

January 2008

Introduced by

1 A BILL for an Act to create and enact nine new sections to chapter 4-28, relating to the wheat
2 commission districts, elections, members, and duties; to amend and reenact sections 4-28-02,
3 4-28-03, 4-28-05, 4-28-06, 4-28-07.1, 4-28-08, and 4-28-09 of the North Dakota Century Code,
4 relating to the wheat commission powers, member compensation, and the levying of an
5 assessment on wheat; to repeal section 4-28-01 of the North Dakota Century Code, relating to
6 a statement declaring public policy; to provide a penalty, and to provide a continuing
7 appropriation.

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

9 **SECTION 1. AMENDMENT.** Section 4-28-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4-28-02. Definitions.** As used in this chapter:

12 1. "Commercial channels" means the sale of wheat ~~for any use, when sold by the a~~
13 producer to ~~any commercial buyer, dealer, processor, cooperative, or to any~~
14 person, ~~firm, corporation, limited liability company, association, or partnership who~~
15 resells ~~any~~ wheat or any product produced therefrom from wheat.

NOTE: NDCC Section 1-01-49 defines a person as "an individual, organization, government, political subdivision, or government agency or instrumentality" and further defines an organization as including "a foreign or domestic association, business trust, corporation, enterprise, estate, joint venture, limited liability company, limited liability partnership, limited partnership, partnership, trust, or any legal or commercial entity."

16 2. "Commission" means the North Dakota ~~state~~ wheat commission.

17 3. ~~The term "final settlement" means the~~ "Final settlement" means:

18 a. ~~The date the that~~ wheat, upon which a loan was obtained is sold to ~~the~~
19 ~~elevator or to a private~~ a person other than a governmental entity or is

assigned or transferred to ~~an agency of the~~ a United States government
agency; or ~~the~~

b. ~~The date upon which the payment for the wheat is actually made in instances~~
~~when if the wheat is sold but payments are in accordance with the terms of a~~
~~deferred payment contract.~~

4. "First purchaser" means any person, ~~firm, corporation, association, partnership,~~
~~agent, or broker~~ buying, accepting for sale, or otherwise acquiring, after harvest,
the property in or to wheat from the ~~grower and~~ producer. The term includes a
mortgagee, pledgee, lienor, or other ~~claimant~~ person having a claim against the
producer, when the actual or constructive possession of wheat is taken as part
payment or in satisfaction of ~~such a~~ mortgage, pledge, lien, or claim.

5. "Producer" means any landowner or tenant engaged in growing wheat and
receiving, in such capacity, any portion of the crop produced.

6. "Sale" includes any pledge or mortgage of wheat, after harvest, to any person;
~~firm, corporation, limited liability company, association, or partnership.~~

7. "Wheat" includes all ~~varieties of hard red spring wheat, durum, and winter wheats~~
classes of wheat.

NOTE: In subsection 4, the term "grower" is used. It has been changed to "producer",
because that is the term currently defined in subsection 5.

SECTION 2. A new section to chapter 4-28 of the North Dakota Century Code is
created and enacted as follows:

4-28-04. Wheat commission - State districts. The state consists of the following six
wheat commission districts:

1. Golden Valley, Billings, Dunn, Mercer, Oliver, Stark, Morton, Slope, Hettinger,
Grant, Sioux, Bowman, and Adams counties.
2. Divide, Burke, Renville, Williams, Mountrail, Ward, and McKenzie counties.
3. McLean, Sheridan, Wells, Eddy, Burleigh, Kidder, Stutsman, Foster, Emmons,
Logan, and McIntosh counties.
4. Bottineau, Rolette, Towner, McHenry, Pierce, Benson, and Ramsey counties.
5. Griggs, Steele, Traill, Barnes, Cass, LaMoure, Dickey, Ransom, Sargent, and
Richland counties.
6. Cavalier, Pembina, Walsh, Nelson, and Grand Forks counties.

SOURCE: Section 4-28-04

NOTE: Because this section established the six wheat commission districts, it is recommended that it be placed before the sections pertaining to the election of wheat commission members.

