

AGRICULTURE

CHAPTER 92

H. B. No. 843
(Johnston, Brown, Wheeler)

CLEAR ZONE EASEMENT TO CITY OF BISMARCK

AN ACT

Authorizing the board of administration to sell, convey, and transfer to the city of Bismarck, North Dakota, as owner and operator of the Bismarck Municipal Airport, a clear zone easement over lands adjacent thereto owned by the state of North Dakota, as the city of Bismarck needs a clear zone easement for extension of its runways over lands owned by the state of North Dakota adjacent to its municipal airport and by it held in trust for the use and benefit of the soil conservation program and districts of the state, and said clear zone easement will not interfere with the use of said land for agricultural purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) The board of administration of the state of North Dakota is hereby authorized to sell and convey to the city of Bismarck, a clear zone easement for the unobstructed flight of aircraft in, through, and across the airspace over and above the following described land:

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

at any altitude or height above the surface of said land, reserving to the state of North Dakota the right of use of said land for agricultural purposes. Provided, however, that said conveyance shall provide if the city of Bismarck abandons the adjacent land for airport purposes said easement shall terminate, and provided further, said conveyance shall be

approved by the attorney general, and shall be subject to all prior known easements, exceptions and reservations set forth in chapter 93 of the 1957 Session Laws of North Dakota.

Approved March 14, 1959.

CHAPTER 93

H. B. No. 620

(Scott, Bopp, Smedshammer, Vinje, Knudsen and Haugland)

DAIRY PRODUCTS PROMOTION COMMISSION

AN ACT

Promoting the sale of North Dakota dairy products; creating a North Dakota dairy products promotion commission and providing for its objectives, powers and duties, its collection and disbursement of funds, the assessment of butterfat produced and sold in the state of North Dakota, the administration of this Act, and prescribing penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) This Act shall be known as the North Dakota Dairy Products Promotion Act.

§ 2. **Purposes.)** The purposes of this Act are:

1. To promote the sale and disposal of North Dakota dairy products through coordinated research, education, public relations, advertising and other means.
2. To help assure the future operation of processing plants located in our cities and towns employing thousands of people.
3. To maintain dairy markets, particularly for the family-type farms, thus enabling more families to live on our farms.
4. To provide that each producer make his own decision as to whether he wishes to support this program.
5. To provide for the keeping of records, inspection thereof, and penalties for violation of this Act.

§ 3. **Definitions.)**

1. The term "commission" shall mean the North Dakota dairy products promotion commission.
2. The term "person" shall include individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements.

3. "Shipment" and "shipped" shall be deemed to have taken place when milk or cream has been delivered or consigned to any person dealing in, processing, distributing or manufacturing dairy products for sale.
4. The terms "handle" or "handler" shall mean or indicate any person who purchases milk or cream for processing, manufacturing, sale or distribution, whether as owner, agent, employee, or otherwise.
5. The term "dealer" shall mean and include any person who handles, ships, buys or sells dairy products, or who acts as sales or purchasing agent, broker or factor of dairy products.
6. The terms "processor" or "processing plant" shall include every person and every place to whom or to which milk or cream is delivered, for the purpose of canning, drying, manufacturing, preparing or packaging for market, or for use in producing or manufacturing a product of milk or cream.
7. The term "producer" shall include every person who produces milk from cows and thereafter sells the milk or some product therefrom.

§ 4. North Dakota Dairy Products Promotion Commission.)

