

AGRICULTURE

CHAPTER 92

HOUSE BILL NO. 1203
(Committee on Agriculture)
(At the request of the Agriculture Department)

POTATO CERTIFICATION AND INSPECTION

AN ACT to create and enact two new sections to chapter 4-10 of the North Dakota Century Code, relating to the responsibilities of state seed department and liability of the state seed commission, state seed department, state seed commissioner and his employees, and certified seed potato producers; to amend and reenact sections 4-10-01, 4-10-02, 4-10-03, 4-10-04, 4-10-05, 4-10-07, 4-10-09, 4-10-10, 4-10-11, 4-10-15, 4-10-17, 4-10-18, 4-10-19, 4-10-20, and 4-10-22 of the North Dakota Century Code, relating to definitions, duties of seed commissioner, rules and regulations, grades for potatoes, labeling of potatoes in closed containers, designation of official inspection points, shipment of potatoes from undesignated points, labeling of potatoes shipped into state, issuance of certificate after inspection, seizure of potatoes, cooperation with departments and bureaus by commissioner, collection and disposition of fees, hearings to be held by commissioner, prosecution for violations, and penalty for violation; to repeal sections 4-10-08, 4-10-13, and 4-10-16 of the North Dakota Century Code, relating to the shipment of potatoes from undesignated inspection points, fees for making grade inspections, and refusal to accept shipment of potatoes; and to provide a penalty.

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

SECTION 1. AMENDMENT. Section 4-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-01. DEFINITIONS. In this chapter, unless the context or subject matter otherwise requires:

1. "Potatoes" shall mean what is commonly called and known as white or Irish potatoes;
2. "Other produce" shall mean natural products of the farm, garden, and orchard, exclusive of grain, true seeds, livestock, and livestock products;

3. "Closed container", or its plural form, shall mean any container which shall be sewed, tied, sealed, glued, nailed, or otherwise closed in a practical or secure manner for handling;
4. "Person" shall mean both the singular and plural, as the case requires, and shall include individuals, copartnerships, companies, societies, associations, firms, or corporations;
5. "Agent" or "agents", when used to indicate or refer to the commissioner's agent or agents, shall mean the commissioner's deputies, inspectors, representatives, agents, or other assistants as the case requires;
6. "Label", and its various grammatical forms, when used as a noun shall mean any tag, label, brand, or device attached to, or written, stamped, printed, or stenciled on, any container and carrying a term or terms setting forth the grade, condition, quality, weight, variety, or class of the potatoes or other produce therein contained, and when used as a verb shall mean the act or the fact of the use of the aforesaid labeling items and methods in connection with potatoes or other produce, and when used as an adjective, its descriptive meaning shall be interpreted from its use and meaning as a noun and verb as herein prescribed; and
7. "Commissioner" shall mean the state seed commissioner;
8. "Inspection" shall mean a random sample of potato plants or potato tubers were examined according to the rules and regulations of the state seed department or according to the instructions of the United States department of agriculture, food safety and quality service;
9. "Certified" shall mean the potatoes were randomly inspected and found to meet the rules and regulations of the state seed department; and
10. "State seed department" shall mean the seed department of the state of North Dakota.

SECTION 2. A new section to chapter 4-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

RESPONSIBILITIES OF STATE SEED DEPARTMENT. The certification of seed potatoes, establishing of grades for potatoes and other produce and the licensing of wholesale potato dealers shall be the responsibility of the state seed department of the state of North Dakota.

SECTION 3. AMENDMENT. Section 4-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-02. STATE SEED COMMISSIONER - DUTIES. The commissioner or his designee shall provide the means and direct the inspection, certification, promotion of quality and assist in the promotion and advertising of seed potatoes. The commissioner shall establish potato and other produce grades and--inspection-service for the purpose of making inspection and otherwise providing for the proper handling and marketing of the agricultural commodities defined in this chapter under the classifications of "potatoes" and "other produce", and shall promulgate rules and regulations prohibiting or otherwise regulating the importation or dissemination within the state of particular detrimental insects and diseases. The commissioner shall appoint a-chief-inspector-and-such-other agents, inspectors, assistants, and clerical aides as he finds necessary to assist, represent, and act for him in enforcing the provisions of this chapter and shall fix the salaries of said employees and provide for operating expenses with the approval of the seed commission within legislative appropriations therefor. Fees for the cost of performance of these duties shall be established by the seed commission with the approval of the directors of the North Dakota seed potato growers association.

SECTION 4. AMENDMENT. Section 4-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-03. RULES AND REGULATIONS, COMMISSIONER TO MAKE. The commissioner, from time to time, with the approval of the seed commission, shall adopt, publish, and amend uniform rules, regulations, and definitions not inconsistent with the provisions of this chapter, and shall alter or suspend such rules, regulations, and definitions whenever necessary--The rules, and regulations, and definitions shall be approved by the attorney general as to form and legality, and shall be filed in the office of the commissioner--The rules and regulations shall be published once in a newspaper of general circulation designated by the commissioner, in the city where the commissioner's main office is located, and such rules, regulations, and definitions shall have the force and effect of law. An affidavit of publication setting forth the rules, regulations, definitions, or amendments thereof as published shall be made by the publisher of such newspaper, his agent, or the newspaper manager, and shall be filed in the office of the commissioner--Such affidavits, or copies thereof certified by the commissioner, shall be prima facie evidence of the facts therein contained and of the due adoption and publication of such rules, regulations, definitions, or amendments in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32. Rules, regulations and definitions for seed potato certification shall be published in bulletin number 49.

