



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
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Representative Sebastian Ertelt

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COMMITTEES:

Finance and Taxation
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February 5, 2021

Chairman Johnson and Members of the House Agriculture Committee,

I bring to you today, House Bill 1487, and urge a unanimous DO PASS recommendation.

House Bill 1487 changes only one word, “shall” to “may”. Shall indicates a mandate. May indicates a voluntary action. House Bill 1487 would make voluntary the state assessment portion – passed in 2015 – of what is known as the beef checkoff. There is no impact to the federal assessment portion of the beef checkoff. Testimony for the 2015 legislation can be found at <https://www.legis.nd.gov/files/resource/64-2015/library/hb1238.pdf>.

I was initially asked to introduce legislation on the issue of the beef checkoff by a lone constituent. Little did I know that there would be so much support for it. Agriculture organizations such as North Dakota Farm Bureau (NDFB), North Dakota Farmers Union (NDFU), and The Independent Beef Association of North Dakota (I-BAND) all support voluntary beef checkoffs. Further, North Dakota Farm Bureau policy is also for refundable commodity checkoffs and North Dakota Farmers Union policy is for an opt-in beef checkoff.

As can be seen in the attached email message from Legislative Council staff, various terms describing a payment from a citizen to the state are used in the North Dakota Century Code. Whether you call it an assessment, checkoff, fee, contribution, charge, or toll, they are all taxes – compulsory payments to the government – whether levied by those elected or appointed.

While I will leave most of the testimony in favor of House Bill 1487 to the beef - or more accurately, cattle - producers of the state, I would like to address the fiscal note attached to this bill. First of all, you will notice that the fiscal note was prepared by the North Dakota Beef Commission, to whom the checkoff tax dollars flow. It is unfortunately unsurprising to see the biased and inflammatory language and figures. The ND Beef Commission and others want to claim widespread support for the beef checkoff tax and at the same time claim that “a voluntary program will yield little to no participation”. Both cannot be true.

From: [Thompson, Emily L.](#)
To: [Ertelt, Sebastian](#)
Subject: Terms for fees
Date: Tuesday, January 19, 2021 10:35:52 AM

Good Morning, Representative Ertelt:

Various terms describing a payment from a citizen to the state are used in the North Dakota Century Code. Examples include:

- Tax

57-38-30.3. Individual, estate, and trust income tax.

1. A [tax](#) is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the [tax](#) under this section is only eligible for those adjustments or credits

- Fee

57-40.6-14. Prepaid wireless emergency 911 fee.

1. There is imposed a prepaid wireless emergency 911 [fee](#) of two and one-half percent on the gross receipts of sellers from all sales at retail of prepaid wireless services in this state.

- Assessment

4.1-04-10. [Assessment](#).

Until the commissioner certifies that a national corn checkoff is in effect, an [assessment](#) at the rate of one-quarter of one percent of the value of a bushel must be imposed upon all corn purchased by the first designated handler in this state.

- Contribution

39-03.1-09. Payments by contributors — Employer payment of employee contribution.

1. Every member, except as provided in section [39-03.1-07](#), shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member [contributions](#) increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

- Charge

61-35-68. Sewer or water improvements in districts may be paid for by service charges.

A district constructing a sewer or water improvement under the special assessment method may resolve in the resolution or ordinance required by section [61-35-52](#), that a portion of the cost of the improvement must be raised by service [charges](#) for the use of the improvement and of the utility of which it forms a part. If the district so resolves, it may determine in its resolutions, ordinances, and

- Toll

40-36-16. Duties of municipality and officers.

In order that the payment of refunding bonds and interest thereon shall be secured adequately, any municipality issuing refunding bonds pursuant to this chapter, and the proper officers, agents, and employees thereof, shall:

1. Pay or cause to be paid punctually the principal of every refunding bond and the interest thereon on the date or dates, at the place or places, in the manner, and out of the funds, mentioned in such refunding bond and in the coupons thereto appertaining and in accordance with the resolution authorizing its issuance.
2. Operate the enterprise in an efficient and economical manner and establish, levy, maintain, and collect such fees, tolls, rentals, rates, and other charges in connection therewith as may be necessary or proper. Such fees, tolls, rates, rentals, and other charges shall be sufficient, after making due and reasonable allowances for contingencies and for a margin of error in the estimates, at least.

Best regards,

Emily Thompson

Code Revisor

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