There is hereby created a North Dakota dairy products promotion commission consisting of seven members of which the governor shall appoint four members, two of said appointive members shall be producers and two of said appointive members shall be processors. The governor shall appoint the producer members from a list of nominees supplied by the American dairy association of North Dakota and the processor members from a list of nominees supplied by the North Dakota dairy industries association. Each list of nominees shall contain at least twice as many names as the number of appointments to be made therefrom. The term of office of each appointive member of the commission shall be two years, except that the initial appointments of one producer and one processor shall be for only one year, so that thereafter the terms of one producer and one processor will expire each year. Terms of office shall commence on the first day of July. In addition to the four appointive members there shall be three ex officio members of such commission who shall be the commissioner of agriculture and labor, the head of the dairy husbandry department of the North Dakota agricultural college, and a state executive committee member of the American dairy association of North Dakota to be designated by that association. The ex officio members shall meet with the commission and shall have the same rights and duties as the appointive members including the right to vote.

§ 5. Powers and Duties of Commission.)

1. The commission shall administer and enforce the provisions of this Act and shall have and may exercise any and all of the powers conferred upon it herein. A majority of the members of the commission shall constitute a quorum for the transaction of business and the carrying out of the duties of the commission.
2. The commission shall elect a chairman, vice chairman, secretary-treasurer, and such other officers as may be deemed advisable and adopt such rules, regulations, recommendations and orders for the exercise of its powers and performance of its duties as shall be deemed advisable.
3. The appointive members of the commission shall receive a salary of fifteen dollars a day while actually engaged in the official duties of the commission, plus his actual expenses at the same rates as other state officials.
4. The commission shall select a state manager, whose compensation shall be fixed by the commission. The commission is also authorized to employ such additional personnel as shall be necessary, including an attorney, to fix their compensation and terms of employment, and to incur such expenses as the commission may deem necessary and proper to carry out their duties—to be paid from moneys collected as herein provided.
5. The commission shall plan and carry out dairy products research, education, public relations, advertising, sales promotion, and other programs for the purpose of promoting the sale and consumption of dairy products on both a state and national basis and may contract for any service in connection therewith.
6. The commission may accept and disburse voluntary contributions for the use and purposes of the commission.
7. In order to effectuate the declared purposes of this Act, the commission is hereby authorized to collect an assessment of one-quarter cent upon each pound of butterfat produced and sold in the state of North Dakota and to make disbursement from such funds as provided herein.

§ 6. Assessment.)

1. There is hereby levied an assessment of one-quarter cent upon each pound of butterfat produced and sold in the state of North Dakota. When butterfat is sold without a butterfat test being made, its butterfat content shall be computed on the basis of three and one-half percent of weight when milk, and thirty-two percent of weight when cream.
2. All assessments levied under this chapter shall be collected by the first dealer or processor through deduction

of the same from the price paid for butterfat to the producer, with the exception that where the producer sells directly to the consumer, the assessment shall be collected from such producer. All moneys received by the dealers, processors and producers from such assessment shall be remitted to the state treasurer and deposited by him in the North Dakota dairy products promotion commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this Act. The remittance of such assessments shall be made monthly within fifteen days after the period for which remittance is made.

3. Any producer desiring a refund of such assessment must himself make written application to secretary-treasurer of the North Dakota dairy products promotion commission therefor. Such application may only be made on an annual basis and may only be made within thirty days after January 1st of each year on forms provided by the commission.

§ 7. Dealers' Processors' and Producers' Records.) All dealers, processors and producers charged hereunder with the obligation of collecting and remitting the assessment imposed by this Act, shall keep a complete and accurate record of all butterfat, subject to assessment by this chapter. Such records shall contain such information as the North Dakota dairy products promotion commission may prescribe, shall be preserved for a period of two years, and shall be subject to inspection by authorized agents or employees of the commission.

§ 8. Reports.) All persons charged by this chapter to keep records, shall file with the commission, as the commission by its regulations may require, a return on or before the fifteenth day of each month, on forms to be prescribed and furnished by the commission, stating the amount of butterfat subject to assessment during the preceding month, and such other information as the commission may reasonably require. A copy of such return shall be retained by all dealers and processors for inspection by the producers selling to them.

§ 9. Expenses.) No part of the expense incurred by the commission shall be paid from any other source than the North Dakota dairy products promotion commission fund, and the expenses incurred by the commission shall at no time exceed the amount available in the fund.