SECTION 5. AMENDMENT. Section 4-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-04. GRADES FOR POTATOES AND OTHER PRODUCE. The following grades for potatoes are designated as official and standard grades for North Dakota, namely: "U. S. Faney Extra

No. 1", "U. S. No. 1", "U. S. Commercial", "U. S. No. 2", "North Dakota Certified Seed", and "Unclassified" or such grades as the state seed commissioner shall designate. The U. S. grades shall conform in all respects to the requirements and standards specified by the United States department of agriculture, but the grade names may be used with appropriate size designations when specified in regulations by the commissioner, who shall be guided by the regulations and recommendations of the United States department of agriculture. The U. S. grades and standards herein designated shall be subject to change only if the United States department of agriculture promulgates any new and definite changes, and such changes shall be adopted by the commissioner for use in North Dakota. The North Dakota certified seed grade shall conform in all respects to the provisions of the seed laws of this state and the regulations made thereunder, and shall be labeled in accordance therewith. Unclassified lots shall include all potatoes not meeting the requirements of any of the foregoing grades. It shall be optional, however, to use the unclassified labeling on any lot of potatoes. For other produce, the grades which heretofore may have been or hereafter shall be fixed by the department of agriculture of the United States for such produce are designated as the official standard grades for North Dakota. Inspections of incoming produce may be made and certificates issued on the basis of other applicable states' grades or in accordance with sales contracts.

SECTION 6. AMENDMENT. Section 4-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-05. LABELING, BRANDING, TAGGING POTATOES IN CLOSED CONTAINERS. Every closed container packed with potatoes grown in North Dakota, being transported, or offered for sale or consignment shall bear upon the outside thereof, either by brand, tag or label, in plain letters and figures, the net weight when packed and correct grade designation, ~~or, in lieu thereof, each container shall be labeled to show the net weight when packed and official North Dakota inspection shall be obtained and the lot must not be mislabeled.~~ Potatoes being shipped for processing or repacking shall be exempt of this requirement.

When an individual shipment is made from such towns or stations at which regular inspection service is not maintained, and when such shipments cannot be so routed as to be stopped in transit for inspection at a town or station at which inspection service can be provided, or when due to unforeseen circumstances which make it physically impossible for an inspector to perform such inspection, ~~or when definite or sufficient evidence followed by proof if demanded is presented to establish the fact that the shipment will be reprocessed and when inspection service is available, officially inspected in transit,~~ then the commissioner, or his agent, may waive, ~~by a special written permit,~~ the inspection and labeling requirements provided in this section for such individual shipment.

The commissioner shall, by regulation, prescribe the general location of the labeling on the container and the minimum and

maximum size of the letters and figures used in the labeling of the potatoes as herein provided.

Provided, however, the commissioner may after receiving a request from at least fifty potato growers call a public hearing of potato growers at which hearing at least one hundred and fifty potato growers must be present and if two thirds of the growers present at such meeting approve he may promulgate and establish rules and regulations governing the grades of potatoes which may be offered for sale, shipment, or consignment, or which may be transported by railway, truck, or otherwise within or from the state, and governing the use of labels, marks and brands that may be used upon closed containers packed with potatoes grown in North Dakota, being transported or offered for sale or consignment, and governing the establishment and use of state brands.

For the purpose of this chapter a potato grower shall be defined as any person who produces more than three acres of potatoes.

If any grower registers as such at the state seed department office, he shall be entitled, during that calendar year, to written notice of any public hearing for potato growers, called by the commission.

Any rules and regulations, promulgated and established as a result of such hearing may be rescinded by regulation if such regulation is approved by a majority of potato growers present at a subsequent public hearing called by the commission for that purpose.

SECTION 7. AMENDMENT. Section 4-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-07. OFFICIAL INSPECTION POINTS DESIGNATED BY COMMISSIONER. The commissioner may designate by regulation, as official potato shipment inspection points or areas, any or all points or stations within a county or specified subdivision thereof recommended by a majority of the potato shippers at any public hearing. Upon written request by a bona fide shipper of potatoes for a hearing to consider the designation of inspection points, the commissioner shall cause public notice of the hearing to be published once during the week preceding the date of such hearing, in a newspaper of general circulation in the area affected, or in the official county newspaper if there shall be a countywide hearing. The commissioner or his authorized agent shall attend the hearing and verify procedure, attendance, and voting thereat. When any point or specified area is designated as an official potato shipment inspection point, notice thereof shall be filed with the railway companies or their agents at such point and all shipments of potatoes shall be inspected officially at such point or points from and after the date published by the commissioner. The commissioner may refuse to designate any point as an official potato shipment inspection point if the volume of shipments for inspection will not warrant the expense of maintaining inspection thereat.

SECTION 8. AMENDMENT. Section 4-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-09. SHIPMENT OF POTATOES FROM UNDESIGNATED POINTS. Inspection of potatoes may be made at points not designated by the commissioner as official potato shipment inspection points or areas on application of any person ~~as provided in section 4-10-13~~, or at the commissioner's option for regulatory purposes, but shipments of potatoes from such points may be made without an inspection.

SECTION 9. AMENDMENT. Section 4-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-10. POTATOES SHIPPED INTO STATE - LABELING REQUIRED - EXCEPTION. Whenever potatoes are shipped into the state from any point outside of the state, the purchaser, vendor, and the person receiving such potatoes shall have the same labeled in accordance with and conforming to the requirements of this chapter for potatoes grown or originating in North Dakota, except that the standardized grades and labeling of potatoes in use elsewhere ~~may be permitted by the commissioner in connection with shipments of potatoes into this state from any point outside thereof, in lieu of the labeling provided for in this chapter~~ at the point of shipment may be permitted by the commissioner.

SECTION 10. AMENDMENT. Section 4-10-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-11. INSPECTOR TO FURNISH MEMORANDUM CERTIFICATE AFTER INSPECTION. After the grade inspection of the potatoes has been completed, if the official inspector finds that they are labeled properly according to the provisions of this chapter, he shall furnish to the shipper or owner of the potatoes, ~~or file with the railway company's agent at the billing point~~, a signed memorandum certificate indicating that the shipment of potatoes is labeled correctly.

