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The 1987 North Dakota Legislature - Agricultural Update

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Preface

This report is a product of a joint research venture of the University of North Dakota School of Law and the North Dakota State University Department of Agricultural Economics. The Agricultural Law Research Program studies and publishes information on topics of importance to agriculture in North Dakota. Issues researched recently include statutory liens, products liability, security interests in agricultural products, and the economic impact of credit laws. This joint effort is part of Agricultural Experiment Station Project ND 3353.

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Highlights

The North Dakota Legislative Assembly convenes in Bismarck for three to four months every two years. More than 1,000 legislative proposals were considered during this session. This report briefly reviews bills passed by the 1987 legislative session which affect agriculture.

The legislature responded to the continuing financial distress of some farmers by authorizing the Industrial Commission to adopt criteria for determining which farmers are eligible for operating loans in which the Bank of North Dakota participates. The Commission also was authorized to issue bonds for loans to farmers with a net worth less than \$150,000. A program to provide legal and tax assistance to distressed farmers and small businesses was added to the Credit Review Board's responsibilities.

Borrowers who encumber their homestead after June 30, 1987 are required to be notified by the lender that the homestead is vulnerable to foreclosure. Likewise, a borrower who is being foreclosed has the right to designate and redeem the homestead as a parcel separate from other farmland. The legislature also replaced numerous agricultural statutory liens with a processor lien and a supplier lien.

Several issues involving natural resources were addressed. Beginning in July 1989, a wetland must be restored or developed before a wetland of equal acreage can be drained. This is part of a policy declaration for water development and wetland preservation. Compensation for damage to land caused by oil and gas production must be apportioned between the surface owner and tenant. Absent an agreement, a tenant's share of damages determines the portion of compensation the tenant will receive.

Other enactments address:

- 1. agricultural products, promotion, and marketing, including provisions for the production and marketing of organic foods;*
- 2. crop production and seed issues;*
- 3. agricultural pests, pesticides, and chemicals, including the establishment of chemigation regulations;*
- 4. livestock auction markets, brand recording fees, and feed labeling;*
- 5. beekeeping and new provisions for the keeping of alfalfa leaf-cutter bees;*
- 6. roads and road right-of-way; and*
- 7. miscellaneous topics such as nurseries, wildlife, and potato warehouses.*

Readers who desire more detailed information on particular legislation should consult an attorney.

THE 1987 NORTH DAKOTA
LEGISLATURE--AGRICULTURAL UPDATE

Jeff Rotering, David J. Hogue,
David M. Saxowsky, and Owen L. Anderson*

The North Dakota Legislature convened for its 1987 Session on January 6 and adjourned April 18. More than 1,000 legislative proposals were considered during those several months. This publication summarizes enactments that affect agriculture or concern farmers and ranchers. These provisions enacted new laws as well as amended or repealed existing statutes.

Enactments discussed are divided among 10 subject areas. These subject areas and bills included in each category are listed in the appendix. The identification number includes a prefix specifying whether the bill was introduced in the House of Representatives (HB) or the Senate (SB). Also listed in the appendix are sections of the North Dakota Century Code (NDCC) affected by each enactment. Effective date for most provisions was July 1, 1987, unless otherwise noted in the body of the report. Discussion of some enactments briefly reviews state law as it existed before 1987 to enhance understanding of the purpose and implications of recent changes.

This report is an overview of new legislation and is not intended as a substitute for competent legal advice. An attorney or other professional adviser should be consulted if further information is desired as to the impact of these provisions.

Agricultural Assistance Programs

The financial stress being experienced by many North Dakota farm operators and agribusinesses continued to receive attention from the legislature. Several bills were passed to assist the state's agricultural industries and farmers.

Operating Loans for Farmers and Agribusinesses--SB 2161

The legislature amended the Family Farm Survival Act of 1985 by granting the Industrial Commission additional authorities. The Family Farm Survival Act authorized the Bank of North Dakota to participate with private lending institutions offering short-term loans to farmers and agribusinesses. The 1985 law already authorized issuance of agribonds to finance the bank's participation and established a reserve fund for interest and principal payments on bonds and a sinking fund.

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Recent amendments allow the Industrial Commission to adopt criteria for determining which farmers are eligible for operating loans. This amendment also permits the commission to adopt rules relating to the maximum rate of interest that may be charged on the portion of the operating loan retained by a participating financial institution.

