

Introduced by

1 A BILL for an Act to amend and reenact sections 4-09-01, 4-09-02, 4-09-03, 4-09-04, 4-09-05,  
2 4-09-06, 4-09-06.1, 4-09-07, 4-09-08, 4-09-10, 4-09-11, 4-09-11.1, 4-09-11.2, 4-09-12, 4-09-13,  
3 4-09-14, 4-09-14.1, 4-09-14.4, 4-09-15, 4-09-16, 4-09-17.1, 4-09-18, 4-09-20.1, 4-09-20.2,  
4 4-09.1-02, 4-09.1-04, 4-25-01, 4-25-02, 4-25-03, and 4-25-04 of the North Dakota Century  
5 Code, relating to the state seed department, seed labeling, and certified seed; and to repeal  
6 sections 4-09-03.1, 4-09-10.1, and 4-09-14.3 of the North Dakota Century Code, relating to the  
7 state seed arbitration board and labeling requirements for seed labeling permit fees.

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

9 **SECTION 1. AMENDMENT.** Section 4-09-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **4-09-01. Definitions.** In this chapter, unless the context ~~or subject matter~~ otherwise  
12 requires:

- 13 1. "Advertisement" means any representation, other than representations made on  
14 labels, which relates to seed.
- 15 2. "Agent", when used in connection with the ~~state seed~~ commissioner, means the  
16 commissioner's ~~deputies~~ deputy, ~~inspectors~~ inspector, ~~analysts~~ analyst, ~~specialists~~  
17 specialist, and ~~any other aides~~ aide, ~~agents~~ agent, and ~~employees of the~~  
18 ~~commissioner and the seed department~~ employee, when ~~they are~~ each is acting  
19 officially for the commissioner or performing any duty or duties as provided in this  
20 chapter or in the rules duly adopted under this chapter.
- 21 3. "Agricultural ~~seeds~~ seed" means the ~~seeds~~ seed of grass, forage, cereal, fiber, oil  
22 crops, Irish potato seed tubers, and any other kind of seeds commonly recognized  
23 within this state as agricultural ~~seeds~~ seed, lawn ~~seeds~~ seed, and mixture of ~~such~~  
24 these seeds.

- 1           4.   "Commission" means the state seed commission.
- 2           5.   "Commissioner" means the state seed commissioner.
- 3           6.   "Conditioning" means drying, cleaning, scarifying, and other operations that may  
4           change the purity or germination of the seed.
- 5           7.   "Flower seed" includes a seed of a herbaceous plant grown for the bloom,  
6           ornamental foliage, or other ornamental part, and commonly known and sold under  
7           the name of flower or wildflower seed in this state.
- 8           ~~5.   "Foundation seed", "registered seed", and "certified seed" means seed that has~~  
9           ~~been produced and labeled in accordance with the procedures and in compliance~~  
10           ~~with the rules of an officially recognized seed certifying agency.~~
- 11          ~~6.~~ 8.   "Germination" means the percentage of seed capable of producing normal  
12           seedlings under ordinarily favorable conditions as determined by methods  
13           prescribed under the rules established by the association of official seed analysts;  
14           ~~but not including.~~ The percentage does not include seed which that produces  
15           weak, malformed, or obviously abnormal sprouts.
- 16          ~~7.~~ 9.   ~~"Hard seed" means the percentage of seed which, because of hardness or~~  
17           ~~impermeability, does not absorb moisture or germinate under prescribed test but~~  
18           ~~remains hard during the period prescribed for germination of the kind of seed~~  
19           ~~concerned as determined by methods prescribed under the rule established by the~~  
20           ~~association of official seed analysts~~ a seed that remains hard at the end of the  
21           prescribed test period because the seed has not absorbed water due to an  
22           impermeable seed coat.
- 23          ~~8.~~   ~~"Hybrid" means the first generation seed of a cross produced by controlling the~~  
24           ~~pollination and by combining:~~
- 25           ~~a.   Two or more inbred lines;~~
- 26           ~~b.   One inbred or a single cross with an open pollinated variety; or~~
- 27           ~~e.   Two varieties or species, except open pollinated varieties of corn (Zea mays).~~
- 28           ~~The second generation or subsequent generations from such crosses must not be~~  
29           ~~regarded as hybrids. Hybrid designations must be treated as variety names.~~
- 30          10.   "Inert matter" means all matter not seed and includes the broken seed, a sterile  
31           floret, chaff, a fungus body, and a stone.

- 1     9- 11. "Kind" means one or more related species or subspecies which singly or  
2                   collectively is known by one common name, such as corn, oats, alfalfa, or timothy.
- 3     ~~40-~~ 12. "Labeler" means the person who furnishes the information required in sections  
4                   4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2.
- 5     ~~41-~~ 13. "~~Labeling" means all labels and other written, printed, or graphic representation in~~  
6                   ~~any form accompanying or pertaining to any seed, whether in bulk or in containers,~~  
7                   ~~including representations on invoices~~ includes a tag or other device attached to or  
8                   information written, stamped, or printed on any container or accompanying a lot of  
9                   bulk seed that contains information required by this chapter.
- 10    ~~42-~~ 14. "Lot" means a definite quantity of seed identified by a lot number or other mark,  
11                   every portion or bag of which is uniform, within permitted tolerances, for the factors  
12                   which appear in the labeling.
- 13            15. "Mixture" means seed consisting of more than one kind, each in excess of five  
14                   percent by weight of the whole.
- 15    ~~43-~~ 16. "~~Noxious weed seeds seed" means the seeds of either of the following~~  
16                   ~~classifications~~ is divided into three classes defined as:
- 17            a. "~~Prohibited noxious weed seeds seed" means the seeds of perennial weeds~~  
18                   ~~which reproduce by seed or spread by underground roots, stems, and other~~  
19                   ~~reproductive parts and which, when established, are highly destructive and~~  
20                   ~~difficult to control by ordinary good cultural practice including the seeds a~~  
21                   weed seed that is prohibited from being present in agricultural, vegetable,  
22                   flower, tree, or shrub seed and is highly destructive and difficult to control by  
23                   good cultural practices and the use of herbicides and includes a seed of leafy  
24                   spurge (euphorbia esula l.), field bindweed (convolvulus arvensis l.), Canada  
25                   thistle (cirsium arvense (l.) scop.), perennial sow thistle (sonchus arvensis l.),  
26                   Russian knapweed (centaurea repens l.), absinth wormwood (artemisia  
27                   absinthium l.), hemp (cannabis sativa L.) having more than three-tenths of  
28                   one percent tetrahydrocannabinol, musk thistle (carduus nutans L.), spotted  
29                   knapweed (centaurea maculosa lam.), hoary cress (cardaria draba (l.) desv.),  
30                   and yellow starthistle (centaurea solstitialis L.).

