

**SECOND ENGROSSMENT
with Senate Amendments**

Fifty-ninth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1518

Introduced by

Representatives Nicholas, Boucher, Brandenburg, Mueller, Uglem

Senator Warner

1 A BILL for an Act to create and enact a new section to chapter 4-28 of the North Dakota
2 Century Code, relating to the wheat tax levy; to amend and reenact sections 4-28-06 and
3 4-28-07 of the North Dakota Century Code, relating to the North Dakota wheat commission; to
4 repeal section 4-28-07 of the North Dakota Century Code, relating to the wheat tax levy; and to
5 provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 4-28-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4-28-06. Wheat commission - Duties and powers.** In the administration of this
10 chapter, the commission has the following powers, authority, and duties:

- 11 1. To foster and promote programs aimed at increasing the sale, utilization, and
12 development of wheat, both at home and abroad.
- 13 2. To publish and disseminate reliable information on the value of wheat and wheat
14 products for any purpose for which they are valuable and useful to both processor
15 and consumer.
- 16 3. To search for and promote new uses of wheat and wheat products.
- 17 4. To contract and cooperate with any person, firm, corporation, limited liability
18 company, or association, or with any local, state, or federal department or agency
19 for executing or carrying on a program or programs of research, education, and
20 publicity.
- 21 5. To lease, purchase, own, equip, maintain, and operate a commission office.
- 22 6. To appoint, employ, bond, discharge, fix the compensation and prescribe the
23 duties of such administrative, clerical, technical and other personnel, employees,

and agents as it may deem necessary to conduct the business and affairs of the commission.

7. To accept donations of funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the work and objectives of the commission, depositing all funds so received in the state wheat commission fund in the state treasury.

8. To ~~promote North Dakota opportunities as afforded by the development of the St. Lawrence seaway~~ provide market maintenance and development services, utilization research, transportation research, and education.

9. To address trade and domestic issues.

10. To seek improvement in the export quality of wheat.

~~40.~~ 11. To exercise all express and implied rights, powers, and authority that may be necessary to perform and carry out the expressed purposes of this chapter and all of the purposes reasonably implied incidentally thereto or lawfully connected therewith and to adopt, rescind, modify, and amend all necessary and proper orders, resolutions, rules, and regulations for the procedure and exercise of its powers and the performance of its duties.

~~44.~~ 12. To prosecute in the name of the state of North Dakota any suit or action to enforce collection or assure payment of the tax or assessment authorized by the provisions of this chapter, and to sue and be sued in the name of the commission.

13. To engage in any other related activities.

SECTION 2. AMENDMENT. Section 4-28-07 of the North Dakota Century Code is amended and reenacted as follows:

4-28-07. Wheat tax levy.

1. a. A tax of ~~ten~~ fifteen mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels to a first purchaser in this state.
- b. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to

adjustment at the time of settlement in the event the number of bushels [liters]
is not accurately determined at the time of the lien, pledge, or mortgage.

c. At the time of sale, the first purchaser in this state shall issue and deliver to
the producer or seller a record of the transaction in the manner prescribed by
the commission.

2. a. Any producer who sells wheat to a first purchaser in this state and who is
subject to the deduction provided in this chapter, within sixty days following
the deduction or final settlement, may make application by personal letter to
the wheat commission for a refund application blank.

b. Upon the return of the blank, properly executed by the producer,
accompanied by a record of the deduction by the purchaser, the producer
must be refunded the net amount of the deduction collected.

c. If no request for refund has been made within the period prescribed above,
then the producer is presumed to have agreed to the deduction. However, a
producer, for any reason, having paid the tax more than once on the same
wheat, upon furnishing proof of this to the commission, is entitled to a refund
of the overpayment.

3. The commission, to inform the producer, shall develop and disseminate
information and instructions relating to the purpose of the wheat tax and manner in
which refunds may be claimed and to this extent shall cooperate with
governmental agencies, state and federal, and private businesses engaged in the
purchase of wheat.

4. ~~The commission may use the amount raised by two mills of the levy provided for in
this section to support the commission's involvement in trade issues throughout the
world.~~

5. ~~The commission may use the~~ shall expend an amount at least equal to that raised
by ~~up to~~ two mills of the levy provided for in this section ~~for the purposes of
providing market maintenance and development services, utilization research,
transportation research, and education; addressing domestic policy issues; and
engaging in other related activities; or for the purposes of contracting for market
maintenance and development services, utilization research, transportation~~

1 ~~research, and education; addressing domestic policy issues; and engaging in other~~
2 ~~related activities, to contract for activities related to domestic wheat policy issues,~~
3 wheat production, promotion, and sales. The contracts may be with no more than
4 two trade associations that are incorporated in this state and which have as their
5 primary purpose the representation of wheat producers. The contracts must
6 require that any trade association receiving money under this section pay from that
7 money all dues required as a condition of the trade association's membership in
8 any national trade association. The contracts also must prohibit any trade
9 association receiving money under this section from eliminating any dues required
10 as a condition of membership in that trade association or from reducing such dues
11 below the amount required for membership as of January 1, 2005.

