

AGRICULTURE

CHAPTER 74

H. B. No. 575
(Brown, Boustead)

COMMISSIONER OF AGRICULTURE

AN ACT

To amend and reenact sections 4-02-06, 4-02-21, 4-06-01, 4-06-02, 4-06-10, 4-06-11, 4-13-01, 4-13-04, 4-22-03, 4-23-13, 4-27-04, 23-22-02, 53-01-02, 54-16-01, 54-17-02, 54-21-02, 54-36-01, 55-01-01, 57-13-01, and 61-02-04 of the North Dakota Century Code, changing the name of the office of commissioner of agriculture and labor to commissioner of agriculture and removing him from the state historical society board.

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

§ 1. Amendment.) Section 4-02-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-06. Exhibition Dates To Be Filed—Penalty.) The secretary or other executive officer of every county or district fair association, or other exhibition at which the resources or products of the state are displayed, shall file with the commissioner of agriculture, on or before May first of each year, the dates on which such fair or exhibition will be held, together with the name of the place where the same will be held and the name of the president and secretary of such association. The failure to comply with this section shall subject the officer required to make the report to a fine of not more than fifty dollars.

§ 2. Amendment.) Section 4-02-21 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-21. Board of Directors of Mandan Fair.) The board of directors of the Missouri Slope agriculture and fair association shall consist of fifteen persons. The commissioner of agriculture, and the state auditor shall be ex officio directors of the association. Five of the directors shall be residents of the judicial district in which the fair is to be held, and one director, who is a resident thereof, shall be selected from each other judicial district of the state.

§ 3. **Amendment.)** Section 4-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-01. Federated Cooperative Agricultural Association—Creation—How Constituted—Powers.) There shall be in the department of agriculture, for the purpose of encouraging the formation and maintenance of a federated agricultural association for the protection of states having a community of interest in agricultural problems, a board to be known as the North Dakota commissioners of the federated cooperative agricultural association, which shall consist of three members to be appointed by the commissioner of agriculture. The appointments shall be made from a list of persons submitted by the committees on agriculture in the senate and in the house of representatives, acting jointly. The board shall have full power and authority to present the federated plan to other agricultural states with a view to forming a group of federated states, for the mutual benefit and protection of the producers of agricultural commodities having a community of interest, under the plan described in this chapter.

§ 4. **Amendment.)** Section 4-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-02. Commissioners—Qualifications—Term—Vacancy.) No commissioner shall be appointed unless he is a bona fide farmer engaged in the pursuit of agriculture. The terms of such commissioners shall be six years, and they shall be appointed so that the term of one commissioner shall expire every two years. In case of death, resignation, or removal from office of any commissioner, the vacancy shall be filled by the commissioner of agriculture for the unexpired term.

§ 5. **Amendment.)** Section 4-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-10. Administrative Official.) The commissioner of agriculture shall be the chief administrative official of the division of cooperatives.

§ 6. **Amendment.)** Section 4-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-11. Commissioner of Agriculture—Duties.) The commissioner of agriculture shall assemble, compile, and maintain files of statistical data relating to the work and progress of cooperative enterprises, the statutes of the several states, and so far as reasonably convenient, those of foreign countries,

affecting cooperatives. He also shall carry standard forms and outlines for use and reference in organization work. He shall disseminate information and materials for the use and benefit of established cooperatives and new cooperative projects in process of organization, and shall render such personal assistance to cooperatives generally as may be possible within the means and facilities at his disposal.

§ 7. **Amendment.)** Section 4-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-01. North Dakota Poultry Association—Purpose—Debts.) The North Dakota poultry association shall hold an exhibition annually for the purpose of promoting, improving, and increasing the poultry industry. The state shall not be liable for any debts or liabilities of the association except to the extent of appropriations that may be made therefor from time to time. The board of directors of such association shall consist of ten persons, and the commissioner of agriculture shall be a member thereof ex officio.

§ 8. **Amendment.)** Section 4-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-04. Improvement Board—How Constituted—Powers of Ex Officio Members.) The North Dakota poultry improvement board shall consist of the chairman of the poultry department of the North Dakota agricultural college, the commissioner of agriculture, and the executive officer of the livestock sanitary board, ex officio, and six members to be appointed by the governor in the manner hereinafter set forth. The ex officio members shall have no voting power, but shall attend and participate in the meetings of the board in an advisory capacity.

§ 9. **Amendment.)** Section 4-22-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-03. State Soil Conservation Committee—Members—Compensation—Records and Seal.) The state soil conservation committee shall be maintained as an agency of this state to perform the functions conferred upon it in this chapter. The committee shall be composed of ex officio members to consist of the governor, the commissioner of agriculture, the director of the state extension service, and the president of the North Dakota association of soil conservation districts, and regular members to consist of four soil district supervisors. Such regular members first appointed shall be appointed by

the present state soil conservation committee from a list of at least eight supervisors submitted by the state association of soil district supervisors. The term of appointment for the regular members shall be for two years each, except that in the first appointment of regular members two shall be appointed for two-year terms, and two shall be appointed for one-year terms. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The members of the committee shall receive no compensation for serving on such committee other than their traveling expenses necessarily incurred in carrying out the duties prescribed for such committee under the terms of this chapter. The committee shall keep a record of its official actions, shall adopt a seal which shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

§ 10. Amendment.) Section 4-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-23-13. State Committee—Members—Duties.) The state agency shall provide by regulations for the selection by the chairman of all the county committees provided for in section 4-23-12 of five persons of legal age, residents in this state, who shall be selected with reference to their qualification by actual farming experience and understanding of the agricultural problems of this state, to act as farmer members of the State Committee. No two persons who are residents in the same agricultural district shall be members of the state committee at the same time. The commissioner of agriculture and the director of the extension service shall be ex officio members of the state committee without the power to vote. The state committee shall advise the state agency with regard to all matters of major importance in carrying out the provisions of this chapter.

§ 11. Amendment.) Section 4-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-04. 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, 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.