Financial Assistance to Family Farmers--HB 1584

The Industrial Commission is authorized to issue bonds to provide funds for loans to North Dakota farmers who are at least 18 years of age and have a net worth of no more than \$150,000. The loan proceeds may be used by the borrower to:

1. purchase or lease agricultural real estate;
2. permanently improve agricultural real estate;
3. construct or repair farm buildings;
4. purchase farm equipment, livestock, or the farmer's home-quarter;
or
5. pay debts against agricultural real estate.

A loan may not exceed \$50,000 nor 90 percent of appraised value of security given for the loan. Buildings and chattels used as security must be insured against casualty loss. Term of a loan may be no longer than 20 years. Principal payments may be postponed in any year income of the borrower is reduced due to cause beyond the borrower's control; in such an event, the term of the loan may be extended for the period of deferment.

Except for loans to purchase the farmer's home-quarter, no loan may be made under this act unless the farmer is capable of producing income sufficient to support the farm operator and family, or unless the farm will become capable of producing such income as a result of the loan.

*Legal and Tax Assistance to Distressed
Farmers and Small Businesses--SB 2477*

The Credit Review Board and Commissioner of Agriculture are required to contract with one or more attorneys, law firms, accounting firms, or nonprofit organizations to provide legal and tax assistance to eligible farmers and operators of small businesses. To be eligible, a person must have a debt to asset ratio in excess of 50 percent and unable to pay for legal or tax assistance without impairing funds necessary for family living and operating expenses of the business. The Commissioner and Credit Review Board are responsible for administering the funds under each contract and selecting eligible farmers and business operators to be served.

Persons receiving assistance are obligated to repay the value of services received, but repayment may be deferred for up to five years. The

Credit Review Board also may waive all or part of the amount owed upon proof of financial hardship at end of the deferral period.

*Credit Review Board and Farm Credit
Counseling Program Combined--SB 2159*

This bill incorporates the Farm Credit Counseling Program into the Credit Review Board. The Farm Credit Counseling Program was established in 1985 as part of the Department of Agriculture to disseminate information and advice, as well as provide counseling related to farm credit problems. The Credit Review Board was established in 1985 to serve as a negotiator between creditors and farm borrowers in danger of foreclosure. The three-member board was appointed by the Governor.

The reorganized board has three members, one each being appointed by the Governor, Commissioner of Agriculture, and Attorney General for a two-year term. In addition, the Commissioner of Agriculture is authorized to hire staff and negotiators to mediate between individual farmers and their creditors. A reasonable fee may be charged for these mediation services, but the board, its staff member, and negotiators are immune from liability for actions taken on behalf of a farmer in attempting to reach a settlement. Utilization of the Credit Review Board and Counseling Program continues to be voluntary at the discretion of the farmer.

Debtor/Creditor Issues

*Farmer's Right to Redeem Home Separate
From Remaining Property--SB 2469*

North Dakota law exempts specified property from having to be used to satisfy unpaid obligations. The Homestead Exemption (house the debtor lives in plus surrounding land up to \$80,000 in value) generally is considered the most valuable exemption available to a debtor in both dollar terms and providing a place for the family to live. The law directs that the homestead is not exempt from a creditor who holds a mortgage on the house. A common lending practice is to require a mortgage upon the entire farm, including the home. Consequently, the homestead exemption is ineffective for most farm borrowers. Likewise, the debtor's right to redeem after foreclosure provided little opportunity to re-acquire the house because the entire farm would need to be redeemed.

SB 2469 was the 1987 Legislature's response to this situation. In event of foreclosure, a debtor may designate "known lots or parcels," including the parcel containing the debtor's home, to be sold separately at the foreclosure sale. The debtor must provide the sheriff with legal descriptions of the designated parcels at least 10 days before the sale. Thereafter, the debtor may separately redeem the parcels (usually within one year after the sale) by paying the foreclosure sale purchase price bid for each redeemed parcel. Prior law did not provide the debtor the right to designate parcels for separate sale and redemption.

The foreclosing creditor, in the notice of intent to foreclosure, must notify the debtor of these rights. This bill took effect as an emergency measure on April 2, 1987, and is effective through June 30, 1989.

Notice of Waiver of Homestead Exemption--SB 2450

This enactment complements the preceding bill by requiring creditors to notify borrowers that they are encumbering their homestead. All mortgages on homesteads executed after June 30, 1987, which are not purchase money agreements, are required to contain a conspicuous notice that the debtor is waiving the homestead exemption. The notice must read as follows:

I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale, and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract.