§ 10. Security Bonds.) The treasurer of the commission shall file with the commission a fidelity bond, executed by a surety company authorized to do business in this state, in

favor of the commission, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission in the penal sum of ten thousand dollars, or in such additional amount as the commission may designate. The commission shall cause such other of its officers to be adequately bonded for faithful performance of their duties and strict accounting of the commission funds as in its discretion is deemed advisable.

§ 11. Commission Report to Governor.) The commission shall make a full and complete report to the governor of its activities for the twelve months prior to July first, within forty-five days thereafter. The books, records and accounts shall be audited annually by the state board of auditors, the cost of such audit to be paid from the funds of the North Dakota dairy products promotion commission.

§ 12. Penalty.) Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 9, 1959.

CHAPTER 94

S. B. No. 266
(Baeverstad)

NORTH DAKOTA SEED POTATO ACT

AN ACT

To create the North Dakota Seed Potato Act, defining terms and providing for the formation, regulations and administration of the Act, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Title.) This chapter shall be known as the Seed Potato Control Act of North Dakota.

§ 2. Definitions.) As used in this Act, unless the context and subject matter otherwise clearly requires:

1. "Committee" means the seed-control committee of a seed potato control area provided for under this Act.
2. "Owner" means any person who is:
 - a. Registered as the owner of land in the books of the register of deeds office;

- b. A purchaser of land under an agreement for purchase registered in the books of the register of deeds, and who is by the terms of the agreement liable to pay the taxes on the land; or
 - c. A homesteader, purchaser, or lessee of land.
3. "Seed" means Irish potato-tuber for reproduction purposes.
 4. "Seed potato control area" means any seed potato control area established in this Act.

§ 3. Seed Potato Control Area: Formation.) Any five owners of land within an area that propose to have constituted a seed potato control area under this Act may by public notice call a meeting of the owners of lands within that area at a time and place named in the notice. The notice shall contain a description of the area proposed to be constituted a seed potato control area. The notice shall be published in the official newspaper or newspapers of the county or counties in which the proposed seed potato control area is located not less than once each week for two successive weeks prior to the date set for such meeting. Every owner of land within the area may attend and take part in the discussion at the meeting. A majority of the owners present at the meeting may decide to circulate a petition for the formation of a seed potato control area under this Act.

§ 4. Petition for Formation of an Area.) The petition provided for in section 3 of this Act shall be addressed to the seed commissioner, in a form prescribed by the seed commissioner, and shall:

1. Contain a description of the proposed seed potato control area;
2. State the quality of seed which may be planted in that area;
3. Show proof that the members of the proposed potato control area intend to comply with any rules or regulations prescribed by the seed commissioner; and
4. State the names of at least five persons whom the petitioners desire to be appointed as members of the seed potato control committee of the seed control area, and who express in writing their willingness to act.

§ 5. Power of Seed Commissioner in Formation of Area.) On the presentation of the petition, accompanied by proof of compliance with section 3 of this Act, and showing that the petition is signed by not less than eighty percent of the number of the owners of lands in the proposed seed control area, the seed commissioner may by order establish the lands described in the petition as a seed potato control area under such name as may be considered advisable. In establishing the seed

control area the seed commissioner may restrict the boundaries of the seed potato control area to a smaller area than set out in the petition. The seed commissioner may, by the order establishing the seed potato control area or by a subsequent order from time to time, prescribe the quality of seeds that may be planted within the seed potato control area which quality may differ from those stated in the petition.

§ 6. Formation of a Committee.) A seed potato control area committee shall consist of three persons who are members of the control area and shall be appointed by the seed commissioner from the list of five names submitted to him under the provisions of section 4 of this Act. The term of office of the members of the committee and the constitution of a quorum shall be governed by bylaws approved by not less than eighty percent of the owners or lessees of land in the seed control area.