§ 12. **Amendment.)** Section 23-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-22-02. Rabies Extermination Team.) The rabies control committee shall establish a rabies extermination team which shall be composed of such members of the game and fish department and the predatory animal and rodent control division of the department of agriculture as the committee may direct. It shall be the duty of the extermination team, upon direction of the rabies control committee, to exterminate or quarantine those animals suspected of having rabies and to carry out such other preventative measures as the committee may from time to time direct.

§ 13. **Amendment.)** Section 53-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-02. State Athletic Commission—How Constituted—Appointment—Term.) The state athletic commission shall consist of three members, who shall be electors of this state, of good moral character, and over twenty-one years of age. One member shall be a practicing physician in the state, one a practicing attorney, and the third member shall be the commissioner of agriculture, who shall be chairman of the commission by virtue of his office. Such physician and attorney shall be appointed by the governor, each for a term of three years, and until their successors are appointed and qualified, but shall be removable at the pleasure of the governor.

§ 14. **Amendment.)** Section 54-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. Emergency Commission—Members—Organization Meetings—Duties.) The emergency commission shall consist of the governor, the commissioner of agriculture, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

§ 15. Amendment.) Section 54-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-02. Industrial Commission — Members — Quorum — Meetings.) The industrial commission of North Dakota shall consist of the governor, the attorney general, and the commissioner of agriculture. The governor and one member shall constitute a quorum for the transaction of business. The meetings of the commission shall be held at such times and places as the governor or a majority of the commission may determine. It shall be provided by the proper authorities with suitably furnished offices at the seat of government.

§ 16. Amendment.) Section 54-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-02. Board of Administration—Members—Appointment —Term of Office—Removal.) The board of administration shall consist of five members. The superintendent of public instruction and the commissioner of agriculture shall be ex officio members and the other three members shall be appointed by the governor for a term of six years each, with the terms of office so arranged that one term only shall expire on the first day of July of each odd-numbered year. Each appointed member of the board shall hold his office until his successor is appointed and qualified. The governor may remove any appointed member of the board for cause.

§ 17. Amendment.) Section 54-36-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-01. Commission—Members—Officers—Expenses of Certain Members.) The North Dakota Indian affairs commission shall consist of the governor, commissioner of agri-

culture, executive director of the public welfare board of North Dakota, state health officer, director of the North Dakota state employment service, and the chairman of the boards of county commissioners of Sioux, Mercer, McLean, McKenzie, Dunn, Rolette, Benson, Mountrail and Eddy Counties; and the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The commission may call upon the superintendent of public instruction for consultation upon educational matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. The chairmen of the boards of county commissioners who are members of the commission and the Indian members of the commission shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission.

§ 18. Amendment.) Section 55-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***55-01-01. State Historical Board.)** There shall be a state historical society of North Dakota. The governor, by and with the consent of the senate, shall appoint nine members of the state historical society of North Dakota to serve as a board of directors to be known as the state historical board. Appointments shall be made from members of the state historical society who are residents of North Dakota who have had continuous membership in the society for three years immediately previous to the appointment. The governor will make his appointments from a list submitted by the membership group. Interim appointment may be made by the governor if the senate is not in session and such interim appointees may hold office until the senate has had an opportunity to confirm or reject such appointments. Appointments shall be for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term shall be filled by appointment for the remainder of the term only in the same manner as regular appointments. The board of directors shall select from its membership a president, vice president, and secretary to serve as officers of the board. The secretary of state, state engineer, state highway commissioner, state

***Note:** Section 55-01-01 was also amended by section 1, chapter 411, 1965 S.L.

forester, state game and fish commissioner, director of state library commission, and state treasurer shall be ex officio members of the board and shall take care that the interests of the state are protected.

§ 19. **Amendment.)** Section 57-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-01. Membership of Board.) The governor, state treasurer, state auditor, commissioner of agriculture, and state tax commissioner shall constitute the state board of equalization. The governor shall be chairman of the board and the tax commissioner is secretary.

§ 20. **Amendment.)** Section 61-02-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-04. State Water Conservation Commission—Members—Terms—Qualifications.) The state water conservation commission shall consist of the governor, commissioner of agriculture, and five other members to be appointed by the governor. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The five appointive members of the commission shall be appointed for a term of six years each with their terms of office so arranged that one term and not more than two terms shall expire on the first day of July of each odd-numbered year. Each appointive member shall be a qualified elector of the state and shall be subject to removal by judicial procedure. In case of a vacancy, the vacancy shall be filled by appointment by the governor. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers. The state water conservation commission may also be known and referred to as the state water commission.

Approved February 15, 1967.

CHAPTER 75

H. B. No. 928

(Twetén, Moquist, Larson(16), Kingsbury)

STATE POTATO COUNCIL

AN ACT

Relating to the promotion, advertising, research and development of Irish potatoes; creating a state potato council and prescribing its powers, duties and authority; prescribing a tax on potato production; providing for its collection; making an appropriation; and providing penalties for the violation of this Act; and declaring an emergency.

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

§ 1. Title of Act.) This Act shall be known as the potato industry promotion Act of North Dakota.

§ 2. Legislative Policy.) It is hereby declared that the production, development, marketing, and promotion of Irish potatoes in North Dakota is important to the general welfare of the people of the state of North Dakota; that it is in the public interest that better methods of production, processing, and marketing of potatoes and the advertising and promoting of potatoes grown in the state of North Dakota be fostered, encouraged, developed, and improved so that the potato industry within the state of North Dakota, the people employed by said industry, directly or indirectly, and the people of the state of North Dakota should be benefited thereby, the accomplishment of which, requires and demands the establishment of a North Dakota state potato council for the purposes and with the objectives of contributing to the stabilization and improvement of the agricultural economy of this state. The provisions of this chapter shall not be construed to abrogate or limit in any way the rights, powers, duties, and functions of the office of the commissioner of agriculture or any other agency of the state but shall be supplementary thereto and in aid and cooperation therewith; nor shall the provisions of this Act be construed to authorize the North Dakota state potato council to engage in competitive business enterprises, it being the intended purpose of this chapter that the council through research and advertising, shall promote North Dakota grown Irish potatoes.

§ 3. Definitions.) Whenever used in this Act:

1. "Council" means the North Dakota potato council.