SECTION 3. AMENDMENT. Section 4-28-03 of the North Dakota Century Code is amended and reenacted as follows:

4-28-03. Wheat commission - Members - Terms of office.

1. The North Dakota state wheat commission consists of ~~seven members. One~~ one member ~~must be appointed or elected~~ from each of the six wheat commission districts ~~of the state established by this chapter and one member must be~~ appointed or elected from the state at large. Each member, except the member from the state at large, must be a resident of and a qualified elector in the district the member represents and must have farming operations in the district. The member from the state at large must have similar qualifications except as limited by district lines. An individual is not eligible to be a member of the wheat commission if that individual requested a refund under section 4-28-07 during the twelve-month period before the date on which the term sought by the individual would commence. This ineligibility does not apply to an individual who requested a refund because of an overpayment, as provided in subdivision c of subsection 2 of section 4-28-07. Each member of the wheat commission must be actively engaged in the production of wheat. A member of the wheat commission who elects not to plant wheat for one growing cycle may continue to serve on the commission if the member continues to be actively involved in farming. If a member elects not to plant wheat for more than one growing cycle, the member is deemed to have resigned and the commission shall declare the member's office vacant. A member of the wheat commission is not eligible to receive a refund under section 4-28-07; however, a member may request a refund because of an overpayment, as provided in subdivision c of subsection 2 of section 4-28-07. The commission may declare a member's position vacant if the member fails to attend two consecutive commission meetings.
2. Not more than sixty days prior to expiration of the term of the member from the state at large, a nominating committee consisting of the agriculture commissioner,

1 ~~the president of the North Dakota crop improvement association, the director of the~~
2 ~~North Dakota agricultural experiment station, the director of the North Dakota state~~
3 ~~university extension service, the president of the North Dakota farm bureau, the~~
4 ~~president of the North Dakota farmers union, the president of the North Dakota~~
5 ~~grain dealers association, the president of the North Dakota grain growers~~
6 ~~association, and an individual who is a resident of this state and a member of the~~
7 ~~United States durum growers association, or their duly authorized representatives,~~
8 ~~shall submit to the governor a list of three names and within sixty days after~~
9 ~~expiration of the term the governor shall appoint, from the nominees so named, the~~
10 ~~member at large to the commission.~~

11 ~~3. Each member of the commission shall hold office for a term of four years and until~~
12 ~~the member's successor has been selected and has qualified except that the~~
13 ~~commissioners elected and serving from the first and fourth districts shall hold~~
14 ~~office for terms ending on June 30, 1984; the commissioners elected and serving~~
15 ~~from the second and fifth districts shall hold office for terms ending on June 30,~~
16 ~~1985; and the commissioners elected and serving from the third and sixth districts~~
17 ~~shall hold office for terms ending on June 30, 1982; and the commissioner~~
18 ~~appointed and serving as the state at large member shall hold office for a term~~
19 ~~ending on June 30, 1983. No producer is entitled to serve more than three terms.~~

20 ~~4. At least sixty days prior to the expiration of the term of office of a commissioner~~
21 ~~representing any district, a meeting of producers must be held in each county in~~
22 ~~the district for the purpose of electing a county representative. The county agent~~
23 ~~shall call such meeting by publishing notice in the official newspaper of the county~~
24 ~~for two successive weeks, the last publication to be not less than five nor more~~
25 ~~than ten days prior to the meeting. The meeting must be held at a central location~~
26 ~~within the county and must be called to order by the county agent. The county~~
27 ~~agent, in cooperation with the cooperative extension service, shall conduct all~~
28 ~~elections under this section in each county in the manner the county agent deems~~
29 ~~fair and reasonable, except that a producer may vote only in the producer's county~~
30 ~~of residence. Votes must be canvassed by the county agent and certified by the~~
31 ~~county agent with the name and post office address of the elected county~~

