

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2346**

Introduced by

Senators Wanzek, Dotzenrod, Klein, Luick

Representatives D. Johnson, Kempenich

1 A BILL for an Act to create and enact a new section to chapter 60-01, a new section to chapter
2 60-02, and three new sections to chapter 60-02.1 of the North Dakota Century Code, relating to
3 the definition of agriculture commissioner, licensing and bonding for cash grain brokers, and
4 records confidentiality for warehousemen and grain buyers; and to amend and reenact section
5 49-02-01, subsection 1 of section 60-02-01, sections 60-02-02, 60-02-03, 60-02-04, 60-02-05.1,
6 60-02-07, 60-02-07.2, 60-02-09, 60-02-09.1, 60-02-10.1, 60-02-11, 60-02-14, 60-02-17,
7 60-02-24, 60-02-27, 60-02-35.1, 60-02-38, 60-02-40, 60-02-41, 60-02-42, 60-02.1-01,
8 60-02.1-02, 60-02.1-03, 60-02.1-04, 60-02.1-06, 60-02.1-07, 60-02.1-07.1, 60-02.1-08,
9 60-02.1-09, 60-02.1-11, 60-02.1-16, 60-02.1-17, 60-02.1-19, 60-02.1-22, 60-02.1-26,
10 60-02.1-27, 60-02.1-29, 60-02.1-30, 60-02.1-32, 60-02.1-33, 60-02.1-34, 60-02.1-35,
11 60-02.1-36, 60-02.1-37, 60-02.1-38, and 60-02.1-39, subsection 1 of section 60-04-01, and
12 sections 60-04-03, 60-04-03.1, 60-04-03.2, 60-04-03.3, 60-04-04, 60-04-05, 60-04-06,
13 60-04-07, 60-04-08, 60-04-09, 60-04-10, 60-05-01, 60-05-02, 60-05-03, 60-05-04, 60-06-05,
14 60-06-06.1, 60-10-01, 60-10-02, 60-10-03, 60-10-05, 60-10-07, 60-10-08, 60-10-09, 60-10-10,
15 60-10-11, 60-10-12, 60-10-14, and 60-10-15 of the North Dakota Century Code, relating to
16 moving the authority over grain, grain buyers, warehousing, deposits, and warehousemen from
17 the public service commission to the agriculture commissioner; to provide a penalty; and to
18 provide a continuing appropriation.

19 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

20 **SECTION 1. AMENDMENT.** Section 49-02-01 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **49-02-01. General jurisdiction of the public service commission over public utilities.**

23 The general jurisdiction of the commission shall extend to and include:

- 1 1. Contract and common carriers engaged in the transportation of persons and property,
2 excluding air carriers.
- 3 2. Telecommunications companies engaged in the furnishing of telecommunications
4 services as provided for in chapter 49-21.
- 5 3. Pipeline utilities engaged in the transportation of gas, oil, coal, and water.
- 6 4. Electric utilities engaged in the generation and distribution of light, heat, or power.
- 7 5. Gas utilities engaged in the distribution of natural, synthetic, or artificial gas.
- 8 6. All heating utilities engaged in the distribution of heat.
- 9 7. ~~Warehouse companies engaged in the marketing, storage, or handling of agricultural~~
10 ~~products.~~
- 11 8. All other public utilities engaged in business in this state or in any county, city,
12 township, or other political subdivision of the state.

13 **SECTION 2.** A new section to chapter 60-01 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Definition.**

16 For purposes of this title, "commissioner" means the agriculture commissioner.

17 **SECTION 3. AMENDMENT.** Subsection 1 of section 60-02-01 of the North Dakota Century
18 Code is amended and reenacted as follows:

- 19 1. ~~"Commissioner"~~ Commissioner means the ~~public service commission~~ agriculture
20 commissioner.

21 **SECTION 4. AMENDMENT.** Section 60-02-02 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **60-02-02. Commissioner - Powers and duties.**

24 The commissioner has the powers and duties imposed by the provisions of enumerated
25 under this chapter and the powers conferred herein devolve upon the commission.

26 **SECTION 5. AMENDMENT.** Section 60-02-03 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **60-02-03. Duties and powers of the commissioner.**

29 ~~The commission shall have the duty and power to~~ commissioner has the following powers
30 and duties:

- 1 1. Exercise general supervision of the public warehouses of this state, including the
- 2 handling, weighing, and storing of grain, and the management of public warehouses.
- 3 2. Investigate all complaints of fraud and injustice, unfair practices, and unfair
- 4 discrimination.
- 5 3. Examine and inspect, during ordinary business hours, any licensed warehouse,
- 6 including all books, documents, and records.
- 7 4. Require the filing of reports pertaining to the operation of the warehouse.
- 8 5. Make all proper rules for carrying out and enforcing any law in this state regarding
- 9 public warehouses.

10 **SECTION 6. AMENDMENT.** Section 60-02-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **60-02-04. Federal licensed inspector –~~Appointed by commission.~~**

13 The ~~commission~~commissioner may employ a federal licensed inspector whose duties are
14 hereinafter ~~prescribed and such~~enumerated under this chapter and may employ other
15 employees as ~~may be~~ necessary to carry out the provisions of this chapter.

16 **SECTION 7. AMENDMENT.** Section 60-02-05.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **60-02-05.1. Notice of procedures for resolving disputes over grain.**

19 A public warehouse shall post a notice containing the procedures specified in section
20 60-02-05 for resolving disputes. The ~~commission~~commissioner shall prescribe the form of the
21 notice and shall provide a copy of the notice to each public warehouse. The public
22 warehouseman shall post the notice in the grain inspection room of the warehouse. The notice
23 must specifically mention ~~that~~ the procedure for resolving disputes applies to the grade,
24 dockage, moisture content, and protein content of grain and to the quality factors of grain for
25 which inspection rules and grades have not been adopted by the secretary of agriculture of the
26 United States.

27 **SECTION 8. AMENDMENT.** Section 60-02-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **60-02-07. Public warehouse license - Fee - Financial statement.**

30 A license must be obtained from the ~~commission~~commissioner for each public warehouse in
31 operation in this state.

- 1 1. a. ~~The commission shall stagger by lot the expiration date of all licenses issued for~~
2 ~~the period beginning August 1, 2015, so that one half of all the licenses issued~~
3 ~~expire on July 31, 2016, and one half of all the licenses issued expire on July 31,~~
4 ~~2017. Thereafter, all~~All licenses issued under this section must be for a period of
5 two years and terminate on the thirty-first day of July in the year of expiration.
- 6 b. (1) Notwithstanding the provisions of subdivision a, the
7 ~~commission~~commissioner shall license a warehouse annually, for the first
8 six years of the warehouse's operation.
- 9 (2) An initial annual license application that becomes effective on or after June
10 first does not expire until July thirty-first of the following calendar year.
- 11 2. No license may describe more than one public warehouse nor grant permission to
12 operate any public warehouse other than the one described.
- 13 3. a. The annual license fee for a public warehouse is:
- 14 (1) ~~Three~~Four hundred dollars for a warehouse having a maximum capacity of
15 two hundred thousand bushels [7047.8 cubic meters];
- 16 (2) ~~Four~~Five hundred fifty dollars for a warehouse having a capacity of more
17 than two hundred thousand bushels [7047.8 cubic meters] but not more
18 than five hundred thousand bushels [17619.54 cubic meters]; and
- 19 (3) ~~Five~~Six hundred fifty dollars for a warehouse having a capacity of more than
20 five hundred thousand bushels [17619.54 cubic meters].
- 21 b. The biennial license fee for a public warehouse is:
- 22 (1) ~~Six~~Seven hundred dollars for a warehouse having a maximum capacity of
23 two hundred thousand bushels [7047.8 cubic meters];
- 24 (2) ~~Nine hundred~~One thousand dollars for a warehouse having a capacity of
25 more than two hundred thousand bushels [7047.8 cubic meters] but not
26 more than five hundred thousand bushels [17619.54 cubic meters]; and
- 27 (3) One thousand ~~one~~two hundred dollars for a warehouse having a capacity of
28 more than five hundred thousand bushels [17619.54 cubic meters].
- 29 c. An application for an annual license renewal that is received after July fifteenth
30 must include an additional one hundred dollar fee per warehouse. An application

1 for a biennial license renewal that is received after July fifteenth must include an
2 additional two hundred dollar fee per warehouse.

- 3 4. If a public warehouseman operates two or more warehouses in the same city or
4 siding, in conjunction with each other and with the same working force, and keeps one
5 set of books and records for all such warehouses, and issues one series of scale
6 tickets, warehouse receipts, checks, and credit-sale contracts for the grain stored and
7 purchased therein, only one license is required for the operation of all such
8 warehouses. When two or more warehouses are operated under one license, the
9 license fee is based upon the combined bushel capacity of the warehouses.
- 10 5. If required to obtain United States department of agriculture approval of the
11 ~~commission's~~commissioner's warehouse inspection program, the
12 ~~commission~~commissioner may require that the applicant submit a current financial
13 statement prepared in accordance with generally accepted accounting principles. A
14 financial statement furnished under this subsection is a confidential trade secret and is
15 not a public record.

16 **SECTION 9. AMENDMENT.** Section 60-02-07.2 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **60-02-07.2. Receiving stations.**

19 A licensed public warehouseman may establish a receiving station without a separate
20 warehouse license for that facility if all of the following conditions are met:

- 21 1. The station is colocated with another licensed public warehouse, the operator of which
22 will take delivery of the grain on behalf of the warehouseman who established the
23 receiving station.
- 24 2. The storage space used by the receiving station is used solely by the receiving station
25 and is not licensed as part of the warehouse that is located at that site.
- 26 3. The grain taken in by the receiving station is not commingled with other grain at that
27 site.
- 28 4. The warehouseman establishing the station requests and receives ~~commission~~
29 permission from the commissioner to increase licensed capacity to include the space
30 to be used at the receiving station.

1 5. Grain received at the receiving station is recorded on scale tickets issued by the
2 warehouseman who established the station and is covered by that warehouseman's
3 bond.

4 6. Warehouse-receipted grain received at the receiving station is available for redelivery
5 to the receipt holder at that location even if the station has been closed. A charge for
6 redelivery must be stated in the warehouseman's redelivery policy.

7 The storage space used by a receiving station need not be physically disconnected from the
8 facilities of the other licensed warehouse located at that site.