- 1           b. ~~"Restricted noxious weed seeds seed" means the seeds of weeds which are~~  
2           ~~highly objectionable in fields, lawns, and gardens, but which can be controlled~~  
3           ~~by good cultural practices or other means, including the seeds~~ a seed that is  
4           objectionable in agricultural crops, lawns, and gardens in this state and can  
5           be controlled by good cultural practices or the use of herbicides and includes  
6           the seed of dodder (cuscuta species), hedge bindweed (convulvulus  
7           sepium l.), wild oats (avena fatua l.), and quackgrass (agropyron repens (l.)  
8           beauv.).
- 9           c. "Undesirable grass seed" means a seed of grass species declared to be a  
10          restricted noxious weed seed when found in lawn or turf seed.
- 11   44. 17. "Official seed-certifying agency" means:  
12          a. An agency authorized under the laws of a state, territory, or possession to  
13          officially certify seed which has standards and procedures approved by the  
14          United States secretary of agriculture to assure the genetic purity and identity  
15          of the seed certified; or  
16          b. An agency of a foreign country determined by the United States secretary of  
17          agriculture to adhere to procedures and standards for seed certification  
18          comparable to those adhered to generally by seed-certifying agencies under  
19          subdivision a.
- 20   45. ~~"Person" means any individual, partnership, corporation, limited liability company,~~  
21          ~~company, society, or association.~~
- 22   46. 18. "Pest" means any invertebrate animal, pathogen, parasitic plant, or similar  
23          organism causing or capable of causing injury or damage to any plant or part of a  
24          plant or any processed, manufactured, or other product of a plant.
- 25   47. 19. "Phytosanitary certificate" means a document issued or authorized by the  
26          commissioner indicating that the seed or tubers were inspected and considered to  
27          be free from quarantine pests and practically free from injurious pests according to  
28          the sanitary requirements of the importing country.
- 29   48. 20. "Pure seed" means agricultural and vegetable seed, exclusive of inert matter, and  
30          all other seed not of the kind or variety being considered.

- 1    49. 21. "Record" means all information relating to lot identification, source, origin, variety,  
2           amount, processing, testing, labeling, distribution, and file sample of the seed.
- 3           20. ~~"Seed department" means the seed department of this state.~~
- 4           24. ~~"Seizure" means the legal process carried out by court order against a definite~~  
5           ~~amount of seed.~~
- 6           22. "Stop-sale" means an administrative order provided by law restraining the sale,  
7           use, disposition, and movement of a definite amount of seed.
- 8           23. "Treated" means ~~that the~~ a seed has received an application of a ~~seed protectant~~  
9           ~~pesticide which is designed to reduce, control, or repel certain disease organisms,~~  
10          ~~insects, or other pests attacking such seeds or seedlings growing therefrom~~  
11          substance, or a claim has been made that the seed has been subjected to a  
12          process.
- 13          24. "Tree and shrub seed" includes seed of woody plants commonly known and sold  
14          as tree and shrub seed in this state.
- 15          25. "Type" means a group of variety so nearly similar that the individual varieties  
16          cannot be clearly differentiated except under special conditions.
- 17          26. "Variety" means a subdivision of a kind ~~characterized by growth, yield, plant, fruit,~~  
18          ~~seed, or other characteristic by which it can be differentiated from other plants of~~  
19          ~~the same kind~~ that is distinct, uniform, and stable. The term "distinct" means the  
20          variety can be differentiated by one or more identifiable morphological,  
21          physiological, or other characteristics from all varieties of public knowledge. The  
22          term "uniform" means the variations in essential and distinctive characteristics are  
23          describable. The term "stable" means the variety will remain unchanged in its  
24          essential and distinctive characteristics and uniformity when reproduced or  
25          reconstituted as required by the different categories of varieties.
- 26          25. 27. "Vegetable seed" means a seed of a crop that is grown in a garden and on a truck  
27          farm, and which is generally known and sold under the name of vegetable seed  
28          within this state.
- 29          26. 28. "Weed ~~seeds~~ seed" means the ~~seeds~~ seed of ~~all plants~~ a plant generally  
30          recognized as ~~weeds~~ a weed within this state, including noxious weed ~~seeds~~ seed.

1           **SECTION 2. AMENDMENT.** Section 4-09-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-09-02. Seed department - Offices and laboratories.**

- 4           1. There must be maintained a state seed department ~~to be known as the seed~~  
5 ~~department~~ of the state of North Dakota. ~~Its~~ The department's headquarters, main  
6 offices, and other principal operating facilities and equipment must be located at  
7 the North Dakota state university of agriculture and applied science. The  
8 commissioner, subject to the approval and supervision of the commission, shall  
9 provide and maintain necessary laboratories and facilities properly equipped to  
10 make analyses, tests, and variety and disease determinations of seeds and plants,  
11 and to do work and effect other results as may be necessary to carry out this  
12 chapter. For these purposes, the commissioner may utilize the premises, space,  
13 and equipment at the North Dakota state university of agriculture and applied  
14 science as may be assigned to the commissioner by the university. The  
15 commissioner shall permit the facilities and services of the official laboratories to  
16 be used by the university at convenient times.
- 17           2. The ~~state seed~~ commission may locate and establish branch offices and  
18 laboratories at other locations in this state as in the commissioner's judgment are  
19 necessary to carry out properly and effectively the provisions of this or other  
20 chapters in which the ~~seed~~ department is charged with duties and responsibilities.

21           **SECTION 3. AMENDMENT.** Section 4-09-03 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **4-09-03. State seed commission - Members - Meetings - Appointment and duties**  
24 **of commissioner.**

- 25           1. The ~~state seed~~ commission is the governing board of the ~~seed~~ department ~~and~~  
26 ~~shall adopt rules and regulations pursuant to chapter 28-32 to effectuate the~~  
27 ~~purposes of this section.~~
- 28           2. The ~~state seed~~ commission consists of a representative of the North Dakota crop  
29 improvement association, a representative of the North Dakota certified seed  
30 potato growers association, a representative of the North Dakota dry edible bean  
31 seed growers association, a representative of the North Dakota agricultural

- 1 association, an elected member of the North Dakota potato council selected by the  
2 North Dakota potato council, a representative of the Red River valley potato  
3 growers association who is a North Dakota resident, a representative of the North  
4 Dakota grain dealers association selected by the association's board of directors  
5 who ~~also~~ operates a state-approved seed conditioning plant ~~selected by the board~~  
6 ~~of directors of the North Dakota grain dealers association~~, and the agriculture  
7 commissioner, or the commissioner's designee, who shall serve as chairman. The  
8 associate dean and director of the experiment station, or the director's designee, of  
9 the college of agriculture of the North Dakota state university of agriculture and  
10 applied science is a voting member of the commission.
- 11 3. The commission shall meet a minimum of two times each calendar year and may  
12 hold special meetings at the call of the chairman or by request of any two members  
13 of the commission. ~~Members of the commission must be reimbursed for mileage~~  
14 ~~and travel as specified in section 54-06-09 and expenses as specified in section~~  
15 ~~44-08-04 for attendance at regular and special meetings.~~ Each member of the  
16 commission is entitled to receive compensation at the rate of seventy-five dollars  
17 per day and reimbursement for expenses, as provided by law for state officers, for  
18 attending commission meetings. Compensation under this section may not be paid  
19 to any member who receives compensation or salary as a regular state employee  
20 or official. A commission member unable to attend a meeting of the commission  
21 may be represented by a proxy who has written authorization from ~~such~~ the absent  
22 commission member.
- 23 4. The commission shall appoint a qualified manager of the ~~seed~~ department who  
24 must be known as the state seed commissioner. The commission shall fix the  
25 salary of the commissioner within legislative appropriation ~~therefor~~. The  
26 commissioner's appointment must be reviewed annually by the commission, and  
27 the commissioner is subject to removal for cause. In the event of a vacancy in the  
28 office of ~~seed~~ the commissioner, the commission may appoint a temporary ~~state~~  
29 ~~seed~~ commissioner to serve until ~~such time as~~ the appointment of a permanent  
30 commissioner ~~is appointed~~. The ~~state seed~~ commissioner has responsibility for  
31 preparing the biennial budget and annual salary schedules ~~which~~ that must be

1 approved by the commission ~~prior to~~ before submission to the state budget  
2 director. The commissioner is directly responsible to the commission and shall  
3 make semiannual reports to the commission and ~~such~~ any other reports as  
4 requested by the commission.