This notice requirement is intended to help debtors recognize the legal right which they may be waiving.

Advising Debtor of Assistance Programs--HB 1504

A creditor who initiates a proceeding to foreclose a mortgage or cancel a contract for the sale of agricultural property must advise the debtor of the existence of available state-administered or state-sponsored programs directed at providing assistance to financially-distressed farmers. This requirement does not apply to a creditor who is either an individual or a farm corporation. This bill is effective through June 30, 1991.

Statutory Agricultural Liens--HB 1349

Most statutory liens encumber property of a person who buys goods or services on credit. It is established by statute and arises without the consent of the debtor; therefore, statutory liens also are referred to as involuntary liens. The law specifies which events will give rise to a statutory lien, which property of the debtor is encumbered, and what the creditor must do to assure that the lien remains enforceable.

This legislation establishes one statutory lien for persons who process crop or agricultural products and a separate lien for persons who furnish supplies or services used in the production of crops, agricultural products, or livestock. The purpose of the two liens is to replace several existing (and sometimes confusing) statutory liens that applied to agriculture. This bill repealed the crop production, seed, motor fuel, warehouseman's, sugarbeet production, fertilizer, farm chemical, threshing, and drying liens.

The agricultural processor's lien is effective from the date processing is completed whereas the agricultural supplier's lien is effective from the date supplies or services are furnished. A processor's lien has priority over

all other liens and encumbrances upon the processed product or crop. A supplier's lien has priority over all liens and encumbrances against the agricultural product that is produced from the inputs or labor, except a processor's lien.

Either lien is obtained by filing a verified statement with the register of deeds in the county where the agricultural product was produced. The statement has to be filed within 90 days after processing is completed or supplies and services furnished. Failure to file within the specified time period is considered a waiver of the lien. The lienholding creditor must also file with the Secretary of State to impose the lien against the purchaser of the agricultural product.

This provision was considered an emergency measure; it was immediately effective upon the Governor's signature in March.

Agister Lien--SB 2316

Any person to whom cattle, sheep, horses, or mules are entrusted for the purpose of feeding, herding, pasturing, or ranching is considered an agister and entitled to a lien upon the animals for the value of provided services. This statutory lien allows the agister to retain possession of the livestock until the obligation is paid.

The 1987 Legislature, without repealing prior law, amended the statute to allow an agister to file a verified statement with the register of deeds in the county where the owner lives. Filing the statement continues the effectiveness of the lien even after the agister has relinquished possession. The statement must be filed within 90 days of receiving possession of the animals or the lien is considered waived. Only the agricultural processor's and supplier's lien upon the livestock have priority over a filed agister lien. The legislation requires that an agister also file with the Secretary of State to validate the lien against a subsequent livestock buyer.

Central Notice System Fee--SB 2205

A central filing notice system was created in 1985 to protect buyers of agricultural products from persons claiming a lien or other security interest in crops and livestock. The 1987 Legislature amended this statute by limiting the fee for filing voluntary crop and livestock liens (as well as involuntary statutory liens) with the Secretary of State to no more than \$5 and prohibiting lenders from directly charging this fee to the borrower.

The legislation raised the fees for providing information about security interests and liens on file. Fee for a verbal request was increased from \$2 to \$5 and the Secretary of State was authorized to charge as much as \$25 for a microfiche listing. The charge for a printed list of crop and livestock liens can be no more than the actual cost incurred.

Crop Mortgages--SB 2433 and SB 2487

Senate Bill 2433 amended legislation passed by the 1985 Legislature which limited application of a crop lien or security interest to only produce grown during the year that the goods, services, or funds were provided by the creditor. The 1987 amendment adds that the effectiveness of a financing statement covering crops lapses five years from the date of filing unless otherwise terminated.

Senate Bill 2487 specifies that a financing statement which perfects a security interest in growing crops be filed in the office of the register of deeds in the county of the debtor's residence. Under prior law, a crop financing statement was to be filed in the office of the register of deeds in the county where the property upon which the crops were grown was located.