2. "Grower" means any person who plants, raises, and harvests Irish potatoes from more than ten acres.
3. The term "potatoes" shall mean any and all varieties of Irish potatoes harvested within the state of North Dakota.
4. "Participating grower" means a grower who has not exempted himself from the payment of taxes on potato production under this Act for a particular year, or a grower who is not exempt from the payment of taxes on potato production under the terms of this Act.
5. "Commissioner" shall mean commissioner of agriculture.

§ 4. North Dakota State Potato Council — Membership — Election — Term.) There is hereby established a North Dakota state potato council. The council shall be composed of the commissioner of agriculture or his designated representative, who shall be chairman of the council except that he shall not have the right to vote, and one participating grower elected from each of the districts hereinafter established. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district he represents. The term of each elected member shall be three years and shall begin on July first of year of election, except that initially one member shall be elected for a three-year term; two members shall be elected for two-year terms; and two members shall be elected for one-year terms as designated by the commissioner. If at any time during a member's term he shall cease to possess any of the qualifications provided for in this Act, his office shall be deemed vacant and the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner shall conduct all elections under this section in each district in such a manner as he, in his discretion, deems fair and reasonable. All such elections shall be conducted in the month of June. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

§ 5. Potato Districts—Establishment.) It being the intent of this Act to divide the state into districts containing as nearly equal potato acreages as practicable, the following potato districts are established:

1. District one shall consist of the counties of Pembina and Cavalier.
2. District two shall consist of all townships in Walsh County in and west of range 54.
3. District three shall consist of all those townships in Walsh County in and east of range 53.

4. District four shall consist of the counties of Grand Forks, Nelson and Benson.
5. District five shall consist of the counties of Traill, Cass, Richland, Steele, Barnes, Griggs, Stutsman, Foster, Eddy, LaMoure, Dickey, Ransom, Sargent, Logan, McIntosh, Burleigh, Kidder, Sheridan, Wells, Burke, Divide, Mountrail, Renville, Ward, Williams, McHenry, Pierce, Dunn, McKenzie, McLean, Mercer, Oliver, Adams, Billings, Bowman, Golden Valley, Hettinger, Slope, Stark, Emmons, Grant, Morton, Sioux, Towner, Rolette, Bottineau and Ramsey.

§ 6. Meetings—Quorum—Compensation and Expenses of Council.) A majority of the voting members of the council shall constitute a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council shall be called by the chairman except special meetings which shall be called by the chairman on the petition of three council members within seven days of receiving such a petition. Each member of the council, except the chairman, shall receive the sum of twenty-five dollars per day for each day spent in performance of the business of the council, together with traveling expenses while on council business on the same basis as employees of the commissioner.

§ 7. Expenditure of Funds.) Every expenditure of funds made pursuant to this Act shall be approved by the council, submitted upon itemized voucher to the state auditing board for approval, and paid by warrant check issued by the department of accounts and purchases.

§ 8. Potato Council Powers and Duties.) In the administration of this Act, the council shall have the following powers and duties:

1. To contract and cooperate with any person, firm, corporation, or association, or with any local, state or federal department or agency for research, education, publicity, promotion, and transportation for the purposes of this Act.
2. To expend the funds collected pursuant to the provisions of this Act and appropriated for its administration.
3. To appoint, employ, bond, discharge, fix compensation for, and prescribe the duties of such administrative, clerical, technical, and other personnel as it may deem necessary.
4. To accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the council.

5. To investigate and prosecute in the name of the state of North Dakota any action or suit to enforce the collection or ensure payment of the taxes authorized by the provisions of this Act, and to sue and be sued in the name of the council.

§ 9. Tax Levied.) There is hereby levied and imposed upon all land from which potatoes are harvested by a grower as defined herein an annual tax of one dollar per acre. Every potato grower shall report to the council by August fifteenth following the effective date of this Act and on July fifteenth of each year thereafter, on forms provided by the council, the acreage of potatoes planted in this state, on acreages controlled by him. On or before November fifteenth of each year every grower shall file with the council, on forms furnished by it, a statement reporting the acres of potatoes harvested. The remittance of the tax at the rate as provided in this section shall accompany the report. All moneys levied and collected under this Act shall be paid to the council for deposit in the state treasury to be deposited to the credit of a fund designated "spud fund" to be used exclusively to carry out the intent and the purposes of this Act.

§ 10. Appropriation of Funds.) There is hereby appropriated the sum of \$250,000.00 out of any moneys in the spud fund to the state potato council for the purpose of carrying out the provisions of this Act. The provisions of section 54-27-10 of the Code shall not apply to appropriations from the spud fund nor shall any part thereof revert at the expiration of any biennium.

§ 11. Storage Breakdown Loss—Tax Refund.) A grower who sustains a complete storage breakdown may file a claim for a refund of that portion of the tax for the crop year affected based upon the acreage from which the yield was lost. Growers claiming relief under this section shall make application in writing to the council on or before April first of such crop year. All claims for refund under this section shall be under oath and attested by three other growers informed of the facts.

§ 12. Nonparticipating Growers—Refunds.) Growers may become nonparticipating growers and claim exemption from the provisions of this Act. To claim exemption, a nonparticipating grower shall notify the council, in writing, on or before July fifteenth of each year, at the time of the initial report as provided in section 9 of this Act of his intention to not participate under the program and to claim refund of the taxes herein levied for that crop year. Such grower, if he has notified the council of his intention not to participate, as herein provided, shall be eligible between December first

and December fifteenth of each year, to claim a refund of the taxes paid in that crop year, paid pursuant to this enactment. Upon the receipt of a claim for refund by personal letter from an eligible, nonparticipating grower, the council shall refund the taxes paid in such crop year.

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

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

If a majority of the participating growers voting upon the question are in favor of the proposed change, the council shall certify the result to the commissioner with the request that the department prepare a bill to submit to the legislature at the next legislative session to modify this Act in conformity therewith. The results of such referendum shall be advisory only and the legislature shall in no way be obligated to adopt legislation enacting the proposals contained in any referendum.