5 **SECTION 4. AMENDMENT.** Section 4-09-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **4-09-04. Official seal.** The official seal of the ~~seed~~ department as recorded in the  
8 office of the secretary of state must be used exclusively in connection with the affairs of the  
9 ~~seed~~ department. The use of ~~such~~ the seal contrary to ~~the provisions of~~ this chapter or the  
10 commissioner's regulations is punishable as provided in section 4-09-24.

11 **SECTION 5. AMENDMENT.** Section 4-09-05 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **4-09-05. ~~Rules and regulations~~ — Authority to make Rulemaking authority.** The  
14 commissioner may adopt rules ~~in conformance with the provision of~~ as authorized by chapter  
15 28-32.

16 **SECTION 6. AMENDMENT.** Section 4-09-06 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **4-09-06. Examination of seed by commissioner - Right of access to premises -**  
19 **~~Publication of reports~~ — "Stop-sale" order.**

- 20 1. The commissioner, ~~or the commissioner's agents, shall~~ may inspect, examine,  
21 ~~make analysis of~~ analyse, and test any seed sold, offered, or exposed for sale,  
22 held, or distributed within this state for planting purposes, at ~~such~~ a time and place,  
23 and to ~~such~~ an extent, as determined by the commissioner ~~may determine~~. The  
24 2. At a reasonable time, the commissioner ~~and the commissioner's agents, at all~~  
25 ~~reasonable times, have~~ has the right of free access to the premises or structures  
26 controlled, owned, or operated by any person who may be, or whose seed, or the  
27 seed the person may be holding or storing or transporting, may be, investigated or  
28 proceeded against, and to any premises or structures or any kind of vehicle or  
29 conveyance where any seed may be located or in the process of transportation  
30 within the state, ~~when not prohibited by interstate commerce laws and rules, for the~~



1           ~~purpose of inspecting~~ to inspect, ~~examining~~ examine, and ~~sampling~~ sample any  
2           seed or seed ~~plants~~ plant.

3           3. Any person involved in any way in the handling, transportation, storage, buying, or  
4           selling of seed shall cooperate with the commissioner ~~and the commissioner's~~  
5           ~~agents~~ and shall render all possible assistance to aid the commissioner ~~and the~~  
6           ~~commissioner's agents~~ in the carrying out and enforcement of this chapter ~~and the~~  
7           ~~rules adopted under this chapter. The commissioner may publish, or cause to be~~  
8           ~~published, the results of the examination, analyses, and tests of any samples of~~  
9           ~~seed or mixtures of seed, together with any information the commissioner may~~  
10          ~~deem advisable.~~

11          4. The commissioner ~~or the commissioner's agent~~ may issue and enforce a written ~~or~~  
12          ~~printed~~ "stop-sale" order to the owner or custodian of any lot of ~~agricultural or~~  
13          ~~vegetable seed which~~ that the commissioner ~~or the commissioner's agent~~ finds to  
14          be in violation of this chapter, ~~which.~~ The order shall prohibit further sale,  
15          conditioning, and movement of ~~such~~ the seed until the commissioner ~~or the~~  
16          ~~commissioner's agent~~ has evidence that the law has been complied with and has  
17          issued a release from such "stop-sale" order ~~has been issued. Provided, that in~~  
18          ~~respect to seeds which have.~~ As to seed that has been denied sale, conditioning,  
19          and movement ~~as provided in this section,~~ the owner or custodian of ~~such~~ seeds  
20          has the right to appeal from the order to a court of competent jurisdiction in the  
21          locality in which the ~~seeds are~~ seed is found, praying for a judgment as to the  
22          justification of the order and for the discharge of ~~the seed from the order prohibiting~~  
23          ~~the sale, conditioning, and movement~~ in accordance with the findings of the court.  
24          This ~~section~~ subsection does not limit the right of the commissioner ~~or the~~  
25          ~~commissioner's agent~~ to proceed as authorized by other sections of this chapter.

26          **SECTION 7. AMENDMENT.** Section 4-09-06.1 of the North Dakota Century Code is  
27          amended and reenacted as follows:

28          **4-09-06.1. Inspection - Export certification - Fees.** The commissioner ~~or the~~  
29          ~~commissioner's authorized representative~~ may inspect agricultural seed, flower seed, vegetable  
30          seed, tree and shrub seed, and Irish potato tubers when the seed or tubers are offered for  
31          export. The commissioner may issue a phytosanitary certificate to plant quarantine officials and

1 may make reasonable charges for this service. ~~Certificates~~ The commissioner may ~~be withheld~~  
2 withhold the certificate if the product does not meet sanitary requirements and if all state  
3 licensing and bonding requirements ~~have not been met~~. The name and address of the  
4 consignee on the phytosanitary certificate is confidential.

5 **SECTION 8. AMENDMENT.** Section 4-09-07 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **4-09-07. ~~Official laboratories—Location—~~ Certificates and reports - Publication.**

8 ~~The commissioner, subject to the approval and supervision of the state seed commission, shall~~  
9 ~~provide and maintain under the commissioner's direction necessary laboratories and facilities~~  
10 ~~properly equipped to make analyses, tests, and variety and disease determinations of seeds~~  
11 ~~and plants, and to effect such other results and work as may be necessary to carry out this~~  
12 ~~chapter. For these purposes, the commissioner may utilize such premises, space, and~~  
13 ~~equipment at the North Dakota state university of agriculture and applied science as may be~~  
14 ~~assigned to the commissioner by the state board of higher education. The commissioner,~~  
15 ~~subject to the approval of the state board of higher education, shall permit the facilities and~~  
16 ~~services of the official laboratories to be used by the university at convenient times.~~

17 1. When a report or certificate relating to the findings and determinations made in a  
18 laboratory is issued and signed by the commissioner ~~or a duly authorized agent, it,~~  
19 the document must be accepted as prima facie evidence of the statements ~~therein~~  
20 ~~contained in the document,~~ but the commissioner ~~or the commissioner's analysts~~  
21 ~~are~~ is subject to court order for a review of findings as set forth ~~by such certificates~~  
22 ~~or reports in the document.~~

23 2. The commissioner may publish reports or explanatory material concerning seed or  
24 inspections, tests, analyses, or other determinations made by the commissioner  
25 and may ~~enlarge~~ expand the same with material setting forth the value or condition  
26 of the seed stocks which are produced in this state or in which North Dakota  
27 persons are interested. The commissioner also may publish lists of certified seed.

28 **SECTION 9. AMENDMENT.** Section 4-09-08 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **4-09-08. Public laboratory service - Fees for tests.** The commissioner shall accept  
31 samples submitted ~~to the state laboratory~~ for testing and shall determine the types of tests to be

1 conducted on the samples. The commissioner, with the approval of the ~~seed~~ commission, shall  
2 establish and charge fees for laboratory tests and services.

3 **SECTION 10. AMENDMENT.** Section 4-09-10 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **4-09-10. Labeling requirements for agricultural seed.**

6 1. Each container of agricultural seed which is sold, offered for sale, exposed for sale,  
7 transported for sale, or held in storage with the intent to sell for planting purposes  
8 within this state must bear ~~thereon~~ or have attached ~~thereto in a conspicuous~~  
9 ~~place~~, or there must be properly delivered with bulk sales or movements of ~~said~~  
10 agricultural seed; a conspicuous, plainly ~~written or printed label or tag~~ in the  
11 English language ~~giving with the following information required by this section,~~  
12 which ~~statement~~ may not be modified or denied in the labeling ~~or on another label~~  
13 ~~attached to the container.~~

14 ~~1. a.~~ 2. In ~~seeds seed~~ of wheat, durum, barley, oats, rye, soybeans, dry beans, and flax,  
15 the label must contain the commonly accepted name of the kind and variety of  
16 each agricultural seed component in excess of five percent of the whole and the  
17 percentage by weight of each. Variety identification is not required for seeds  
18 labeled "for vegetative cover only".

