chapter under chapter 28-32 as are necessary to carry out the purposes and provisions of this chapter.

SECTION 3. AMENDMENT. Section 4-33-12 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-33-12. Authority for domestic and export certification. The commissioner may inspect ~~domestic fruits, vegetables, seeds, nursery stock, and other plants~~ any plant and plant products product, when offered for export or shipment from within the state and to certify to shippers and interested parties as to the freedom of such products from injurious ~~diseases and~~ pests according to the sanitary requirements of other states and foreign countries, ~~and to.~~ Authority for inspection and certification under this section is not limited to plants defined in section 4-33-01. The commissioner may make such reasonable charges and to use such any means as may be necessary to accomplish this objective. Certificates A certificate may be withheld or not issued if the product does not meet sanitary or import requirements and if all state North Dakota licensing and bonding requirements have not been met. Consignee names and addresses on phytosanitary certificates are confidential.

Approved February 2, 1987
Filed February 3, 1987

CHAPTER 91

HOUSE BILL NO. 1425
 (Representatives O. Hanson, Tokach, Tomac)
 (Senators W. Meyer, Moore)

BEEF PROMOTION ASSESSMENTS

AN ACT to amend and reenact sections 4-34-01, 4-34-02, 4-34-08, 4-34-09, 4-34-10, and 4-34-11 of the North Dakota Century Code, relating to beef promotion; to provide a penalty; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 4-34-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-34-01. Purposes. The purposes of this chapter are:

1. To provide and participate in programs to increase the consumption of domestic beef through such means as advertising ~~and local and national~~, research, consumer information, industry information, sales promotion, and education, but at no time shall false or unwarranted claims be made on behalf of the beef industry.
2. To support research and educational activities of the national livestock and meat board and its beef industry council with not less than fifty percent of the assessments collected.
3. To initiate, encourage, and sponsor research designed to solve problems in the beef production, primarily in, but not limited to, animal health and human nutrition industry.
4. To enhance the sale and production of North Dakota beef cattle.
- 5- ~~To promote the production of North Dakota beef cattle and undertake in-state promotion and administration under this chapter with no more than twenty-five percent of the assessments collected.~~

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

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

1. "Beef producer" shall mean any person or firm engaged in the production of cattle.
2. "Cattle" shall be defined to include both beef and dairy cattle means live domesticated bovine animals regardless of age.
3. "Cattle feeder" shall mean any person or firm engaged in the growing of cattle or finishing of cattle for slaughter.
4. "Commission" shall mean the North Dakota beef commission.
5. "Dairy producer" shall mean any person or firm engaged in the production and sale of milk from cows.
6. "Livestock auction markets" shall have the same definition as contained in subsection 2 of section 36-05-01.
7. "Local brand inspector" shall mean a person appointed and authorized by the North Dakota Stockmen's Association acting as agent for the North Dakota livestock sanitary board.
8. "Livestock dealer" shall have the same definition as contained in section 36-04-01.
- 9- 8. "Livestock terminal markets" shall mean the public livestock market located at West Fargo and known as the West Fargo stockyards.
- 10- 9. "Person" shall include individuals, corporations, partnerships, trusts, associations, cooperatives, and any and all other business units.
- 11- 10. "Selling agency" shall mean any person engaged in the business of buying or selling in commerce livestock on a commission basis.

SECTION 3. AMENDMENT. Section 4-34-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-34-08. Assessment for sale of cattle. There is hereby levied on each person who is a resident of this state selling cattle within the state or from the state, an assessment of fifty cents per head for each animal sold. For the purposes of this chapter, a person is not considered to have sold cattle if the person's only share in the proceeds of a sale of cattle is a sales commission, handling fee, or

other service fee, or the person acquired ownership of cattle to facilitate the transfer of ownership of the cattle from the seller to a third party, resold the cattle no later than ten days from the date on which the person acquired ownership, and certified, as required by regulations prescribed by the cattlemen's beef promotion and research board and approved by the secretary of agriculture of the United States, that the requirements of 7 CFR 1260.116 have been satisfied. The moneys collected pursuant to this chapter shall be paid to the commission pursuant to this chapter and shall be expended by the commission only as authorized by this chapter.