§ 14. Collection of Unpaid Taxes.) If a participating grower fails to pay the tax provided herein, the collection thereof may be enforced by the council in any court with competent jurisdiction within this state.

§ 15. Misdemeanor to Violate Provisions of This Act.) Any person who willfully violates the provisions of this Act is guilty of a misdemeanor.

§ 16. Penalty for Nonpayment of Taxes.) Any participating grower who shall fail to pay any tax levied by this Act on the date that the same becomes due shall be delinquent and the council shall levy a penalty on such delinquent payments of ten percent of the tax due, plus interest at the rate of six percent per annum from the due date, which penalty and interest shall be collected in the manner as described in section 14 of this Act.

§ 17. Record of Council—Inspection.) All of the records of the council, including acreage reports, tax returns, claims of exemption, and any other data, records, or information retained by the council shall be public information and shall be available for the inspection of any person for any lawful purpose; provided, however, that the council shall be empowered to make rules and regulations concerning the inspection of such information or data, and the time or place of such inspection or the manner which the information shall be made available.

§ 18. 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 14, 1967.

CHAPTER 76

S. B. No. 208
(Wenstrom, Morgan)

BEEKEEPERS

AN ACT

To create and enact sections 4-12-03.1 and 4-12-03.2 of the North Dakota Century Code, relating to the establishment, registration, and retention of beehive or colony location rights, and to amend and reenact sections 4-12-01, 4-12-03, 4-12-20, and 4-12-22 of the North Dakota Century Code, relating to definitions concerning bees, beekeepers' licenses, the penalty for unlawful transportation or maintenance of bees, inspection fees paid for bees being brought into the state, and declaring an emergency.

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

§ 1. **Amendment.)** Section 4-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Beekeeper" shall mean any person, firm, association, or corporation owning, possessing, or controlling one or more colonies of bees for the production of honey, beeswax, or byproducts either for personal or commercial use.
2. "Apiary" shall mean any place where one or more hives or colonies of bees are kept.
3. "Person" and "owner" shall mean natural persons, firms, associations, or corporations.
4. "Equipment" shall mean hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives, and shall also include any containers of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.
5. "Bees" shall mean any stage of common honey bee, *Apis Mellifera L.*
6. "Commercial locations" shall mean apiaries where twenty-five or more hives or colonies of bees are kept.

7. "Commercial operator" shall mean any beekeeper who maintains two hundred and fifty or more hives or colonies of bees.

§ 2. **Amendment.)** Section 4-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03. Beekeeper's License Required.) Every beekeeper, on or before the first day of May in each year or within twenty days thereafter, shall make application to the commissioner of agriculture, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every beekeeper who makes a satisfactory application in the form prescribed by the commissioner and pays the license fee required in this chapter. Any person procuring or coming into possession of bees within ten days thereafter shall make an application to the commissioner of agriculture for a license. Each applicant shall include on his application a legal description, to the nearest quarter section, of each apiary maintained by him. The application shall also set out the number of hives or colonies of bees maintained at each apiary described in the application.

§ 3.) Section 4-12-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-12-03.1. Establishment of Locations—Exception—Location Rights.) No new commercial apiary may be established within three miles of an existing commercial bee apiary of another commercial operator. Provided, however, if any seed grower requests the commissioner of agriculture to allow additional locations for the purpose of pollinating his crop, the restriction prohibiting the maintaining of locations within three miles of one another shall not apply. The name and address of each apiary shall be displayed at each location. The property owner will be exempt from this subsection.

§ 4.) Section 4-12-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-12-03.2. Retention of Locations.) A commercial operator may register prospective commercial locations with the commissioner of agriculture if such locations contained in the application do not exceed in number twenty-five percent of the number of active commercial locations maintained by him. All commercial locations must be occupied by July first, at least every other year.

§ 5. **Amendment.)** Section 4-12-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-20. Penalty—Confiscation for Unlawful Transportation or Maintenance.) Any person who violates any of the provisions of this chapter, or any regulation or order made pursuant thereto, shall be guilty of a misdemeanor and any bees, brood, combs for breeding, or used beekeeping appliances and equipment unlawfully transported or maintained may be confiscated by the state bee inspector.

§ 6. Amendment.) Section 4-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-22. Shipments into State—Permit—Fees.) Before any person transports into this state any bees on comb, used hives, or used apiary equipment he shall obtain from the state bee inspector a permit for such transportation. A copy of the certificate of health issued by the official bee inspector of the state or country of origin, a complete description of the shipment, and such other information as may be required by regulations established by the commissioner of agriculture shall be provided the state bee inspector who shall upon receipt of this information issue the required permit. Immediately upon the arrival of any bees into this state the owner thereof shall comply with provisions of this chapter relating to the registration of bees. Upon the issuance of the permit authorized in this section, a nonresident applicant shall pay to the commissioner of agriculture an entrance fee of one dollar and fifty cents for each hive or colony of bees transported into the state of North Dakota. Provided, however, no applicant for a permit shall be charged more than one entrance fee for any hive or colony of bees, regardless of the number of times the colony or hive of bees is transported into or out of the state. The permit fee authorized in this section shall apply only if the state from which the hives or colonies of bees were imported requires entrants to pay an inspection or entrance fee for hives or colonies of bees brought into that state.

§ 7. 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 February 28, 1967.

CHAPTER 77

H. B. No. 600
(E. Johnson(23), Bier)

BOND OF MILK PURCHASERS

AN ACT

To amend and reenact section 4-30-03 of the 1965 Supplement to the North Dakota Century Code, relating to the amount of bond to be furnished by applicants for license to purchase milk or cream from dairy producers.