9 **SECTION 10. AMENDMENT.** Section 60-02-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **60-02-09. Bond filed by public warehouseman.**

12 Before any license is effective for any public warehouseman under this chapter, the
13 applicant for the license shall file a bond with the ~~commission~~commissioner which must:

- 14 1. Be in a sum not less than five thousand dollars for any one warehouse.
- 15 2. Be continuous, unless the corporate surety by certified mail notifies the licensee and
16 the ~~commission~~commissioner the surety bond will be canceled ninety days after
17 receipt of the notice of cancellation.
- 18 3. Run to the state of North Dakota for the benefit of all persons storing or selling grain in
19 that warehouse.
- 20 4. Be conditioned:
 - 21 a. For the faithful performance of the licensee's duties as a public warehouseman.
 - 22 b. For compliance with the provisions of law and the rules of the
23 ~~commission~~commissioner relating to the storage and purchase of grain by such
24 warehouseman.
- 25 5. Specify the location of each public warehouse intended to be covered by such bond.
- 26 6. Be for the specific purpose of:
 - 27 a. Protecting the holders of outstanding receipts.
 - 28 b. Covering the costs incurred by the ~~commission~~commissioner in the
29 administration of chapter 60-04 in the event of the licensee's insolvency.
- 30 7. Not accrue to the benefit of any person entering into a credit-sale contract with a
31 public warehouseman.

1 8. The aggregate liability of the surety under a bond does not accumulate for each
2 successive annual license renewal period during which the bond is in force but, for
3 losses during any annual license renewal period, is limited in the aggregate to the
4 bond amount stated or changed by appropriate endorsement or rider.

5 The ~~commissioner~~commissioner shall set the amount of the bond and may require an increase in
6 the amount of any bond, from time to time, as the ~~commissioner~~commissioner deems necessary
7 to accomplish the purposes of this section. The surety on the bond must be a corporate surety
8 company, approved by the ~~commissioner~~commissioner, and authorized to do business within the
9 state. The ~~commissioner~~commissioner may accept cash, a negotiable instrument, or a bond
10 executed by personal sureties in lieu of a surety bond ~~whenif~~, in ~~it~~the commissioner's
11 judgment, the cash, negotiable instrument, or personal surety bond properly will protect the
12 holders of outstanding receipts. One bond only may be given for any line of elevators, mills, or
13 warehouses, owned, controlled, or operated by one individual, firm, corporation, or limited
14 liability company, and the bond must be construed to cover ~~such~~the elevators, mills, or
15 warehouses, as a whole and not a specific amount for each.

16 **SECTION 11. AMENDMENT.** Section 60-02-09.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **60-02-09.1. Bond cancellation - Release of surety.**

19 The surety on a bond is released from all future liability accruing on the bond after the
20 expiration of ninety days from the date of receipt by the ~~commissioner~~commissioner of notice of
21 cancellation by the surety or on a later date specified by the surety. This provision does not
22 operate to relieve, release, or discharge the surety from any liability already accrued or which
23 accrues before the expiration of the ninety-day period. Unless the warehouseman files a new
24 bond at least thirty days before liability ceases, the ~~commissioner~~commissioner, without hearing,
25 shall immediately suspend the warehouseman's license and the suspension may not be
26 removed until a new bond has been filed and approved by the ~~commissioner~~commissioner.
27 ~~When~~If a license is so suspended, the warehouseman shall give notice of such suspension to
28 each receipt holder having grain stored in the warehouse. The warehouseman shall further notify
29 each receipt holder having grain stored in the warehouse that the grain must be removed from
30 the warehouse or ~~it~~the grain will be priced and redeemed in cash in accordance with section
31 60-02-41.

1 **SECTION 12. AMENDMENT.** Section 60-02-10.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02-10.1. Revocation and suspension.**

4 The ~~commission~~commissioner may suspend or revoke the license of any warehouseman
5 for cause upon notice and hearing. Notwithstanding any other provisions of this chapter, the
6 license of a warehouseman must automatically be suspended for failure at any time to have or
7 to maintain either a bond or insurance policy in the amount and type required. During a
8 suspension of a license the warehouseman may, upon the ~~commission's~~commissioner's
9 approval, operate the warehouse and purchase or redeliver grain previously received, but may
10 not receive additional grain for purchase, storage, shipping, or processing. Grain may be sold
11 only with the prior approval of the ~~commission~~commissioner.

12 **SECTION 13. AMENDMENT.** Section 60-02-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **60-02-11. Scale ticket - Contents - Conversion.**

- 15 1. a. Every public warehouseman, upon receiving grain into the warehouse, shall
16 issue a uniform scale ticket for each load of grain received. The scale tickets
17 must be numbered consecutively, and one copy of each ticket must be retained
18 and remain as a permanent record. The original ticket must be delivered to the
19 person from whom the grain is received, upon receipt of each load of grain.
- 20 b. All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale
21 contracts, or warehouse receipts, within forty-five days after the grain is delivered
22 to the warehouse, unless:
- 23 (1) The person to whom the scale ticket is issued signs a form waiving all rights
24 to trust benefits under section 60-04-03.1;
- 25 (2) The form identifies by number each scale ticket to which the waiver applies;
26 and
- 27 (3) The form is signed by the warehouseman.
- 28 c. The ~~commission~~commissioner shall prepare the waiver form required by
29 subdivision b and make the form available to each warehouse.
- 30 d. The warehouseman shall keep one copy of the signed waiver form with the
31 records of the warehouse, provide one copy to the person who was issued the

1 scale ticket and signed the form, and file one copy with the
2 ~~commission~~commissioner.

3 2. Nothing in this chapter requires a warehouseman to receive grain for storage. A
4 warehouseman shall publish and post, in a conspicuous place in the warehouse, a
5 publication identifying whether storage will be available to patrons or whether grain will
6 be accepted via cash or a credit-sale contract arrangement.

7 **SECTION 14. AMENDMENT.** Section 60-02-14 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **60-02-14. Warehouse receipts - Copy.**

10 Provision ~~shall~~must be made for a stub record or copy of each warehouse receipt issued by
11 a warehouseman, showing:

- 12 1. The serial number and date of receipt.
- 13 2. The kind and grade of grain.
- 14 3. The dockage and net weight of the grain.

15 The record or copy ~~shall~~must remain in the possession of the warehouseman for inspection by
16 the ~~commission~~commissioner and persons properly interested.

17 **SECTION 15. AMENDMENT.** Section 60-02-17 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **60-02-17. Warehouse and storage contract - Storage rates - Terminal delivery.**

20 1. A warehouse receipt must contain, either on its face or reverse side, the following
21 warehouse and storage contract:

22 This grain is received, insured, and stored subject to the laws and rules of the state of
23 North Dakota, the terms of this contract, and the charges and conditions stated herein
24 and as filed with the North Dakota ~~public-service commission~~agriculture commissioner.

25 Upon surrender of this receipt and payment or tender of all applicable charges, the
26 amount, kind, and grade of grain identified in this receipt will be delivered to the
27 person named above or the person's order as rapidly as due diligence, care, and
28 prudence will permit. At the option of the holder of this receipt, the amount, kind, and
29 grade of grain for which this receipt is issued, upon demand, must be delivered back
30 to the holder at any terminal point customarily shipped to, or at the place where
31 received, upon the payment of any charges for receiving, handling, storage, and

1 insurance and in case of terminal delivery, the payment in addition to the above of the
2 regular freight charges on the gross amount called for by this ticket or in lieu thereof, a
3 receipt issued by a bonded warehouse or elevator company doing business at the
4 terminal point. This receipt does not require the delivery of the identical grain specified
5 herein, but an equal amount of grain of the same kind and grade must be delivered.

- 6 2. A warehouseman shall publish and post, in a conspicuous place in its warehouse, the
7 fees that will be assessed for receiving, storing, processing, or redelivering grain and
8 the termination date of its warehouse receipts. This publication must be filed with the
9 ~~commissioner~~commissioner as a part of the warehouse license process or annual
10 renewal. The fees and termination date must be stated on the warehouse receipt
11 issued for the grain. The fees or termination date may be changed upon filing a
12 revised publication with the ~~commissioner~~commissioner.

13 **SECTION 16. AMENDMENT.** Section 60-02-24 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **60-02-24. Reports to be made by public warehouseman - Penalty for failure.**

16 Each licensed and bonded public warehouseman shall:

- 17 1. Prepare for each month a report giving facts and information called for on the form of
18 report prepared by the ~~commissioner~~commissioner. The report must contain or be
19 verified by a written declaration ~~that it~~the report is made under the penalties of perjury.
20 The report may be called for more frequently if the ~~commissioner~~commissioner deems it
21 necessary. Information pertaining to the volume of grain handled is a confidential trade
22 secret and is not a public record. The ~~commissioner~~commissioner may make the
23 information available for use by other governmental entities, but the
24 ~~commissioner~~commissioner may not release the information in a manner that
25 jeopardizes the confidentiality of individual licensees.
- 26 2. File the report with the ~~commissioner~~commissioner not later than the last day of the
27 following month, and failure to file this report promptly will be considered cause for
28 revoking the warehouse license after due notice and hearing.
- 29 3. Keep a separate account of the grain business, if the warehouseman is engaged in
30 handling or selling any other commodity, and under no circumstances ~~shall~~may the
31 grain account and other accounts be mixed.

1 The ~~commission~~commissioner may refuse to renew a license to any public warehouseman who
2 fails to make a required report.

3 **SECTION 17. AMENDMENT.** Section 60-02-27 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **60-02-27. Federal grades to control - Grades to be posted.**

6 All public warehousemen shall purchase and store grain except dry edible beans in
7 accordance with the official grades established from time to time by the secretary of agriculture
8 of the United States, except as otherwise provided in rules and regulations applicable thereto
9 adopted by federal officials pursuant to law. ~~They~~Public warehousemen shall post in a
10 conspicuous place in ~~their~~the public warehousemen's warehouse the official grades so
11 established and also any change that may be made from time to time. Warehousemen of dry
12 edible beans shall purchase, store, and deliver beans in accordance with ~~their~~the policy of the
13 warehousemen which must be filed with the ~~commission~~commissioner and posted in a
14 conspicuous place in ~~their~~the warehouse of the public warehousemen. Other grading standards
15 may be used if mutually agreed to in writing by the warehouseman and the owner of the grain.
16 However, the owner may demand the use of federal grading standards. The
17 ~~commission~~commissioner, after hearing, may prohibit the use of nonfederal grades.