SECTION 4. AMENDMENT. Section 4-34-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-34-09. Manner of deductions - Payments of assessments to beef commission - Collections by brand inspectors. The assessments provided in this chapter shall be collected by selling agencies at livestock terminal markets, livestock auction markets, and by all livestock dealers licensed by the state of North Dakota by deducting such assessments from any credit given or payment made to the person selling the cattle at the time such credit is given or payment is made. Persons who sell cattle from the state of North Dakota outside of the state or to an out-of-state buyer shall remit the assessments directly to the commission within thirty days of such sale, unless such the assessment has been paid to a brand inspector or a qualified state beef council in another state. Any other person selling cattle within the state shall remit the assessments directly to the commission.

In order to facilitate the collection of assessments on cattle sold to buyers other than at terminal markets and auction markets, local brand inspectors may serve as collectors for the commission at the time of inspection of the cattle, provided that a satisfactory receipt evidencing such payment is given. The brand inspectors shall immediately notify the commission if any person refuses to pay any assessment required of him.

SECTION 5. AMENDMENT. Section 4-34-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-34-10. Remittance of assessments collected - Penalties. All assessments collected by licensed dealers, selling agencies at terminal markets, or auction markets, or local brand inspectors required to be paid by any other person as provided in this chapter shall be remitted to the North Dakota beef commission within thirty days following the month during which the assessments were received no later than the fifteenth day of the month following the month in which the cattle were sold. The assessments shall be accompanied by remittance forms as prescribed and furnished by the commission. All moneys collected by the commission pursuant to this chapter shall be remitted by the commission to the state treasurer and deposited by him the state treasurer in the North Dakota beef commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this chapter.

Any licensed dealer, selling agency at terminal markets, auction markets, or any local brand inspector who collects other person required to remit assessments but who fails to remit the same within sixty days after the time provided in this section shall be assessments as required by this chapter within thirty days following the month in which the cattle were sold is guilty of a class B misdemeanor. Any licensed dealer, or any owner or operator of a livestock selling agency at a terminal market, or any livestock auction market operator failing or any other person required to collect assessments as provided in this chapter shall be but who fails to collect assessments as required by this chapter is guilty of a class B misdemeanor. Any person who sells cattle from the state of North Dakota outside the state or to an out-of-state buyer who willfully fails to remit the assessments required by this chapter within sixty thirty days as required by this chapter shall be following the month in which the cattle were sold is guilty of a class B misdemeanor. Assessments unpaid on the date on which they are due and payable shall be increased by a ten percent nonrefundable penalty on the amount of the assessments and the commission is authorized to sue for and collect the same. Any unpaid assessments due pursuant to this chapter must be increased by two percent each month beginning with the day following the date the assessments were due. Any remaining amount due which includes any unpaid charges previously due pursuant to this section, must be increased at the same rate on the corresponding day of each month thereafter until paid. The timeliness of the remittance of an assessment as required by this chapter must be based on the applicable postmark date or the date the assessment is actually received by the commission. The commission is authorized to sue for and collect assessments and any penalties on unpaid assessments.

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

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

SECTION 7. EFFECTIVE DATE. Section 3 of this Act is effective until the North Dakota beef commission certifies to the secretary of state that the national referendum held pursuant to the Beef Promotion and Research Act of 1985 [99 Stat. 1597; 7 U.S.C. 2901 et seq.] to establish a national beef promotion and research order has not been approved. If the referedum is not approved, the beef commission shall certify that fact to the secretary of state within thirty days after the results of the referendum are declared final.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 92

SENATE BILL NO. 2162
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

PESTICIDE APPLICATION AND LICENSING

AN ACT to amend and reenact section 4-35-09, subsection 3 of section 4-35-14, and sections 4-35-15 and 4-35-18 of the North Dakota Century Code, relating to licensing for pesticide applicators, reimbursement of the cost of materials for pesticide act training materials, and application of nonregistered pesticides.