12 5. The commission shall expend an amount at least equal to that raised by three mills
13 of the levy provided for in this section to pay any debts for legal services incurred
14 by the commission, until the debts for legal services are paid in full.

15 6. When the wheat commission presents the report required by section 4-24-10, the
16 commission shall present a separate report detailing the nature and extent of the
17 commission's efforts to address trade and domestic policy issues. The
18 commission may invite other entities with which it has contracted to assist in the
19 presentations.

20 7. At the time the wheat commission presents the report required by section 4-24-10,
21 each trade association with which the wheat commission has contracted under
22 subsection 4 also shall present a report detailing all activities in which the trade
23 association engaged under the provisions of the contract.

24 **SECTION 3.** A new section to chapter 4-28 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Wheat tax levy.**

- 27 1. a. A tax of twelve mills per bushel [35.24 liters] by weight must be levied and
28 imposed upon all wheat grown in this state, delivered into this state, or sold
29 through commercial channels to a first purchaser in this state.
30 b. The tax must be levied and assessed at the time of sale and deducted by the
31 purchaser from the price paid, or in the case of a lien, pledge, or mortgage,

1 deducted from the proceeds of the loan or claim secured, subject to
2 adjustment at the time of settlement in the event the number of bushels [liters]
3 is not accurately determined at the time of the lien, pledge, or mortgage.

4 c. At the time of sale, the first purchaser in this state shall issue and deliver to
5 the producer or seller a record of the transaction in the manner prescribed by
6 the commission.

7 2. a. Any producer who sells wheat to a first purchaser in this state and who is
8 subject to the deduction provided for in this chapter, within sixty days
9 following the deduction or final settlement, may make application by personal
10 letter to the wheat commission for a refund application blank.

11 b. Upon the return of the blank, properly executed by the producer,
12 accompanied by a record of the deduction by the purchaser, the producer
13 must be refunded the net amount of the deduction collected.

14 c. If no request for refund has been made within the period prescribed in this
15 subsection, the producer is presumed to have agreed to the deduction. A
16 producer that, for any reason, has paid the tax more than once on the same
17 wheat, upon furnishing proof of that payment to the commission, is entitled to
18 a refund of the overpayment.

19 3. To inform the producer, the commission shall develop and disseminate information
20 and instructions relating to the purpose of the wheat tax and manner in which
21 refunds may be claimed and to this extent shall cooperate with state and federal
22 agencies and private businesses engaged in the purchase of wheat.

23 4. The commission shall expend an amount at least equal to that raised by two mills
24 of the levy provided for in this section to contract for activities related to domestic
25 wheat policy issues, wheat production, promotion, and sales. The contracts may
26 be with no more than two trade associations that are incorporated in this state and
27 which have as their primary purpose the representation of wheat producers. The
28 contracts must require that any trade association receiving money under this
29 section pay from the money all dues required as a condition of the trade
30 association's membership in any national trade association. The contracts also
31 must prohibit any trade association receiving money under this section from

1 eliminating any dues required as a condition of membership in that trade
2 association or from reducing such dues below the amount required for
3 membership as of January 1, 2005.

4 5. When the wheat commission presents the report required by section 4-24-10, the
5 commission shall present a separate report detailing the nature and extent of the
6 commission's efforts to address trade and domestic policy issues. The
7 commission may invite other entities with which it has contracted to assist in the
8 presentations.

9 6. At the time the wheat commission presents the report required by section 4-24-10,
10 each trade association with which the wheat commission has contracted under
11 subsection 4 also shall present a report detailing all activities in which the trade
12 association engaged under the provisions of the contract.

13 **SECTION 4. REPEAL.** Section 4-28-07 of the North Dakota Century Code is repealed.

14 **SECTION 5. EFFECTIVE DATE.** The increase in the levy imposed by section 2 of this
15 Act applies to all sales occurring on and after the day of the next calendar quarter occurring at
16 least thirty days after the effective date of this Act.

17 **SECTION 6. EFFECTIVE DATE.** Sections 3 and 4 of this Act become effective on
18 July 1, 2009.