18 **SECTION 18. AMENDMENT.** Section 60-02-35.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **60-02-35.1. Insurance - Cancellation - Suspension of license.**

21 An insurance company shall give at least sixty days' notice to the ~~commission~~commissioner
22 and the insured by certified mail return receipt requested before cancellation of an insurance
23 policy required in section 60-02-35. Unless the warehouseman files proof of new or renewed
24 insurance at least thirty days before the existing policy ceases, the ~~commission~~commissioner,
25 without hearing, shall immediately suspend the warehouseman's license and the suspension
26 may not be removed until a new policy has been filed and approved by the
27 ~~commission~~commissioner. ~~When~~If a license is so suspended, the warehouseman shall give
28 notice of ~~such~~the suspension to each receipt holder having grain stored in the warehouse. The
29 warehouseman shall further notify each receipt holder having grain stored in the warehouse ~~that~~
30 the grain must be removed from the warehouse or ~~it~~the grain will be priced and redeemed in
31 cash in accordance with section 60-02-41.

1 **SECTION 19. AMENDMENT.** Section 60-02-38 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02-38. Refund of license fee by ~~commissioner~~ commissioner.**

4 ~~When~~If requested in writing, the ~~commissioner~~commissioner shall refund the license fee of a
5 public warehouse, or so much as in ~~its~~the commissioner's judgment is just and reasonable,
6 ~~when~~if satisfactory proof is furnished ~~that~~ the warehouse has been transferred to some other
7 person, and the new owner has obtained a license for the same warehouse for the unexpired
8 period for which the original license was issued. ~~When~~If a warehouse is destroyed by fire or
9 other cause, the license fee may be prorated as the ~~commissioner~~commissioner may determine.

10 **SECTION 20. AMENDMENT.** Section 60-02-40 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **60-02-40. Transfer of warehouse - Redemption of receipts.**

13 ~~Whenever~~If a public warehouseman desires to transfer a warehouse, either by sale or lease
14 to any other individual, firm, or corporation, the warehouseman shall:

- 15 1. Notify the ~~commissioner~~commissioner first of ~~its~~the warehouseman's intention to transfer
16 the warehouse, giving the name and address of the proposed lessee or purchaser.
- 17 2. Furnish a statement of all proper claims that may be filed or pending against the
18 warehouseman pertaining to the storage, inspection, and marketing of grain, together
19 with a statement of:
 - 20 a. The number of bushels [cubic meters] of grain of each kind and grade in store in
21 the warehouse;
 - 22 b. The number and amount of receipts outstanding; and
 - 23 c. The names and addresses of the receiptholders.
- 24 3. Serve notice by registered or certified mail, at least thirty days before the transfer,
25 upon all receiptholders having claims against the warehouse to call for delivery of the
26 grain covered by the receipts, and to pay all storage charges due, the warehouseman
27 in such case to make no charge for redelivery. The ~~commissioner~~commissioner may
28 waive the thirty-day notice period upon receipt of written consent of all receiptholders.
- 29 4. Transfer all stored grain undelivered at the expiration of such thirty-day period to ~~its~~the
30 warehouseman's successor, if licensed, or to the nearest licensed warehouse for

1 restorage, taking receipts for the same in favor of the owner of the grain so
2 transferred.

3 5. Surrender to the ~~commission~~commissioner the warehouseman's license for
4 cancellation ~~and at such, at which~~ time the proposed lessee or purchaser shall file in
5 due form for a new license and tender a new bond for review by the ~~commission,~~
6 ~~whereupon, it~~commissioner, at which time, ~~the commissioner~~, first being duly satisfied
7 ~~that~~ all the outstanding receipts have been redeemed, or that the redemption ~~thereof~~
8 all outstanding receipts has been provided for, the ~~commission~~commissioner may
9 permit a new license to become effective for the lessee or purchaser.

10 No sale, lease, or transfer of any warehouse will be recognized by the
11 ~~commission~~commissioner except when made in accordance with the provisions of this section.

12 **SECTION 21. AMENDMENT.** Section 60-02-41 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **60-02-41. Going out of business - Redemption of receipts.**

15 ~~When~~if a public warehouseman ceases business through the destruction of a warehouse by
16 fire or other cause, or through insolvency, ~~such~~the warehouseman shall redeem all outstanding
17 unconverted scale tickets or warehouse receipts at the price prevailing on the date the
18 warehouse was destroyed or closed because of insolvency. The holder of such receipts, upon
19 due notice, ~~must~~shall accept this price and surrender the receipts. Any public warehouseman
20 who voluntarily ceases business or fails to renew an existing warehouse license or whose
21 warehouse license is revoked shall notify the ~~commission~~commissioner and all outstanding
22 receiptholders of such closing and redeem all outstanding unconverted scale tickets or
23 warehouse receipts at the price prevailing on the date the warehouse closed or at the option of
24 the owner of the receipt redeliver the kind, grade, and quantity of grain called for by the
25 unconverted scale ticket or warehouse receipt. On commingled grain the value of over and
26 under deliveries in quantity, grade, and protein ~~shall~~must be settled in cash and priced on the
27 market on the day of closing.

28 **SECTION 22. AMENDMENT.** Section 60-02-42 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **60-02-42. Cease and desist.**

2 ~~Whenever~~ If an entity engages in an activity or practice that is contrary to the provisions of
3 this chapter or related rules, the ~~commissioner~~commissioner, upon ~~its~~the commissioner's own
4 motion without complaint, with or without hearing, may order the entity to cease and desist from
5 the activity until further order of the ~~commissioner~~commissioner. Such orders may include any
6 corrective action up to and including license suspensions. Cease and desist orders must be
7 accompanied by a notice of opportunity to be heard on the order within fifteen days of the
8 issuance of the order.

9 **SECTION 23.** A new section to chapter 60-02 of the North Dakota Century Code is created
10 and enacted as follows:

11 **Release of records - Confidentiality.**

- 12 1. As a condition of licensure under section 60-02-07, an applicant shall agree to provide
13 to the commissioner, upon request, any financial record the commissioner deems
14 relevant for purposes related to:
15 a. The issuance or renewal of a public warehouse license; or
16 b. An investigation after issuance or renewal of a public warehouse license.
17 2. As a condition of licensure, an applicant shall file a records release with the
18 commissioner, authorizing the commissioner to obtain from any source any financial
19 record the commissioner deems relevant for purposes related to:
20 a. The issuance or renewal of a public warehouse license; or
21 b. An investigation after issuance or renewal of a public warehouse license.
22 3. Any information obtained by the commissioner under this section is confidential and
23 may be provided only:
24 a. To federal authorities in accordance with federal law;
25 b. To the attorney general, state agencies, and law enforcement agencies, for use in
26 the pursuit of official duties; and
27 c. As directed by an order of a court pursuant to a showing of good cause.

28 **SECTION 24. AMENDMENT.** Section 60-02.1-01 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **60-02.1-01. Definitions.**

31 In this chapter, unless the context or subject matter otherwise requires:

- 1 1. "Cash grain broker" means a person who:
2 a. Is involved in the negotiation of cash grain transactions in the state;
3 b. Receives compensation from at least one party to the transaction; and
4 c. Does not take title to the grain and is not under any financial or contractual
5 obligation related to the transaction.
6 2. "~~Commission~~Commissioner" means the ~~public-service-commission~~agriculture
7 commissioner.
8 ~~2.3.~~ "Credit-sale contract" means a written contract for the sale of grain pursuant to which
9 the sale price is to be paid or may be paid more than thirty days after the delivery or
10 release of the grain for sale and which contains the notice provided in subsection 7 of
11 section 60-02.1-14. If a part of the sale price of a contract for the sale of grain is to be
12 paid or may be paid more than thirty days after the delivery or release of the grain for
13 sale, only such part of the contract is a credit-sale contract.
14 ~~3.4.~~ "Facility" means a structure in which grain purchased by a grain buyer is received or
15 held.
16 ~~4.5.~~ "Facility-based grain buyer" means a grain buyer who operates a facility licensed
17 under the United States Warehouse Act [7 U.S.C. 241-273] where grain is received.
18 ~~5.6.~~ "Grain" means wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, safflower,
19 sunflower seeds, tame mustard, peas, beans, soybeans, corn, clover, millet, alfalfa,
20 and any other commercially grown grain or grass seed. "Grain" does not include grain
21 or grass seeds owned by or in the possession of the grain buyer which have been
22 cleaned, processed, and specifically identified for an intended use of planting for
23 reproduction and for which a warehouse receipt has not been issued.
24 ~~6.7.~~ "Grain buyer" means any person, other than a public warehouseman as defined in
25 chapter 60-02, who purchases or otherwise merchandises grain for compensation.
26 The term does not include:
27 a. A producer of grain who purchases grain from other producers to complete a
28 carload or truckload in which the greater portion of the load is grain grown by the
29 producer or on-farm feedlot operations in which at least fifty percent of the
30 livestock is owned by the owner of the farm.

- 1 b. A person who is permitted to sell seed under chapter 4.1-53, if that person buys
2 grain only for processing and subsequent resale as seed.
- 3 c. A person who is an authorized dealer or agent of a seed company holding a
4 permit in accordance with section 4.1-53-38.
- 5 8. "Grain processor" means an entity that purchases grain to process into end products
6 that are of a substantially different makeup or nature than the original grain.
- 7 ~~7.9.~~ "Noncredit-sale contract" means a contract for the sale of grain other than a credit-sale
8 contract.
- 9 ~~8.10.~~ "Receipts" means scale tickets, checks, or other memoranda given by a grain buyer
10 for, or as evidence of, the receipt or sale of grain except when such memoranda was
11 received as a result of a credit-sale contract.
- 12 ~~9.11.~~ "Roving grain buyer" means a grain buyer who does not operate a facility where grain
13 is received.

14 **SECTION 25. AMENDMENT.** Section 60-02.1-02 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **60-02.1-02. ~~Commission~~Commissioner - Powers and duties.**

17 The ~~powers and~~ duties imposed and the powers conferred by this chapter devolve upon the
18 ~~commission~~of the commissioner are enumerated in this chapter.

19 **SECTION 26. AMENDMENT.** Section 60-02.1-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **60-02.1-03. Duties and powers of the ~~commission~~commissioner.**

22 The ~~commission~~commissioner has the duty and power to:

- 23 1. Exercise general supervision of grain buyers of this state.
- 24 2. Investigate all complaints of fraud and injustice, unfair practices, and unfair
25 discrimination.
- 26 3. Examine and inspect, during ordinary business hours, any books, documents, and
27 records.
- 28 4. Make all proper rules for carrying out and enforcing any law in this state regarding
29 grain buyers.

30 **SECTION 27. AMENDMENT.** Section 60-02.1-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **60-02.1-04. Federal licensed inspector –~~Appointed by commission.~~**

2 The ~~commission~~commissioner may employ a federal licensed inspector whose duties are
3 hereinafter ~~prescribed, and such enumerated in this chapter and may employ~~ other employees
4 as ~~may be~~ necessary to carry out the provisions of this chapter.