Agricultural Lease Title Reservations--HB 1468

A farm lease reserving title to the lessor for any part of the crop in excess of the lessor's rental share must be filed with the register of deeds in the county in which the land is located before July 1 of that year to preserve the lessor's rights against subsequent purchasers or encumbrancers of the crop. Failure to file is a waiver of the lessor's rights to the crop claimed in excess of the rental share. Products received from the land during the term of a lease belong to the lessee, absent an agreement to the contrary between lessor and lessee.

Whether the bill applies to only crop-share leases is not clear. Apparently a lessor's rights to the rental share of the crop can no longer be protected by filing the lease. Rental share of the crop is not defined by statute.

Corporation Farming--HB 1630

North Dakota's corporation farming statute requires that agricultural land acquired by a corporation in the collection of debts or by enforcement of a lien be sold within three years of acquisition. It also allows the land to be held for a longer period if the land is leased with an option to buy or if the land is sold by contract for deed to the former mortgagor.

County registers of deeds are required to notify the Attorney General of the recording of documents that evidence a lease or purchase agreement governed by North Dakota corporate farming law. The Attorney General also must be notified of documents reflecting a sale of farmland or ranchland to a corporation. These notices must be filed within 30 days of the recording of the document by the register of deeds.

Violation of the North Dakota corporate farming law now carries a \$25,000 civil penalty. Under prior law the only penalty was dissolution of the corporation by the Attorney General.

Agricultural Products, Promotion, and Marketing

Beef Promotion Assessment--HB 1425

This bill defines the sale of cattle for the purpose of the \$.50 per head assessment paid to the Beef Commission. A person is not considered to have sold cattle if, under certain conditions, ownership is acquired solely to facilitate the transfer of ownership from the seller to a third party, or if the person's only share in the proceeds of a sale of cattle is a sales commission. Under prior law these persons were considered to have "sold cattle" and were liable for the beef promotion assessment.

The bill establishes procedures for collection of assessments as well as a 2 percent per month penalty for failure to pay an assessment. The bill shortened the period in which assessments are due to a maximum of 45 days. The period in which a person may request a refund of an assessment was reduced from six months to 60 days after the assessment is due.

Pride of North Dakota Promotion Program--HB 1516

The Commissioner of Agriculture was appropriated \$5,000 for administration of the Pride of North Dakota logo promotion program for the 1987-1989 biennium.

Production Standards for Organic Foods--SB 2511

This bill provides definitions, production standards, and compliance requirements for food products marketed and labeled as "organic food." The minimum standards qualifying a product to be labeled as an organic food require that the product be raised and stored without the aid of synthetic substances and that the soil used be free of synthetic substances for at least three years prior to harvesting the organic food.

A person marketing "organic food" must demonstrate compliance with statutory specifications by filing a verification statement with the Commissioner of Agriculture. Verification needs to trace the products from farm to consumer and is to include documentation of production and processing techniques, inspections of the products, inventory records, and adherence to standards.

Crop Production

Sale of Certified Seed--SB 2112

The Plant Variety Protection Act enacted by Congress in 1970 permits a plant breeder to apply for a certificate of variety protection for a newly discovered or bred seed-reproducing variety. A holder of a certificate can authorize the use of a variety with or without imposing a fee and bring a civil court action if there are infringements during the 17-year period of certification.

This state law provides that any seed designated under the Plant Variety Protection Act as "for sale only as a class of certified seed" must be certified by an official seed certifying agency if the seed is to be advertised, offered for sale, or sold by variety name in North Dakota.

Authority of State Seed Commissioner--HB 1531

The State Seed Commissioner is authorized to inspect seeds and tubers for export and may issue phytosanitary certificates indicating that the seed or tubers were inspected and are considered free of pests according to the sanitary requirements of the importing country. Phytosanitary certificates assure the quality of agricultural products for export and thereby render North Dakota agricultural products more desirable to importers. The commissioner may charge a fee for issuing these certificates.

Determination of Grain Quality--HB 1582

A federally licensed grain inspector or a mutually acceptable third party may be utilized when a dispute arises over the quality factors of grain and no applicable inspection rules or grades have been adopted by USDA. The disagreeing parties (usually a person delivering the grain and the person receiving it) may provide a sample of at least three pints to the third party for analysis. The third party's determination as to quality "shall be used in the settlement of the dispute." This determination, apparently, will not be the sole factor in resolving the disagreement.