§ 7. Powers and Duties of the Committee.) The committee shall have the following powers and duties:

1. The employment, direction, and supervision of such employees as may be considered necessary to enable the committee effectively to carry out its work.
2. The keeping of accurate records of the work done and of the cost and expenses incurred by the committee.
3. The submission from time to time of such reports as the seed commissioner may require.
4. The manner of charging and collecting of a sum not exceeding two and one-half cents per hundred weight for potatoes produced in the seed potato control area.
5. The appointment from among their members of a chairman and a secretary-treasurer.
6. The enforcement of this Act and any rules and regulations promulgated under the provisions of this Act.
7. The committee shall not undertake any expenditure or incur any liability in excess of the moneys received under the provisions of this Act.

§ 8. Regulations.) For the purpose of carrying into effect the provisions of this Act, the seed commissioner may make such regulations as he considers necessary or advisable. The power of the seed commissioner to make regulations under this section shall extend to:

1. Defining, re-defining, reducing, or extending the limits of a seed potato control area;
2. Prescribing additional powers and duties of committees under this Act;
3. Prescribing of minimum requirements which must be met in the seed selection, seed treatment, field isolation,

- cultural practices and in disease removal and insect control;
4. Prescribing the methods of seed potato control work to be followed by the committee in respect to any seed potato control area;
 5. The prescribing and authorizing of the quality of seed to be grown within a seed potato control area;
 6. The canceling of any or all seed potato control areas;
 7. Providing for the inspection, testing, and approval of the seed to be planted and grown in the area; and
 8. To prescribe such other regulations as may be expedient or necessary to carry out the purposes and provisions of this Act.

§ 9. Restrictions Pertaining to Quality of Seed Planted or Grown.) No person shall plant or permit to be planted on any lands of which he is the owner or lessee within a seed potato control area, or within any part thereof, any seed of a quality other than that prescribed or authorized under this Act, and only uniform North Dakota certified seed potato tags be used.

§ 10. Sale of Potatoes Produced in Area.) No owner or lessee in a seed potato control area shall ship potatoes out of the area without first obtaining a permit from the committee and paying the fee as fixed by the provisions of this Act.

§ 11. Dissolution of Control Area and of Committee.) Upon cause shown, and upon such conditions and subject to such provisions as may be considered proper, the seed commissioner may by order revoke and cancel any potato seed control area and declare the committee thereof to be dissolved.

§ 12. Penalty.) Any person violating any of the provisions of this Act is guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

Approved March 17, 1959.

CHAPTER 95

S. B. No. 166

(Livingston, Becker, Trenbeath, Vendsel,)

(Fiedler, Yunker, Redlin, Kisse,)

(Erickson, Saumur, Roen)

NORTH DAKOTA STATE WHEAT COMMISSION

AN ACT

To promote development, utilization and marketing of wheat grown in North Dakota; declaring public policy and purpose; creating the North Dakota State Wheat Commission and prescribing its powers, authority and duties; providing funds by the levy of an excise tax and appropriation of the proceeds; and declaring an emergency, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Legislative Intent.**) The public policy of the state is declared to be that to foster, promote, and protect opportunities for economic security, individual rights and enterprise, the development of the natural resources of the state, and the health, prosperity and general welfare of all of the people of the state, the greater development, more effective utilization and better marketing of wheat produced in the state involves and concerns a public purpose, the accomplishment of which among other things, requires and demands the establishment of a state wheat commission for the purpose and with the objective of stabilizing and improving the agricultural economy of the state.

The provisions of this Act shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the state department of agriculture or any other agency of the state but shall be supplementary thereto and in aid and cooperation therewith; nor shall such provisions be construed to authorize the state wheat commission to engage in competitive business enterprises, it being the intent and purpose of this Act that the commission shall promote, aid, and develop the orderly marketing and processing of North Dakota wheat.