SECTION 11. AMENDMENT. Section 4-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-15. SEIZURE OF POTATOES AND OTHER PRODUCE - LIABILITY. The commissioner and his agents may seize and hold any potatoes or other produce, which, according to this chapter, are labeled, branded, marked, or tagged wrongly as to grade, quality, condition, or in any other respect, ~~according to this chapter~~. The potatoes or produce so seized may be held until they are graded or reconditioned to meet the requirements of the grade, or the labeling with which they are marked, or until they are labeled or marked with the grade or essential details as indicated by the official report or certificate of the commissioner or his agent. The commissioner and his agents ~~are absolved from any guilt or charge for loss, damage shall not be liable for any loss or damage, or any other costs due to seizure or litigation in which they are involved as complainant, respondent, inspector, or investigator~~, when acting in accordance

with the provisions of this chapter and the regulations duly made thereunder.

SECTION 12. AMENDMENT. Section 4-10-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-17. COOPERATION WITH DEPARTMENTS AND BUREAUS. The commissioner may cooperate with the United States department of agriculture or any bureau or division thereof, and with similar state inspection service departments of the several states, and with any person, with the intent and purpose that the seed certification and the grade inspection service in this state, and any or all of the grade certificates issued on North Dakota potatoes or other produce, ~~officially~~ shall be recognized officially and accepted elsewhere in the United States, and to protect and promote the interests of any and all persons having an interest in the potatoes or other produce grown or handled in this state, and to provide for any necessary joint arrangements therefor.

SECTION 13. AMENDMENT. Section 4-10-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-18. FEES AND COLLECTIONS - DISPOSITION. All moneys arising from the collection of fees and other charges under the provisions of this chapter shall be deposited by the seed commissioner with the state treasurer and credited to the seed department revolving fund, and shall be disbursed within the limits of legislative appropriations therefrom, upon order of the commissioner, with the approval of the ~~director-of-institutions~~ seed commission.

SECTION 14. AMENDMENT. Section 4-10-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-19. ENFORCEMENT - HEARING BY COMMISSIONER - ~~ADMINISTERING-OATHS-AND--TAKING--TESTIMONY~~ APPLICATION OF CHAPTER 28-32. The commissioner shall enforce ~~the--provisions--of~~ this chapter and the regulations made thereunder. ~~Whenever he--shall--be~~ Except as provided in section 4-10-14, whenever the commissioner is of the opinion that a violation of this chapter or of the regulations made thereunder exists, he shall ~~designate-a-time-and place-for-a-hearing-and-give-notice-thereof-to-the-person--involved-~~ The-hearing-shall-be-private,-and-the-person-involved-shall-have-the right-to-introduce-evidence-in-person,-or-by-agent-or-attorney hold a hearing as provided in chapter 28-32. A person aggrieved by a seizure pursuant to section 4-10-14 may request a hearing pursuant to chapter 28-32. If after ~~said~~ the hearing, or without hearing if the person involved fails or refuses to appear, the commissioner decides that there has been a violation of this chapter or the rules and regulations derived therefrom, he may impose the civil penalty provided in section 4-10-20, or if he decides that the evidence warrants prosecution, he shall proceed as hereinafter provided. ~~The commissioner--and-his-agents-may-administer-oaths-and-take-testimony~~

~~for any purpose required to carry out the provisions of this chapter.~~

SECTION 15. AMENDMENT. Section 4-10-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10-20. PROSECUTION FOR VIOLATIONS - DUTY OF ATTORNEY GENERAL AND STATE'S ATTORNEY. Upon a complaint made by the commissioner, after a hearing as provided in section 4-10-19 4-10-17, alleging a violation of this chapter or of any regulation duly made thereunder, the attorney general, or the state's attorney of the county wherein the case arises, immediately shall cause appropriate legal proceedings to be commenced and prosecuted for the enforcement of the penalties provided in this chapter. No prosecution shall be instituted under this section unless the commissioner has held a hearing as provided in section 4-10-19.

SECTION 16. AMENDMENT. Section 4-10-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~4-10-22. PENALTY FOR VIOLATION OF CHAPTER. Any person who violates any of the provisions, or who fails or refuses to comply with any of the requirements, of this chapter or of any regulation made thereunder, is guilty of an infraction.~~

1. Any person who violates any of the provisions of this chapter shall be guilty of a class A misdemeanor.
2. Any person who violates any of the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand dollars for each violation. Such civil penalty may be adjudicated by the courts or by the seed department through an administrative hearing pursuant to chapter 28-32.
3. The department may, in accordance with the laws of this state governing injunctions and other process, maintain an action in the name of the state against any person violating any provision of this chapter.

SECTION 17. A new section to chapter 4-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

LIABILITY OF THE STATE SEED COMMISSION, STATE SEED DEPARTMENT, STATE SEED COMMISSIONER AND HIS EMPLOYEES, AND CERTIFIED SEED POTATO PRODUCERS. The state seed commission, state seed department, the state seed commissioner and his employees, and certified seed potato producers make no warranty of any kind, expressed or implied as to the quantity or quality of the crop produced from the seed potatoes or through other produce inspected and certified, including merchantability, fitness for a particular purpose, or absence of disease. The only representation is that the potatoes or other produce were produced, graded, packed, and inspected under the rules and regulations of the North Dakota state seed department or United

States department of agriculture. The state seed commissioner and his employees function and serve only in an official regulatory manner.

SECTION 18. REPEAL. Sections 4-10-08, 4-10-13, and 4-10-16 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1981

CHAPTER 93

HOUSE BILL NO. 1607
(Representatives Gorder, Kingsbury, A. Olson)
(Senators Tallackson, Tweten, Vosper)

POTATO ASSESSMENT INCREASE AUTHORITY

AN ACT to amend and reenact section 4-10.1-09 of the North Dakota Century Code, relating to potato promotion tax levy and providing for a discretionary increase in the levy by the potato council.

