Adopted by the Agriculture Committee

January 31, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1207

Introduced by

Representatives Hauck, Henderson, S. Olson

Senators Boehm, Schaible, Van Oosting

A BILL for an Act to create and enact four new sections to chapter 4.1-03 of the North Dakota Century Code, relating to the creation of districts, district commission member nomination and election procedures, the costs of elections of district representative commission members, and the referral of cattle assessments; to amend and reenact sections 4.1-03-01, 4.1-03-02, 4.1-03-03, 4.1-03-04, ~~and~~ 4.1-03-12, and 4.1-03-17 of the North Dakota Century Code, relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, commission vacancies, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers, and the elimination of the refund procedure for assessments; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-01. Definitions.

As used in this chapter:

1. "Beef producer" means any person that has an ownership interest in cattle.
2. "Cattle" means live domesticated bovine animals.
3. "Cattle feeder" means a person in the business of feeding cattle for the purpose of adding weight to the cattle prior to slaughter.

4. "Cattle industry representative" means an individual who is or has been a beef producer, cattle feeder, dairy producer, or representative of a public livestock market in the state.

5. "Commission" means the North Dakota beef commission.

~~5.~~6. "Dairy producer" means any person in the business of producing and selling milk from cows.

~~6.~~7. "Director" means the director of the North Dakota state university extension service.

8. "Eligible voter" means a beef producer who is at least eighteen years of age.

9. "Livestock auction market" means a public market or private buying station in which livestock is offered for sale or sold.

~~7.~~10. "Livestock dealer" means a person that purchases cattle and is required to be licensed under chapter ~~36-04~~4.1-83.

~~8.~~11. "Participating producer" means a beef producer that has not obtained a refund of any assessment paid on the sale of cattle under this chapter for the preceding ~~three years~~year.

12. "Public livestock market" means a livestock auction market, public market, or private buying station in which livestock is offered for sale, auctioned, or sold and is required to be licensed under chapter 4.1-27 or 4.1-28.

SECTION 2. AMENDMENT. Section 4.1-03-02 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-02. North Dakota beef commission - Membership - Qualifications.

1. ~~The North Dakota beef commission consists of:~~
   - ~~a. Three beef producers;~~
   - ~~b. One cattle feeder;~~
   - ~~c. One dairy producer;~~
   - ~~d. One representative of a public livestock market; and~~
   - ~~e. Three at-large representatives.~~

~~2. The governor shall appoint:~~
   - ~~a. Each beef producer from a list of at least two names submitted by the North Dakota stockmen's association;~~

~~b. The cattle feeder from a list of at least two names submitted by the North Dakota stockmen's association feeder council;~~

~~c. The dairy producer from a list of at least two names submitted by the milk producers association of North Dakota;~~

~~d. The representative of a public livestock market from a list of at least two names submitted by the North Dakota livestock marketing association; and~~

~~e. The three at-large representatives.~~

~~3.~~ ~~a.~~The commission consists of one cattle industry representative elected from each of the districts under section 6 of this Act. The chairman, vice chairman, and secretary-treasurer of the commission, serving on December 31, 2025, may continue to serve in their respective positions as provided under section 4.1-03-03.

2. Each member of the commission must:

~~(1)~~a. Be a United States citizen and a resident of this state;

~~(2)~~b. Physically reside in the district the member represents; and

c. Be an actively engaged ~~in that phase of the~~ cattle industry ~~the member represents; and~~

~~(3) Have been actively engaged in that phase of the cattle industry for a period of five years~~representative.

~~b.~~3. Each member of the commission, ~~except~~unless the member is a representative of a public livestock market, must be a participating producer.

~~c.~~4. For purposes of this subsection, "actively engaged" means ~~that~~ the individual:

~~(1)~~a. Has an ownership interest in ~~an~~a cattle operation that ~~is~~ qualifies the individual as a cattle industry representative;

b. Is engaged in an activity of sufficient scope and significance as to constitute a distinct activity; and

~~(2)~~c. Has ~~and~~ regularly ~~exercises~~exercised direct control of the cattle operation for the preceding year.

SECTION 3. AMENDMENT. Section 4.1-03-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-03. Term of office.