~~representative to the director of the North Dakota state university extension service who shall thereupon, as expeditiously as possible, call a meeting of the county representatives of the district. Notice of such meeting must be sent to each county representative by registered or certified mail not less than five days prior to the meeting which must be held at a central location within the district. At such district meeting, the county representatives shall elect one of their number as the district member of the commission. The ballots at such meeting must be canvassed by the North Dakota state university extension service and the result of election certified to the governor by the director. To be eligible to hold the position of county representative, an individual must be actively engaged in the production of wheat. A county representative who elects not to plant wheat for one growing cycle may continue to serve as a county representative if the individual continues to be actively involved in farming. If a county representative elects not to plant wheat for more than one growing cycle, the member is deemed to have resigned and the commission shall declare the member's position vacant. Additional meetings of county representatives may be called by the state wheat commission for the purpose of promoting its programs. All expenses of all such meetings and elections must be paid from commission funds. County representatives must be reimbursed for expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers.~~

5. ~~Any vacancy occurring on the commission other than by expiration of term of office must be filled by the county representatives who shall elect one of their number as the district member of the commission for the remainder of the unexpired term. If the vacancy is from the state at large, appointment must be made from three nominations submitted by the nominating committee as in the case of the original appointment.~~

2. The term of office for members of the wheat commission is four years. A district member must serve until the member's successor has been elected and qualified and the member at large must serve until the member's successor has been appointed. A member may not serve more than three terms.

SOURCE: NDCC Section 4-28-03-(1) and (3)

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

3 **Wheat commission district member - Election.**

- 4 1. At least sixty days before the term of a wheat commission member, other than the
5 member at large, is to expire, the extension agent for each county in that member's
6 district shall hold a meeting of wheat producers for the purpose of electing a county
7 representative.
- 8 2. The county extension agent shall publish notice of the meeting in the official
9 newspaper of the county, for two consecutive weeks. The latest notice must be
10 published no fewer than five days nor more than ten days before the meeting.
- 11 3. The meeting must be held at a central location within the county.
- 12 4. At the meeting, the county extension agent, in cooperation with the cooperative
13 extension service, shall conduct the election. The county extension agent shall
14 canvass the votes and shall certify the name and post-office address of the newly
15 elected county representative to the director of the North Dakota state university
16 extension service.
- 17 5. Upon receiving the certification, the director shall call a meeting of the county
18 representatives from the member's district.
- 19 6. The director shall notify each county representative of the meeting, by registered or
20 certified mail, at least five days before the date of the meeting. The meeting must
21 be held at a central location within the district.
- 22 7. At the meeting, the county representatives shall elect on from among themselves
23 to serve as the wheat commission member from that district.
- 24 8. The director the North Dakota state university extension service shall canvass the
25 votes and shall certify the name and post-office address of the newly elected wheat
26 commission members to the governor.

SOURCE: 4-28-03(4)

27 **SECTION 5.** A new section to chapter 4-28 of the North Dakota Century Code is
28 created and enacted as follows:

29 **County representative - Eligibility Requirements.**

- 1 1. In order to become a county representative, an individual must be actively engaged
2 in the production of wheat.
- 3 2. If a county representative elects not to plant wheat for one growing cycle, the
4 individual may continue to serve as a county representative provided the individual
5 remains actively involved in farming.
- 6 3. If a county representative elects not to plant wheat for more than one growing
7 cycle, the member is deemed to have resigned and the commission shall declare
8 the member's position vacant.

SOURCE: 4-28-03(4)

NOTE: This section requires an individual to be "actively engaged" in the production of wheat, in order to become a county representative. The phrase "actively engaged" is used is more than 30 times in the NDCC, but it is defined only in one section that pertains to a microbusiness income tax credit. There it means "involved on a continuous basis in the daily management and operation of the business." What does the phrase mean in this section?

9 **SECTION 6.** A new section to chapter 4-28 of the North Dakota Century Code is
10 created and enacted as follows:

11 **County representative - Additional duties - Compensation.**

- 12 1. In addition to the election duties set forth in this chapter, county representatives
13 may be called by the wheat commission to attend meetings or perform other duties
14 as directed by the wheat commission.
- 15 2. The commission shall pay the expenses of all such meetings and elections from
16 commission funds.
- 17 3. The commission shall reimburse county representatives for all actual and
18 necessary expenses incurred in attending meetings and performing other official
19 duties, at the same rate as that established for other state officers.