5 **SECTION 28. AMENDMENT.** Section 60-02.1-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **60-02.1-06. Notice of procedures for resolving disputes over grain.**

8 A facility-based grain buyer shall post a notice containing the procedures specified in
9 section 60-02.1-05 for resolving disputes. The ~~commission~~commissioner shall prescribe the
10 form of the notice and shall provide a copy of the notice to each facility-based grain buyer. The
11 facility-based grain buyer shall post the notice in the grain inspection room of the facility. The
12 notice must specifically mention that the procedure for resolving disputes applies to the grade,
13 dockage, moisture content, and protein content of grain and to the quality factors of grain for
14 which inspection rules and grades have not been adopted by the secretary of agriculture of the
15 United States.

16 **SECTION 29. AMENDMENT.** Section 60-02.1-07 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **60-02.1-07. Grain buyer license - How obtained - Fee - Financial statement.**

19 Grain buyers ~~must~~shall obtain an annual license from the ~~commission~~commissioner. Except
20 as provided in this section, each license expires on July thirty-first of each year. ~~When~~If a
21 licensee's initial license is issued effective after May thirty-first, that license expires on July
22 thirty-first of the following year. A facility-based grain buyer ~~must~~shall obtain a license for each
23 receiving location operated in the state. If a grain buyer operates two or more facilities in the
24 same city or siding, in conjunction with each other and with the same working force, and where
25 but one set of books and records is kept for all such facilities, and scale tickets and checks of
26 but one series are issued for the grain, purchased, only one license is required for the operation
27 of all such facilities. The annual license fee for a facility-based grain buyer is ~~three~~four hundred
28 dollars and a license renewal application that is received after July fifteenth must be assessed
29 an additional one hundred dollar fee per receiving location.

30 If required to obtain United States department of agriculture approval of the
31 ~~commission's~~commissioner's grain buyer inspection program, the ~~commission~~commissioner

1 may require that grain buyers submit a current financial statement prepared in accordance with
2 generally accepted accounting principles. A financial statement furnished under this section is a
3 confidential trade secret and is not a public record.

4 **SECTION 30. AMENDMENT.** Section 60-02.1-07.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **60-02.1-07.1. Roving grain buyer license - How obtained - Fee.**

7 Roving grain buyers that purchase, solicit, merchandise, or take possession of grain in this
8 state ~~must~~shall obtain an annual license from the ~~commission~~commissioner. Except as provided
9 in this section, each license expires on July thirty-first of each year. ~~When~~If a licensee's initial
10 license is issued effective after May thirty-first, that license expires on July thirty-first of the
11 following year. The annual license fee for a roving grain buyer is ~~two~~three hundred dollars, and
12 a license renewal application that is received after July fifteenth must be assessed an additional
13 one hundred dollar fee.

14 **SECTION 31.** A new section to chapter 60-02.1 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Cash grain broker license - Application - Bond - How obtained - Fee - Report -**
17 **Disclosure.**

18 1. Before conducting business in the state, a cash grain broker must submit an
19 application to obtain an annual license from the commissioner. To conduct business in
20 the state, a cash grain broker must also register and be in good standing with the
21 secretary of state. Except as provided in this section, each license expires on July
22 thirty-first of each year. When a licensee's initial license is issued effective after May
23 thirty-first, that license expires on July thirty-first of the following year. The annual
24 license fee of a cash grain broker is two hundred dollars, and a license renewal
25 application that is received after July fifteenth must be assessed an additional one
26 hundred dollar fee. A license issued under this section is not transferable.

27 2. An application for licensure must include:

28 a. The name under which the applicant intends to conduct business in the state as
29 a cash grain broker;

30 b. The name of each partner if the cash grain broker is in a partnership;

- 1 c. The name of each corporate officer and the state of incorporation if the cash
2 grain broker is a corporation;
- 3 d. The name of each manager and the state of organization if the cash grain broker
4 is a limited liability company;
- 5 e. The mailing address of the applicant; and
- 6 f. The location of the principal place of business of the applicant.
- 7 3. The commissioner may refuse to issue, renew, or may revoke a license if:
- 8 a. The licensee or applicant has been convicted of a criminal offense;
- 9 b. The licensee or applicant has failed to comply with the requirements of this
10 section;
- 11 c. The commissioner has evidence the licensee negotiated in bad faith; or
- 12 d. Any other reason determined by the commissioner.
- 13 4. A licensed cash grain broker must submit a monthly report to the commissioner by the
14 tenth day of each month. The report must include:
- 15 a. The total volume of each commodity brokered in the preceding month; and
- 16 b. The name and contact information of any buyer who had more than two hundred
17 fifty thousand dollars in total purchases in transactions brokered by the cash
18 grain broker during the preceding month.
- 19 5. A licensed cash grain broker must notify each potential commodity seller of the identity
20 of the potential commodity buyer before the final confirmation of the transaction.
- 21 6. Before a license is effective for a cash grain broker under this section, the licensee or
22 applicant must file a bond with the commissioner for ten thousand dollars.

23 **SECTION 32.** A new section to chapter 60-02.1 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Grain processor license - Application - Bond - How obtained - Fee - Report -**
26 **Disclosure.**

- 27 1. Before conducting business in the state, a grain processor must submit an application
28 to obtain an annual license from the commissioner. To conduct business in the state, a
29 grain processor must also register and be in good standing with the secretary of state.
30 Except as provided in this section, each license expires on July thirty-first of each year.
31 When a licensee's initial license is issued effective after May thirty-first, that license

1 expires on July thirty-first of the following year. The annual license fee of a grain
2 processor is two hundred dollars, and a license renewal application that is received
3 after July fifteenth must be assessed an additional one hundred dollar fee. A license
4 issued under this section is not transferable.

5 2. An application for licensure must include:

6 a. The name under which the applicant intends to conduct business in the state as
7 a grain processor;

8 b. The name of each partner if the grain processor is in a partnership;

9 c. The name of each corporate officer and the state of incorporation if the grain
10 processor is a corporation;

11 d. The name of each manager and the state of organization if the grain processor
12 is a limited liability company;

13 e. The mailing address of the applicant; and

14 f. The location of the principal place of business of the applicant.

15 3. The commissioner may refuse to issue, renew, or may revoke a license if:

16 a. The licensee or applicant has been convicted of a criminal offense;

17 b. The licensee or applicant has failed to comply with the requirements of this
18 section;

19 c. The commissioner has evidence the licensee negotiated in bad faith; or

20 d. Any other reason determined by the commissioner.

21 4. A licensed grain processor must submit a monthly report to the commissioner by the
22 tenth day of each month. The report must include the total volume of each commodity
23 processed in the preceding month.

24 5. Before a license is effective for a grain processor under this section, the licensee or
25 applicant must file a bond with the commissioner for ten thousand dollars.

26 **SECTION 33. AMENDMENT.** Section 60-02.1-08 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **60-02.1-08. Bond filed by grain buyer.**

29 Before any license is effective for any grain buyer under this chapter, the applicant for the
30 license shall file a bond with the ~~commissioner~~ commissioner which must:

31 1. Be in a sum not less than ~~five~~ ten thousand dollars.

- 1 2. Be continuous, unless the corporate surety by certified mail notifies the licensee and
2 the ~~commission~~ commissioner the surety bond will be canceled ninety days after
3 receipt of the notice of cancellation.
 - 4 3. Run to the state of North Dakota for the benefit of all persons selling grain to or
5 through the grain buyer.
 - 6 4. Be conditioned:
 - 7 a. For the faithful performance of the licensee's duties as a grain buyer.
 - 8 b. For compliance with the provisions of law and the rules of the
9 ~~commission~~ commissioner relating to the purchase of grain by such grain buyer.
 - 10 5. For facility-based grain buyers, specify the location of each facility intended to be
11 covered by the bond.
 - 12 6. Be for the specific purpose of:
 - 13 a. Protecting the sellers of grain.
 - 14 b. Covering the costs incurred by the ~~commission~~ commissioner in the
15 administration of the licensee's insolvency.
 - 16 7. Not accrue to the benefit of any person entering ~~into~~ a credit-sale contract with a grain
17 buyer.
 - 18 8. The aggregate liability of the surety under a bond does not accumulate for each
19 successive annual license renewal period during which the bond is in force but, for
20 losses during any annual license renewal period, is limited in the aggregate to the
21 bond amount stated or changed by appropriate endorsement or rider.
- 22 The ~~commission~~ commissioner may require an increase in the amount of any bond, from time to
23 time, as ~~it~~ the commissioner deems necessary to accomplish the purposes of this section. The
24 surety on the bond must be a corporate surety company, approved by the
25 ~~commission~~ commissioner, and authorized to do business within the state. The
26 ~~commission~~ commissioner may accept cash, a negotiable instrument, or a bond executed by
27 personal sureties in lieu of a surety bond when, in ~~its~~ the commissioner's judgment, cash, a
28 negotiable instrument, or a personal surety bond properly will protect the holders of outstanding
29 receipts. Only one bond may be required for any series of facilities operated by a facility-based
30 grain buyer, and the bond must be construed to cover those facilities as a whole and not a
31 specific amount for each.

1 **SECTION 34. AMENDMENT.** Section 60-02.1-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02.1-09. Bond cancellation - Release of surety.**

4 The surety on a bond is released from all future liability accruing on the bond after the
5 expiration of ninety days from the date of receipt by the ~~commission~~commissioner of notice of
6 cancellation by the surety or on a later date specified by the surety. This provision does not
7 operate to relieve, release, or discharge the surety from any liability already accrued or which
8 accrues before the expiration of the ninety-day period. Unless the grain buyer files a new bond
9 at least thirty days before liability ceases, the ~~commission~~commissioner, without hearing, shall
10 immediately suspend the grain buyer's license and the suspension may not be removed until a
11 new bond has been filed and approved by the ~~commission~~commissioner.

12 **SECTION 35. AMENDMENT.** Section 60-02.1-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **60-02.1-11. Revocation and suspension.**

15 The ~~commission~~commissioner may suspend or revoke the license of any grain buyer for
16 cause upon notice and hearing. Notwithstanding any other provisions of this chapter, the license
17 of a grain buyer must automatically be suspended for failure at any time to have or to maintain
18 either a bond or insurance policy in the amount and type required. During a suspension of a
19 license a facility-based grain buyer, upon the ~~commission's~~commissioner's approval, may
20 operate its facility and purchase or redeliver grain previously received, but may not receive
21 additional grain for purchase, shipping, or processing. Grain may be sold only with the prior
22 approval of the ~~commission~~commissioner.