§ 2.) **Definitions:**

1. Commission means the North Dakota State Wheat Commission;
2. Producer means any landowner or tenant engaged in growing wheat and receiving, in such capacity, any portion of the crop produced;

3. First purchaser means any person, firm, corporation, association, or partnership buying or otherwise acquiring, after harvest, the property in or to wheat from the grower and shall include a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, where the actual or constructive possession of wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;
4. Commercial channels means the sale of wheat for any use, when sold by the producer to any commercial buyer, dealer, processor, cooperative, or to any person, firm, corporation, association or partnership who resells any wheat or product produced therefrom;
5. Sale shall include any pledge or mortgage of wheat, after harvest, to any person, firm, corporation, association, or partnership; and
6. Wheat shall include all varieties of hard red spring wheat, durum, and winter wheats.

§ 3. Wheat Commission: Members.) There is hereby created the North Dakota State Wheat Commission which shall consist of seven members. One member shall be appointed or elected from each of the districts of the state established by the provisions of this Act and one member shall be appointed or elected from the state at large. Each member, except the member from the state at large, shall be a bona fide resident of and a qualified elector in the district he represents, shall have farming operations in such district, and shall have been actually engaged in the production of wheat and have derived a substantial portion of his income therefrom for at least five years next preceding his appointment or election. The member from the state at large shall have similar qualifications except as limited by district lines.

Within thirty days after the effective date of this Act, a nominating committee consisting of the commissioner of agriculture and labor, the president of the North Dakota Crop Improvement Association, the director of the state experiment station, the director of the state extension service, the president of the North Dakota Farm Bureau, the president of the North Dakota Farmers Union, and the president of the North Dakota Grain Dealers Association, or their duly authorized representatives, shall submit to the governor a list of three names for each position on the commission and within sixty days from the effective date of this Act the governor shall appoint, from the nominees so named, the first members of the commission.

Each member of the commission shall hold office for a term of six years and until his successor has been selected and

has qualified except that the commissioners originally appointed from the first and fourth districts shall hold office for terms ending on the thirtieth day of June 1961; the commissioners originally appointed from the second and fifth districts shall hold office for terms ending on the thirtieth day of June, 1963; and the commissioners originally appointed from the third and sixth districts and from the state at large shall hold office for terms ending on the thirtieth day of June, 1965.

At least sixty days prior to the expiration of the term of office of a commissioner representing any district, a meeting of producers shall be held in each county in the district for the purpose of electing a county representative. The county agent shall call such meeting by publishing notice in the official newspaper of the county for two successive weeks, the last publication to be not less than five nor more than ten days prior to the meeting. The meeting shall be held at the county courthouse at two o'clock p. m. and shall be called to order by the county agent. Each producer whose name appears as a wheat producer on the list of the county agricultural stabilization committee, if present in person, shall be entitled to vote. Votes shall be canvassed by the county agent and certified by him with the name and postoffice address of the elected county representative to the director of the state extension service who shall thereupon, as expeditiously as possible, call a meeting of the county representatives of the district. Notice of such meeting shall be sent to each county representative by registered or certified mail not less than five days prior to the meeting which shall be held at two o'clock p. m. in the courthouse of one of the counties of the district. At such district meeting, the county representatives shall elect one of their number as the district member of the commission. The ballots at such meeting shall be canvassed by the state extension service and the result of election certified to the governor by the director. All expenses of all such meetings and elections shall be paid from commission funds. Any vacancy occurring on the commission other than by expiration of term of office shall be filled by the county representatives who shall elect one of their number as the district member of the commission for the remainder of the unexpired term. If the vacancy is from the state at large, by appointment from three nominations submitted by the nominating committee as in the case of the original appointment. Vacancies occurring by expiration of the term of the member at large shall also be filled by appointment by the governor from three nominations submitted by the nominating committee as in the case of the original appointment.

