

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1518

Introduced by

Representatives Nicholas, Boucher, Brandenburg, Mueller, Uglem

Senator Warner

1 A BILL for an Act to amend and reenact sections 4-28-06 and 4-28-07 of the North Dakota  
2 Century Code, relating to the North Dakota wheat commission; to provide an effective date; and  
3 to declare an emergency.

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

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

7 **4-28-06. Wheat commission - Duties and powers.** In the administration of this  
8 chapter, the commission has the following powers, authority, and duties:

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

- 1           7. To accept donations of funds, property, and services or other assistance, financial  
2                   or otherwise, from federal, state, and other public or private sources for the  
3                   purpose of aiding and promoting the work and objectives of the commission,  
4                   depositing all funds so received in the state wheat commission fund in the state  
5                   treasury.
- 6           8. To ~~promote North Dakota opportunities as afforded by the development of the~~  
7           St. Lawrence seaway provide market maintenance and development services,  
8           utilization research, transportation research, and education.
- 9           9. To address trade and domestic issues.
- 10          10. To seek improvement in the export quality of wheat.
- 11    ~~40.~~ 11. To exercise all express and implied rights, powers, and authority that may be  
12                   necessary to perform and carry out the expressed purposes of this chapter and all  
13                   of the purposes reasonably implied incidentally thereto or lawfully connected  
14                   therewith and to adopt, rescind, modify, and amend all necessary and proper  
15                   orders, resolutions, rules, and regulations for the procedure and exercise of its  
16                   powers and the performance of its duties.
- 17    ~~44.~~ 12. To prosecute in the name of the state of North Dakota any suit or action to enforce  
18                   collection or assure payment of the tax or assessment authorized by the provisions  
19                   of this chapter, and to sue and be sued in the name of the commission.
- 20          13. To engage in any other related activities.

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

23           **4-28-07. Wheat tax levy.**

- 24           1. a. A tax of ~~ten~~ fifteen mills per bushel [35.24 liters] by weight must be levied and  
25                   imposed upon all wheat grown in this state, delivered into this state, or sold  
26                   through commercial channels to a first purchaser in this state.
- 27           b. The tax must be levied and assessed at the time of sale and deducted by the  
28                   purchaser from the price paid, or in the case of a lien, pledge, or mortgage,  
29                   deducted from the proceeds of the loan or claim secured, subject to  
30                   adjustment at the time of settlement in the event the number of bushels [liters]  
31                   is not accurately determined at the time of the lien, pledge, or mortgage.

- 1 c. At the time of sale, the first purchaser in this state shall issue and deliver to  
2 the producer or seller a record of the transaction in the manner prescribed by  
3 the commission.
- 4 2. a. Any producer who sells wheat to a first purchaser in this state and who is  
5 subject to the deduction provided in this chapter, within sixty days following  
6 the deduction or final settlement, may make application by personal letter to  
7 the wheat commission for a refund application blank.
- 8 b. Upon the return of the blank, properly executed by the producer,  
9 accompanied by a record of the deduction by the purchaser, the producer  
10 must be refunded the net amount of the deduction collected.
- 11 c. If no request for refund has been made within the period prescribed above,  
12 then the producer is presumed to have agreed to the deduction. However, a  
13 producer, for any reason, having paid the tax more than once on the same  
14 wheat, upon furnishing proof of this to the commission, is entitled to a refund  
15 of the overpayment.
- 16 3. The commission, to inform the producer, shall develop and disseminate  
17 information and instructions relating to the purpose of the wheat tax and manner in  
18 which refunds may be claimed and to this extent shall cooperate with  
19 governmental agencies, state and federal, and private businesses engaged in the  
20 purchase of wheat.
- 21 4. ~~The commission may use the amount raised by two mills of the levy provided for in~~  
22 ~~this section to support the commission's involvement in trade issues throughout the~~  
23 ~~world.~~
- 24 5. The commission ~~may use the~~ shall expend an amount at least equal to that raised  
25 by up to two mills of the levy provided for in this section for the purposes of  
26 providing market maintenance and development services, utilization research,  
27 transportation research, and education; addressing domestic policy issues; and  
28 engaging in other related activities; or for the purposes of contracting for market  
29 maintenance and development services, utilization research, transportation  
30 research, and education; addressing domestic policy issues; and engaging in other  
31 related activities, to contract for activities related to domestic wheat policy issues,

1           wheat production, promotion, and sales. The contracts may be with no more than  
2           two trade associations that are incorporated in this state and which have as their  
3           primary purpose the representation of wheat producers.

4       ~~6.~~ 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           **SECTION 3. EFFECTIVE DATE.** The increase in the levy imposed by section 2 of this  
10       Act applies to all sales occurring from and after the day of the next calendar quarter occurring  
11       at least thirty days after the effective date of this Act.

12       **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.