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

§ 1. Amendment.) Section 4-30-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-03. Bonding of Purchasers of Dairy Products.) Each applicant for license under section 4-30-02, who purchases milk or cream from a dairy producer, shall file with his application for license a surety bond or certified bank draft held in favor of the dairy department. The amount of such surety bond or certified bank draft shall be determined on the basis of average purchases of such milk or cream from dairy producers during the previous year, and in no event shall be less than \$1,000.00. Where payment for such milk or cream purchased from dairy producers is made on a weekly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average weekly purchases of such milk or cream. Where payment for such milk or cream purchased from dairy producers is made on a semimonthly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average semimonthly purchases of such milk or cream. Where the period of payment for such milk or cream purchased from dairy producers is made on a basis involving periods of time greater than semimonthly, the amount of such surety bond or certified bank draft shall be in an amount equal to the average purchases of such milk or cream for such periods of time. The commissioner shall be named as obligee, but the bond or draft shall be held for the purpose of protecting, and for the benefit of, any dairy producer, and the full and complete payment to the seller for all milk or cream purchased by the licensee; provided, however, that the aggregate liability of the bonding company or the dairy department to all such persons shall in no event exceed the amount of such a bond or draft.

Approved March 14, 1967.

CHAPTER 78

H. B. No. 599
(Johnson(23), Bier)

REPORTS OF MILK PRODUCTS

AN ACT

To amend and reenact section 4-30-46 of the 1965 Supplement to the North Dakota Century Code, relating to the reporting of milk and milk products.

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

§ 1. **Amendment.)** Section 4-30-46 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-46. Reports—Blanks—When Made—Contents—Penalty.) The dairy commissioner shall furnish blanks to all licensed creameries, cheese factories, condenseries, drying plants, ice cream plants, ice milk plants, milk plants, and producer-distributors for the purpose of making a report of the amount of milk and milk products handled. Each proprietor or manager of such businesses shall report to the commissioner on the last day of June and of December of each year, or within thirty days thereafter, or immediately upon cessation of operation, the pounds of butterfat in cream, the pounds of manufacturing grade milk, and the pounds of bottling milk purchased during the period covered by the report, the aggregate amount paid for each, the number of pounds of butter and cheese, and the number of gallons of ice cream and ice milk manufactured during such period.

Approved February 24, 1967.

CHAPTER 79

H. B. No. 596

(Gackle, Duncan, Tollefson, Welder, Glaspey)

MILK STABILIZATION BOARD

AN ACT

Relating to the establishment of a milk stabilization board to regulate prices and trade practices within the fluid milk industry which industry is declared to be within the police power, making an appropriation, and providing a penalty.

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

§ 1. Declaration of Policy Relating to Milk.) It is hereby declared:

1. That milk is a necessary article of food for human consumption.
2. That the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare.
3. That the production, transportation, processing, storage, distribution and sale of milk, in the state of North Dakota, is an industry affecting the public health and interest.
4. That unfair, unjust, destructive, and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distribution, and sale of milk, which trade practices constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine the sanitary regulations and standards of content and purity of milk.
5. That health regulations alone are insufficient to prevent disturbances in the industry and to safeguard the consuming public from further inadequacy of a supply of this necessary commodity.
6. That it is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of fluid milk and cream, to eliminate speculation and waste, and to make the distribution thereof between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of such commodities.

7. That investigations have revealed and experience has shown, that due to the nature of milk and the conditions surrounding the production and marketing of milk, and due to the vital importance of milk to the health and well being of the citizens of this state, it is necessary to invoke the police powers of the state to provide a constant supervision and regulation of the milk industry of the state to prevent the occurrence and recurrence of those unfair, unjust, destructive, demoralizing, and chaotic conditions and trade practices within the industry, which have in the past affected the industry and which constantly threaten to be revived within the industry and to disrupt or destroy an adequate supply of pure and wholesome milk to the consuming public and to the citizens of this state.
8. That fluid milk is a perishable commodity, which is easily contaminated with harmful bacteria, which cannot be stored for any great length of time, which must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day, but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis.
9. That the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that the producers and distributors shall produce and carry on hand a surplus of milk in order to guarantee and insure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into byproducts of milk at great expense and at times at a loss to the producer and distributor.
10. That this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the fluid milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and oftentimes to produce milk of an inferior and unsanitary quality.
11. That investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless the producers, distributors, and others engaged in the marketing of milk are guaranteed and insured a reasonable profit on milk, both the supply and quality of milk is affected to the detriment of, and against the best interest of the citizen of this state whose health and well being is thereby vitally affected.

12. That, where no supervision and regulation is provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of both producers and distributors of milk is adversely affected to a serious degree, thereby entailing loss and hardship upon all within the community with whom these producers and distributors carry on business relations.
13. That, due to the nature of milk and the conditions surrounding its production and distribution, the natural law of supply and demand has been found inadequate to protect the industry in this and other states, and in the public interest it is necessary to provide state supervision and regulation of the fluid milk industry in this state.

§ 2. **Purpose.)** The purpose of this law is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the fluid milk industry. It is enacted in the exercise of the police powers of the state.

§ 3. **Definitions.)** As used in this Act, unless the context otherwise requires:

1. "Board" means the state agency created by this Act, to be known as the North Dakota milk stabilization board.
2. "Person" means any person, firm, corporation, or association.
3. "Producer" means any person who produces milk for fluid consumption within the state, selling same at producer price to a processor.
4. "Processor" means any person purchasing milk from producer to be processed and distributed for fluid consumption within the state.
5. "Distributor" means any person purchasing milk from a processor and distributing same for fluid consumption within the state.
6. "Retailer" means any person who buys milk from a dealer licensed under this Act, for resale over the counter at retail, or for consumption on the premises.
7. "Dealer" means any processor or distributor.
8. "Licensee" means any person who holds a license from the board.
9. "Association" means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board.

10. "Market" means any area of the state designated by the board as a natural marketing area.
11. "Consumer" means any person or any agency, other than a dealer, who purchases milk for consumption or use.
12. "Milk" means fluid milk and cream sold for consumption as such, and for the purposes of this Act shall be classified as follows:
 - a. Class I milk shall include all bottled or packaged milk, raw, pasteurized, and homogenized, low fat, (two percent), buttermilk, chocolate milk, whipping cream, coffee cream, half-and-half, and skim milk.
 - b. Class II milk shall include all cottage cheese and milk used for mix.

The board shall have power and authority to assign fluid milk products hereafter developed to the class which in its discretion it determines to be proper.