SOURCE: 4-28-03(4)

NOTE: Current laws provides that additional "meetings of county representatives may be called by the state wheat commission for the purpose of promoting its programs." The rewrite provides that county representatives may be called by the wheat commission " and to attend meetings or perform other duties as directed by the wheat commission." This clarifies the intent that county representatives may be asked to do more than merely attending a meeting.

Subsection 2 is a reiteration of current law. It is recommended that this language be moved to the section pertaining to duties of the commission.

1 **SECTION 7.** A new section to chapter 4-28 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Wheat commission member at large - Appointment.**

- 4 1. No sooner than sixty days before the term of the wheat commission's member at
5 large is to expire, a nominating committee shall submit to the governor the names
6 of three individuals who are qualified to serve as a member at large. No later than
7 sixty days after the member's term expires, the governor shall appoint one of the
8 three individuals to serve as the member at large.
- 9 2. The nominating committee required by this section consists of the following
10 individuals or their designees:
- 11 a. The agriculture commission;
12 b. The president of the North Dakota crop improvement association;
13 c. The director of the North Dakota agriculture experiment station;
14 d. The director of the North Dakota state university extension service;
15 e. The president of the North Dakota farm bureau.
16 f. The president of the North Dakota farmers union.
17 g. The president of the North Dakota grain dealers association.
18 h. The president of the North Dakota grain growers association; and
19 i. A resident of this state who is a member of the United States durham growers
20 association.

SOURCE: 4-28-03(2)

21 **SECTION 8.** A new section to chapter 4-28 of the North Dakota Century Code is
22 created and enacted as follows:

23 **Wheat commission district members - Eligibility requirements.** Each wheat
24 commission district member must be a resident of a qualified elector in the district the member
25 represents and must have farming operations in the district.

SOURCE: 4-28-03(1)

26 **SECTION 9.** A new section to chapter 4-28 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Wheat commission members - Eligibility requirements.**

1. An individual is not eligible to be a member of the wheat commission if that individual requested a refund under section 4-28-07 during the twelve-month period before the date on which the term sought by the individual would commence. This ineligibility does not apply to an individual who requested a refund because of an overpayment, as provided in subdivision c of subsection 2 of section 4-28-07.
2. Each member of the wheat commission must be actively engaged in the production of wheat.
3. If a member of the wheat commission elects not to plant wheat from one growing cycle, the member may continue to serve on the commission, provided the member continues to be actively involved in farming.
4. If a member elects not to plant wheat for more than one growing cycle, the member is deemed to have resigned and the commission shall declare the member's office vacant.
5.
 - a. Except as otherwise provided in this subsection, a member of the wheat commission is not eligible to receive a refund under section 4-28-07.
 - b. A member may request and receive a refund because of an overpayment, as provided in subdivision c of subsection 3 of section 4-28-07.
6. If a member fails to attend two consecutive commission meetings, the commission may declare the member's position to be vacant.

SECTION 10. A new section to chapter 4-28 of the North Dakota Century Code is created and enacted as follows:

Vacancies.

1. If a vacancy occurs in a position held by a wheat commission district member, the county representative shall elect one from among themselves to serve as the wheat commission district member for the remainder of the unexpired term. The director of the North Dakota state university extension service shall canvass the votes and shall certify the name and post-office address of the newly elected wheat commission member to the governor.

2. If a vacancy occurs in the position held by the at large wheat commission member, the governor shall appoint an individual to serve for the remainder of the unexpired term, following the same process as used for the original appointment.