19 ~~b.~~ 3. In ~~seeds seed~~ of canola, the label must contain a statement that the seed must be  
20 is certified by the commissioner as meeting the standards of this chapter or have  
21 ~~been~~ certified by another state or province having certification standards for canola  
22 which meet or exceed standards adopted by this chapter.

23 ~~c.~~ 4. In all other ~~seeds seed~~ not named in ~~subdivisions a~~ subsections 2 and b 3, the  
24 label must contain the commonly accepted name of the kind or the kind and variety  
25 of each agricultural seed component in excess of five percent of the whole and the  
26 percentage of weight of each.

27 ~~d.~~ 5. When more than ten percent of the whole consists of an aggregate of agricultural  
28 seed components, each present in an amount not exceeding five percent of the  
29 whole, the label must contain each component in excess of one percent of the  
30 whole ~~must be~~ named together with the percentage by weight of each. ~~All~~  
31 ~~components~~ Each component must be listed in the order of ~~their~~ its predominance.

- 1                   Where more than one component is named, the word "mixture", or the word  
2                   "mixed", must be shown conspicuously on the label.
- 3       ~~2-~~ 6. For each container of agricultural seed, the label must contain:
- 4                   a. Lot number or other lot identification.
- 5       ~~3-~~ b. ~~Origin~~ The origin, state or foreign country, where grown. If the origin is  
6                   unknown, that fact must be stated.
- 7       ~~4-~~ c. ~~Percentage~~ The percentage by weight of all weed ~~seeds~~ seed.
- 8       ~~5-~~ d. The name and rate of occurrence per pound [453.59 grams] of each kind of  
9                   restricted noxious weed ~~seeds~~ seed present, if the restricted noxious weed  
10                  ~~seeds are~~ seed is present singly or collectively in amounts:
- 11                  a. ~~In~~ in seeds of grasses and small seeded legumes; in excess of thirteen seeds  
12                  per pound [453.59 grams]; ~~and, or~~
- 13                  b. ~~In~~ in other agricultural seeds, including the cereals, oil seed crops, millets,  
14                  and seeds of similar size, in excess of five seeds per pound [453.59 grams].
- 15       ~~6-~~ e. ~~Percentage~~ The percentage by weight of agricultural seed ~~which~~ that may be  
16                  designated as crop seed, other than those required to be named on the label.
- 17       ~~7-~~ f. ~~Percentage~~ The percentage by weight of inert matter.
- 18       ~~8-~~ ~~For each agricultural seed:~~
- 19                  a. g. ~~Percentage~~ The percentage of germination for each agricultural seed,  
20                  exclusive of hard seed. ~~Total~~; the percentage of hard seed if present for each  
21                  agricultural seed; and if desired the total germination and hard seed may be  
22                  stated as such, if desired for each agricultural seed.
- 23                  b. ~~Percentage of hard seed, if present. Total germination and hard seed may be~~  
24                  ~~stated as such, if desired.~~
- 25                  e. ~~The~~ In addition, the calendar month and year the test was completed to  
26                  determine ~~such~~ these percentages.
- 27       ~~9-~~ h. The full name and address of the person who labeled ~~said~~ the seed; or who  
28                  sells, offers for sale, or exposes ~~said~~ the seed for sale within this state.
- 29       ~~10-~~ i. ~~For~~ If the seed is treated ~~seeds as defined in this chapter~~, for which a  
30                  separate label may be used:
- 31                  a. A, a word or statement indicating that the seed has been treated;

- 1           b. ~~The~~ the commonly accepted, coined, chemical or abbreviated chemical  
2            (generic) name of the applied ~~seed protectant pesticide~~ substance; and
- 3           e. ~~If~~ if the substance in the amount present with the seed is harmful to human or  
4           other vertebrate animals, a caution statement ~~such as "Do not prohibiting~~ use  
5           for food ~~or~~, feed, or oil purposes". ~~The caution and~~ for mercurials and similar  
6           toxic substances ~~must be~~ a poison statement or symbol. If the seed is treated  
7           with an inoculant, the label must contain the date beyond which the inoculant  
8           is not to be considered effective.
- 9           44. j. ~~That the~~ The seed container ~~itself is a hermetically sealed container as~~  
10           ~~defined by rules adopted by the commissioner.~~
- 11           44. k. A disease test result for seedborne diseases. ~~For the purpose of this~~  
12           ~~subsection, the words "disease test result" have the meaning ascribed to~~  
13           ~~them by rules adopted by the commissioner.~~

14           **SECTION 11. AMENDMENT.** Section 4-09-11 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **4-09-11. Labeling requirements for vegetable seed.**

- 17           1. Each container of vegetable seed which is sold, offered for sale, exposed for sale,  
18           transported for sale, or held in storage with the intent to sell for ~~sewing~~ planting  
19           purposes within this state ~~shall~~ must bear ~~thereon~~, or have attached ~~thereto, in a~~  
20           ~~conspicuous place a conspicuous,~~ conspicuous, plainly ~~written or printed label or tag~~ in the  
21           English language with the information required by this section, which may not be  
22           modified or denied in the labeling.
- 23           ~~4.~~ 2. For vegetable ~~seeds~~ seed in containers of one pound [.45 kilograms] or less, ~~such~~  
24           the label or tag must give contain the following information required by this  
25           subsection:
- 26           a. The name of kind and variety of seed.
- 27           b. For ~~seeds which germinate~~ seed that germinates less than the standards as  
28           set forth in section 201.31 of the rules and regulations under the Federal Seed  
29           Act, "Service and Regulatory Announcement No. 156", and subsequent  
30           revisions:
- 31           (1) Percentage, the percentage of germination, exclusive of hard seed.

- 1                   (2) ~~Percentage; the percentage~~ of hard seed, if present-
- 2                   (3) ~~The; the~~ calendar month and year the test was completed-
- 3                   (4) ~~The; and the~~ words "below standard" in not less than ~~eight-point~~  
4                   eight-point type.
- 5                   c. The full name and address of the person who labeled ~~said~~ the seed; or who  
6                   sells, offers for sale, or exposes ~~said~~ the seed for sale within this state.
- 7                   d. ~~For treated seed as defined in this chapter for which a separate label may be~~  
8                   ~~used:~~
- 9                   (1) ~~A word or statement indicating that the seed has been treated-~~
- 10                  (2) ~~The commonly accepted, coined, chemical or abbreviated chemical~~  
11                  ~~(generic) name of the applied substance-~~
- 12                  (3) ~~If the substance in the amount present with the seed is harmful to~~  
13                  ~~human or other vertebrate animals a caution statement such as "Do not~~  
14                  ~~use for food or feed or oil purposes". The caution for mercurials and~~  
15                  ~~similar toxic substances must be a poison statement or symbol-~~
- 16                  e. ~~That the seed container itself is a hermetically sealed container. For the~~  
17                  ~~purposes of this subsection, the words "hermetically sealed container" have~~  
18                  ~~the meaning ascribed to them by regulation promulgated by the state seed~~  
19                  ~~commissioner-~~
- 20                  2. 3. For vegetable seeds seed in containers of more than one pound [.45 kilograms],  
21                  ~~such~~ the label ~~or tag~~ must ~~give~~ contain the ~~following~~ information required by this  
22                  subsection:
- 23                  a. The name of each kind and variety of vegetable seed present in excess of five  
24                  percent and the percentage by weight of each in order of its predominance.
- 25                  b. Lot number or other lot identification.
- 26                  c. Origin, meaning the state or foreign country where grown. If the origin is  
27                  unknown, that fact must be stated.
- 28                  d. The name and rate of occurrence per pound [.45 kilograms] of each kind of  
29                  restricted noxious weed seeds present.
- 30                  e. For each named vegetable seed:

- 1                   (1) ~~Percentage, the percentage~~ of germination, exclusive of hard seed-  
2                   ~~Total, and the percentage of hard seed if present, and if desired, the~~  
3                   ~~total~~ germination and hard seed ~~may be stated as such, if desired.~~
- 4                   (2) ~~Percentage of hard seed, if present. Total germination and hard seed~~  
5                   ~~may be stated as such, if desired.~~
- 6                   (3) ~~The~~ In addition, the calendar month and year the test was completed to  
7                   determine ~~such~~ these percentages.
- 8                   f. The full name and address of the person who labeled ~~said~~ the seed, or who  
9                   sells, offers for sale, or exposes said seed for sale within this state.
- 10                  g- 4. For vegetable seed in any size container, the label for treated seed as defined in  
11                  ~~this chapter,~~ for which a separate label may be used:
- 12                   (1) ~~A,~~ must contain a word or statement indicating that the seed has been  
13                   treated-
- 14                   (2) ~~The;~~ the commonly accepted, coined, chemical or abbreviated chemical  
15                   ~~(generic)~~ name of the applied substance-
- 16                   (3) ~~If;~~ and if the substance in the amount present with the seed is harmful  
17                   to human or other vertebrate animals, a caution statement ~~such as "Do~~  
18                   ~~not prohibiting~~ use for food or, feed, or oil purposes". ~~The caution and~~  
19                   for mercurials and similar toxic substances ~~shall be~~ a poison statement  
20                   or symbol. If the seed is treated with an inoculant, the label must  
21                   contain the date beyond which the inoculant is not to be considered  
22                   effective.
- 23                  h- 5. The labeling requirements for vegetable ~~seeds~~ seed in containers of more than  
24                  one pound [.45 kilograms] are deemed to have been met if the seed is weighed  
25                  from a properly labeled container in the presence of the purchaser.
- 26                  i- 6. ~~That~~ For vegetable seed in any size container, the label must state the seed  
27                  container ~~itself~~ is a hermetically sealed container. ~~For the purposes of this~~  
28                  subsection, the words "hermetically sealed container" have the meaning ascribed  
29                  to them by regulation promulgated by the state seed commissioner.

30                   **SECTION 12. AMENDMENT.** Section 4-09-11.1 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **4-09-11.1. Labeling requirements for flower seeds seed.**

2           1. Each container of flower ~~seeds which~~ seed that is sold, offered for sale, exposed  
3 for sale, or transported within this state for ~~sowing planting~~ purposes, ~~shall~~ must  
4 bear ~~thereon~~ or have attached ~~thereto in a conspicuous place~~ a conspicuous,  
5 plainly ~~written or printed label or tag~~ in the English language, giving with the  
6 ~~following~~ information required by this section, which statement may not be modified  
7 or denied in the labeling ~~or on another label attached to the container.~~

8           ~~1.~~ 2. For all flower ~~seeds~~:

9           a. A seed, the label must contain a word or statement indicating whether the  
10 seed has been treated:

11           ~~b.~~ The; the commonly accepted coined, chemical, or abbreviated chemical  
12 (~~generic~~) name of the applied substance or description of the process used:

13           ~~c.~~ If; and if the substance in the amount present with the seed is harmful to  
14 human or other vertebrate animals, a caution statement ~~such as "Do not~~  
15 prohibiting use for food, feed, or oil purposes". ~~The caution~~ and for mercurials  
16 and similarly toxic substances ~~must be~~ a poison statement and symbol.

17           ~~d.~~ If the seed is treated with an inoculant, the date beyond which the inoculant is  
18 not to be considered effective (~~date of expiration~~).

19           ~~2.~~ 3. For flower ~~seeds~~ seed in packets prepared for use in home gardens or household  
20 plantings or flower ~~seeds~~ seed in preplanted containers, mats, tapes, or other  
21 planting devices, the label must contain:

22           a. For all kinds of flower ~~seeds~~:

23           (1) ~~The~~ seed, the name of the kind and variety or a statement of type and  
24 performance characteristics as ~~prescribed in the rules and regulations~~  
25 ~~promulgated under the provisions of this chapter.~~

26           (2) ~~The~~ required by the commissioner, the calendar month and year the  
27 seed was tested or the year for which the seed was packaged:

28           (3) ~~The~~, and the name and address of the person who labeled ~~said~~ the  
29 seed, or who sells, offers, or exposes said seed for sale within this  
30 state.



- 1           b. For ~~seeds~~ seed of those kinds for which standard testing procedures are  
2           prescribed and which germinate less than the germination standard last  
3           established under ~~the provisions of~~ this chapter:  
4           (1) ~~Percentage~~, the percentage of germination exclusive of hard seeds-  
5           (2) ~~The~~ and the words "below standard" in not less than eight-point type.
- 6           c. For ~~seeds~~ seed placed in a germination medium, mat, tape, or other device ~~in~~  
7           ~~such a way~~ so as to make it difficult to determine the quantity of seed without  
8           removing the seeds from the medium, mat, tape, or device, a statement to  
9           indicate the minimum number of seeds in the container.
- 10       ~~3.~~ 4. For flower ~~seeds~~ seed in containers other than packets prepared for use in home  
11       flower gardens or household plantings and other than preplanted containers, mats,  
12       tapes, or other planting devices the label must contain:  
13       a. The name of the kind and variety or a statement of type and performance  
14       characteristics as prescribed in rules and regulations promulgated under the  
15       provisions of this chapter.  
16       b. The lot number or other lot identification.  
17       c. The calendar month and year that the seed was tested or the year for which  
18       the seed was packaged.  
19       d. The name and address of the person who labeled said seed or who sells,  
20       offers, or exposes ~~said~~ the seed for sale within this state.  
21       e. For those kinds of seed for which standard testing procedures are prescribed:  
22       (1) ~~Percentage~~, the percentage germination exclusive of hard seed-  
23       (2) ~~Percentage~~ and the percentage of hard seed, if present.

24           **SECTION 13. AMENDMENT.** Section 4-09-11.2 of the North Dakota Century Code is  
25       amended and reenacted as follows:

26           **4-09-11.2. Labeling requirements for tree and shrub seeds.**

- 27       1. Each container of tree and shrub seed which is sold, offered for sale, or exposed  
28       for sale, or transported within this state for ~~sowing~~ planting purposes, must bear  
29       ~~thereon~~ or have attached ~~thereto in a conspicuous place~~ a conspicuous, plainly  
30       ~~written or printed label or tag~~ in the English language, giving the ~~following~~  
31       information required by this section, which ~~statement must~~ may not be modified or

1 denied in the labeling ~~or on another label attached to the container~~, except that  
2 labeling of seed supplied under a contractual agreement may be by invoice  
3 accompanying the shipment or by an analysis tag attached to ~~said~~ the invoice if  
4 each ~~bag or other~~ container is clearly identified by a lot number stenciled on the  
5 container or if the seed is in bulk. ~~Each bag or container that is not so identified~~  
6 ~~must carry complete labeling:~~

7 4. 2. For all tree and shrub ~~seeds~~ seed, the label must contain:

- 8 a. A word or statement indicating whether the seed has been treated-
- 9 b. ~~The;~~ the commonly accepted coined, chemical, or abbreviated chemical  
10 (~~generic~~) name of the applied substance or description of the process used-
- 11 e. ~~If;~~ and if the substance in the amount present with the seed is harmful to  
12 human or other vertebrate animals, a caution statement ~~such as "Do not~~  
13 prohibiting use for food ~~or,~~ feed, or oil purposes". ~~The caution and~~ for  
14 mercurials and similarly toxic substances ~~must be~~ a poison statement and  
15 symbol.
- 16 e. If the seed has been treated with an inoculant, the date beyond which the  
17 inoculant is not to be considered effective (~~date of expiration~~).