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

SECTION 1. AMENDMENT. Section 4-10.1-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.1-09. TAX LEVIED. ~~Commencing--July--1--1977--an~~ An assessment at the rate of two cents per hundredweight [45.36 kilograms] shall be levied and imposed upon all potatoes grown in the state or sold to a designated handler. The council, in its discretion, may increase the assessment by not more than one-half cent per hundredweight per year until a maximum assessment of four cents per hundredweight is reached. This assessment shall not be imposed upon any potatoes retained by growers to be used for seed purposes or for consumption by the grower. This assessment shall be due upon any identifiable lot or quantity of potatoes.

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

Every designated handler of potatoes shall collect the assessment imposed by under this section by charging and collecting from the seller the ~~assessment at--the--rate--of--two-cents~~ per

hundredweight by deducting the assessment from the purchase price of all potatoes subject to the assessment and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of raw potatoes, which may be examined by the commissioner, or his designee, at all reasonable times. Every designated handler shall report to the council stating the quantity of potatoes received, sold, or shipped by it. The report shall be made at the times and in the manner prescribed by the council. The remittance of the assessment as provided in this section shall accompany the report. All moneys levied and collected under this chapter shall be paid to the council for deposit in the state treasury to the credit of a fund designated "spud fund" to be used exclusively to carry out the intent and the purposes of this chapter.

Approved March 16, 1981

CHAPTER 94

SENATE BILL NO. 2372
(Senators Nelson, Shablow, Tallackson)
(Representative Peltier)

NORTHERN CROPS INSTITUTE

AN ACT to establish a northern crops institute and northern crops council, to specify the purpose, powers, and duties of the council, and to permit gifts and grants to the institute; and to provide an appropriation.

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

SECTION 1. NORTHERN CROPS INSTITUTE - ESTABLISHMENT -
DIRECTOR.

1. A northern crops institute is hereby established to be administered by and in conjunction with North Dakota state university.
2. A director shall be appointed by the university in consultation with the northern crops council. The director shall manage the institute, hire and compensate necessary personnel within the limits of legislative appropriations, prepare a biennial budget, and serve as executive secretary to the northern crops council. The university shall fix the salary of the director, within the limits of legislative appropriations, and may remove the director for cause in consultation with the council.

SECTION 2. NORTHERN CROPS COUNCIL - ESTABLISHMENT - CHAIRMAN
- MEETINGS - COMPENSATION.

1. The northern crops council is hereby established. The council shall establish policies for the operation of the northern crops institute. The council shall consist of:
 - a. The vice president for agricultural affairs of North Dakota state university of agriculture and applied science.
 - b. A member of the North Dakota wheat commission selected by that commission.

- c. A member of the North Dakota sunflower council selected by that council.
 - d. The commissioner of agriculture or the commissioner's designee.
 - e. Three to five producers of northern crops selected by the members designated in subdivisions a through d.
2. The chairman of the council shall be a member of the council elected annually by a majority vote of the council. Provided, the members designated in subsections a and d of subsection 1 are not eligible to serve as chairman.
 3. The council shall meet at least three times annually at such times and places as shall be determined by the council and may meet in special meeting upon such call and notice as may be prescribed by rules adopted by the council. A council member unable to attend a meeting of the council may be represented by a person who has a written proxy from the member.

SECTION 3. PURPOSE - POWERS AND DUTIES. The purpose of the northern crops institute shall be to provide technical and marketing assistance through specialized training courses and technical services which facilitate domestic and market development and expanded sales of northern grown crops. The institute shall render services consistent with its purpose which shall include, but not be limited to:

1. In-plant consultations for the purpose of discussing grain quality problems, product manufacturing, and possible purchasing methods and standards.
2. Short courses in product milling and processing, plant management, county elevator management, grain grading, and marketing of crops.
3. Educational and vocational training programs in milling, processing, manufacturing, purchasing methods, marketing procedures, product sales techniques, and other related subjects to be conducted for users of northern crops.
4. Short-term investigations, consultation, evaluation, and research to solve technical problems involved in the maintenance of quality and utilization of northern crops.
5. Annual surveys and quality analyses of new northern crops and monitoring of the quality and condition of commodities in market channels.
6. Research on northern crop damage problems and solutions.

7. Identification of problem areas in marketing northern crops abroad.
8. Preparation of instructional, informational, and reference publications on the end use of northern crops, technical aspects of marketing northern crops, and utilization of northern crops for distribution domestically and abroad.

SECTION 4. GIFTS AND GRANTS. In order to carry out its duties under this Act, the northern crops institute may contract for and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources. Additional income shall be spent for the purpose designated, if any, in the gift, grant, or donation.

SECTION 5. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds, private funds, or other income to the northern crops institute of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1981, and ending June 30, 1983, as follows:

Operating expenses	\$ 100,000
Equipment	200,000
Total all funds	<u>\$ 300,000</u>
Less other funds appropriated	<u>\$ 240,000</u>
Total general fund transfer and appropriation	<u>\$ 60,000</u>

SECTION 6. ADDITIONAL FUNDS. Any funds received by the northern crops institute during the biennium beginning July 1, 1981, and ending June 30, 1983, in addition to those appropriated under section 5 of this Act, are hereby appropriated to the northern crops institute.

Approved April 3, 1981

CHAPTER 95

HOUSE BILL NO. 1379
(Vander Vorst)

STATE SOIL CONSERVATION COMMITTEE MEMBERSHIP

AN ACT to amend and reenact sections 4-22-03 and 4-22-04 of the North Dakota Century Code, relating to term of office of members of the state soil conservation committee and length of term as chairman of the committee.

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

SECTION 1. AMENDMENT. Section 4-22-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-03. STATE SOIL CONSERVATION COMMITTEE - ELECTIVE AND APPOINTIVE MEMBERS - 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 consist of seven voting members, of whom five shall be elected and two shall be appointed by the governor as provided herein:

1. Elective members:

For the purpose of electing the five elective members of the committee, the state of North Dakota is hereby divided into five areas, as follows:

- A. Area I shall include the counties of Benson, Cavalier, Eddy, Foster, Grand Forks, Nelson, Pembina, Ramsey, Towner, Walsh, and Wells.
- B. Area II shall include the counties of Barnes, Cass, Dickey, Griggs, LaMoure, Ransom, Richland, Sargent, Steele, and Traill.
- C. Area III shall include the counties of Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Renville, Rolette, and Ward.