State Seed Commission Tests--SB 2110

A "labeler" (previously undefined) will be the person who furnishes required seed label information. This bill also permits a North Dakota resident to send as many as three seed samples per year to the State Seed Commission for examination, analysis, or germination tests free of charge. Farmers who grow and sell only their own seed may submit to the commissioner an annual (rather than a quarterly) statement of seed sold.

The commissioner no longer needs to hold a hearing before prosecution by the Attorney General of an alleged violation of state seed law. A person found in violation of seed statutes or regulations is guilty of a Class A misdemeanor and subject to a civil fine of not more than \$5,000. Under prior law a person who violated seed statutes was guilty of an infraction and subject to a maximum fine of \$500.

Agricultural Pests, Pesticides, and Chemicals

Control of Agricultural Pests--SB 2111

The Commissioner of Agriculture is required to employ a qualified entomologist to enforce state law relating to insects and similar agricultural pests. The commissioner may inspect any plant or plant product offered for export and refuse to issue a pest-free certificate if the product does not meet sanitary requirements.

Licensing of Pesticide Applicators--SB 2162

Responsibility for determining whether an applicant is qualified to be a commercial pesticide applicator is delegated to the Cooperative Extension Service or its designee rather than county extension agents, as in the past. The Cooperative Extension Service may charge reasonable fees for pesticide training and educational materials.

Application of any pesticide that is not registered with the Commissioner of Agriculture is prohibited by this bill.

Chemigation Regulation--HB 1207

The Commissioner of Agriculture is required to adopt rules regulating chemigation through irrigation systems to minimize the possibility of chemical, pesticide, fertilizer, or other contamination of irrigation water supply systems. The State Engineer is required to cooperate with the commissioner in inspecting irrigation systems using chemigation and to report violations to the commissioner. Chemigation is defined as any process by which chemicals, including pesticides and fertilizers, are applied to land or crops through an irrigation system.

Any person who violates chemigation laws is guilty of a Class A misdemeanor and subject to a civil penalty of up to \$15,000.

Noxious Weed Certification--HB 1286

The Commissioner of Agriculture is allowed to adopt standards for certifying that gravel or sand surface mining operations and hay produced for resale are not contaminated with noxious weeds. Based on these standards, county weed boards may certify gravel, sand, or hay produced for resale as not being contaminated with noxious weeds. The certification of "no noxious weed contamination" is not a warranty as to the quality of the gravel, sand, or hay, or as to the absence of contamination of any kind; the only representation made is that the gravel, sand, or hay has been inspected for noxious weed contamination under established rules.

Leafy Spurge Control--HB 1295

The sum of \$540,000 is appropriated for the control of leafy spurge. These funds may be spent as determined by the Commissioner of Agriculture for leafy spurge control and other leafy spurge programs during the 1987-1989 biennium.

Destruction of Predatory Animals--SB 2116

The Commissioner of Agriculture may cooperate with the United States Department of Agriculture, Animal and Plant Health Inspection Service in controlling and destroying predatory animals, destructive birds, and injurious field rodents. Prior law provided that the commissioner was to work with the Federal Bureau of Sport Fisheries and Wildlife.

Livestock

Livestock Auction Markets--SB 2486

Livestock may not be shipped to another state unless a veterinarian has furnished each purchaser with a certificate indicating that veterinary inspections have been made and treatment has been administered in accordance with the requirement of the importing state.

This law establishes a grievance committee consisting of the president of the North Dakota Stockmen's Association, president of the Livestock Auction Market Association, and president of the North Dakota Veterinarian Medical Association. The committee is to make recommendations to the Livestock Sanitary Board regarding complaints by livestock auction markets against veterinarians assigned to the markets and complaints by veterinarians against livestock auctions to which they are assigned. The committee must respond with its recommendations within 30 days after receipt of a written complaint.

Fee for Recording of Brands--SB 2160

Each application for recording and re-recording of brands must be accompanied by a \$10 fee for each position on each type of livestock to be branded. Previously, there was no added fee if more than one type of livestock was to be marked with the same brand.

Labeling of Commercial Feed--SB 2206

The term "salt" is substituted for references to sodium and chloride in the statute governing contents of commercial feed labels.

Oil and Gas Production

Surface Damage Payments--SB 2072

State law since 1979 has required that a surface owner be compensated for damages sustained to the surface of the land due to oil and gas drilling. The 1987 Legislature re-defined "surface owner" to mean any person holding record title to the surface rather than any person who has possession of the surface, as under prior law. This bill, however, continues to protect surface tenants by permitting them to recover from a surface owner. The statute now specifies that, in absence of an agreement between an owner and surface tenant, the latter is entitled to a portion of the compensation received by an owner from a mineral developer for surface damages. The tenant's share of surface damages caused by oil and gas drilling operations determines the portion of the payment a tenant will receive.