23 **SECTION 36. AMENDMENT.** Section 60-02.1-16 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-02.1-16. Records required to be kept by grain buyers.**

26 Each grain buyer shall keep such accounts, records, and memoranda concerning the
27 buyer's dealing as such grain buyer as from time to time may be required by the
28 ~~commission~~commissioner and shall make such reports of purchases of grain as may be
29 required by the rules ~~made~~adopted by the ~~commission~~commissioner. The
30 ~~commission~~commissioner at all times ~~shall~~must have access to such accounts, records, and
31 memoranda.

1 **SECTION 37. AMENDMENT.** Section 60-02.1-17 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02.1-17. Reports to be made by grain buyers - Penalty for failure.**

4 Each licensed and bonded grain buyer shall:

- 5 1. Prepare for each month a report giving facts and information called for on the form of
6 report prepared by the ~~commission~~commissioner. The report must contain or be
7 verified by a written declaration ~~that it~~the report is made under the penalties of perjury.
8 The report may be called for more frequently if the ~~commission~~commissioner deems it
9 necessary. Information pertaining to the volume of grain handled is a confidential trade
10 secret and is not a public record. The ~~commission~~commissioner may make this
11 information available for use by other governmental entities, but the information may
12 not be released by those entities in a manner that jeopardizes the confidentiality of
13 individual licensees.
- 14 2. File the report with the ~~commission~~commissioner not later than the last day of the
15 following month. Failure to file this report promptly will be considered cause for
16 revoking the grain buyer license after due notice and hearing.
- 17 3. Keep a separate account of the grain business, if the grain buyer is engaged in
18 handling or selling any other commodity, and under no circumstances may the grain
19 account and other accounts be mixed.

20 The ~~commission~~commissioner may refuse to renew a license to any grain buyer who fails to
21 make a required report.

22 **SECTION 38. AMENDMENT.** Section 60-02.1-19 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **60-02.1-19. Federal grades to control - Grades to be posted.**

25 All grain buyers shall purchase grain, except dry edible beans, in accordance with the
26 official grades established from time to time by the secretary of agriculture of the United States,
27 except as otherwise provided in applicable rules and regulations ~~applicable thereto~~ adopted by
28 federal officials pursuant to law. A facility-based grain buyer shall post in a conspicuous place in
29 the buyer's facility the official grades so established and also any change that may be made
30 from time to time. A grain buyer of dry edible beans shall purchase and deliver beans in
31 accordance with the buyer's policy, which must be filed with the ~~commission~~commissioner and,

1 if applicable, posted in a conspicuous place in the buyer's facility. Other grading standards may
2 be used if mutually agreed to in writing by the grain buyer and the owner of the grain. However,
3 the owner may demand the use of federal grading standards. After hearing, the
4 ~~commission~~commissioner may prohibit the use of nonfederal grades.

5 **SECTION 39. AMENDMENT.** Section 60-02.1-22 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **60-02.1-22. Insurance - Cancellation - Suspension of license.**

8 An insurance company shall give at least sixty days' notice to the ~~commission~~commissioner
9 and the insured by registered mail return receipt requested before cancellation of an insurance
10 policy required in section 60-02.1-21. Unless the grain buyer files proof of new or renewed
11 insurance at least thirty days before the existing policy ceases, the ~~commission~~commissioner,
12 without hearing, shall immediately suspend the grain buyer's license and the suspension may
13 not be removed until a new policy has been filed and approved by the
14 ~~commission~~commissioner.

15 **SECTION 40. AMENDMENT.** Section 60-02.1-26 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **60-02.1-26. Transfer of facility - Redemption of receipts.**

18 ~~Whenever~~If a facility-based grain buyer desires to transfer a facility, either by sale or lease
19 to any other individual, firm, or corporation, the grain buyer shall:

- 20 1. Notify the ~~commission~~commissioner first of its intention to transfer the facility, giving
21 the name and address of the proposed lessee or purchaser.
- 22 2. Provide related information as may be required by the ~~commission~~commissioner.
- 23 3. Surrender to the ~~commission~~commissioner the grain buyer's license for cancellation
24 and at that time the proposed lessee or purchaser shall file in due form for a new
25 license and tender a new bond for review by the ~~commission~~commissioner,
26 whereupon, it first being duly satisfied that all the outstanding receipts have been
27 redeemed, or that the redemption thereof has been provided for, the
28 ~~commission~~commissioner may permit a new license to become effective for the lessee
29 or purchaser.

30 No sale, lease, or transfer of any facility will be recognized by the ~~commission~~commissioner
31 except when made in accordance with the provisions of this section.

1 **SECTION 41. AMENDMENT.** Section 60-02.1-27 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02.1-27. Going out of business - Redemption of receipts.**

4 ~~When~~if a facility-based grain buyer ceases business through closure, the destruction of a
5 facility by fire or other cause, or through insolvency, ~~such~~the grain buyer shall redeem all
6 outstanding receipts at the price prevailing on the date the facility was closed, destroyed, or
7 became insolvent. The holder of ~~such~~the receipts, upon due notice, ~~must~~shall accept this price
8 and surrender the receipts. Any facility-based grain buyer who voluntarily ceases business or
9 fails to renew an existing grain buyer license or whose grain buyer license is revoked shall
10 notify the ~~commission~~commissioner and all receiptholders of such closing and redeem all such
11 receipts at the price prevailing on the date the business closed or at the option of the owner of
12 the receipt redeliver the kind, grade, and quantity of grain called for by the receipt. On
13 commingled grain the value of over and under deliveries in quantity, grade, and protein
14 ~~shall~~must be settled in cash and priced on the market on the day of closing.

15 **SECTION 42. AMENDMENT.** Section 60-02.1-29 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **60-02.1-29. Appointment of ~~commission~~commissioner.**

18 Upon the insolvency of any roving grain buyer, the ~~commission~~commissioner shall apply to
19 the district court of Burleigh County for authority to take all action necessary to act as trustee of
20 the trust fund described in section 60-02.1-30. If the insolvency involves a facility-based grain
21 buyer, application must be to the district court of a county in which the licensee operates a
22 licensed facility. Upon notice to the licensee as the court prescribes, but not exceeding twenty
23 days, or upon waiver of notice in writing by the licensee, the court shall hear and determine the
24 application in a summary manner. If the court determines ~~that~~ the licensee is insolvent within
25 the meaning of this chapter and that it would be in the best interests of the receiptholders that
26 the ~~commission~~commissioner secure and execute the trust, the court shall issue an order
27 granting the application, without bond, and the ~~commission~~commissioner shall proceed to
28 exercise ~~it~~the commissioner's authority without further direction from the court.

29 Upon the filing of the ~~commission's~~commissioner's application, the court may issue ex parte
30 a temporary order to preserve or protect the assets of the trust fund until the court issues ~~it~~an
31 order granting or denying the application.

1 **SECTION 43. AMENDMENT.** Section 60-02.1-30 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02.1-30. Trust fund established.**

4 Upon the insolvency of any licensee, a trust fund must be established for the benefit of
5 noncredit-sale receiptholders and to pay the costs incurred by the ~~eommissioner~~commissioner in
6 the administration of the insolvency. The trust fund must consist of the following:

- 7 1. Nonwarehouse receipt grain of the insolvent licensee held in storage or the proceeds
8 obtained from the conversion of such grain.
- 9 2. The proceeds, including accounts receivable, from any grain sold from the time of the
10 filing of the claim that precipitated an insolvency until the ~~eommissioner~~commissioner is
11 appointed trustee must be remitted to the ~~eommissioner~~commissioner and included in
12 the trust fund.
- 13 3. The proceeds of insurance policies on destroyed grain.
- 14 4. The claims for relief, and proceeds ~~therefrom~~from the claims for relief, for damages
15 upon bond given by the licensee to ensure faithful performance of the duties of a
16 licensee.
- 17 5. The claim for relief, and proceeds ~~therefrom~~from the claim for relief, for the conversion
18 of any grain stored in the warehouse.
- 19 6. Unencumbered accounts receivable for grain sold prior to the filing of the claim that
20 precipitated an insolvency.
- 21 7. Unencumbered equity in grain hedging accounts.
- 22 8. Unencumbered grain product assets.

23 **SECTION 44. AMENDMENT.** Section 60-02.1-32 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-02.1-32. Notice to receiptholders and credit-sale contract claimants.**

26 Upon ~~its~~the commissioner's appointment, the ~~eommissioner~~commissioner may take
27 possession of relevant books and records of the licensee. If the insolvency involves a roving
28 grain buyer, the ~~eommissioner~~commissioner shall publish a notice of ~~its~~the commissioner's
29 appointment once each week for two consecutive weeks in all daily newspapers in the state and
30 may notify, by ordinary mail, the holders of record of outstanding receipts and those who are
31 potential credit-sale contract claimants, disclosed by the licensee's records. If the insolvency

1 involves a facility-based grain buyer, the notice must be published once each week for two
2 consecutive weeks in a newspaper in the county in which the warehouse is located. The notice
3 must require outstanding receiptholders and credit-sale contract claimants to file their claims
4 with the ~~commission~~commissioner along with the receipts, contracts, or other evidence of the
5 claims required by the ~~commission~~commissioner. If an outstanding receiptholder or credit-sale
6 contract claimant fails to submit a claim within forty-five days after the last publication of the
7 notice or a longer time set by the ~~commission~~commissioner, the ~~commission~~commissioner is
8 relieved of further duty in the administration of the insolvency on behalf of the receiptholder or
9 credit-sale contract claimant and the receiptholder may be barred from participation in the trust
10 fund, and the credit-sale contract claimant may be barred from payment for any amount due.
11 Outstanding receiptholders and credit-sale contract claimants are not parties to the insolvency
12 action unless admitted by the court upon a motion for intervention.

13 **SECTION 45. AMENDMENT.** Section 60-02.1-33 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **60-02.1-33. Remedy of receiptholders.**

16 ~~No~~A receiptholder ~~has~~does not have a separate claim for relief upon any insolvent
17 licensee's bond, nor for insurance, nor against any person converting grain, nor against any
18 other receiptholder, except through the trustee, unless, upon demand of five or more
19 receiptholders, the ~~commission~~commissioner fails or refuses to apply for ~~it~~the commissioner's
20 own appointment or unless the district court denies the application. This chapter does not
21 prohibit any receiptholder, either individually or in conjunction with other receiptholders, from
22 pursuing concurrently any other remedy against the person or property of the licensee.