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

SECTION 1. AMENDMENT. Section 4-35-09 of the 1985 Supplement to 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 which is to be paid to the county treasurer, who shall deposit the fee in the county general fund. The license shall expire on December thirty-first of each year. If the county cooperative extension agent service, or its designee, finds the applicant qualified to apply pesticides in the classifications he has applied for after 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 the applicant is qualified in. If certification is not to be issued as applied for, the county cooperative extension agent service, or its designee, 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 2. AMENDMENT. Subsection 3 of section 4-35-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The board shall determine by regulation methods to evaluate the competence of private applicators and provisions for reevaluation as advances in technology warrant, or as necessary to assure a continuing level of competence and ability to use pesticides safely and properly. The county cooperative extension agent service, or its designee, in the county of the residence of the applicant shall issue a certificate, without fee, to any private applicator who has qualified as prescribed by the board. However, the cooperative extension service, or its designee, may require any applicant required to be licensed or certified under this chapter to pay a reasonable charge, not greater than the cost to the cooperative extension service, for materials provided to the applicant for training and education.

SECTION 3. AMENDMENT. Section 4-35-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-15. Unlawful acts - Grounds for denial, suspension, or revocation of a license or certification. The commissioner may, after opportunity for a hearing, deny, suspend, revoke, or modify any provision of any license or certification issued under this chapter, if he the commissioner finds that the applicant or the holder of a license or certification has committed any of the following acts, each of which enumerated in this section. Each of the following acts is declared to be a violation of this chapter, whether committed by an applicant, holder of a license or certification, or any other person applying or using pesticides, if the person:

1. Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized, or advertised a pesticide without reference to its classification;_
2. Made a pesticide recommendation, application, or use inconsistent with the labeling or other restrictions prescribed by the board;_
3. Applied materials known by him to be ineffective or improper;_
4. Operated faulty or unsafe equipment;_
5. Operated in a faulty, careless, or negligent manner;_
6. Neglected, or, after notice, refused to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the commissioner;_

7. Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;_
8. Made false or fraudulent records, invoices, or reports;_
9. Operated unlicensed equipment in violation of section 4-35-17;_
10. Used fraud or misrepresentation in making an application for, or for renewal of, a license or certification;_
11. Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or certification;_
12. Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed his license or certification to be used by another person;_
13. Knowingly made false statements during or after an inspection concerning any infestation of pests found on the land;_
14. Impersonated any federal, state, county, or city inspector or official;_
15. Distributed any restricted use pesticide to any person who is required by law or regulations promulgated under such law to be certified to use or purchase such restricted use pesticide unless such person or his agent to whom distribution is made is certified to use or purchase that kind of restricted use pesticide; ~~or.~~_
16. Bought, used, or supervised the use of any restricted use pesticide without first complying with the certification requirements of this chapter, unless otherwise exempted therefrom.
17. Applied any economic poison which is not registered pursuant to the provisions of chapter 19-18.

SECTION 4. AMENDMENT. Section 4-35-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-18. Reciprocal agreement. ~~The board~~ The cooperative extension service, or its designee, may ~~establish a procedure to~~ issue a certification on a reciprocal basis, without examination, to a nonresident who is certified to use restricted-use pesticides under a plan substantially similar to this chapter. Such a certification may be suspended or revoked in the same manner and on the same grounds as licenses and certifications pursuant to this chapter, and shall be suspended or revoked if the nonresident's home state certification is suspended or revoked.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 93

HOUSE BILL NO. 1207
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

CHEMIGATION REGULATION

AN ACT to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to chemigation regulation; and to provide a penalty.

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:

Definitions. As used in this chapter:

1. "Chemigation" means any process by which chemicals, including pesticides and fertilizers, are applied to land or crops through an on the farm irrigation system.
2. "Commissioner" means the commissioner of agriculture.
3. "Fertilizer" means any commercial fertilizer as defined by subsection 3 of section 19-20.1-02.
4. "Pesticide" means that term as defined by subsection 19 of section 4-35-05.
5. "State engineer" means the state engineer appointed by the state water commission under section 61-03-01.

Statement of compliance. For the purposes of this chapter, farm irrigation systems used for chemigation which are designed, constructed, and operated as specified in the administrative rules adopted under this chapter so as to minimize the possibility of ground or surface water contamination, are considered to be in compliance with this chapter.

Rules - Standards for application through irrigation system, installation, maintenance, and modifications. The commissioner of agriculture shall adopt rules regulating chemigation through irrigation systems in this state to minimize the possibility of chemical, pesticide,

fertilizer, or other contamination of irrigation water supply and other rules as necessary to implement this chapter. The commissioner may establish by rule standards for application of pesticides and fertilizers through irrigation systems; for installation and maintenance of all equipment and devices used for chemigation purposes; for modifications or changes in design, technology, irrigation practices; or for other purposes relating to the use or placement of equipment or devices. The commissioner may adopt rules requiring periodic calibration and inspection of equipment and system operation during periods of chemigation.