18 2. ~~For all tree and shrub seeds subject to this chapter:~~

- 19 a. ~~b.~~ b. ~~Common~~ The common name of the species of seed (and subspecies, if  
20 appropriate).
- 21 b. ~~c.~~ c. The scientific name of the genus and species (and subspecies, if  
22 appropriate).
- 23 e. ~~d.~~ d. ~~Lot~~ The lot number or other lot identification.
- 24 e. Origin:
- 25 (1) ~~For~~ The origin for seed collected from a predominately indigenous stand; as  
26 identified by the area ~~of collection~~ the trees are growing and collected given  
27 by latitude and longitude, ~~or~~ geographic description, or political subdivision  
28 ~~such as state or county.~~
- 29 (2) ~~For~~ and for seed collected from other than a predominantly indigenous  
30 stand, ~~identify~~ as identified by the area ~~of collection and the origin of~~

- 1                   ~~the stand~~ place from which the seeds or plants were originally  
2                   introduced or state "origin not indigenous".
- 3           e- f.   The elevation or the upper and lower limits of elevations within which ~~said the~~  
4                   seed was collected.
- 5           f- g.   ~~Purity~~ The purity as a percentage of pure seed by weight.
- 6           g- h.   For those species for which standard germination testing procedures are  
7                   prescribed, the ~~following~~:
- 8                   (1) ~~Percentage~~ percentage germination exclusive of hard seed-
- 9                   (2) ~~Percentage~~; the percentage of hard seed, if present-
- 10                  (3) ~~The~~; and the calendar month and year test was completed to determine  
11                   such the percentages.
- 12           h-   In lieu of ~~paragraphs 1, 2, and 3 of this~~ subdivision g, the seed may be  
13                   labeled "Test is in process, results will be supplied upon request".
- 14           i-   For those species for which standard germination testing procedures have not  
15                   been prescribed, the calendar year in which the seed was collected.
- 16           j- i.   The name and address of the person who labeled ~~said the~~ seed or who sells,  
17                   offers, or exposes ~~said the~~ seed for sale within this state.

18           **SECTION 14. AMENDMENT.** Section 4-09-12 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **4-09-12. Invoice and records.** Each person whose name appears on the label  
21 ~~handling agricultural, vegetable, flower, or tree and shrub seeds subject to this chapter, and~~  
22 handles seed shall keep for a period of ~~two~~ three years complete records of each lot of seed  
23 handled, and shall keep for a period of one year a file sample of each lot of seed after final  
24 disposition of ~~said the~~ lot. All records pertaining to the lot ~~or lots~~ involved must be accessible  
25 for inspection by the commissioner ~~or his agents~~ at any time during customary business hours.

26           **SECTION 15. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in  
29 labeling seed as described in this chapter must be those tolerances used under the Federal  
30 Seed Act of August 9, 1939 [53 Stat. 1275; 7 U.S.C. 1551 et seq.], and subsequent  
31 amendments as of ~~December 31~~ June 30, 2002 2005, except that the tolerance for yellow

1 starthistle must be zero and the commissioner may, by rule, establish tolerances that are more  
2 strict than the Federal Seed Act tolerances.

3 **SECTION 16. AMENDMENT.** Section 4-09-14 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **4-09-14. Prohibitions.**

6 1. ~~It is unlawful for any~~ A person ~~to~~ may not sell, offer for sale, expose for sale,  
7 transport for sale, or hold or store with the intent to sell, any agricultural, vegetable,  
8 flower, or tree and shrub seed within this state if:

9 a. The test to determine the percentage of germination required under sections  
10 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a  
11 ~~nine-month~~ twelve-month period, exclusive of the calendar month in which the  
12 test was completed, ~~immediately prior to the sale, offering for sale, or~~  
13 ~~transportation, provided that seeds contained in a hermetically sealed~~  
14 ~~container, as defined by regulation issued by the seed commissioner, may be~~  
15 ~~sold, transported for sale, or held for sale unless the test provided in this~~  
16 ~~subdivision has not been completed within a thirty-six-month period, exclusive~~  
17 ~~of the calendar month in which the test was completed, immediately prior to~~  
18 ~~the sale, offering for sale, or transportation for sale~~ or the seed is offered for  
19 sale beyond the sell by date exclusive of the calendar month in which the  
20 seed was to have been sold, except that:

21 (1) When advertised or offered for sale, native grass and foreign seeds  
22 must have been tested for percentage of germination as required by  
23 sections 4-09-10, 4-09-11, and 4-09-11.1 within a fifteen-month period,  
24 exclusive of the calendar month in which the test was completed;

25 (2) The offer of cool season lawn and turf grasses, including Kentucky  
26 bluegrass, red fescue, chewings fescue, hard fescue, tall fescue,  
27 perennial rye grass, intermediate rye grass, annual rye grass, colonial  
28 bent grass, creeping bent grass, and mixtures or blends of those  
29 grasses, for sale beyond the sell by date may not be more than fifteen  
30 months from the date of test, exclusive of the calendar month in which  
31 the test was completed; or

- 1                   (3) Tree, shrub, agricultural, flower, wildflower, or vegetable seed  
2                   packaged in a hermetically sealed container under conditions as  
3                   defined by the commissioner may be offered for sale for a period of  
4                   thirty-six months after the last day of the month that the seed was  
5                   tested for germination before packaging, but if seed in a hermetically  
6                   sealed container is offered for sale more than thirty-six months after the  
7                   last day of the month in which the seed was tested before packaging,  
8                   the seed must be retested within a nine-month period, exclusive of the  
9                   calendar month in which the retest was completed;
- 10                  b. The seed is not labeled in accordance with ~~the provisions of~~ this chapter or  
11                  bears false or misleading labeling;
- 12                  c. There has been false or misleading advertising in connection with the seed;
- 13                  d. The seed contains prohibited noxious weed seeds;
- 14                  e. With regard to agricultural or vegetable seed, the seed is not labeled to show  
15                  the rate of occurrence of restricted noxious weed seeds, as required under  
16                  sections 4-09-10 and 4-09-11;
- 17                  f. The seed is designated, offered, represented, or advertised under any name  
18                  or identification other than that by which it was known originally;
- 19                  g. The seed contains restricted noxious weed seeds in excess of twenty-five  
20                  seeds per pound [453.59 grams]; or
- 21                  h. The percentage by weight of all weed seeds in the seed exceeds one percent.
- 22                  2. Any person, ~~under rules adopted by the commissioner,~~ may submit to the  
23                  commissioner a sample of any seed which the person claims to be a new variety,  
24                  distinct from any commonly known variety of the seed, together with a proposed,  
25                  distinctive name. The commissioner, within one year, shall make any ~~tests~~ test the  
26                  commissioner considers necessary, and if the commissioner finds as a result of the  
27                  ~~tests~~ test that the seed or plant is of a new variety, distinct from any known variety  
28                  of the seed and that the proposed name will properly distinguish the seed from any  
29                  and all other varieties, the commissioner shall issue to the applicant a permit to  
30                  designate the seed by the proposed name.