§ 4. State Wheat Commission Districts.) For the purpose of this Act, the state is hereby divided into the following districts:

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

§ 5. Wheat Commission; Meeting; Expenses; Legal Advisor.) Upon call of the governor, the commission shall first meet and organize by electing from the membership a chairman and vice chairman, who shall hold office for one year and until their successors are elected and have qualified. Thereafter the commission shall meet at least once every calendar quarter at such times and places as shall be determined by the commission and may meet in special meetings upon such call and notice as may be prescribed by rules adopted by the commission. Members of the commission shall be reimbursed for actual expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers and shall be paid twenty-five dollars for each day actually devoted to official business of the commission. The attorney general shall act as legal advisor to the commission or designate an assistant for that purpose and within the limit of the funds available to the commission it may employ other counsel to advise and represent the commission in its affairs and proceedings.

§ 6. Wheat Commission; Duties and Powers.) In the administration of this Act, the commission shall have the following powers, authority, and duties:

1. To foster and promote programs aimed at increasing the sale, utilization and development of wheat, both at home and abroad;
2. To publish and disseminate reliable information on the value of wheat and wheat products for any purpose for which they are valuable and useful to both processor and consumer;
3. To search for and promote new uses of wheat and wheat products;
4. To contract and cooperate with any person, firm, corporation or association, or with any local, state or federal department or agency for executing or carrying on a program or programs of research, education and publicity;
5. To lease, purchase, own, equip, maintain and operate a commission office;
6. To appoint, employ, bond, discharge, fix the compensation and prescribe the duties of such administrative, clerical, technical and other personnel, employees and agents as it may deem necessary to conduct the business and affairs of the commission;
7. To accept donations of funds, property and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the work and objectives of the commission, depositing all funds so received in the state wheat commission fund in the state treasury;
8. To promote North Dakota opportunities as afforded by the development of the St. Lawrence Seaway;
9. To seek improvement in the export quality of wheat;
10. To exercise all express and implied rights, powers and authority that may be necessary to perform and carry out the expressed purposes of this Act and all of the purposes reasonably implied incidentally thereto or lawfully connected therewith and to adopt, rescind, modify, and amend all necessary and proper orders, resolutions, rules, and regulations for the procedure and exercise of its powers and the performance of its duties; and
11. To prosecute in the name of the state of North Dakota any suit or action to enforce collection or assure payment of the tax or assessment authorized by the provisions of this Act, and to sue and be sued in the name of the commission.

§ 7. Wheat Tax Levy.) There is hereby levied and imposed, effective July 1, 1959, a tax of two mills per bushel by weight upon all wheat grown in this state and sold through commercial channels by a producer to a first purchaser, such tax

to be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or, in the case of a lien, pledge or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels are not accurately determined at the time of the lien, pledge or mortgage. At the time of sale, the purchaser shall issue and deliver to the producer a record of the transaction in such manner as the commission may prescribe.

Any producer subject to the deduction provided in this Act may, within sixty days following such deduction, make application by personal letter to the wheat commission for a refund application blank. Upon the return of said blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer shall be refunded the net amount of the deduction collected. If no request for refund shall have been made within the period prescribed above, then the producer shall be presumed to have agreed to such deduction.

§ 8. State Wheat Commission Fund; Appropriation.) Each first purchaser shall make quarterly reports and returns to the commission, on such forms as shall be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1959 and with each such report and return shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a fund to be known as the "state wheat commission fund." There is hereby appropriated out of any moneys in the state wheat commission fund the sum of four hundred thousand dollars, or so much thereof as may be necessary, to the state wheat commission for the purposes of carrying out the provisions of this Act for the period beginning from and after the effective date of this Act and ending July 1, 1961. The provisions of section 54-2710 of the North Dakota Revised Code of 1943 shall not apply to such appropriation nor shall any part of such fund and appropriation revert at the expiration of any biennium. Expenditures from such fund, not to exceed four hundred thousand dollars for the period beginning from and after the effective date of this Act and ending July 1, 1961, may be made by the commission in carrying out the provisions of this Act upon vouchers signed by the chairman of the commission.