Protection of Water Quality--SB 2304

A person whose water supply is disrupted or diminished in quality or quantity by oil or gas drilling operations has a claim for relief against the

person causing the disruption. Amount of claim will be the cost of repairs, alterations, or construction necessary to restore delivery of water. No claim for relief will be permitted, however, if a water user can reasonably acquire water under the changed conditions and if the mineral developer legally appropriated the water in question.

Inspection of Well Site--SB 2075

A mineral developer is required to inform a surface owner of the right to request the State Department of Health and Consolidated Laboratories to inspect and monitor a well site for presence of hydrogen sulfide. This department must, without cost, conduct an inspection upon request by a surface owner.

Water Development and Control

State Wetlands Policy--SB 2035

The legislature declared a policy that water development and wetland preservation activities should be balanced to protect and accommodate agriculture, water, and wetland interests. Accordingly, the State Engineer and Game and Fish Commissioner must find, before a wetland may be drained, equal acreage of replacement wetlands or debit the wetlands bank. Replacement wetland may be either restored natural wetland or man-made wetland but may not be acquired through the exercise of the right of eminent domain.

The Game and Fish Commissioner and State Engineer shall jointly establish the wetlands bank. The State Engineer will maintain records of acreages of replacement wetlands debited from and credited to the bank.

The requirement to replace wetlands does not take effect until July 1, 1989; however, drainage of certain types of wetlands is not permitted unless application to drain was submitted before January 1, 1987, or the wetland is replaced. Wetlands drained during surface coal mining may not be charged as a debt against acreage credit balances.

Programs protecting and preserving wetlands shall provide adequate compensation to landowners, and amount of compensation will be periodically re-evaluated. Purchaser of land for wetlands replacement, whether a private organization or a governmental agency, is responsible for paying the amount of money that would otherwise be received in taxes if the land had not been removed from the tax base.

A uniform wetlands classification system also shall be established by the State Engineer and the Game and Fish Commissioner.

Assistance in Developing Water Projects--SB 2032

Financial assistance is provided to landowners for development of water projects such as dikes, dams, canals, drains, irrigation pumping units, and

flood control structures. The Industrial Commission is authorized to issue bonds for the purpose of making loans to lenders who in turn make loans to landowners to develop water projects approved by the State Water Commission.

A water project may be approved for a loan under this act if 1) benefits of the project exceed costs or the water project is beneficial for water conservation, fish and wildlife, and recreational use; 2) the water project is designed and constructed safely using proven techniques; and 3) all permits, easements, and necessary legal authorizations have been properly obtained.

Wetlands Advisory Board--SB 2033

A Wetlands Mediation Advisory Board is established to resolve conflicts between landowners and the United States Fish and Wildlife Service pertaining to wetlands. This board shall meet when called by the Governor only after all administrative remedies have been exhausted by the parties in dispute. After a hearing for receiving evidence from all interested parties is held, the board shall make a recommendation for the Governor and regional director of the United States Fish and Wildlife Service. A recommendation of the board is not subject to judicial review.

Maintenance of Drains--HB 1217 and HB 1554

Water resource boards are required to assess benefited lands for the cost of cleaning and repairing any drain or drainage structure constructed by any government entity if no continuing maintenance funds are available.

Another bill (HB 1217) provides that a water resource board may provide for maintenance of water projects of other than assessment drains if petitioned in writing by the lesser of six or a majority of landowners within a benefited area. The petitioners are required to provide a surety bond of \$250. The board must use the same method of assessment initially followed to finance the project.

Claim of No Benefit--SB 2237

Any landowner or political subdivision claiming that no benefit will be received from construction of a new project authorized by the water resource board may appeal an assessment to the State Engineer. Posting a \$250 bond for payment of costs incurred by the State Engineer is a prerequisite to the appeal.

Financing Maintenance of a Federal Project--SB 2540

A water resource board may finance maintenance of a federally-funded flood control or soil conservation project with funds raised through collection of a special assessment levied against property benefited by the project. Assessments levied may not exceed \$0.50 per acre annually on

agricultural lands nor \$0.50 annually for each \$500 of taxable value of nonagricultural property.

