

October 2008

Introduced by

1 A BILL for an Act to create and enact chapter 4.1-12 of the North Dakota Century Code, relating  
2 to the turkey assessment; to repeal chapter 4-13.1 of the North Dakota Century Code, relating  
3 to the turkey assessment; to provide a penalty; and to provide a continuing appropriation.

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

5 **SECTION 1.** Chapter 4.1-12 of the North Dakota Century Code is created and enacted  
6 as follows:

7 **4.1-12-01. Definitions.**

- 8 1. "Commissioner" means the agriculture commissioner.  
9 2. "Processor" means any person who purchases more than one thousand turkeys  
10 each year for slaughter.  
11 3. "Producer" means any person who does business within this state and raises  
12 turkeys for slaughter each year.

**SOURCE:** Section 4-13.1-02.

13 **4.1-12-02. Assessment - Determination.**

- 14 1. The assessment required by this chapter is determined by:  
15 a. Calculating the flock average live weight at the time of delivery to a processor;  
16 and  
17 b. Calculating the actual number of turkeys in that flock after processing.  
18 2. a. If the actual number of turkeys in a flock after processing had an average live  
19 weight of less than eighteen pounds, the assessment is equal to one cent per  
20 turkey.

1            b. If the actual number of turkeys in a flock after processing had an average live  
2            weight of at least eighteen pounds but less than twenty-eight pounds, the  
3            assessment is equal to one and one-half cents per turkey.

4            c. If the actual number of turkeys in a flock after processing had an average live  
5            weight of at least twenty-eight pounds, the assessment is equal to one and  
6            three-quarter cents per turkey.

**SOURCE:** Section 4-13.1-03.

**NOTE:** In accordance with a motion by the Agriculture Committee, this section now reflects the level of assessment currently imposed on turkeys.

7            **4.1-12-03. Assessment - Collection - Remittance by processor.** The processor  
8            shall collect the assessment required by this chapter at the time the turkeys are delivered to a  
9            processing plant, by deducting the amount required under section 4.1-12-02 from the price paid  
10           to the producer.

**SOURCE:** Section 4-13.1-04.

11           **4.1-12-04. Invoice - Contents - Preparation by processor.** At the time turkeys are  
12           delivered to a processor, the processor shall prepare, sign, and date an invoice documenting:

- 13           1. The name and address of the producer;  
14           2. The name and address of the seller, if the producer is not the seller;  
15           3. The name and address of the processor;  
16           4. The number of turkeys sold in that particular transaction;  
17           5. The assessment collected on that particular transaction; and  
18           6. The date.

**SOURCE:** Section 4-13.1-06.

19           **4.1-12-05. Submission of assessments - Civil penalty.**

- 20           1. A processor shall submit all assessments collected under this chapter to the  
21           commissioner within thirty days after the conclusion of each calendar quarter.  
22           2. If a processor fails to submit the assessments as required by this section, the  
23           commissioner may impose a penalty equal to five percent of the amount due, plus  
24           interest at the rate of six percent per annum from the due date.

**SOURCE:** Sections 4-13.1-04 and 4-13.1-12.

**NOTE:** Current law requires the commissioner to impose a penalty on a delinquent assessment. As directed by the Agriculture Committee, this section authorizes the

commissioner to impose a penalty but does not require that the commissioner do so.  
This change parallels the provisions in other commodity group chapters.

1       **4.1-12-06. Out-of-state processors.** The commissioner may contract with out-of-state  
2 processors for the collection and remittance of the assessment required by section 4.1-12-02.

**SOURCE:** Section 4-13.1-09.

3       **4.1-12-07. Refund of assessment - Form.** To receive a refund of any assessment  
4 paid in accordance with this chapter, a producer shall obtain an application form from the  
5 commissioner within sixty days from the date the producer's turkeys were delivered to a  
6 processor. The producer shall return the completed form to the commissioner within ninety  
7 days from the date the producer's turkeys were delivered to a processor.

**SOURCE:** Section 4-13.1-07.

**NOTE:** In accordance with a motion by the Agriculture Committee, the section now  
reflects the same number of days given to other commodity groups for requesting and  
submitting refund forms.

8       **4.1-12-08. Continuing appropriation.** The commissioner shall forward all moneys  
9 received under this chapter to the state treasurer for deposit in a special fund known as the  
10 "turkey fund". All moneys in the turkey fund are appropriated on a continuing basis to the  
11 commissioner to carry out this chapter.

**SOURCE:** Section 4-13.1-05.

12       **4.1-12-09. Authorized expenditures.** The assessment required by this chapter may  
13 be used to fund research, education programs, and market development efforts, as well as  
14 participation in programs under the auspices of the national turkey federation.

**SOURCE:** Section 4-13.1-02(4).

15       **4.1-12-10. Powers of the commissioner.** The commissioner may:

- 16       1. Expend moneys raised under this chapter for the purposes set forth in section  
17       4.1-12-09, provided the commissioner first consults with a committee appointed by  
18       the North Dakota turkey federation;
- 19       2. Require a processor to prepare and submit additional information and documents if  
20       necessary for the enforcement and administration of this chapter; and
- 21       3. Do all other things necessary and proper to enforce and administer this chapter.

**SOURCE:** Sections 4-13.1-06 and 4-13.1-08.

1           **4.1-12-11. Biennial report - Information regarding turkey assessments.** When  
2 compiling the biennial report required by section 54-06-04, the commissioner shall provide  
3 information regarding activities under this chapter, including the amount of assessments  
4 collected and the manner in which the moneys were expended.

**SOURCE:** Section 4-13.1-10.

5           **4.1-12-12. Penalty.** Any person who willfully violates this chapter is guilty of a class B  
6 misdemeanor.

**SOURCE:** Section 4-13.1-13.

7           **SECTION 2. REPEAL.** Chapter 4-13.1 of the North Dakota Century Code is repealed.

**CHAPTER NOTE:** Sections 4-13.1-01 and 4-13.1-11 were not included in the chapter rewrite. Section 4-13.1-01 provides a title for the chapter and is therefore unnecessary. Section 4-13.1-11 duplicates enforcement authority given to the commissioner in proposed Section 4.1-12-10.