- D. Area IV shall include the counties of Burleigh, Emmons, Kidder, Logan, McIntosh, McLean, Morton, Oliver, Sheridan, Sioux, and Stutsman.
- E. Area V shall include the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, McKenzie, Mercer, Stark, Slope, and Williams.

One member of the committee shall be elected from each of the said five areas by vote of the members of the boards of supervisors of the conservation districts in that area. Every voting member of a board of supervisors of a conservation district organized under this chapter shall be eligible to vote in the election for a member of the committee in the area in which the district is located.

Elections shall be held under regulations to be issued by the committee and in cooperation with and at the time of the North Dakota association of soil conservation districts area meetings. In those cases where the territory of a district does not lie wholly within the boundaries of one of the five areas established under this section, the regulations shall provide for the assignment of such district by the committee for the purposes of such elections, to the area within which most of its population resides.

The election of members of the committee shall be conducted by the committee and need not be held on the same dates or in the same places as the general elections for state or local officers.

2. Appointive members:

Two members of the committee shall be appointed by the governor, who shall select appointees who can represent those interests within the state not already represented, or less fully represented, by one or more of the five elected members of the committee. The governor shall attempt, so far as feasible, to make possible suitable representation for all interests in the state in the membership of the committee, including the interests of, but not limited to, farmers, livestock growers, rural areas, small towns, cities, and industry and business, recognizing that any single member of the committee may sometimes appropriately be regarded as representing more than one of these interests.

The committee shall invite representatives of the state association of soil conservation districts, North Dakota cooperative extension service, the soil conservation service, North Dakota state water commission, the commissioner of agriculture, and the game and fish department to serve as advisory, nonvoting members of the committee. The term of office of every member of the committee

shall be ~~two~~ three years and until ~~his~~ a successor is elected or appointed. The governor shall have the power to extend the terms of one or more members of the committee in office upon the effective date of this chapter, in order to provide for overlapping terms for the members of the committee. A member of the committee shall be eligible for reelection and reappointment, but no member may serve for more than two full, successive terms. Vacancies in either elective or appointive terms may be filled for the unexpired term by appointment by the governor. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and ~~promulgate~~ adopt such rules and ~~regulations~~ as may be necessary for the execution of its functions under this chapter.

SECTION 2. AMENDMENT. Section 4-22-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-04. COMMITTEE - CHAIRMAN - QUORUM - COMPENSATION - PROVISION FOR SURETY BONDS AND ANNUAL AUDIT. The committee shall meet annually and select its chairman, who shall serve for one year from the date of his selection and who shall not be eligible for a second term as chairman. Additional meetings may be held by the committee as considered necessary by the chairman, at a time and place to be fixed by the chairman. Special meetings shall be called by the chairman upon written request of any four members. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within its duties shall be required for its determination. The members of the committee shall receive forty-five dollars per day as compensation for their services on the committee, and shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee, in the same manner and at the same rate as prescribed by law for state employees and officials. The committee shall provide for the execution of surety bonds, which may be issued by the state bonding fund, for all employees who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, ~~regulations~~ rules, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

Approved March 3, 1981

CHAPTER 96

HOUSE BILL NO. 1378
(Peltier, C. Anderson)

AGRICULTURAL PROMOTION GROUPS COLLOCATION

AN ACT to provide for the collocation of the offices of the North Dakota wheat commission, the North Dakota sunflower council, the North Dakota dairy products promotion commission, and the North Dakota beef commission.

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

SECTION 1. AGRICULTURAL PROMOTION GROUPS - COLLOCATION AND ASSISTANCE. The North Dakota wheat commission, established under section 4-28-03; the North Dakota sunflower council, established under section 4-10.2-03; the North Dakota dairy products promotion commission, established under section 4-27-04; and the North Dakota beef commission, established under section 4-34-03 shall not later than July 1, 1983, collocate their respective offices. Each of the collocated entities may share administrative and clerical services as well as equipment and supplies. The collocated offices may, by majority vote of the members of each council or commission, agree to furnish services to other statutory agricultural commodity promotion groups.

Approved March 9, 1981

CHAPTER 97

HOUSE BILL NO. 1392
(Berg)

WHEAT COMMISSION MEMBERS

AN ACT to amend and reenact section 4-28-03 of the North Dakota Century Code, relating to the election, appointment, term, and meetings of wheat commission members.

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

SECTION 1. AMENDMENT. Section 4-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28-03. 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 chapter 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--chapter~~
~~Not more than sixty days prior to expiration of the term of the~~
~~member from the state at large, a nominating committee consisting of~~
~~the commissioner of agriculture, 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~~
~~chapter after expiration of the term the governor shall appoint,~~
~~from the nominees so named, the first-members-of~~ member at large to
the commission.

Each member of the commission shall hold office for a term of ~~six~~ four years and until his successor has been selected and has qualified except that the commissioners ~~originally-appointed~~ elected and serving from the first and fourth districts shall hold office for terms ending on the thirtieth day of June ~~1961~~ 1984; the commissioners ~~originally-appointed~~ elected and serving from the second and fifth districts shall hold office for terms ending on the thirtieth day of June, ~~1963~~ 1985; and the commissioners ~~originally appointed~~ elected and serving 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~~ 1982; and the commissioner appointed and serving as the state at large member shall hold office for a term ending on the thirtieth of June, 1983. No producer shall be entitled to serve more than three terms.

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.~~ a central location within the county 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 post-office 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~~ a central location within 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. Additional meetings of county representatives may be called by the state wheat commission for the purpose of promoting its programs. All expenses of all such meetings and elections shall be paid from commission funds. County representatives shall be reimbursed for expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers. 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 shall be made 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.