Beekeeping

Apiary Registration--HB 1209

Definition of bees is changed to include Africanized bees and all honey producing bees. Beekeepers are prohibited from establishing or maintaining an apiary unless the beekeeper applies for registration of all apiaries and application is approved by the Department of Agriculture. Prior law did not require approval by the agriculture department.

References to "sideline operators" are replaced with the term "hobby operator." A "hobby operator," to whom the two-mile radius restriction does not apply, is defined as any beekeeper maintaining 100 or fewer colonies of bees, rather than 23 colonies under the previous law.

Keeping of Alfalfa Leafcutter Bees--HB 1318

This bill provides for establishing regulations for the keeping of alfalfa leafcutter bees which are used in pollination of alfalfa. The Commissioner of Agriculture is required to appoint a state alfalfa leafcutter bee inspector. Alfalfa leafcutter bees and equipment may not be kept unless they are inspected and certified according to the provisions of this bill and regulations promulgated by the commissioner.

Roads

Obstruction of Public Right-of-Way--SB 2560

Section lines may not be plowed in a manner that would obstruct usual travel on the section line. This restriction is in addition to current restrictions on fencing across well-traveled trails.

Removal of Hay on Right-of-Way--SB 2148

Persons who harvest and store hay along a state highway are required to remove the hay by November 1. The Highway Department is allowed to remove the hay after that date. Hay also may be removed by the Highway Department at any time if it is not stored at the outer edge of the highway right-of-way.

Private Maintenance of Township Roads--HB 1397

A board of township supervisors is allowed to authorize a private party to maintain, clean, or shape a ditch along a township road. The private party is required to bear the expense of the work and to meet the requirements specified in this law. The person is not relieved from the duty to comply with drainage permit requirements.

Township Road Maintenance--HB 1396

A party with an interest in land adjacent to a township road is not responsible for maintaining the ditch next to the road. The party, however, is responsible if that party's improper conservation practices on adjoining land have led to unreasonable wind and water erosion that adversely affect the ditch. The board of township supervisors may 1) require the responsible party to repair the damage or 2) assess that person for repair costs.

Minimum Maintenance Roads--SB 2080

Political subdivisions are allowed to designate roads as minimum maintenance roads. A subdivision will have limited liability with respect to a road so designated. Signs indicating the designation must be posted. Minimum maintenance designation may not be made for a road that is a school bus route, a mail route, or the only access to an already existing residence. Additionally, the designation may not be made if federal funds would be lost, taking by eminent domain is necessary, or political subdivisions sharing responsibility for the road do not concur in the designation.

Miscellaneous

Inspection and Licensing of Nurseries--HB 1111

Definitions related to nurseries and nurserymen are revised and updated by this bill. The nursery license fee is increased to \$50 and an additional fee of \$10 for each place of business is imposed. Soil conservation districts and persons using nursery stock for research or noncommercial purposes are exempt from the licensing requirements. The criminal penalty for selling nursery stock without a license is reduced from a Class A to a Class B misdemeanor, and a civil penalty of up to \$500 may be assessed for each violation of the nursery statutes. The Commissioner of Agriculture may refuse to issue a license to any person who has repeatedly violated the law or who fails to pay a civil penalty.

Private Shooting Reserves--HB 1501

The acreage limitation required to establish a private shooting preserve is removed, as is the surety bond requirement for any person who is both record title owner and operator of a private shooting preserve. Signs marking the boundaries of a private shooting preserve are to be posted every 300 feet. Twenty percent of the game birds released on any shooting preserve must remain unharvested.

Nongame Wildlife Fund--HB 1483

A nongame wildlife fund is established for preservation, inventory, perpetuation, and conservation of nongame wildlife, natural areas, and nature preserves. Monies for this fund will come from an optional contribution on the North Dakota income tax return. The nongame wildlife fund becomes effective for taxable years after 1987.

Potato Warehouses--HB 1347

Any person desiring to erect and operate a potato warehouse at a railroad station may apply for the right to do so in writing to the person or firm owning or operating the railway: The Public Service Commission may be petitioned if an agreement cannot be reached between the parties. The commission is required to hold a hearing in the county where the railroad right-of-way is located and to determine the rights of the various parties. Prior law provided for establishment of grain elevators on railroad right-of-ways but made no mention of potato warehouses.