§ 4. Milk Stabilization Board.) There is hereby created a milk stabilization board to consist of five members, who shall be appointed by the governor. The board shall consist of one person who is a producer selling to a processor, who shall be selected by the governor from two names submitted to him by the North Dakota milk producers association; one person who is a processor, who shall be selected by the governor from two names submitted to him by the North Dakota dairy industries association; one person who is a retailer, who shall be selected by the governor from two names submitted to him by the North Dakota association of food retailers; and two persons shall be selected by the governor who are consumers, and who are not otherwise engaged in the milk business. No appointee shall have held elective or appointive public office during the period of two years immediately preceding his appointment and no appointee shall hold any other public office, either elective or appointive, during his term of office as a member of the milk stabilization board; and not more than three members of the said milk stabilization board shall, at the time of the appointment or thereafter during their respective terms of office, be members of the same political party or residents of the same congressional district.

The members of said milk stabilization board shall be appointed within thirty days after passage and approval of this Act. The term of office of one member shall expire on July 1, 1968; the term of office of one member shall expire on July 1, 1969; the term of office of one member shall expire on July 1, 1970; the term of office of one member shall expire on July 1, 1971; the term of office of one member shall expire on July 1,

1972; and each succeeding member shall hold his office for a term of five years and until his successor shall have been appointed and qualified. Any vacancy shall be filled by appointment by the governor as heretofore stated.

Three members of the board shall constitute a quorum for the regular transaction of business. The board shall choose one of its own members as the chairman, who shall hold office as a chairman for one year; provided, election as chairman shall not interfere with the member's right to vote on all matters before the board.

Each member of the board shall receive twenty-five dollars per diem for each day actually spent in the performance of his official duties, plus mileage and expenses as are allowed to other state officers, but in no event shall a member's per diem payments exceed fifteen hundred dollars in any one year.

Each member of the board shall give bond conditioned for the faithful performance of his duties in the manner required by law in the sum of five thousand dollars.

The board may employ necessary assistants and appoint agents and instrumentalities but all expenditures under this Act shall be paid from the receipts hereunder.

The board shall have the power and it shall be its duty to designate an executive secretary who shall serve under the direction and at the pleasure of the board and who shall have charge of the administration of the board's orders, rules, and regulations, and who shall also serve as financial officer of the board and who shall be authorized to accept or receive money paid or to be paid to the board, either as license fees or fines as provided by this Act. Such person shall, before he enters upon the discharge of his duties, execute and file a bond in such amount as may be fixed by the board, as may be provided by law for public officers.

Meetings of the board shall be had at least every sixty days at the call of the chairman or a majority of the board. The salary of the secretary is to be fixed by the board and the state board of examiners. The board shall so enforce the Act that there shall be no discrimination against any dealer, consumer or producer.

§ 5. Powers and Duties of the Milk Stabilization Board.)

1. The board is hereby vested with the powers, and it shall be its duty to supervise, regulate, and control the fluid milk industry of the state of North Dakota, including the production, transportation, processing, storage, distribution, and sale of milk in the state of North Dakota for consumption within the state; providing, however, that nothing contained in this Act

shall be construed to abrogate or affect the status, force, or operation of any provision of public health laws or the law under which the North Dakota department of agriculture is constituted together with the North Dakota department of agriculture regulations or county board of health regulations, or municipal ordinances for the promotion or protection of the public health, but the board shall have the power to cooperate with the state board of health, the North Dakota department of agriculture or any district, county, or city board of health in enforcing the provisions of this Act.

2. The board shall have the power to investigate all matters pertaining to the production, transportation, processing, storage, distribution, and sale of milk in the state of North Dakota and to conduct hearings upon any subject pertinent to the administration of this Act. Process and procedure under this title shall be governed by the provisions of chapter 28-32 of the North Dakota Century Code.

3. The board may act as mediator or arbitrator to settle any controversy or issue pertaining to fluid milk among or between producers, processors, distributors, retailers, or consumers.

4. The operation and effect of any provision of this Act, conferring a general power upon the milk stabilization board, shall not impair or limit any specific power or powers granted to the milk stabilization board by this Act.

§ 6. Markets.) Pursuant to the declaration of policy relating to milk set forth in section 1 of this Act, the milk stabilization board is vested with the duty and authority to designate natural marketing areas which shall together embrace all the geographical area of the state and to prescribe and enforce minimum producer, distributor, and retail prices in such areas in the manner set forth in this Act:

1. Natural marketing areas shall be established forthwith throughout the state by the board; provided that before any proposed natural marketing area is established the board, after notice of at least thirty days, shall hold a hearing or hearings, at a place or places within the proposed area, at which producers, processors, and distributors doing business within said proposed natural marketing area, who are licensed by the North Dakota department of agriculture, and the consuming public may present evidence and testify, and in the event the hearing or hearings make it evident to a majority of the board that the establishment of such proposed natural marketing area is in the public interest, the board shall make findings and conclusions and proceed to establish such natural marketing area.

2. The board shall have the power, from time to time and at its discretion, to adjust and alter the boundaries of natural marketing areas after they have been established, if after a hearing upon notice of at least thirty days to all interested parties it finds and orders such adjustment to be in the public interest.
3. The board shall at all times maintain current information on quantities of surplus grade A milk available in the various marketing areas throughout the state, and such information shall be available to all interested parties on request.

§ 7. Orders Establishing Minimum Prices.) Prior to the establishment of prices in any market the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing or from facts within its own knowledge, investigate and determine what are reasonable costs and charges for producing, hauling, handling, processing, or other services performed in respect to milk and what prices for milk in the several localities and markets of the state, and under varying conditions, will best protect the milk industry in the state and ensure a sufficient quantity of pure and wholesome milk to adults and minors in the state, and be most in the public interest.

The board shall take into consideration the balance between production and consumption of milk, the cost of production and distribution, and prices in adjacent and neighboring areas and states, so that minimum prices which are fair and equitable to producers, processors, distributors, retailers, and consumers may result.

The board shall, at least ten days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific factors which shall be taken into consideration in determining costs of production and distribution and of the actual dollars and cents costs of production and distribution which preliminary studies and investigations of auditors or accountants in its employment indicate will or should be shown at the hearing, so that all interested parties will have opportunity to be heard and to question or rebut such considerations as a matter of record.