Inspections. The state engineer shall cooperate with the commissioner in the inspection of any irrigation system using chemigation. The state engineer shall inform the commissioner of any violation of this chapter that is discovered in the course of the state engineer's regular inspections of irrigation systems using chemigation.

Enforcement.

1. The commissioner shall enforce this chapter and any rules adopted under this chapter.
2. The commissioner may seek an injunction in the district court in the county in which the violation occurs or may issue a cease and desist order to any person for any alleged violation of this chapter or any rules adopted under this chapter.
3. For the purpose of carrying out the provisions of this chapter, the commissioner and the state engineer may enter upon any public or private premises at reasonable times in order to:
 - a. Have access for the purpose of inspecting any equipment subject to this chapter and the premises on which the equipment is stored or used.
 - b. Inspect or sample lands actually, or reported to be, exposed to pesticides or fertilizers through chemigation.
 - c. Inspect storage or disposal areas.
 - d. Inspect or investigate complaints of injury to humans or animals.
 - e. Sample pesticides and fertilizers and pesticide or fertilizer mixes being applied or to be applied.
 - f. Observe the use and application of a pesticide or fertilizer through chemigation.

- g. Have access for the purpose of inspecting a premise or other place where equipment or devices used for chemigation are held for distribution, sale, or for use.

Penalties.

1. Any person who violates the provisions of this chapter or any rules adopted under this chapter is guilty of a class A misdemeanor.
2. When construing and enforcing the provisions of this chapter or any rules adopted under this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person must in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.
3. Any person found to have violated the provisions of this chapter or 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 through an administrative hearing under chapter 28-32.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 94

SENATE BILL NO. 2511
(Senators Dotzenrod, Nelson)
(Representatives Shockman, Nowatzki)

ORGANIC FOODS

AN ACT to provide for standards and compliance requirements for organic foods.

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

SECTION 1. Legislative intent. It is the intent of the legislative assembly to recognize a public benefit in establishing standards and compliance requirements for food products marketed and labeled using the term or a derivative of the term organic food. These standards are intended to protect the public and facilitate the development of national and international markets for food grown by organic methods in this state.

SECTION 2. Definitions. As used in this Act, unless the context otherwise requires:

1. "Organic food" means any food product including meat, dairy, or a beverage, that is marketed or sold using the term or a derivative of the term organic food in the labeling or advertising of the product.
2. "Pesticides" means synthetic herbicides, insecticides, and fungicides, and all other toxic materials. The term does not include material from naturally derived substances.
3. "Synthetic fertilizer" means all nitrogen sources derived from ammonia; phosphorus derived from the acid treatment of rock phosphates; refined or highly soluble potassium salts, whether manufactured or mined; and all other chemically refined, synthesized, or acid treated material.
4. "Vendor" means any person who sells organic food to a consumer or another vendor, or who processes, manufactures, or otherwise transforms an organic food on behalf of a seller of organic food.

5. "Verification" means a system maintained by the vendor of organic foods that demonstrates compliance to standards under which product identity may be traced from farm to consumer, using a series of documents that record information about the vendor's production and processing techniques, including records documenting inspection visits by the vendor or the vendor's designee, records documenting inventory, and records documenting adherence to standards.

SECTION 3. Production standards. The minimum standards qualifying a product to be labeled as an organic food require that:

1. The product was grown or raised, or is composed of ingredients that were grown or raised, without the use of synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, arsenicals or other synthetic products. However, treated seed may be used if untreated seed is not available.
2. The soil on which an organic food is grown or raised must have been free of synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, and arsenicals for a minimum of three years prior to the harvest of the organic food.
3. No synthetic products were used in the storage, processing, or manufacturing process.

SECTION 4. Compliance. Any vendor using the term organic food on the label of any product shall:

1. Use only raw materials in the product which conform to the standards in section 3 of this Act.
2. Have sufficient verification to ensure that all products labeled as organic foods are in compliance with the standards in section 3 of this Act.
3. Utilize verification guidelines and detail standards on file with the commissioner of agriculture.

Approved March 20, 1987
Filed March 23, 1987