SOURCE: 4-28-03(5)

SECTION 11. AMENDMENT. Section 4-28-05 of the North Dakota Century Code is amended and reenacted as follows:

4-28-05. Wheat commission - Meeting –~~Expenses~~ Compensation - Legal adviser counsel. ~~Upon call of the governor, the~~

1. The commission shall first meet and organize by electing elect from the membership from its members a chairman and vice chairman, who shall hold office for one year and until their successors are elected and have qualified.
2. Thereafter, the commission shall meet at least once every calendar quarter at such times and places as determined by the commission and may meet in. The commission shall adopt rules set forth the requirement for calling and holding special meetings upon such call and notice as prescribed by rules adopted by the commission.
3. The commission shall determine the amount of compensation payable to each member of the commission. The amount payable may not exceed seventy-five dollars per day plus reimbursement of expenses as provided by law for state officers, while attending meetings or performing other official duties directed by the commission.
4. The attorney general shall ~~act as legal adviser~~ provide legal counsel to the commission ~~or designate an assistant for that purpose and.~~ The commission may, within the limit of the funds moneys available to the commission it may, employ other counsel to advise and represent the commission in its affairs and proceedings.

SOURCE: 4-28-05

NOTE: It is suggested that the language governing the compensation of commission members be placed in a separate section.

It is suggested that the language authorizing the employment of additional legal counsel be placed in the section governing the commission's powers.

1 **SECTION 12. AMENDMENT.** Section 4-28-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-28-06. Wheat commission –~~Duties and powers~~ Powers.** ~~In the administration of~~
4 ~~this chapter, the commission has the following powers, authority, and duties~~ The commission
5 ~~may:~~

- 6 1. ~~To foster and promote programs aimed at increasing the sale, utilization, and~~
7 ~~development of wheat, both at home and abroad.~~
- 8 2. ~~To publish and disseminate reliable information on the value of wheat and wheat~~
9 ~~products for any purpose for which they are valuable and useful to both processor~~
10 ~~and consumer.~~
- 11 3. ~~To search for and promote new uses of wheat and wheat products.~~
- 12 4. ~~To contract and cooperate~~
 - 13 1. Contract with any person, firm, corporation, limited liability company, or
14 association, or with any local, state, or federal department or agency for executing
15 or carrying on a program or programs for the provision of research, education, and
16 publicity.
- 17 5. ~~To lease~~
 - 18 2. Lease, purchase, own, equip, and maintain, ~~and operate~~ a commission office.
- 19 6. ~~To appoint, employ, bond, discharge, fix the compensation, and prescribe the~~
20 ~~duties of such administrative, clerical, technical, and other personnel, employees,~~
21 ~~and agents as it may deem necessary to conduct the business and affairs of the~~
22 ~~commission.~~
- 23 3. Employ, compensate, and bond necessary personnel.
- 24 7. ~~To accept~~
 - 25 4. Accept gifts, grants, or donations of funds money, property, and services ~~or other~~
26 assistance, financial or otherwise, from federal, state, and other public or private
27 sources for the purpose of aiding and promoting the work and objectives of the
28 commission, depositing all funds so received in the state wheat commission fund in
29 the state treasury.
- 30 8. ~~To provide market maintenance and development services, utilization research,~~
31 ~~transportation research, and education.~~

- 1 9. ~~To address trade and domestic issues.~~
2 10. ~~To seek improvement in the export quality of wheat.~~
3 11. ~~To exercise all express and implied rights, powers, and authority that may be~~
4 ~~necessary to perform and carry out the expressed purposes of this chapter and all~~
5 ~~of the purposes reasonably implied incidentally thereto or lawfully connected~~
6 ~~therewith and to adopt, rescind, modify, and amend all necessary and proper~~
7 ~~orders, resolutions, rules, and regulations for the procedure and exercise of its~~
8 ~~powers and the performance of its duties.~~
9 12. ~~To prosecute in the name of the state of North Dakota any suit or action to enforce~~
10 ~~collection or assure payment of the tax or assessment authorized by the provisions~~
11 ~~of this chapter, and to sue and be sued in the name of the commission.~~
12 13. ~~To engage~~
13 5. sue and be sued.
14 6. Do all things necessary to carry out this chapter.
15 7. Engage in any other related lawful activities, except those which constitute a
16 competitive business expertise.