- 1           3. The purchaser, vendor, or any person receiving any seed shipped into this state  
2           from without the state, shall have the same labeled in accordance with this  
3           chapter. Certain standardized grades and labeling of seed in use elsewhere may  
4           be permitted by the commissioner in connection with shipments of seed into this  
5           state from points outside this state in lieu of the labeling provided for in this  
6           chapter.
- 7           ~~2.~~ 4. ~~It is unlawful for any~~ A person in this state ~~to~~ may not:
- 8           a. Detach, alter, deface, or destroy any label provided for in this chapter or to  
9           alter or substitute seed in any manner with the intent to defeat the purpose of  
10          this chapter;
- 11          b. Disseminate any false or misleading advertisement concerning agriculture or  
12          vegetable seed in any manner or by any means;
- 13          c. Hinder or obstruct in any way any authorized person in the performance of the  
14          person's duties under this chapter;
- 15          d. Fail to comply with a "stop-sale" order;
- 16          e. Use on seed labels or tags, or to use or attach to literature, or to state in any  
17          manner or form of wording designed as a "disclaimer" or "nonwarranty" clause  
18          with the intent to disclaim responsibility of the vendor of the seed for the data  
19          on the label required by law;
- 20          f. Use the words "type" or "trace" on any labeling in connection with the name  
21          and description of any agricultural and vegetable seed;
- 22          g. Move or otherwise handle or dispose of any lot of seed held under a  
23          "stop-sale" order, except with the written permission of the commissioner ~~or~~  
24          ~~the commissioner's agent~~, and only for the purpose specified in ~~such~~ this  
25          written permission;
- 26          h. Use the name of the state seed department or the name of the official  
27          laboratory for advertising purposes in connection with seed analyzed or tested  
28          by the department or official laboratory, except in the case of registered or  
29          certified seed; or
- 30          i. Plant any seed labeled "for vegetative cover only" with the intent to harvest for  
31          seed or grain.



- 1           a. The seller shall indicate on a form provided by the seller the purpose for which  
2           the seed or grain is purchased. The form must be available for inspection by  
3           the seed department.
- 4           b. It is unlawful for the seller or buyer to make a false representation as to the  
5           use of the seed or grain.
- 6           e. A farmer selling the farmer's own seed or grain to a commercial establishment  
7           is exempt from the recordkeeping requirements of this subsection.
- 8       ~~3.~~ c. Seed stored by or consigned to a seed cleaning or conditioning plant for the  
9           purpose of cleaning or conditioning; ~~provided that.~~ However, any labeling or  
10          other representation ~~which may be~~ made with respect to uncleaned or  
11          unconditioned seed is subject to the requirements of this chapter.
- 12       ~~4.~~ d. A common carrier with respect to any seed transported or delivered for  
13          transportation in the ordinary course of business.
- 14       ~~5.~~ e. A farmer who grows ~~his~~ the farmer's own seed and sells only ~~his~~ the farmer's  
15          own seed and does not advertise or use a third party as an agent or broker to  
16          bring buyer and seller together.
- 17       2. A variety for which a certificate plan variety protection has been applied for or  
18          issued is not exempt under subsection 1.
- 19       3. ~~No~~ A person shall be is not subject to the penalties of this chapter for having sold,  
20          exposed for sale, or transported for sale in this state any agricultural, vegetable,  
21          flower, or tree and shrub ~~seeds which were~~ seed that was incorrectly labeled or  
22          incorrectly represented as to kind, variety, or origin and which could not be  
23          identified ~~by~~ through examination ~~thereof~~, unless ~~such~~ the person has failed to  
24          obtain an invoice or grower's declaration stating the kind, or kind and variety, and  
25          origin, if required, or has failed to take ~~such~~ other precautions as may have been  
26          necessary to ensure that the seed was properly identified.

27       **SECTION 20. AMENDMENT.** Section 4-09-16 of the North Dakota Century Code is  
28      amended and reenacted as follows:

29       **4-09-16. Certified seed.** The commissioner shall:

- 30       1. Establish a seed certification system for this state and adopt rules governing  
31          application for service, acceptance of suitable seed stocks for the production of a



- 1 foundation, registered, certified, or inspected crop, field inspection, bin inspections,  
2 harvesting, handling, storage, conditioning, and preparation and handling of ~~such~~  
3 the seed for market.
- 4 2. Designate kinds, varieties, and names of seed stocks, and establish standards of  
5 quality, degree of disease infection, and amounts of any admixtures, foreign seeds,  
6 noxious weeds, or other weed seeds that are allowed in any lot or stock of seed,  
7 which may be or become eligible for field inspection or for final certification of the  
8 seed crop.
- 9 3. Prescribe all labels, seals, certificates, or similar statements that must be used for,  
10 or in relation to, any seed, or the various kinds and qualities grown, handled,  
11 stored, held for sale, sold, or offered or exposed for sale in this state as "breeders",  
12 "foundation", "registered", or "certified" seed, and shall specify what words, terms,  
13 or figures ~~such~~ the labels, seals, certificates, or the containers of ~~such~~ the seed  
14 must bear.
- 15 4. Cooperate with the managers of any seed conditioning plants, or any commercially  
16 established seed firm, or any person within or outside of the state having proper  
17 facilities and equipment to store, condition, and otherwise handle seed which is  
18 eligible for certification, for the purposes of handling and marketing "breeders",  
19 "foundation", "registered", or "certified" seed.
- 20 5. Cooperate in the selection, testing, and growing of seed for certification purposes  
21 and in the arrangement for increase of foundation seed stocks suitable for the  
22 production of certified seed.
- 23 6. Establish an equitable schedule of fees and charges, which must be uniform  
24 throughout the state, for inspecting, testing, analyzing, and recording ~~such~~ the  
25 seed, and for other work and duties incident to the growing, handling, marketing,  
26 and certifying of North Dakota seed, and shall collect all ~~such~~ the fees and  
27 charges.

28 **SECTION 21. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or sold  
31 by variety name and for which a certificate of plant variety protection has been issued under the

1 Plant Variety Protection Act, as amended; [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C. 2481  
2 et seq., effective as of July 1, ~~2004~~ 2005], as being for sale only as a class of certified seed  
3 must be certified by an official seed certifying agency in order for the seed to be advertised,  
4 offered for sale, or sold by variety name in the state of North Dakota. Seed from a certified lot  
5 may be labeled as to variety name when used in a blend of seed consisting in more than one  
6 variety of a kind, each in excess of five percent by weight of the whole, or mixture by or with  
7 approval of the owner of the variety.

8 **SECTION 22. AMENDMENT.** Section 4-09-18 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **4-09-18. Certified seed standards.**

- 11 1. The rules and requirements for certification of crop seeds, other than potatoes,  
12 must be ~~those prescribed and set forth~~ published in the state seed department  
13 bulletin ~~number 51, published in March 1945, and subsequent announcements and~~  
14 ~~revisions of the bulletin.~~
- 15 2. The rules and requirements for seed potato certification must be ~~those prescribed~~  
16 ~~and set forth~~ published in the state seed department bulletin ~~number 49 as revised~~  
17 ~~in August 1950, and subsequent announcements and revisions of the bulletin.~~

18 **SECTION 23. AMENDMENT.** Section 4-09-20.1 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **4-09-20.1. Liability of seed commission, seed department, commissioner, and**  
21 **certified or noncertified agricultural seed producers.** ~~No warranties~~ A warranty of any kind,  
22 either expressed or implied, including ~~warranties~~ a warranty of merchantability, fitness for a  
23 particular purpose, or absence of disease, ~~are~~ is not made by the ~~state seed~~ commission, the  
24 ~~seed~~ department, the commissioner ~~or the commissioner's employees~~, or certified or  
25 noncertified agricultural seed producers as to the quantity or quality of the crop produced from  
26 the agricultural seeds or as to other produce which is inspected and certified, except as  
27 provided in this section. The ~~only~~ sole warranty made is that the agricultural seeds or other  
28 produce were produced, graded, packed, and inspected under the rules of the ~~state seed~~  
29 department or United States department of agriculture. The commissioner ~~and the~~  
30 ~~commissioner's employees function~~ functions and ~~serve~~ serves only in an official regulatory  
31 manner.