§ 9. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or

by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

§ 10. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 96

S. B. No. 213

(Trenbeath, Livingston, Klefstad and Roen)

ONE MILL LEVY FOR COUNTY AGENT

AN ACT

To amend and reenact section 4-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the one mill levy for county agent work, providing that all counties may levy such one mill regardless of taxable valuation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 4-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0815. One Mill Levy 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 4-0801 and 4-0803 of the North Dakota Revised Code of 1943, may levy not to exceed an amount necessary for such purpose, as provided in section 4-0809 of the North Dakota Revised Code of 1943, which amount shall not exceed one mill upon the taxable valuation of property in the county, and which levy shall not be restricted by the county tax levy limitation prescribed by law.

Approved March 16, 1959.

CHAPTER 97

H. B. No. 677
(Saugstad, Idso, Schuler and Guy)

SEEDS AND STATE SEED DEPARTMENT

AN ACT

To amend and reenact section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 by amending subsection 6 and creating and enacting subsection 23, and to amend and reenact sections 4-0908, 4-0910, and 4-0911 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the state seed department.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 6 of section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 is 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 *coryli*), wild mustard (*brassica* spp), 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;

§ 2. Amendment.) Section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted by creating and enacting subsection 23 to read as follows:

23. The term "treated" means that the seed has received an application of a substance or process which substance or process is designed to reduce, control or repel certain disease organisms, insects or other pests attacking such seeds or seedlings growing therefrom.

§ 3. Amendment.) Section 4-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0908. Public Laboratory Service; Free Tests; Fees for Additional Tests.) Any resident of this state may send samples of seed to the commissioner for examination, analysis, or test, but not to exceed 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.

§ 4. Amendment.) Section 4-0910 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0910. Labeling Requirements for Agricultural Seed.) Each container of agricultural seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon or have attached thereto in a conspicuous place, or there shall be properly delivered with bulk sales or movements of said seed, a plainly written or printed label or tag in the English language giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

1. The commonly accepted name of the kind, or the kind and variety, of each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. When more than ten percent of the whole consists of an aggregate of agricultural seed components, each present in an amount not exceeding five percent of the whole, each component in excess of one percent of the whole shall be named together with the percentage by weight of each. All components shall be listed in the order of their predominance. Where more than one component is named, the word "mixture", or the word "mixed", shall be shown conspicuously on the label;
2. Lot number or other lot identification;
3. Origin, state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. Percentage by weight of all weed seeds;
5. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present, if the said restricted noxious weed seeds are present singly or collectively in amounts:
 - a. In the case of quack grass (*agropyron repens* L. beauv.) and dodder (*cuscuta* species except *coryli*), in excess of twenty-one seeds per pound; and

- b. In case of wild mustard (*brassica* spp), frenchweed (*thlaspi arvense*), wild morning-glory (*ipomoea* spp) and wild oats (*avena fatua*), in excess of thirty-one seeds per pound, provided, however, that the commissioner may, through promulgation of regulations change the requirements under this subsection;
6. Percentage by weight of agricultural seed which may be designated as crop seed, other than those required to be named on the label;
7. Percentage by weight of inert matter;
8. For each agricultural seed:
 - a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;
 - b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
 - c. The calendar month and year the test was completed to determine such percentages;
9. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state;
10. The relative maturity in number of days, in the case of hybrid corn; and
11. For treated seeds as defined in this Act, for which a separate label may be used:
 - a. A word or statement indicating that the seed has been treated;
 - b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance; and
 - c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol.

§ 5. Amendment.) Section 4-0911 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0911. Labeling Requirements for Vegetable Seed.) Each container of vegetable seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon, or have attached thereto, in a conspicuous place a plainly written or printed label or tag in the English language.