Approved March 20, 1981

CHAPTER 98

HOUSE BILL NO. 1139
(Committee on Agriculture)
(At the request of the Agriculture Department)

GRADE A MILK AND MILK PRODUCTS STANDARDS

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

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

SECTION 1. AMENDMENT. Section 4-30-36 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-36. STANDARDS FOR GRADE A MILK AND MILK PRODUCTS - ADOPTION OF AMENDMENTS. Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A shall be the same as the minimum requirements of the "Grade A Pasteurized Milk Ordinance, ~~1965~~ 1978 Recommendations of the United States Public Health Service" and all supplements added thereto. The dairy commissioner may adopt as dairy department regulations any amendments, supplements to, or new editions of said milk ordinance which are in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability and promotion of grade "A" milk and milk products.

Approved March 2, 1981

CHAPTER 99

SENATE BILL NO. 2371
(Senators Naaden, Dotzenrod, Iszler)
(Representatives O. Hanson, Matheny)

BEEF COMMISSION PROVISIONS

AN ACT to amend and reenact sections 4-34-01, 4-34-07, and 4-34-08 of the North Dakota Century Code, relating to purposes of the North Dakota Beef Promotion Act, compensation of North Dakota beef commission members, and assessment for the sale of cattle.

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

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

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

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

chapter with no more than twenty-five percent of the assessments collected.

SECTION 2. AMENDMENT. Section 4-34-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-34-07. COMPENSATION - EXPENSES. Commission members shall receive the sum of ~~twenty~~ forty dollars per day for each meeting attended and shall receive necessary expenses for meals, lodging, and travel in the same amount and in the same manner as permitted by law for state officials and employees. The members of the commission shall receive no other salary or compensation for their service on the commission.

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

4-34-08. ASSESSMENT FOR SALE OF CATTLE. There is hereby levied on each ~~person who is a~~ resident ~~of--North--Dakota~~ selling cattle within the state or from the state, an assessment of ~~ten~~ twenty-five cents per head for each animal sold. The moneys collected pursuant to ~~the provisions of~~ this chapter shall be paid to the ~~North--Dakota--beef--commission--as--provided--by~~ commission pursuant to this chapter and shall be expended by such ~~the~~ commission only as authorized by ~~the provisions of~~ this chapter.

Approved March 18, 1981

CHAPTER 100

HOUSE BILL NO. 1140
(Committee on Agriculture)
(At the request of the Agriculture Department)

PESTICIDE USE CERTIFICATION RECIPROCITY

AN ACT to amend and reenact section 4-35-18 of the North Dakota Century Code, relating to the reciprocal issuance of a pesticide use certification to a nonresident by the pesticide control board.

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

SECTION 1. AMENDMENT. Section 4-35-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 2, 1981

CHAPTER 101

SENATE BILL NO. 2368
(Iszler, Dotzenrod, Sorum)

NORTH DAKOTA AGRICULTURAL DEVELOPMENT ACT

AN ACT to provide for the sale of bonds by the state of North Dakota to provide funds for the making of loans to be used in connection with agriculture and agricultural enterprises, and to authorize the industrial commission of North Dakota to administer such agricultural loan financing program.

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

SECTION 1. ACT - HOW CITED. Sections 1 to 28 shall be known and may be cited as the North Dakota Agricultural Development Act.

SECTION 2. DECLARATION OF INTENT. It is hereby found and declared that:

1. The high cost as well as the lack of availability of agricultural loans for farmers with the resultant decreases in crop, livestock, and business productivity and inability on the part of farmers to acquire agricultural equipment and machinery, livestock and real estate jeopardizes the continued existence of family-owned agricultural enterprises and lessens the supply of agricultural commodities available to fulfill the needs of the citizens of this state;
2. As a result of the continuing increase in the costs of maintaining operations, including costs of construction and rehabilitation, maintenance and repair expenses, and the cost of real estate, the state suffers from structural economic weaknesses which contribute to a decline in the operation and maintenance of agricultural enterprises and the capital investment therein; and
3. The reduction in family-owned agricultural enterprises results in an insufficiency of gainful employment in rural areas and adds additional pressure on the state's welfare, public health, and crime prevention programs and increases the cost of unemployment compensation to the existing enterprises of the state.

SECTION 3. LEGISLATIVE FINDINGS - NEED FOR AGRICULTURAL LOAN FINANCING - HOW ACCOMPLISHED. There exists in this state an inadequate supply of, and a pressing need for, farm credit and agricultural loan financing at interest rates which are consistent with the needs of farmers.

The problems set forth in sections 2 and 3 cannot alone be remedied through the operation of private enterprise or individual communities or both, but can be alleviated through governmental action designed to encourage the investment of private capital in the agricultural sector through the use of financing as provided in this Act for the purpose of making loans available at interest rates lower than those available in the conventional farm credit markets.

Alleviating the conditions and problems, set forth in sections 2 and 3 by the encouragement of private investment through a financing as provided in this Act, is a public purpose and use for which public money provided by the sale of revenue bonds may be borrowed, expended, advanced, and loaned. Such activities shall not be conducted for profit. Such activities are proper governmental functions and can best be accomplished by the industrial commission of North Dakota. The necessity for the provisions of this Act to protect the health, safety, morals, and general welfare of all the people of this state is hereby declared as a matter of legislative determination. The industrial commission of North Dakota under this Act shall make financing available for farmers to meet the credit needs which private industry is unable to serve.