If the board at any time proposes to base all or any part of any official order establishing minimum prices upon facts within its own knowledge, as distinguished from evidence

which may be presented to it at a public hearing by the consuming public or the milk industry, the board shall, at least ten days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

The board, after consideration of the evidence produced at such hearing, shall make written findings and conclusions and shall establish by official order:

1. The minimum prices to be paid by the milk dealers to producers and others for milk. Each order establishing minimum prices shall classify milk by forms, classes, grades or uses as the board may deem advisable and shall specify the minimum prices therefor, with a differential for each of the two classes of milk.

The milk produced in one natural marketing area and sold in another natural marketing area shall be paid for by a processor in accordance with the pricing order of the area where processed at the price therein specified of the class or use in which it is ultimately used or sold. No allowance for freight, other than freight for transportation of milk from the farm to plant, shall be charged to a producer by a processor unless it is found and ordered by the board, after notice and hearing in the manner hereinbefore specified, that such an additional freight allowance is necessary to permit the movement of milk in the public interest. All milk purchased within a natural marketing area by a processor shall be purchased on a uniform basis. The basis to be used shall be established by the board after the producers and the processors of the area have been consulted.

2. The minimum distributor prices to be charged for milk in its various forms, classes, grades, and uses when sold by a processor to a distributor.
3. The minimum wholesale prices to be charged for milk in its various forms, classes, grades, and uses when sold by processors or distributors to retail stores, restaurants, boardinghouses, fraternities, sororities, confectionaries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.
4. The minimum retail prices to be charged for milk in its various forms, classes, grades, and uses when sold by processors or distributors, and retail stores to consumers.

A minimum producer, distributor, wholesale, or retail price to be charged for milk shall not be established higher than is necessary to cover the cost of ordinarily efficient and economical milk dealers, including a reasonable return upon necessary investment.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board; provided, that before making, revising, or amending any order establishing prices to be charged or paid for milk in any of its forms, classes, grades or uses, the board shall hold a public hearing on such matter in the same manner provided herein for the original establishment of prices.

§ 8. Licenses to Processors and Distributors.) In any market, where the provisions of this Act apply, it shall be unlawful for any processor or distributor to transport, process, store, handle, distribute, buy, or sell milk unless such dealer be duly licensed as provided by this Act. It shall be unlawful for any such person to buy, sell, handle, process, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this Act. The board may decline to grant a license, or may suspend or revoke a license already granted, upon due cause and after hearing.

§ 9. Licenses—Milk Control Fund.) No processor or distributor shall engage in the business of processing or distributing milk subject to this Act in this state without first having obtained a license from the North Dakota department of agriculture and without being licensed under this Act by the milk stabilization board. The annual fee for such license from the milk stabilization board shall be two dollars, and shall be due and payable on or before the first day of July, commencing in the year 1967.

In addition to said annual license fee, the board shall in each year, on or before the first day of April, for the purpose of securing funds to administer and enforce this Act, levy an assessment upon processors and distributors of five cents per hundredweight on the total volume of all milk subject to this Act sold by either a processor or a distributor. Milk which is sold by a processor licensed under this Act to a distributor upon which said fee has been paid shall be exempt from further payment.

Said assessment upon processors and distributors shall be paid quarterly on or before the fifteenth day of July, October, January, and April of each year, commencing in July of 1967, and the amount of such assessment shall be computed by apply-

ing the fee designated by the board to the volume of milk sold in the calendar quarter immediately preceding.

Failure of any processor or distributor to pay any assessment when due shall constitute violation of this Act and his license under this Act shall thereupon automatically terminate and be null and void and of no effect. Reinstatement of a license so terminated shall be effected by payment of all delinquent assessments plus a delinquency fee equal to thirty percent of all delinquent assessments.

All license fees and assessments hereinbefore required to be paid shall be deposited by the milk stabilization board in the state treasury in a special fund to be known as the milk stabilization fund. All costs of administering this Act, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of this Act, shall be paid out of said milk stabilization fund within the limits of legislative appropriations.

§ 10. Application for Licenses.) An applicant for license to operate as a processor, or distributor shall file a signed application upon a blank prepared under the authority of the board, and an applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the board are necessary for the administration of this Act. Such application shall certify the applicant to be the holder of all licenses required by the North Dakota department of agriculture for the conduct of his business and such application shall be accompanied by the license fee required to be paid.

§ 11. Declining, Suspending, and Revoking Licenses.) The board may decline to grant a license or may suspend or revoke a license already granted for due cause upon due notice and after hearing. The violation of any provisions of this Act or of any lawful order or regulation of the board, the failure or refusal to make required statements or reports, and aggravated delinquency in the payment of license fees or any of them shall be deemed causes for which the board may, at its discretion, suspend or revoke a license; provided, that no license shall be revoked except upon the approval of a majority of all members of the board.

§ 12. Rules and Orders.) The board may adopt and enforce all rules and all orders necessary to carry out the provisions of this Act in accordance with the provisions of chapter 28-32 of the North Dakota Century Code.

§ 13. Rules of Fair Trade Practices.) In addition to the general and special powers heretofore set forth, the board shall

have the power to make and formulate reasonable rules and regulations governing fair trade practices as they pertain to the transaction of business among licensees under this Act and among licensees and the general public. Such reasonable rules and regulations governing fair trade practices shall contain provisions regarding the following methods of doing business which are hereby declared unfair, unlawful, and not in the public interest:

1. The payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by any person, whether in the form of money or otherwise. All equipment furnished by a processor or by a distributor to a retailer shall be sold at a price not less than the cost price thereof, and shall not be given, loaned, or rented.
2. The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.
3. The extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions.
4. The purchasing, processing, bottling, packaging, transporting, delivering, or otherwise handling in any marketing area of any milk which is to be or is sold or otherwise disposed of at less than the minimum distributor, wholesale, and retail prices established by the board pursuant to this Act.
5. The payment of a less price than the applicable producer price established by the board pursuant to this Act by a processor to any producer for milk which is distributed to any person, including agencies of the federal, state or local government.