APPENDIX

Appendix

This appendix lists the 1987 North Dakota Legislature bills discussed in this report. Chapters or sections of the North Dakota Century Code changed by these enactments are indicated.

	<u>Bill Number</u>	<u>NDCC</u>
Agricultural Assistance Programs		
Operating Loan Program for Farmers and Agribusinesses	SB 2161	6-09.9-02, 6-09.0-04
Financial Assistance to Family Farmers	HB 1584	6-09.11
Legal and Tax Assistance for Distressed Farmers	SB 2477	6-09.10
Advising Debtor of Assistance Programs	HB 1504	--
Credit Review Board and Farm Credit Counseling Program Combined	SB 2159	6-09.10 Repeals 4-01-19.2 & 4-01-19.3
Farmer's Right to Redeem Home Separately From Remaining Property	SB 2469	15-07-04
Debtor/Creditor Issues		
Statutory Agricultural Liens	HB 1349	35-30, 35-31, 11-18-14, 11-29-24, 35-21-01, 41-09-28, Repeals 35-07, 35-08, 35-09, 35-10
Central Notice System Fees	SB 2205	41-09-42
Agister's Lien	SB 2316	35-17
Crop Mortgages	SB 2433 SB 2487	35-05-01.1 41-09-40
Agricultural Lease Title Reservations	HB 1468	47-16-03, 47-16-04
Corporation Farming	HB 1630	10-06-13
Notice of Waiver of Homestead Exemption	SB 2450	47-18
Agricultural Products, Promotion, and Marketing		
Beef Promotion Assessment	HB 1425	4-34
Pride of North Dakota Promotion Program	HB 1516	--
Production Standards for Organic Foods	SB 2511	4-38
Crop Production		
Sale of Certified Seed	SB 2112	4-09
Authority of State Seed Commission	HB 1531	4-09
Determination of Grain Quality	HB 1582	60-02-05
State Seed Commission Tests	SB 2110	4-09
Agricultural Pests, Pesticides, and Chemicals		
Control of Agricultural Pests	SB 2111	4-33-01, 4-33-02, 4-33-12
Licensing of Pesticide Applicators	SB 2162	4-35-09, 4-35-14, 4-35-15, 4-35-18

	<u>Bill Number</u>	<u>NOCC</u>
Chemigation Regulation	HB 1207	4-35.1
Noxious Weed Certification	HB 1286	63-01.1
Leafy Spurge Control	HB 1295	63-01.1-06.2
Destruction of Predatory Animals	SB 2116	4-01-17.1, 4-01-17.2, 4-01-17.3
Livestock		
Livestock Auction Markets	SB 2486	36-05
Fee for Recording of Brands	SB 2160	36-09-13
Labeling of Commercial Feed	SB 2206	19-13.1-04, 19-16.1-03
Oil and Gas Production		
Surface Damage Payments	SB 2072	38-11.1-03, 38-11.1-04
Protection of Water Quality	SB 2304	61-04,38-11.1-06
Inspection of Well Site	SB 2075	38-11.1
Water Development and Control		
State Wetlands Policy	SB 2035	61-32, 54-35-02.7 Repeals 61-16.1-52 & 61-16.1-41
Assistance in Developing Water Projects	SB 2032	61-21.1
Wetlands Advisory Board	SB 2033	20.1-02
Maintenance of Drains	HB 1217 & HB 1554	61-16.1, 61-16.1-48, 61-21-43
Claim of No Benefit	SB 2237	
Financing Maintenance of a Federal Project	SB 2540	61-16.1-40.1
Beekeeping		
Aptary Registration	HB 1209	4-12.2
Keeping of Alfalfa Leafcutter Bees	HB 1318	4-12.3
Roads		
Obstruction of Public Right-of-Way	SB 2560	24-12-02
Removal of Hay on Right-of-Way	SB 2148	24-01-12.1, 24-01-12.2
Private Party Maintenance of Township Roads	HB 1397	24-06-26.3
Township Road Maintenance	HB 1396	24-06-26.2
Minimum Maintenance Roads	SB 2080	24-07, 32-12.1-03
Miscellaneous		
Inspection and Licensing of Nurseries	HB 1111	4-21.1
Private Shooting Preserves	HB 1501	20.1-12
Hongame Wildlife Fund	HB 1483	20.1-02-16.2, 57-38-34.3
Potato Warehouses	HB 1347	60-06-01, 60-06-05