23 **SECTION 46. AMENDMENT.** Section 60-02.1-34 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-02.1-34. ~~Commission~~Commissioner to marshal trust assets.**

26 Upon ~~it~~the commissioner's appointment, the ~~commission~~commissioner shall marshal all of
27 the trust fund assets. The ~~commission~~commissioner may maintain suits in the name of the state
28 of North Dakota for the benefit of all receiptholders against the licensee's bonds, insurers of
29 grain, any person who may have converted any grain, and any person who may have received
30 preferential treatment by being paid by the insolvent licensee after the first default.

1 **SECTION 47. AMENDMENT.** Section 60-02.1-35 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-02.1-35. Power of ~~commission~~commissioner to prosecute or compromise claims.**

4 The ~~commission~~commissioner may:

- 5 1. Prosecute any action provided in sections 60-02.1-28 through 60-02.1-38 in any court
6 in this state or in any other state.
- 7 2. Appeal from any adverse judgment to the courts of last resort.
- 8 3. Settle and compromise any action ~~when~~if it will be in the best interests of the
9 receiptholders.
- 10 4. Settle and compromise any action ~~when~~if it is in the best interests of the credit-sale
11 contract claimants.
- 12 5. Upon payment of the amount of any settlement or of the full amount of any bond,
13 exonerate the person so paying from further liability growing out of the action.

14 **SECTION 48. AMENDMENT.** Section 60-02.1-36 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **60-02.1-36. Money received by trustee - Deposited in Bank of North Dakota.**

17 All funds received by the ~~commission~~commissioner as trustee must be deposited in the
18 Bank of North Dakota.

19 **SECTION 49. AMENDMENT.** Section 60-02.1-37 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **60-02.1-37. Report of trustee to court - Approval - Distribution.**

- 22 1. Upon the receipt and evaluation of claims, the ~~commission~~commissioner shall file with
23 the court a report showing the amount and validity of each claim after recognizing:
 - 24 a. Relevant liens or pledges.
 - 25 b. Relevant assignments.
 - 26 c. Relevant deductions due to advances or offsets accrued in favor of the licensee.
 - 27 d. In case of relevant cash claims or checks, the amount of the claim.
 - 28 e. In case of a relevant credit-sale contract or noncredit-sale contract, the amount
29 remaining to be paid based on the terms of the contract.
- 30 2. The report must also contain the proposed reimbursement to the
31 ~~commission~~commissioner for the expenses of administering the insolvency, the

1 proposed distribution of the trust fund assets to receiptholders, less expenses incurred
2 by the ~~commission~~commissioner in the administration of the insolvency, and the
3 proposed credit-sale contract indemnity fund payments to credit-sale contract
4 claimants. If the trust fund is insufficient to redeem all receiptholder claims in full, the
5 report should list the funds as prorated.

6 3. The court shall set a hearing and the appropriate notice for interested persons to show
7 cause why the ~~commission's~~commissioner's report should not be approved and
8 distribution of the trust fund be made as proposed. Copies of the report and notice of
9 hearing must be served by the ~~commission~~commissioner by certified mail upon the
10 licensee and the surety and by ordinary mail upon all persons having claims filed with
11 the ~~commission~~commissioner.

12 4. Any aggrieved person having an objection to the ~~commission's~~commissioner's report
13 shall file the objection with the court and serve copies on the
14 ~~commission~~commissioner, the licensee, and the surety at least twenty days before the
15 hearing. Failure to file and serve objections in the time set is a waiver of the objection.

16 5. Following the hearing, the court shall approve or modify the report and issue an order
17 directing payment of the necessary bond proceeds, distribution of the trust fund,
18 payments from the credit-sale contract indemnity fund, and discharge of the
19 ~~commission~~commissioner from ~~the~~ the commissioner's trust.

20 **SECTION 50. AMENDMENT.** Section 60-02.1-38 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **60-02.1-38. Filing fees and court costs - Expenses.**

23 The ~~commission~~commissioner may not be required to pay any filing fee or other court costs
24 or disbursements. The attorney general may appoint outside legal counsel to assist the
25 ~~commission~~commissioner in the prosecution of the action and the cost of employing outside
26 counsel must be paid from the trust fund and the credit-sale contract indemnity fund as
27 appropriate. All other necessary expenses incurred by the ~~commission~~commissioner in carrying
28 out the provisions of this chapter, including adequate insurance to protect the ~~commission,~~
29 ~~its~~commissioner, the commissioner's employees, and others engaged in carrying out the
30 provisions of sections 60-02.1-28 through 60-02.1-38, must be reimbursed to the

1 ~~commissioner~~ commissioner from the trust fund and credit-sale contract indemnity funds as
2 appropriate.

3 **SECTION 51. AMENDMENT.** Section 60-02.1-39 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **60-02.1-39. Cease and desist.**

6 ~~Whenever~~ If an entity engages in an activity or practice that is contrary to the provisions of
7 this chapter or related rules, the ~~commissioner~~ commissioner, upon ~~its~~ the commissioner's own
8 motion without complaint, with or without hearing, may order the entity to cease and desist from
9 the activity until further order of the ~~commissioner~~ commissioner. Such orders may include any
10 corrective action up to and including license suspensions. Cease and desist orders must be
11 accompanied by a notice of opportunity to be heard on the order within fifteen days of the
12 issuance of the order.

13 **SECTION 52.** A new section to chapter 60-02.1 of the North Dakota Century Code is
14 created and enacted as follows:

15 **Release of records - Confidentiality.**

- 16 1. As a condition of licensure under section 60-02.1-07, an applicant shall agree to
17 provide to the commissioner, upon request, any financial record the commissioner
18 deems relevant for purposes related to:
19 a. The issuance or renewal of a grain buyer license; or
20 b. An investigation after issuance or renewal of a grain buyer license.
- 21 2. As a condition of licensure, an applicant shall file a records release with the
22 commissioner, authorizing the commissioner to obtain from any source any financial
23 record the commissioner deems relevant for purposes related to:
24 a. The issuance or renewal of a grain buyer license; or
25 b. An investigation after issuance or renewal of a grain buyer license.
- 26 3. Any information obtained by the commissioner under this section is confidential and
27 may be provided only:
28 a. To federal authorities in accordance with federal law;
29 b. To the attorney general, state agencies, and law enforcement agencies for use in
30 the pursuit of official duties; and
31 c. As directed by an order of a court pursuant to a showing of good cause.

1 **SECTION 53. AMENDMENT.** Subsection 1 of section 60-04-01 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. "~~Commission~~Commissioner" means the ~~public service commission~~agriculture
4 commissioner.

5 **SECTION 54. AMENDMENT.** Section 60-04-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **60-04-03. Appointment of ~~commission~~commissioner.**

8 Upon the insolvency of any warehouseman, the ~~commission~~commissioner shall apply to the
9 district court of a county in which the warehouseman operates a licensed warehouse for
10 authority to take all action necessary and appropriate to secure and act as trustee of the trust
11 fund described in section 60-04-03.1. Upon such notice to the warehouseman as the court shall
12 prescribe, but not exceeding twenty days, or upon waiver of such notice in writing by the
13 warehouseman, the court shall proceed to hear and determine such application in a summary
14 manner. If it shall appear to the court ~~that such~~the warehouseman is insolvent within the
15 meaning of this chapter and ~~that it would be for the best interests of the receiptholders that the~~
16 ~~commission~~commissioner secure and execute such trust, the court shall issue an order granting
17 the application, without bond, ~~whereupon at which time~~ the ~~commission~~commissioner shall
18 proceed to exercise ~~its~~the commissioner's authority without further direction from the court.

19 Upon the filing of the ~~commission's~~commissioner's application, the court may issue ex parte
20 such temporary order as may be necessary to preserve or protect the assets of the trust fund,
21 or the value ~~thereof of the trust fund~~, until the court issues ~~its~~an order granting or denying the
22 application.

23 **SECTION 55. AMENDMENT.** Section 60-04-03.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-04-03.1. Trust fund established.**

- 26 1. Upon the insolvency of any warehouseman, a trust fund shall ~~shall~~must be established:
- 27 a. For the benefit of noncredit-sale receiptholders of the insolvent warehouseman,
28 other than those who have waived their rights as beneficiaries of the trust fund in
29 accordance with section 60-02-11; and
- 30 b. To pay the costs incurred by the ~~commission~~commissioner in the administration
31 of this chapter.

- 1 2. The trust fund consists of the following:
- 2 a. The grain in the warehouse of the insolvent warehouseman or the proceeds as
- 3 obtained through the sale of such grain;
- 4 b. The proceeds, including accounts receivable, from any grain sold from the time of
- 5 the filing of the claim that precipitated an insolvency until the
- 6 ~~commission~~commissioner is appointed trustee;
- 7 c. The proceeds of insurance policies upon grain destroyed in the elevator;
- 8 d. The claims for relief, and proceeds ~~therefrom~~from the claims for relief, for
- 9 damages upon any bond given by the warehouseman to ensure faithful
- 10 performance of the duties of a warehouseman;
- 11 e. The claims for relief, and proceeds ~~therefrom~~from the claims for relief, for the
- 12 conversion of any grain stored in the warehouse;
- 13 f. Unencumbered accounts receivable for grain sold ~~prior to~~before the filing of the
- 14 claim that precipitated an insolvency;
- 15 g. Unencumbered equity in grain hedging accounts; and
- 16 h. Unencumbered grain product assets.

17 **SECTION 56. AMENDMENT.** Section 60-04-03.2 of the North Dakota Century Code is

18 amended and reenacted as follows:

19 **60-04-03.2. Possession of grain.**

20 Upon ~~its~~the commissioner's appointment by the district court, the ~~commission~~commissioner

21 shall seek possession of the grain to be included in the trust fund. Upon ~~its~~the commissioner's

22 possession of any grain in the warehouse, the ~~commission~~commissioner shall sell such grain

23 and apply the proceeds to the trust fund.

24 **SECTION 57. AMENDMENT.** Section 60-04-03.3 of the North Dakota Century Code is

25 amended and reenacted as follows:

26 **60-04-03.3. Joinder of surety - Deposit of proceeds.**

27 The surety on the warehouseman's bond must be joined as a party to the insolvency

28 proceeding upon a motion by the ~~commission~~when commissioner if the

29 ~~commission~~commissioner believes that proceeds from the warehouseman's bond may be

30 needed to redeem outstanding receipts issued by the warehouseman. ~~When~~If it appears in the

31 best interests of the receipt holders, the court may order the surety to deposit the penal sum of

1 the bond, or so much thereof ~~of the sum~~ as may be deemed necessary, into the trustee's trust
2 account pending a final determination of the surety's liability under the bond.