§ 14. Entry, Inspection, and Investigation.) The board shall employ auditors who shall have access to, and may enter, at all reasonable hours, all places where milk is processed, bottled, handled, or stored, or where the books, papers, records, or documents relative to such transactions are kept and shall have the power to inspect and copy the same in a place within the state, and may administer oath, and take testimony for the purpose of ascertaining facts, which, in the judgment of the board, are necessary to administer this Act, but any such information so derived shall be treated as confidential by the board and shall be used by it only for the administration of this Act and not for general public issue. Any such auditor, member of the board, and any person assisting the board in

the administration of this Act, who shall acquire any information, while in the employ of the board, in respect to the transactions, property, files, records or papers of the board, or who shall acquire any information, while in the employ of the board, in respect to the business or mechanical, chemical, or other industrial processes belonging to or employed by any person and who shall divulge the same to any other than members of the board or the superior of any such auditor or employee of the board, except when called upon to testify in any action or proceeding in any court, wherein the board is a party, shall be guilty of a misdemeanor.

§ 15. Reports of Dealers — Accounting System — Records.)

The board shall have the power to require all persons holding licenses under it to file with the board such reports at such reasonable or regular time as the board may require, showing such person's production, sale or distribution of milk, and any information deemed by the board necessary which pertains to the production, sale or distribution of such milk, either under oath or otherwise, as the board may direct, and failure or refusal to file such reports when directed to do so by the board or its duly designated agent shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the board.

The board shall adopt a uniform system of reporting to be used by the processor and distributor to account for the usage of all milk received by the processor and distributor.

Every processor and distributor shall keep the following records:

1. A record of all milk, cream, or dairy products received, detailed as to location, names, and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.
2. A record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold.
3. A full and complete record of all milk, cream, or dairy products sold, classified as to kind and grade, showing where sold, and the amount received therefor.
4. A record of the wastage or loss of milk or dairy products.
5. A record of the items of handling expense.
6. A record of all refrigeration facilities sold for storage purposes to any person, showing types and sizes of the

same, the location of said facilities, and the original, or duplicate original, of all agreements covering sales charges therefor.

7. A record of all conditional sales of equipment or other property, the location of said property, and the original, or duplicate original, of all conditional sales contracts pertaining thereto.
8. A record of all moneys loaned to wholesale customers, the terms and conditions of said loans, and the original evidence of the indebtedness based on said loans.
9. Such other records as the board may deem necessary for the proper enforcement of the Act.

§ 16. Cooperation with Other Governmental Agencies.) In order to secure a uniform system of milk stabilization, the board is hereby vested with power, and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture of the United States, and, for the foregoing purposes, the board shall have the power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this Act.

§ 17. Violations Made Misdemeanors—Penalties.) Any person, required by this Act to be licensed, who shall produce, sell, distribute, or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this Act, shall be deemed 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. A violation of any provision of this Act or of any lawful rule or order of the board, shall be deemed a misdemeanor punishable 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.

§ 18. Constructions, Exceptions, and Limitations.) The license required by this Act shall be in addition to any other license required by any statute of North Dakota or any municipality of the state of North Dakota. This Act shall apply to every part of the state of North Dakota.

Nothing contained in this Act shall be construed to prohibit the issuing of trading stamps in numbers customary in normal trade, but no trading stamp bonuses shall be given for milk products as defined herein.

If any portion of this Act is held invalid or unconstitutional, such holding shall not affect the validity of the Act as a whole,

or any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

No provision of this Act shall apply or be construed to apply to foreign or interstate commerce except insofar as the same may be effective in compliance with the United States Constitution, and with the laws of the United States. It is the intention of the legislature, however, that the instant, whenever that may be, that the handling, within the state by a dealer, of milk produced outside of the state, becomes the subject of regulation by the state in the exercise of its police powers, the provisions of this Act, affecting intrastate milk, shall immediately apply and the powers conferred by this Act shall attach thereto.

§ 19. Local Advisory Boards.) Whenever a public hearing is scheduled by the milk stabilization board in any marketing area for the purpose of establishing prices, the board shall, at least ten days prior to the date set for such hearing, appoint a local advisory board, the function of which shall be to assist and advise the milk stabilization board in matters pertaining to the production and marketing of milk in said marketing area. The local advisory board shall consist of two producers and two processors, who are respectively actively engaged in milk production and distribution in the area. Such local advisory board shall meet with the milk stabilization board at the call of the milk stabilization board before, during, or after such public hearing to establish prices; and a verbatim transcript of all matters and things discussed by the milk stabilization board with such local advisory board at all such conferences or meetings shall be prepared and shall be considered a part of the record of the hearing. The members of such local advisory board shall serve without pay, but shall receive mileage and expenses in an amount equal to that received by state officers for attending such meetings or conferences. In no event shall there be more than three meetings or conferences between the milk stabilization board and such local advisory board; and in all events such local advisory board shall cease to exist when the milk stabilization board promulgates its decision or order establishing prices following the public hearing heretofore mentioned.

§ 20. Referendum on Continuance of Program—Petitions—Contents.) Any time after three years of the effective date of this Act, on petition of twenty-five percent of the total grade A milk producers in North Dakota covered by the provisions of this Act, said petitioners residing in at least twenty-seven different counties in this state, the commissioner of agriculture shall conduct a referendum by secret ballot by mail, in accordance with rules established by the commissioner of agriculture,

and shall report the results of the referendum to the next legislative assembly that meets thereafter.

§ 21. Planning and Organizing Funds.) The milk stabilization board is hereby granted authority to negotiate a loan of ten thousand dollars, or so much thereof as may be necessary, from the bank of North Dakota. Said loan shall be for the purpose of meeting the initial expenses of planning and organizing the system. The loan shall be repaid as an administrative expense of the plan.

§ 22. Appropriation.) There is hereby appropriated out of any moneys in the milk stabilization fund in the state treasury the sum of \$160,000.00, or so much thereof as may be necessary, for expenditure during the biennium beginning July 1, 1967, and ending June 30, 1969, for the purpose of carrying out the provisions of this Act.

Approved March 10, 1967.