SECTION 4. TERMS DEFINED. As used in this Act, unless the context otherwise requires:

1. "Agriculture or agricultural enterprise" shall mean and include, but not be limited to, the real and personal property constituting farms, ranches, and other agricultural commodity producers; agriculturally related sewage, liquid and solid waste collection, disposal, treatment and drainage services, and facilities; and agriculturally related antipollution and air, water, ground, and subsurface pollution abatement and control facilities and services;
2. "Commission" shall mean the industrial commission of North Dakota created pursuant to section 54-17-01 of the statutes of North Dakota, as amended;
3. "Contracting party" shall mean any party to a lease, sales contract or loan agreement except the commission;
4. "Bonds" shall mean any bonds, notes, debentures, interim certificates, bond, grant and revenue anticipation notes, or any other evidences of indebtedness;
5. "Loan insurer" and "loan guarantor" shall mean an agency, department, administration or instrumentality, corporate

or otherwise, of or in the department of housing and urban development, the farmers home administration of the department of agriculture or the veterans administration of the United States of America, any private mortgage insurance company, or any other public or private agency which insures or guarantees loans;

6. "Lender" shall mean any federal or state chartered bank, federal land bank, production credit association, bank for cooperatives, savings and loan association, building and loan association, small business investment company, or any other institution qualified within the state to originate and service loans, including, but not limited to, insurance companies, credit unions and mortgage loan companies; and
7. "State" shall mean the state of North Dakota.

SECTION 5. COMMISSION - POWERS ENUMERATED. The commission is hereby granted all powers necessary or appropriate to carry out and effectuate the purposes of this Act, including but not limited to the following:

1. Make and execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this Act;
2. Employ architects, engineers, attorneys, inspectors, accountants, agricultural and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment, and to fix their compensation;
3. Borrow money and issue bonds as provided by this Act;
4. Procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, for payment of any bonds issued by the commission under this Act, including the power to pay premiums on any such insurance;
5. Receive and accept from any source, aid or contributions of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this Act subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with the provisions of this Act;
6. Enter into agreements with any department, agency, or instrumentality of the United States of America or this state and with lenders and enter into loan agreements with contracting parties for the purpose of planning,

regulating, and providing for the financing and refinancing of any agricultural enterprise;

7. Enter into contracts or agreements with lenders for the servicing and processing of loans;
8. To the extent permitted under its contract with the holders of bonds of the commission, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease or agreement of any kind to which the commission is a party; and
9. To the extent permitted under its contract with the holders of bonds of the commission, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise being financed.

SECTION 6. COMMISSION - DUTIES ENUMERATED. The commission shall have the following duties in the exercise of powers granted by this Act:

1. To invest proceeds from bonds issued under this Act and any funds obtained therefrom not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America, obligations issued by agencies of the United States of America, any obligations of the United States of America or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state, including the unsecured promissory notes of national banking associations having the highest investment rating;
2. To collect fees and charges, as the commission determines to be reasonable, in connection with its loans, advances, insurance, commitments, and servicing;
3. To sell, at public or private sale, with or without public bidding, any loan or other obligation held by the commission; and
4. To do any act necessary or convenient to the exercise of the powers granted by this Act or reasonably implied from it.

SECTION 7. COMMISSION - LOANS TO LENDERS - CONDITIONS. The commission may make, and undertake commitments to make, loans to lenders under terms and conditions requiring the proceeds thereof to be used by such lenders to make loans for agricultural enterprises. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker or other financial institution authorized to transact business in this state.

SECTION 8. COMMISSION - INVEST IN, PURCHASE, OR ASSIGN LOANS - CONDITIONS. The commission may invest in, purchase or make commitments to take assignments of, loans made by lenders for the construction, rehabilitation or purchase of agricultural enterprises. No loan shall be eligible for investment in, purchase, or assignment by the commission if the loan was made more than six months prior to the date of investment, purchase, or assignment by the commission.

SECTION 9. COMMISSION - LENDERS REQUIREMENTS. Prior to exercising any of the powers authorized in sections 7 and 8, the commission shall require the lender to certify and agree that:

1. The loan is, or if the same has not been made will, at the time of making, be in all respects a prudent investment; and
2. Such lender will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises, or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the commission to purchase such loans, such lender will make such loans and sell the same to the commission within a reasonable period of time.

SECTION 10. COMMISSION - OPTIONAL REQUIREMENTS ENUMERATED. Prior to exercising any of the powers conferred by sections 7 and 8, the commission may, but is not obligated to:

1. Require that the loan involved be insured by a loan insurer or be guaranteed by a loan guarantor;
2. Require any type of security that it deems reasonable and necessary; or
3. Authorize the reservation of funds by lenders in such amount and subject to such conditions as the commission considers reasonable and necessary.

SECTION 11. COMMISSION - BORROW MONEY AND ISSUE BONDS - PURPOSES. The commission shall have the power to borrow money and to issue from time to time its bonds in such principal amounts as

the commission determines shall be necessary to provide sufficient funds to carry out its purposes under this Act to include:

1. Carrying out the additional powers of sections 7 and 10;
2. The payment of interest on bonds of the commission issued under this Act;
3. The establishment of reserves to secure the bonds issued under this Act; and
4. All other expenditures of the commission incident to, necessary and convenient, to carry out its purposes and powers under this Act.

SECTION 12. COMMISSION - ISSUE BONDS TO RENEW - PAY OR REFUND BONDS. The commission shall have the power to issue from time to time bonds to renew or to pay bonds issued under this Act, including the interest thereon, and whenever it deems refunding expedient, to refund any bonds issued under this Act by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds and partly for any other purposes permitted under this Act. The refunding bonds may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded, or exchanged for the bonds to be refunded.

SECTION 13. COMMISSION - BOND ISSUANCE - SPECIAL OBLIGATIONS - HOW PAID AND SECURED. Bonds issued under this Act shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the commission be subject to any liability thereon. Such bonds shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the commission, except those agricultural enterprises, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of this Act. The bonds may be additionally secured by a pledge of any grant, contribution or guarantee from the federal government or any corporation, association, institution, or person.

SECTION 14. COMMISSION - BOND ISSUANCE - STATE OR POLITICAL SUBDIVISION - NO OBLIGATION - STATEMENT. No bonds issued by the commission under this Act shall constitute a debt, liability, or general obligation of this state or any political subdivision thereof, or a pledge of the faith and credit of this state or any political subdivision thereof, but shall be payable solely as provided by section 13. Each bond issued under this Act shall contain on the face thereof a statement that neither the faith and credit nor the taxing power of this state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bond.