SOURCE: 4-28-06(5)(6)(11)(12)(13).

NOTE: In order to clarify which activities were required versus authorized, the content of NDCC section 4-28-06 was placed in two separate sections.

In subsection 12 of the current law, the commission is authorized 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." In the proposed rewrite, subsections 5 and 6 authorize the commission to sue and be sued and to do all things necessary to proper to carry out this chapter. This would include taking legal action to enforce the payment requirements set forth in the chapter.

Subsection 4 of the proposed rewrite authorizes the commission to accept gifts, grants, and donations. Subsection 7 of current law allows this acceptance only for aiding and promoting the work and objectives of the commission. The rewrite proposes to eliminate the limitation on the acceptance of gifts, grants, and donations because the commission is already statutorily limited in what it is authorized to do.

17 **SECTION 13.** A new section to chapter 4-28 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Wheat commission - Duties.**

20 The commission shall:

- 21 1. Promote the increased sale, utilization, and development of wheat.

- 1 2. Provide information regarding the value of wheat and wheat products.
- 2 3. Research and promote new uses for wheat and wheat products.
- 3 4. Operate a commission office.
- 4 5. Forward all moneys received to the state treasurer for deposit in the wheat
5 commission fund.
- 6 6. Provide market maintenance and development services, utilization research,
7 transportation research, and education.
- 8 9. Address trade and domestic issues.
- 9 10. Seal improvement in the export quality of wheat.

SOURCE: 4-28-06(1)(2)(3)(4)(7)(8)(9)(10)

NOTE: In order to clarify which activities were required versus authorized, the content of NDCC section 4-28-06 was placed in two separate sections. Even with some reworking of the verbiage, the section remains redundant. It charges the commission with:

*: promoting the increased sale, utilization, and development of wheat.

*: Researching and promoting new uses for wheat

*: providing market maintenance and development services

*: providing utilization research

*: providing transportation research

*: providing education

*: addressing trade and domestic issues

*: improving the export quality of wheat

In the alternative, perhaps the commission could be authorized to "do all things necessary and proper to increase the sale of wheat domestically and internationally"

10 **SECTION 14. AMENDMENT.** Section 4-28-07.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **4-28-07.1. (Effective after June 30, 2009) Wheat tax levy.**

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

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

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

8 2. a. ~~Any producer who sells wheat to a first purchaser in this state and who is~~
9 ~~subject to the deduction provided for in this chapter, within~~ In order to receive
10 a refund of any tax paid in accordance with section 4-28-07.1, a person shall
11 submit to the commission a personal letter requesting an application for
12 refund. The request must be filed with the commission no later than sixty
13 days following after the date of the deduction or final settlement, may make
14 application by personal letter to the wheat commission for a refund application
15 blank.

16 b. ~~Upon the return of the blank, properly executed by the producer,~~
17 ~~accompanied by~~ The person must complete the application and return it to the
18 commission, together with a record of the deduction by the purchaser, the
19 ~~producer must be refunded.~~ The commission must then provide to the person
20 the net amount of the deduction that had been collected.

21 c. ~~If no request for an application for refund has been made is not submitted to~~
22 ~~the commission within the prescribed time period prescribed in this~~
23 ~~subsection, the producer is presumed to have agreed to the deduction.~~

24 d. ~~A If a producer that, for any reason, has paid the tax more than once on the~~
25 ~~same wheat, upon furnishing proof of that payment to the commission, is~~
26 ~~entitled to a shall refund of the overpayment.~~