1           **SECTION 24. AMENDMENT.** Section 4-09-20.2 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-09-20.2. Seed arbitration board - Petition - Arbitration hearing.**

- 4           1. The state seed arbitration board consists of the agriculture commissioner, the state  
5 seed commissioner, the director of the North Dakota state university extension  
6 service, the director of the North Dakota agricultural experiment station, the  
7 chairman of the North Dakota seed trade committee of the North Dakota  
8 agriculture association, and a representative of a major North Dakota farm  
9 organization appointed by the agriculture commissioner or an authorized designee.  
10 Each board member is entitled to receive as per diem compensation sixty-two  
11 dollars and fifty cents, and reimbursement of expenses as provided by law for state  
12 officers, while attending meetings or performing duties directed by the board,  
13 except that compensation under this subsection may not be paid to any member  
14 who receives compensation or salary as a regular state employee or official.  
15 Compensation and expenses for board members who do not receive  
16 compensation or salary as a regular state employee or official must be paid by the  
17 department of agriculture.
- 18          2. A seed labeler, seed dealer, or seed customer may petition the agriculture  
19 commissioner in writing for a hearing to settle a dispute involving a seed  
20 transaction. The agriculture commissioner shall submit the dispute to the seed  
21 arbitration board, and the board shall arbitrate the dispute. The board, within thirty  
22 days after the hearing, shall make a nonbinding recommendation for the resolution  
23 of the dispute. Evidence presented to the board and any findings or  
24 recommendations by the board are admissible as evidence in any subsequent  
25 proceeding. The board shall adopt rules and procedures for arbitration  
26 proceedings, including a formula for reimbursement by the parties of the expenses  
27 of the arbitration process.

28           **SECTION 25. AMENDMENT.** Section 4-09.1-02 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30           **4-09.1-02. Seed commissioner - Duties.** The commissioner may establish commodity  
31 grades and inspection services for the purpose of making inspection and otherwise providing

1 for the proper handling and marketing of ~~the agricultural commodities defined in this chapter~~  
2 ~~and may adopt rules necessary for and consistent with the provisions of this chapter.~~ The  
3 commissioner shall appoint a chief inspector and other ~~agents, inspectors, assistants, and~~  
4 ~~clerical aides~~ employees as are necessary ~~to assist, represent, and act for the commissioner in~~  
5 carrying out ~~the provisions of~~ this chapter. The commissioner shall fix the salaries of  
6 employees ~~of the commission~~ within the limits of legislative appropriations ~~therefor.~~

7 **SECTION 26. AMENDMENT.** Section 4-09.1-04 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **4-09.1-04. Cooperation with departments and bureaus.** The commissioner may  
10 cooperate with the United States department of agriculture or any bureau or division ~~thereof of~~  
11 ~~the department, and with a similar state inspection service departments of the several states,~~  
12 and with any person, ~~with the intent and purpose that the grade inspection service in this state,~~  
13 ~~and so that any or all of the grade certificates issued on North Dakota the commodities, must~~  
14 ~~be in this state are~~ officially recognized and accepted elsewhere in the United States, ~~and to~~  
15 protect and promote the interests of ~~any and all persons~~ each person having an interest in the  
16 commodities grown or handled in this state, and to provide for any necessary joint  
17 arrangements to further the purpose of this chapter.

18 **SECTION 27. AMENDMENT.** Section 4-25-01 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **4-25-01. Definitions Definition of agricultural seed.** In this chapter unless the  
21 context ~~or subject matter~~ otherwise requires:

- 22 1. ~~The, the~~ term "agricultural seed" includes seeds of grass, forage, cereals, fiber,  
23 and oil crops, and any other kinds of seeds commonly recognized within this state  
24 as agricultural or field seeds and mixtures of ~~such these~~ seeds for ~~sowing or~~  
25 planting purposes.
- 26 2. "Person" ~~means any individual, partnership, corporation, limited liability company,~~  
27 ~~company, society, or association, except a farmer resident of North Dakota who~~  
28 ~~may sell seed of that person's own production.~~

29 **SECTION 28. AMENDMENT.** Section 4-25-02 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31 **4-25-02. Prohibitions.** ~~It is unlawful for any~~

- 1           1. ~~A person in this state to may not~~ accept full or partial payment in connection with  
2           the sale of any agricultural seeds to be delivered to the buyer at a later date,  
3           unless each ~~and every~~ transaction is accompanied by a written sales agreement or  
4           contract ~~which must contain thereon~~ that contains the following provisions:
- 5           ~~1-~~ a. The date and place of the transaction.
- 6           ~~2-~~ b. The signature and address of the buyer and the seller or the agent acting for  
7           the seller.
- 8           ~~3-~~ c. The number of units and the price per unit.
- 9           ~~4-~~ d. The total value of the transaction.
- 10          ~~5-~~ e. The total amount of the full or partial payment made to the seller by the buyer.
- 11          ~~6-~~ f. The kind and variety of seed for wheat, durum, barley, oats, rye, flax,  
12          soybeans, and edible beans.
- 13          ~~7-~~ g. The class of the seed to be delivered, and if the seed is not certified, then the  
14          minimum germination and seed purity percentages must be stated. If the  
15          seed is certified, the words "breeders", "foundation", "registered", or  
16          "certified", as the case may be, must be shown.
- 17          ~~8-~~ h. The date of delivery or the latest date at which delivery is to be made.
- 18          ~~9-~~ i. The place of delivery.
- 19          2. Any provision in any written order or contract, which is contrary to any of the  
20          provisions of this section hereby is declared to be against public policy and void.
- 21          3. A farmer resident of this state is exempt from this section if the farmer sells seed of  
22          the farmer's own production.

23           **SECTION 29. AMENDMENT.** Section 4-25-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **4-25-03. Penalty.** Any person violating ~~the provisions of sections 4-25-01 and section~~  
26 4-25-02 is guilty of a class B misdemeanor.

27           **SECTION 30. AMENDMENT.** Section 4-25-04 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **4-25-04. ~~Repurchase contracts—Bonding requirement for nonresident seed~~**  
30 **dealers Nonresident seed dealer license.** ~~Any nonresident person or that person's agent~~  
31 ~~shall pay an annual license fee of twenty five dollars to the commissioner before engaging in~~

1 ~~the business of selling any agricultural grain or grass seed and entering into any contract with a~~  
2 ~~purchaser whereby that person agrees to purchase or retains an option to purchase the grain or~~  
3 ~~grass seed or feed grain produced. The license is renewable annually on January first of each~~  
4 ~~year. At the time of applying for a license, the applicant shall furnish a corporate surety bond to~~  
5 ~~be approved by the commissioner in the penal sum of ten thousand dollars running to the state~~  
6 ~~of North Dakota for the use and benefit of any such purchaser of seed or seller under a~~  
7 ~~repurchase contract or option, who may have a claim for relief against any seller or repurchaser~~  
8 ~~who fails to comply with the terms of the purchase or repurchase contract. All fees collected~~  
9 ~~under this section must be deposited in the seed department revolving fund. Any nonresident~~  
10 ~~person engaged in the business in selling agricultural seed directly to the consumer in this state~~  
11 ~~shall submit an annual application for a nonresident seed dealer license and submit an annual~~  
12 ~~license fee, in an amount determined by the commission, to the state seed department. A list of~~  
13 ~~agents representing the nonresident company in this state must accompany the application.~~

14           **SECTION 31. REPEAL.** Sections 4-09-03.1, 4-09-10.1, and 4-09-14.3 of the North  
15 Dakota Century Code are repealed.