

February 2008

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 4-13.1 of the North Dakota  
2 Century Code, relating to consultation with the North Dakota turkey federation; to amend and  
3 enact section 4-13.1-02, 4-13.1-03, 4-13.1-04, 4-13.1-05, 4-13.1-06, 4-13.1-07, 4-13.1-08,  
4 4-13.1-09, 4-13.1-10, 4-10.1-12, and 4-13.1-13 of the North Dakota Century Code, relating to  
5 the turkey assessment; to repeal section 4-13.1-01 and 4-13.1-11 of the North Dakota Century  
6 Code, relating to the collection of unpaid assessments and the title of the Act; to provide a  
7 penalty; and to provide a continuing appropriation.

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

9 **SECTION 1. AMENDMENT.** Section 4-13.1-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **4-13.1-02. Definitions.** ~~The following definitions are given for purposes of~~ As used in  
12 this chapter:

13 1. "Commissioner" means the agriculture commissioner.

14 2. ~~"Federation" means the North Dakota turkey federation.~~

**NOTE:** Because the North Dakota Turkey Federation is referenced only in NDCC  
Section 4-13.1-08, it is more efficient to name the federation in that section, rather than  
provide a definition for the term "federation."

15 3. "Integrator" means a person who both produces and processes turkeys. When  
16 applicable, an integrator may be included in the definitions of both a producer and  
17 a processor.

**NOTE:** Because the term is not used elsewhere in this chapter, it is not necessary to  
include its definition.

18 4. ~~"Market development" means research and education programs directed toward~~  
19 ~~better and more efficient production, marketing, and utilization of turkeys and~~  
20 ~~turkey products produced for resale. The term also means the use of other~~

1 ~~methods, including public relations and other promotion techniques, for the~~  
2 ~~maintenance of present turkey markets, for the development of new or larger~~  
3 ~~domestic or foreign markets, for the sale of turkeys, and for prevention,~~  
4 ~~modification, or elimination of trade barriers which obstruct the free flow of~~  
5 ~~agricultural commodities to market. The term includes providing promotion and~~  
6 ~~research funds for North Dakota's participation in activities such as the national~~  
7 ~~turkey federation research fund and such other activities as may be authorized by~~  
8 ~~the commissioner.~~

**NOTE:** Because the term is not used elsewhere in this chapter, it is not necessary to include its definition.

9 ~~5.~~ 3. "Processor" means any person who purchases more than one thousand turkeys  
10 each year for slaughter.

11 ~~6.~~ 4. "Producer" means any person doing business within this state who raises turkeys  
12 for slaughter each year.

13 ~~7.~~ ~~"Secretary" means the agriculture commissioner.~~

**NOTE:** Because the term is not used elsewhere in this chapter, it is not necessary to include its definition.

14 ~~8.~~ ~~"Turkeys" means turkeys raised for slaughter.~~

15 **SECTION 2. AMENDMENT.** Section 4-13.1-03 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **4-13.1-03. Assessment.** ~~There is hereby levied on producers an~~

18 1. An assessment upon each turkey delivered for processing. The assessment rate  
19 is of one cent for is imposed upon each turkey weighing that is delivered for  
20 processing and has a live weight of less than ten pounds [4.54 kilograms] live  
21 weight, and up to

22 2. An assessment of two cents for is imposed upon each turkey weighing that is  
23 delivered for processing and has a live weight of ten or more pounds [4.54 or more  
24 kilograms] live weight or more.

**NOTE:** Present law provides that the assessment rate is "up to" two cents for turkeys in the larger category. Since the statute does not provide either the circumstances under which the rate varies or the method by which a varying rate is to be determined, the rewrite simply provided that the assessment is one cent for turkeys under ten pounds and two cents for those that are larger.

**SECTION 3. AMENDMENT.** Section 4-13.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**4-13.1-04. Assessment collected and remitted by processor.**

1. The processor shall collect the assessment must be collected by the processor at the time the turkey is delivered to a processing plant. It must be deducted by the processor from the price the processor pays by deducting the amount required under section 4-13.1-03 from the price paid to the producer. The
2. A processor shall quarterly remit the submit all assessments the processor collects collected under this chapter to the commissioner for deposit in a special fund in the state treasury, within thirty days after the conclusion of each calendar quarter.

**NOTE:** Current law is not clear regarding the date by which assessments must be submitted. The rewrite suggests submission by the thirtieth day after conclusion of each quarter. The timeframe for submission can certainly be lengthened or shortened. However, because the chapter imposes a mandatory penalty on late submissions and subjects a violator to a class B misdemeanor, it is very important that the timeframe for submitting assessments be clearly articulated.

Under current law, assessments are placed only on those turkeys taken to processors who annually purchase more than one thousand turkeys for slaughter.

Is this in fact the intent?

**SECTION 4. AMENDMENT.** Section 4-13.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**4-13.1-05. Special fund - Continuing appropriation.** ~~The state treasurer~~  
commissioner shall deposit forward all moneys received under this chapter to the state  
treasurer for deposit in a special revolving fund to be known as the turkey fund. All moneys  
deposited in the turkey fund are appropriated to the commissioner on a continuing basis, to the  
commissioner for use pursuant to carry out this chapter.