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

- 1 4. a. The commission shall expend an amount at least equal to that raised by two
2 mills of the levy provided for in this section to contract for activities related to
3 domestic wheat policy issues, wheat production, promotion, and sales.
- 4 b. The contracts may be with no more than two trade associations that are
5 incorporated in this state and which have as their primary purpose the
6 representation of wheat producers.
- 7 c. The contracts must require that any trade association receiving money under
8 this section pay from the money all dues required as a condition of the trade
9 association's membership in any national trade association.
- 10 d. The contracts also must prohibit any trade association receiving money under
11 this section from eliminating any dues required as a condition of membership
12 in that trade association or from reducing such dues below the amount
13 required for membership as of January 1, 2005.
- 14 5. When the wheat commission presents the report required by section 4-24-10, the
15 commission shall present a separate report detailing the nature and extent of the
16 commission's efforts to address trade and domestic policy issues. The
17 commission may invite other entities with which it has contracted to assist in the
18 presentations.
- 19 6. At the time the wheat commission presents the report required by section 4-24-10,
20 each trade association with which the wheat commission has contracted under
21 subsection 4 also shall present a report detailing all activities in which the trade
22 association engaged under the provisions of the contract.

SOURCE: NDCC Section 4-28-07.1

NOTE: It is recommended that NDCC Section 4-28-07.1 be redrafted using several separate sections--i.e., The wheat tax levy, the wheat tax refund, double payment, contracts with trade associations, and commission reports regarding contract activities.

Subsection 3 of current law provides that a producer has sixty days (Following the deduction or final settlement) within which to send a personal letter to the commission asking for a refund application. The subsection does not set a time period within which that application must be returned to the commission.

Subsection 3 directs the commission to "cooperate with state and federal agencies and private businesses engaged in the purchase of wheat." This phrase was removed because its purpose could not be discerned.

of current law uses the phrase "trade and domestic policy issues" whereas subsection 4 references "activities related to domestic wheat policy issues, wheat production, promotion, sales." If this verbiage is calling for a check on the requirement contracts, the phraseology should be the same.

SECTION 15. AMENDMENT. Section 4-28-08 of the North Dakota Century Code is amended and reenacted as follows:

4-28-08. State wheat commission fund - Continuing appropriation. ~~Each first purchaser shall make quarterly reports and returns to the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1995. The commission shall prescribe the forms to be used. With each report and return, the first purchaser shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due.~~

1. No later than the twentieth day after the conclusion of each calendar quarter, each first purchase shall:

a. File a quarterly report with the commission, in the manner prescribed by the commission; and

b. Remit to the commission all taxes collected under this chapter.

2. The commission shall ~~transmit forward~~ all such payments all moneys received under this section to the state treasurer ~~to be deposited for deposit in the state treasury to the credit of a special revolving fund known as the "state wheat commission fund"~~ wheat commission fund.

3. All money in the state wheat commission fund is appropriated on a continuing basis to the commission for carrying out the purposes of this chapter.

4. Expenditures from the fund may be made upon vouchers duly approved by the commission to carry out this chapter. ~~Regular audits of the commission's accounts must be conducted in accordance with chapter 54-10.~~

SOURCE: 4-28-08.

NOTE: Because NDCC chapter 54-10 set forth the state's audit requirements, the final sentence is not necessary.

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

4-28-09. Penalty. Any person ~~violating any of the provisions of~~ who violates this chapter is guilty of a class B misdemeanor.

1 **SECTION 17. REPEAL.** Section 4-28-01 of the North Dakota Century Code is
2 repealed.

NOTE: Because NDCC Section 4-28-01 is a statement of public policy, it is recommended that it be repealed. However, the section also contains a prohibition against the wheat commission engaging in competitive business enterprises. That prohibition is now included in the rewrite of NDCC Section 4-28-06.

DSMGSS592W <4-28-03(4)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 295: text='SOURCE'4-28-03(4):ep.
DSMGSS592W <4-28-03(4)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 316: text='SOURCE'4-28-03(4):ep.
DSMGSS592W <4-28-03(4)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 348: text='SOURCE'4-28-03(4):ep.
DSMGSS592W <4-28-03(2)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 402: text='SOURCE'4-28-03(2):ep.
DSMGSS592W <4-28-03(1)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 415: text='SOURCE'4-28-03(1):ep.
DSMGSS592W <4-28-03(5)...> NOT AN ATTRIBUTE - TREATED AS TEXT.
DSMMOM395I 'SCRIPT' LINE 467: text='SOURCE'4-28-03(5):ep.