For vegetable seeds in containers of one pound or less, such label or tag shall give the following information:

1. The name of kind and variety of seed; and
2. For seeds which germinate less than the standards as set forth in section 201.31 of the rules and regulations under the Federal Seed Act, "Service and Regulatory Announcement No. 156," and subsequent revisions:
 - a. Percentage of germination, exclusive of hard seed;
 - b. Percentage of hard seed, if present;
 - c. The calendar month and year the test was completed;
 - d. The words "below standard" in not less than eight point type; and
3. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state; and
4. For treated seed as defined in this Act for which a separate label may be used:
 - a. A word or statement indicating that the seed has been treated;
 - b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance;
 - c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol.

For vegetable seeds in containers of more than one pound, such label or tag shall give the following information:

1. The name of each kind and variety of vegetable seed present in excess of five percent and the percentage by weight of each in order of its predominance;
2. Lot number or other lot identification;
3. Origin, meaning the state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present;
5. For each named vegetable seed:
 - a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;
 - b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
 - c. The calendar month and year the test was completed to determine such percentages; and

6. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state;
7. For treated seed as defined in this Act for which a separate label may be used:
 - a. A word or statement indicating that the seed has been treated;
 - b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance;
 - c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol;
8. The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Approved March 4, 1959.

CHAPTER 98

H. B. No. 780

(Berntson, Kadlec, and Collette)

POTATO GRADE INSPECTION

AN ACT

To amend and reenact section 4-1013 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to grade inspection fees and charges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 4-1013 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1013. Grade Inspection; Fees and Charges.) The commissioner, by regulation, shall fix the fees for making grade inspections, and said fees shall be uniform throughout the state for such periods of time as shall be specified. The fee for potato grade inspection shall approximate the cost of such service and shall be approved by the directors of the North Dakota

certified potato growers association. The equivalent of twenty-five cents for each carlot inspection for potatoes shall be covered into an advertising fund to be used by the commissioner in consultation with the growers for the purpose of advertising North Dakota seed and table stock potatoes in the wholesale and retail markets of the United States. Any person soliciting an inspection or inspections at points other than those at which inspectors are located, or at which itinerant inspectors may be at the time inspection is requested, may obtain inspection service on payment of the necessary traveling expenses, in addition to the regular inspection fee. The owner and the consignor or shipper of the potatoes shall be held responsible for the payment of the inspection fees when they are not paid otherwise. The commissioner shall collect all fees and charges and shall make detailed annual reports of all receipts and expenditures to the board of administration which shall publish the same for distribution to interested parties. Provided, however, that there shall be no increase in fees except with the approval of a majority of the directors and officers of the North Dakota certified seed potato growers association and the North Dakota members of the board of directors and officers of the Red River Valley potato growers association present at a meeting called by the state seed commissioner, preferably at Grand Forks.

Approved March 4, 1959.

CHAPTER 99

H. B. No. 600

(Scott, Johnson, Saugstad, Bopp, Breum)

DISCONTINUING SOIL CONSERVATION DISTRICTS

AN ACT

To amend and reenact section 4-2242 of the North Dakota Revised Code of 1943 relating to the method of discontinuing soil conservation districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 4-2242 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-2242. Discontinuance of Districts: Petition for; Referendum on; Eligible Voters.) After the expiration of five years from the date upon which a district has been organized,

twenty-five percent of the occupiers of land lying within the boundaries thereof may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee shall then conduct public meetings and hearings upon such petition in order to determine whether or not there is sufficient basis for a referendum to be held. If the committee determines that there is sufficient basis for a referendum, it shall give due notice of the holding of a referendum and shall issue appropriate regulations governing the conduct thereof within sixty days after it has made its determination. The question to be voted on at the referendum shall be submitted by ballot in substantially the following form:

Should the (insert name of district).....be terminated.

Yes
No

All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. The committee shall supervise the referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice thereof shall have been given substantially as herein provided and the referendum shall have been conducted fairly.

Approved March 5, 1959.