**SECTION 5. AMENDMENT.** Section 4-13.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**4-13.1-06. Processor to give invoice to producer.** ~~The~~

1. At the time turkeys are delivered to a processor, the processor shall, at the time of delivery, sign and give to the producer separate invoices for each purchase.  
prepare, sign, and date an invoice documenting:
  - a. The invoice must show the name and address of the producer and;

- b. The name and address of the seller, if the producer is not the seller is not the producer; the
- c. The name and address of the processor; the
- d. The number of turkeys sold; the amount of in that particular transaction;
- e. The assessment collected on that particular transaction; and the
- f. The date of delivery.

2. The commissioner ~~shall have the authority to~~ may require ~~such other records as may be the preparation and submission of any other documents~~ necessary to expedite the collection and remittance of the assessment.

**NOTE:** In subsection 2, the commissioner is authorized to require other records i.e., documents - for the purpose of "expediting" the collection and remittance of the assessment. Is the purpose really one of expeditiousness?

**SECTION 6. AMENDMENT.** Section 4-13.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**4-13.1-07. Refunds.** ~~Any~~ To receive a refund of any assessment paid in accordance with this chapter, a producer who makes a written shall obtain an application therefor to form from the commissioner within. The producer shall return the completed form to the commissioner no later than sixty days of the delivery of from the date the producer's turkeys were delivered to a processor shall receive a refund of the assessment deducted from the producer.

**NOTE:** At the direction of the committee, other commodity groups have been given 60 days from the date of the assessment within which to request an application form and 90 days from the date of assessment within which to return the completed form. Should the time frames be made consistent?

**SECTION 7. AMENDMENT.** Section 4-13.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**4-13.1-08. Commissioner to effectuate purposes of this chapter—Advice of**

**federation sought - Powers.** The commissioner is hereby authorized to expend may

1. Expend moneys appropriated under this chapter; and take the actions it deems
2. Do all things necessary and proper to effectuate the purposes and policies of enforce and administer this chapter. The commissioner shall request the advice, review, and comment of a committee appointed by the federation regarding the

1           ~~projects, programs, and policies undertaken to carry out the provisions of this~~  
2           ~~chapter.~~

**NOTE:** Because the requirement that the commissioner request certain advice, review, and comment is a mandate, it was placed in a separate section.

3           **SECTION 8.** A new section to chapter 4-13.1 of the North Dakota Century Code is  
4 created and enacted as follows:

5           **Commissioner - Consultation with federation.** The commissioner shall consult with  
6 a committee appointed by the North Dakota turkey federation regarding the activities and  
7 requirements of this chapter.

**NOTE:** NDCC Section 4-13.1-08.

8           **SECTION 9. AMENDMENT.** Section 4-13.1-09 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10          **4-13.1-09. Out-of-state processors.** The commissioner ~~is hereby authorized to enter~~  
11 ~~into negotiations and agreements~~ may contract with out-of-state processors for the collection  
12 and remittance of the assessment required by section 4-13.1-03.

13          **SECTION 10. AMENDMENT.** Section 4-13.1-10 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15          **4-13.1-10. Turkey information in report.** ~~The~~ When compiling the report required by  
16 section 54-06-04, the commissioner shall include provide information concerning its regarding  
17 ~~activities under the provisions of this chapter, including a complete listing of the amount of~~  
18 ~~assessments collected and the manner in which the moneys were spent under this chapter, in~~  
19 ~~its report to the governor.~~

20          **SECTION 11. AMENDMENT.** Section 4-13.1-12 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22          **4-13.1-12. Delinquent assessment remittances - Penalty.** ~~Any~~ If a processor who  
23 ~~fails to remit~~ submit the assessments ~~the processor has collected on the date they become~~  
24 ~~due,~~ as required by section 4-13.1-04, the payment is delinquent and the commissioner shall  
25 levy a penalty assessment of equal to five percent of the assessment amount due, plus interest  
26 at the rate of six percent per annum, from the due date. ~~The penalty and interest must be~~  
27 ~~collected in the manner described in section 4-13.1-11.~~

**NOTE:**

- Other commodity group chapters authorize the imposition of a penalty but do not require it.
- The authority to enforce the chapter is given to the commissioner in Section 4-13.1-08.

1           **SECTION 12. AMENDMENT.** Section 4-13.1-13 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-13.1-13. Penalty.** ~~A willful violation of~~ Any person who willfully violates this chapter  
4 is guilty of a class B misdemeanor.

5           **SECTION 13. REPEAL.** Sections 4-13.1-01 and 4-13.1-11 of the North Dakota  
6 Century Code are repealed.

**4-13.1-01. Title.** This chapter must be known as the North Dakota Turkey  
Promotion Act.

**NOTE:** In accordance with Legislative Council drafting policy, bills are not to be titled.

**4-13.1-11. Collection of unpaid assessments.** If a processor fails to collect or  
remit the proper assessments, the commissioner may enforce the collection or  
remittance, as the case may be, in any court of competent jurisdiction in the state.

**NOTE:** The authority to enforce the chapter is given to the commissioner in Section  
4-13.1-08.