SECTION 15. BONDS AUTHORIZED BY RESOLUTION - CONTENTS - MANNER OF SALE. The bonds shall be authorized by a resolution of the commission, shall bear such date or dates, and shall mature at

such time or times as such resolution may provide, except that no bond shall mature more than thirty years from the date of its issue, as the resolution shall provide. The bonds shall bear interest at such rate or rates, including variations of such rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, including redemption prior to maturity, as such resolution may provide. The provisions of other state laws relating to the issuance of revenue bonds shall not apply to bonds issued by the commission under this Act. Bonds of the commission issued under this Act may be sold by the commission at public or private sale, and at such price or prices as the commission shall determine.

SECTION 16. BOND ISSUANCE - RESOLUTION PROVISIONS ENUMERATED.

Any resolution authorizing the issuance of bonds under this Act may contain provisions, which shall be a part of the contract or contracts with the holders of such bonds, as to:

1. The setting aside of reserves or sinking funds and the regulation and disposition thereof;
2. Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;
3. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;
4. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given;
5. Limitations on the amount of money to be expended by the commission for operating expenses of the commission;
6. Vesting in a trustee or trustees such property, rights, powers, and duties in trust as the commission may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers, and duties of the trustee;
7. Defining the acts or omissions to act which shall constitute a default and the obligations or duties of the commission to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of default, including as a matter of right the appointment of a receiver; but the rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this Act; and

8. Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

SECTION 17. COMMISSION - PLEDGE - EFFECT - LIEN - RECORDING NOT REQUIRED. Any pledge made by the commission shall be valid and binding from the time the pledge is made. The revenue, money, or properties so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the commission, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SECTION 18. COMMISSION - PURCHASE BONDS OF COMMISSION CANCELED - PRICE. The commission, subject to such agreements with bondholders as may then exist, shall have the power to purchase bonds issued by it hereunder out of any funds available therefor, which shall thereupon be canceled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price then applicable plus accrued interest to the next interest payment thereon.

SECTION 19. BONDS SECURED BY TRUST INDENTURE - CONTENTS - EXPENSES HOW TREATED. The bonds issued under this Act may be secured by a trust indenture by and between the commission and a corporate trustee which may be any bank having the power of a trust company or any trust company within or without the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the exercise of its powers and the custody, safekeeping, and application of all money. The commission may provide by the trust indenture for the payment of the proceeds of the bonds and the revenue to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the commission may determine.

SECTION 20. BONDS - NEGOTIABLE INSTRUMENTS. Whether or not the bonds issued under this Act are in the form and character of negotiable instruments, such bonds are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

SECTION 21. BONDS - SIGNATURES OF PRIOR MEMBERS OR OFFICERS - VALIDITY. In the event that any of the members or officers of the commission shall cease to be members or officers of the commission prior to the delivery of any bonds or coupons signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

SECTION 22. COMMISSION - EXECUTE BONDS - MEMBERS NOT SUBJECT TO PERSONAL LIABILITY. Neither the members of the commission nor any other person executing the bonds issued under this Act shall be subject to personal liability or accountability by reason of the issuance thereof.

SECTION 23. FUNDS CREATED. The commission may create and establish such funds and accounts as may be necessary or desirable for carrying out the purposes of this Act.

SECTION 24. BONDHOLDERS - PLEDGE - AGREEMENT OF THE STATE. The state does hereby pledge to and agree with the holder of any bonds issued under this Act that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights or remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

SECTION 25. BANK OF NORTH DAKOTA - AUTHORIZATION TO EXERCISE ADMINISTRATIVE POWERS - PAYMENT OF COMMISSION EXPENSES - REIMBURSEMENT - LIABILITY OF STATE OR POLITICAL SUBDIVISION. The commission may delegate to the Bank of North Dakota, and the Bank of North Dakota is hereby authorized to exercise, all administrative powers granted to the commission under this Act. The Bank of North Dakota is further authorized to advance from its funds the amount necessary to permit the commission to issue its first series of bonds under this Act which shall be refunded to the Bank of North Dakota by the commission upon issuance of said bonds. Thereafter, all expenses incurred by the commission in carrying out the provisions of this Act shall be payable solely from funds provided under this Act, and nothing in this Act shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by this state or any political subdivision of it.

SECTION 26. COMMISSION - BONDS EXEMPT FROM TAXATION - EXCEPTION. All bonds issued under this Act, interest payable thereon and income derived therefrom except inheritance, estate, and transfer taxes, shall at all times be exempt from all taxes imposed by this state, any county, any city, or any other political subdivision of this state.

SECTION 27. BONDS - LEGAL INVESTMENTS FOR WHOM - CONSIDERED SECURITIES. The bonds issued by and under the authority of this Act by the commission are declared to be legal investments in which all public officers or public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on insurance business, all banks, bankers, banking associations, trust

companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or in other obligations of this state, may invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may be deposited with and received by all public officers and bodies of this state or any agency or political subdivision of this state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of this state is now or may be later authorized by law.

SECTION 28. ACT - HOW CONSTRUED. Neither sections 1 to 28 nor anything contained in sections 1 to 28 is or shall be construed as a restriction or limitation upon any powers which the commission might otherwise have under any other law of this state, and sections 1 to 28 are cumulative to such powers. Sections 1 to 28 do and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws. The issuance of bonds under the provisions of sections 1 to 28 need not comply with the requirements of any other state laws applicable to the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in sections 1 to 28. All agricultural enterprises for which funds are advanced, loaned or otherwise provided by the commission under sections 1 to 28 must be in compliance with any land use, zoning, subdivision and other laws of this state applicable to the land upon which such enterprise is located or is to be constructed.

Approved March 16, 1981