3 **SECTION 58. AMENDMENT.** Section 60-04-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **60-04-04. Notice to receiptholders and credit-sale contract claimants.**

6 Upon ~~the commissioner's~~ appointment by the district court, the ~~commissioner~~commissioner
7 may take possession of relevant books and records of the warehouseman. The
8 ~~commissioner~~commissioner shall cause a notice of ~~the commissioner's~~ appointment to be
9 published once each week for two consecutive weeks in a newspaper in the county in which the
10 warehouse is located and may notify by ordinary mail the holders of record of outstanding
11 receipts and those who are potential credit-sale contract claimants, as shown by the
12 warehouseman's records. The notices must require outstanding receiptholders and credit-sale
13 contract claimants to file their claims against the warehouseman with the
14 ~~commissioner~~commissioner along with the receipts, contracts, or any other evidence of the claims
15 as required by the ~~commissioner~~commissioner. If an outstanding receiptholder or credit-sale
16 contract claimant fails to submit a claim within forty-five days after the last publication of the
17 notice or a longer time as prescribed by the ~~commissioner~~commissioner, the
18 ~~commissioner~~commissioner is relieved of further duty or action under this chapter on behalf of the
19 receiptholder or credit-sale contract claimant and the receiptholder or credit-sale contract
20 claimant may be barred from payment for any amount due. Outstanding receiptholders and
21 credit-sale contract claimants are not parties to the insolvency action unless admitted by the
22 court upon a motion for intervention.

23 **SECTION 59. AMENDMENT.** Section 60-04-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-04-05. Remedy of receiptholders.**

26 ~~No~~does not have a receiptholder ~~has~~ a separate claim for relief upon the warehouseman's
27 bond, nor for insurance, nor against any person converting grain, nor against any other
28 receiptholder, except through the trustee, unless, upon demand of five or more receiptholders,
29 the ~~commissioner~~commissioner fails or refuses to apply for ~~the commissioner's~~ own
30 appointment from the district court or unless the district court denies the application for
31 appointment. This chapter does not prohibit or prevent any receiptholder, either individually or in

1 conjunction with other receiptholders, from pursuing concurrently such other remedy against the
2 person or property of ~~such~~the warehouseman, for the whole, or any deficiency occurring in the
3 redemption, of the receipts.

4 **SECTION 60. AMENDMENT.** Section 60-04-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **60-04-06. ~~Commission~~Commissioner to marshal trust assets.**

7 Upon ~~its~~the commissioner's appointment by the district court, the ~~commission~~commissioner
8 may maintain suits at law or in equity, or any special proceeding, in the name of the state of
9 North Dakota, upon ~~its~~the commissioner's own relation, but for the benefit of all such
10 receiptholders against:

- 11 1. The insurers of grain;
- 12 2. The warehouseman's bond;
- 13 3. Any person who may have converted any grain; or
- 14 4. Any receiptholder who ~~shall have~~ received more than ~~its~~the receiptholder's just and
15 pro rata share of grain,

16 for the purpose of marshalling all of the trust fund assets and distributing the same among the
17 receiptholders. The ~~commission~~commissioner shall seek possession of any grain in the
18 warehouse before recourse is had against the insurers of grain, and the remedy against the
19 insurers of grain ~~shall~~must be exhausted before recourse is had against the bond, and against
20 the bond before recourse is had against the person honestly converting grain, unless the
21 ~~commission shall deem~~commissioner deems it necessary to the redemption of the receipts that
22 all the above remedies be pursued at the same time.

23 **SECTION 61. AMENDMENT.** Section 60-04-07 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-04-07. Power of ~~commission~~commissioner to prosecute or compromise claims.**

26 The ~~commission~~commissioner may:

- 27 1. Prosecute any action provided in this chapter in any court in this state or in any other
28 state.
- 29 2. Appeal from any adverse judgment to the courts of last resort.
- 30 3. Settle and compromise any action ~~whenever~~if it is in the best interests of the
31 receiptholders.

- 1 4. Settle and compromise any action ~~when~~^{if} it is in the best interests of the credit-sale
- 2 contract claimants.
- 3 5. Upon payment of the amount of the compromise or of the full amount of any insurance
- 4 policy, bond, or conversion claim, exonerate the person so compromising or paying in
- 5 full from further liability growing out of the action.

6 **SECTION 62. AMENDMENT.** Section 60-04-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **60-04-08. Money received by trustee - Deposited in Bank of North Dakota.**

9 All moneys collected and received by the ~~commission~~commissioner as trustee under this
10 chapter, pending the marshalling of the fund, ~~shall~~^{must} be deposited in the Bank of North
11 Dakota.

12 **SECTION 63. AMENDMENT.** Section 60-04-09 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **60-04-09. Report of trustee to court - Approval - Distribution.**

15 Upon the receipt and evaluation of claims filed with ~~the~~the commissioner, the
16 ~~commission~~commissioner shall file with the court a report showing the amount and validity of
17 each claim after recognizing:

- 18 1. Any proper liens or pledges ~~thereon~~on the claims.
- 19 2. Assignments ~~thereof~~of the claims.
- 20 3. Deductions ~~therefrom~~from the claims by reason of advances or offsets accrued in
21 favor of the warehouseman.
- 22 4. In case of cash claims or checks, the amount ~~thereof~~of the claims or checks.
- 23 5. In the case of scale tickets or warehouse receipts, the amount ~~thereof~~ based upon the
24 market price prevailing on the date the ~~commission~~commissioner first received a copy
25 of the written demand required by section 60-04-02.
- 26 6. In the case of a credit-sale or noncredit-sale contract, the amount remaining to be paid
27 based on the terms of the contract.

28 The report must also contain the proposed reimbursement to the ~~commission~~commissioner
29 for the expenses of administering the insolvency, a proposed distribution of the trust fund
30 assets, less expenses incurred by the ~~commission~~commissioner in the administration of this
31 chapter, and the proposed credit-sale contract indemnity fund payments to credit-sale contract

1 claimants as ~~their~~the interests of the claimants are determined. If the trust fund is insufficient to
2 redeem all receiptholder claims in full, the fund must be shown prorated in the report in the
3 manner the ~~commission~~commissioner deems fair and equitable.

4 The court shall set a hearing and the appropriate notice for interested persons to show
5 cause why the ~~commission's~~commissioner's report should not be approved and credit-sale
6 contract indemnity fund payments and distribution of the trust fund be made as proposed, and
7 payments from the credit-sale contracts be made as proposed. Copies of the report and notice
8 of hearing must be served by the ~~commission~~commissioner by certified mail upon the
9 warehouseman and the surety and by ordinary mail upon all persons having claims filed with
10 the ~~commission~~commissioner.

11 Any aggrieved person having an objection to the ~~commission's~~commissioner's report shall
12 file the objection with the court and serve copies on the ~~commission~~commissioner, the
13 warehouseman, and the surety at least twenty days before the hearing. Failure to file and serve
14 objections in the time set is a waiver of the objection.

15 Following hearing, the court shall approve or modify the report and issue an order directing
16 payment of the necessary bond proceeds, distribution of the trust fund, payments from the
17 credit-sale contract indemnity fund, and discharge of the ~~commission~~commissioner from ~~its~~the
18 commissioner's trust.

19 **SECTION 64. AMENDMENT.** Section 60-04-10 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **60-04-10. Filing fees and court costs - Expenses.**

22 In any action in a state court in this state, the ~~commission shall~~commissioner may not be
23 required to pay any filing fee or other court costs or disbursements if the fees accrue to the
24 county or to the state. The attorney general may employ outside legal services to assist the
25 ~~commission~~commissioner in the prosecution of such action as in the attorney general's
26 judgment may be necessary and the ~~commission~~commissioner shall deduct the expenses of
27 the same from the trust fund and the credit-sale contract indemnity fund as appropriate. All
28 other necessary expenses incurred by the ~~commission~~commissioner in carrying out the
29 provisions of this chapter, including adequate insurance to protect the ~~commission~~,
30 ~~its~~commissioner, the commissioner's employees, and others engaged in carrying out the

1 provisions of this chapter, must be reimbursed to the ~~commission~~commissioner from the trust
2 fund and credit-sale indemnity funds as appropriate.

3 **SECTION 65. AMENDMENT.** Section 60-05-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **60-05-01. Public elevators and warehouses - ~~Commission~~Commissioner may require**
6 **uniform accounting system.**

7 The ~~public service commission~~commissioner may require every association, copartnership,
8 corporation, or limited liability company conducting a public elevator or warehouse in this state
9 to adopt a uniform accounting system established by ~~such commission~~the commissioner.

10 **SECTION 66. AMENDMENT.** Section 60-05-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **60-05-02. Examination of financial accounts of elevator or warehouse by competent**
13 **examiner - Request by percentage of stockholders.**

14 The ~~commission~~commissioner may install, and ~~whenever~~if requested by not less than
15 fifteen percent of the partners, stockholders, or members of any association, copartnership,
16 corporation, or limited liability company conducting such public elevator or warehouse, shall
17 install, the uniform system of accounting mentioned in section 60-05-01. The
18 ~~commission~~commissioner on ~~its~~the commissioner's own motion may, or on request of the
19 required percentage of partners, stockholders, or members, the ~~commission~~commissioner shall,
20 send a competent examiner to examine the books and financial accounts of ~~such~~the elevator or
21 warehouse. ~~Whenever~~If a request for the examination of the accounts of any association,
22 copartnership, corporation, or limited liability company has been made to the
23 ~~commission~~commissioner, as provided for in this section, ~~an examination thereafter~~
24 ~~shall~~subsequent examinations must be made at least once every year until the ~~commission~~
25 ~~shall be~~commissioner is requested to discontinue such examination by resolution adopted by
26 the partners, stockholders, or members at any annual meeting. ~~When~~If such examination has
27 been made, the examiner shall report immediately the results ~~thereof~~of the examination to the
28 president and the secretary of such association, copartnership, corporation, or limited liability
29 company and to the ~~commission~~commissioner.

30 **SECTION 67. AMENDMENT.** Section 60-05-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **60-05-03. Certificate issued by ~~commission~~commissioner after its examination of**
2 **accounts.**

3 If the ~~commission~~commissioner is satisfied from ~~its~~the commissioner's examination that the
4 person, association, copartnership, corporation, or limited liability company examined is solvent
5 and ~~its~~the method of doing business is such as is likely to be beneficial to all of its members or
6 persons interested therein, the ~~commission~~commissioner shall issue a certificate, countersigned
7 by the examiner, to the agent or manager. Such certificate ~~shall~~must be kept posted
8 conspicuously in the warehouse or elevator of such person, association, copartnership,
9 corporation, or limited liability company and ~~shall~~must state:

- 10 1. That said methods of doing business are sound.
11 2. That such person, association, copartnership, corporation, or limited liability company
12 is solvent.
13 3. That its books and accounts are kept properly.

14 If the affairs and methods of doing business of such person, association, copartnership,
15 corporation, or limited liability company ~~shall~~do not seem sound or satisfactory to the
16 ~~commission, it~~commissioner, the commissioner shall issue a certificate or statement,
17 countersigned by the person who made the examination, stating in what particular and in what
18 respect the business methods practiced or methods of keeping books and accounts of such
19 person, association, copartnership, corporation, or limited liability company are not deemed
20 safe. The ~~commission~~commissioner shall mail a copy of ~~said~~the statement or certificate to each
21 of such shareholders or stockholders as may have requested the ~~commission~~commissioner to
22 make such examination. The ~~commission~~commissioner also shall send a copy thereof to the
23 president and the secretary of such association, copartnership, corporation, or limited liability
24 company.

25 **SECTION 68. AMENDMENT.** Section 60-05-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **60-05-04. Fees of examiner for installing and examining accounting system.**

28 For making installation of a uniform accounting system and examining the financial
29 accounts of an elevator or public warehouse, an association, copartnership, corporation, or
30 limited liability company shall pay the examiner a reasonable fee, as determined by the
31 ~~commission~~commissioner. In case any such association, copartnership, corporation, or limited

1 liability company shall wrongfully refuse or neglect to pay such fees, then the
2 ~~commissioner~~commissioner may cancel the license to do business. All such fees shall be paid
3 into the state treasury. The expenses incurred by the examiner under the provisions of this
4 chapter shallmust be paid out of the appropriations made by the legislative assembly for this
5 purpose and such expenses shallmust be audited and paid in the same manner as other
6 expenses are audited and paid.

7 **SECTION 69. AMENDMENT.** Section 60-06-05 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **60-06-05. Sidetracks to be provided by railroad company on its land.**

10 Every railroad company or corporation organized under the laws of this state or doing
11 business ~~therein~~in this state, upon application in writing, shall provide reasonable sidetrack
12 facilities and running connections between its main track and elevators and warehouses upon
13 or contiguous to its right of way at such stations. Every such railroad corporation shall permit
14 connections to be made and maintained in a reasonable manner with its sidetracks to and from
15 any warehouse or elevator without reference to its size, cost, or capacity, ~~whereif~~whereif grain or
16 potatoes are or may be stored. The railroad company is not required to construct or furnish any
17 sidetracks except upon its own land or right of way. Such elevators and warehouses may not be
18 constructed within one hundred feet [30.48 meters] of any existing structure and must be at safe
19 fire distance from the station buildings so as not to conflict essentially with the safe and
20 convenient operation of the road. ~~Whereif~~whereif stations are ten miles [16.09 kilometers] or more
21 apart the railroad company, ~~whenif~~whenif required so to do by the ~~public service-~~
22 ~~commissioner~~commissioner, shall construct and maintain a sidetrack for the use of shippers
23 between such stations.

24 **SECTION 70. AMENDMENT.** Section 60-06-06.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **60-06-06.1. Determination - Appropriation.**

27 Any party may petition the ~~public service commissioner~~commissioner to determine rights
28 governed under this chapter. The ~~commissioner~~commissioner shall determine the matter in
29 accordance with chapter 28-32 and the parties' rights of appeal are as limited by chapter 28-32.
30 The value of a leaseholder's improvements may not be considered in determining a reasonable
31 lease rate or selling price. The parties to such a proceeding shall pay the expenses of the

1 proceeding, as determined by the ~~commission~~commissioner, directly to the entities owed. The
2 ~~commission~~commissioner may adopt rules to carry out this section.

3 **SECTION 71. AMENDMENT.** Section 60-10-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **60-10-01. Credit-sale contracts - Assessment on grain - Submission of assessment.**

6 An assessment at the rate of two-tenths of one percent is placed on the value of all grain
7 sold in this state under a credit-sale contract, as provided for in sections 60-02-19.1 and
8 60-02.1-14. The licensee purchasing the grain shall note the assessment on the contract
9 required under sections 60-02-19.1 and 60-02.1-14 and shall deduct the assessment from the
10 purchase price payable to the seller. The licensee shall submit any assessment collected under
11 this section to the ~~public service commission~~commissioner no later than thirty days after each
12 calendar quarter. The ~~commission~~commissioner shall deposit the assessments received under
13 this section in the credit-sale contract indemnity fund.

14 **SECTION 72. AMENDMENT.** Section 60-10-02 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **60-10-02. Credit-sale contract indemnity fund - Creation - Continuing appropriation.**

17 There is created in the state treasury the credit-sale contract indemnity fund. The state
18 treasurer shall invest available moneys in the fund in accordance with section 21-10-07 and in
19 cooperation with the ~~public service commission~~commissioner and shall deposit any income
20 earned through the investments into the fund. The fund and earnings of the fund are
21 appropriated to the ~~public service commission~~commissioner on a continuing basis to be used
22 exclusively to carry out the intent and purpose of this chapter.

23 **SECTION 73. AMENDMENT.** Section 60-10-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **60-10-03. Credit-sale contract indemnity fund - Suspension of assessment.**

26 At the end of the calendar quarter in which the credit-sale contract indemnity fund reaches a
27 level of six million dollars, the ~~public service commission~~commissioner shall suspend collection
28 of the assessment required by this chapter. If after suspension of collection the balance in the
29 fund is less than three million dollars, the ~~public service commission~~commissioner shall require
30 collection of the assessment.

1 **SECTION 74. AMENDMENT.** Section 60-10-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **60-10-05. Credit-sale contract indemnity fund - Availability of money.**

4 Upon the insolvency of a licensed warehouse or a grain buyer and a declaration ~~that the~~
5 ~~public service commissioner~~commissioner serve as the trustee, the ~~public service-~~
6 ~~commission~~commissioner shall make the proceeds of the credit-sale contract indemnity fund
7 available for use in meeting the licensee's obligations with respect to the reimbursement of any
8 person who sold grain to the licensee under a credit-sale contract and who was not fully
9 compensated in accordance with the contract.

10 **SECTION 75. AMENDMENT.** Section 60-10-07 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **60-10-07. Credit-sale contract indemnity fund - Prorated claims.**

13 If claims for indemnity payments from the credit-sale contract indemnity fund exceed the
14 amount in the fund, the ~~public service commissioner~~commissioner shall prorate the claims and
15 pay the prorated amounts. As future assessments are collected, the ~~public service-~~
16 ~~commission~~commissioner shall continue to forward indemnity payments to each eligible person
17 until the person receives the maximum amount payable in accordance with this chapter.

18 **SECTION 76. AMENDMENT.** Section 60-10-08 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **60-10-08. Reimbursement for later insolvencies.**

21 The ~~public service commissioner~~commissioner shall ensure that all persons eligible for
22 payment from the indemnity fund as a result of an insolvency are fully compensated to the
23 extent permitted by this chapter before any payments from the indemnity fund are initiated as a
24 result of a later insolvency. The chronological order of insolvencies is determined by the date
25 the ~~public service commissioner~~commissioner is appointed trustee under section 60-02.1-29 or
26 60-04-03.

27 **SECTION 77. AMENDMENT.** Section 60-10-09 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **60-10-09. Credit-sale contract indemnity fund - Reimbursement for administrative**
2 **expenses.**

3 Any expense incurred by the ~~public-service-commissioner~~commissioner in administering the
4 credit-sale contract indemnity must be reimbursed from the fund before any other claim for
5 indemnity is paid.

6 **SECTION 78. AMENDMENT.** Section 60-10-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **60-10-10. Credit-sale contract indemnity fund assessment - Failure to collect**
9 **assessment - Penalty.**

10 Any person who knowingly or intentionally refuses or fails to collect the assessment
11 required under this chapter from producers or to submit any assessment collected from
12 producers to the ~~public-service-commissioner~~commissioner for deposit in the credit-sale contract
13 indemnity fund is guilty of a class A misdemeanor.

14 **SECTION 79. AMENDMENT.** Section 60-10-11 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **60-10-11. Revocation and suspension.**

17 The ~~commissioner~~commissioner may suspend or revoke the license of any licensee for cause
18 upon notice and hearing for violation of this chapter.

19 **SECTION 80. AMENDMENT.** Section 60-10-12 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **60-10-12. Cease and desist.**

22 If a person engages in an activity or practice that is contrary to this chapter or rules adopted
23 by the ~~commissioner~~commissioner, the ~~commissioner~~commissioner, upon ~~its~~the commissioner's
24 own motion without complaint and with or without a hearing, may order the person to cease and
25 desist from the activity until further order of the ~~commissioner~~commissioner. The order may
26 include any corrective action up to and including license suspension. A cease and desist order
27 must be accompanied by a notice of opportunity to be heard on the order within fifteen days of
28 the issuance of the order.

29 **SECTION 81. AMENDMENT.** Section 60-10-14 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **60-10-14. Subrogation.**

2 Money paid from the credit-sale contract indemnity fund in satisfaction of a valid claim
3 constitutes a debt obligation of the person against whom the claim was made. The
4 ~~commissioner~~commissioner may take action on behalf of the fund against a person to recover the
5 amount of payment made, plus costs and attorney's fees. Any recovery for reimbursement to
6 the fund must include interest computed at the weight average prime rate charged by the Bank
7 of North Dakota. Upon payment of a claim from the credit-sale contract indemnity fund, the
8 claimant shall subrogate ~~it~~the interest of the claimant, if any, to the ~~commissioner~~commissioner
9 in a cause of action against all parties, to the amount of the loss that the claimant was
10 reimbursed by the fund.

11 **SECTION 82. AMENDMENT.** Section 60-10-15 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **60-10-15. Unlicensed facility-based grain buyer.**

14 This chapter also applies to a facility-based grain buyer, as defined in section 60-02.1-01,
15 which is licensed under the United States Warehouse Act but which does not possess a state
16 grain buyer license. The ~~commissioner~~commissioner has the duty and power to examine and
17 inspect, during regular business hours, all books, documents, and records related to collections
18 and remittances pertaining to the credit-sale contract indemnity fund. In the case of insolvency,
19 credit-sale contract payments to valid claimants must be reduced by an amount equal to the
20 credit-sale contract indemnity payments received from payments administered by the United
21 States department of agriculture.