1. ~~The~~Except as otherwise provided in this section, the term of office for each member is three years and begins on ~~July~~January first. The terms must be staggered so ~~that~~ no more than three terms expire each year.
2. The terms of all commission members, except the members serving as chairman, vice chairman, and secretary-treasurer of the commission on December 31, 2025, expire on December 31, 2025.
   a. The chairman of the commission, serving on December 31, 2025, shall represent district six, as described under section 6 of this Act, until December 31, 2027.
   b. The vice chairman of the commission, serving on December 31, 2025, shall represent district one, as described under section 6 of this Act, until December 31, 2028.
   c. The secretary-treasurer of the commission, serving on December 31, 2025, shall represent district nine, as described under section 6 of this Act, until December 31, 2026.
   d. The chairman, vice chairman, and secretary-treasurer of the commission, serving on December 31, 2025, each serving their respective term under this subsection, have the same rights, duties, and privileges as elected commission members.
3. Between October 1, 2025, and December 31, 2025, districts two, three, four, five, seven, and eight, as described under section 6 of this Act, each shall elect a commission member with a term, beginning January 1, 2026. The initial terms of individuals elected to begin serving as commission members on January 1, 2026, are:
   a. One year for commission members representing districts two and five;
   b. Two years for commission members representing districts three and seven; and
   c. Three years for commission members representing districts four and eight.
4. Between October first and December thirty-first of the calendar year in which a commission member's term is to expire, the respective district shall elect an individual to serve as a commission member to represent that district for the succeeding term.
5. A member of the commission may not serve more than two consecutive terms. ~~If an individual is appointed after August 1, 2009, to complete a vacancy, that~~The service ~~is not counted as a~~of the initial term~~, for purposes of this section, unless the duration of~~

~~that service exceeds one year~~ under subdivision a of subsection 3 for commission members of districts two and five is not counted for purposes of this subsection.

SECTION 4. AMENDMENT. Section 4.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-04. Vacancy.

If ~~a member's office is vacant, the position must be filled, for the remainder of the term, in the same manner as the original appointment. A member's office is vacant if:~~

~~1. At any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter;~~

~~2. Any event enumerated in section 44-02-01 occurs; or~~

~~3. The commission determines that a member has failed to attend three consecutive meetings of the commission without justification~~a commission member fails to meet the qualifications required to serve as a commission member under this chapter or a vacancy under section 44-02-01 occurs, the commission, by majority vote, shall appoint a qualified cattle industry representative for the remainder of the term. If an individual is appointed by the commission to complete a vacancy, that service is not counted as years of service under section 3 of this Act, unless the duration of that service exceeds one year. An individual appointed under this section has the same rights, duties, and privileges as an elected commission member.

SECTION 5. AMENDMENT. Section 4.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-12. Collection of assessment.

1. Each livestock auction market and livestock dealer shall:
   a. Collect the assessments due under this chapter by deducting the assessments from any credit given or payment made to the seller of the cattle, at the time of the transaction; and
   b. Forward the assessments to the commission in accordance with section 4.1-03-13.
2. a. If a person sells North Dakota cattle outside this state or if a person sells North Dakota cattle to an out-of-state buyer, the person shall forward any assessments due under this chapter to the commission in accordance with section 4.1-03-13.

b. This subsection does not apply if the assessment has been paid to a brand inspector in another state or to another qualified state beef council.

3. Any other person selling cattle in this state shall forward any assessments due under this chapter to the commission in accordance with section 4.1-03-13.

SECTION 6. AMENDMENT. Section 4.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-17. Permitted refunds of assessment - Refunds requiring certification by attorney general.

1. ~~a.~~ When the attorney general certifies to the commission that refunds of assessments paid under subdivision a of subsection 1 of section 4.1-03-11 are no longer precluded by federal law, the commission may provide to producers refunds of assessments paid under subdivision a of subsection 1 of section 4.1-03-11.

~~b. Refunds of assessments paid under subdivision b of subsection 1 of section 4.1-03-11 are available, subject to the requirements of this section.~~

2. a. To receive a permitted refund of any assessment paid in accordance with this chapter, a producer shall request a refund application from the commission within sixty days after the date of the sale. The request may be made orally, in writing, or in electronic form.

b. The producer must complete the refund application and return the application to the commission, together with a record of the assessment paid, within ninety days after the date of the sale. The application may be returned to the commission in person, by mail, or in electronic form. The commission shall then refund the net amount of the assessment that had been collected.

c. If a request for a refund is not submitted to the commission within the prescribed time period, the producer is presumed to have agreed to the assessment.

SECTION 7. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Geographical districts.

1. The state consists of the following districts:

a. District one: Barnes, Cass, Cavalier, Eddy, Foster, Grand Forks, Griggs, Nelson, Pembina, Ramsey, Steele, Towner, Traill, and Walsh Counties;

b. District two: Dickey, LaMoure, McIntosh, Ransom, Richland, and Sargent Counties;

c. District three: Kidder, Logan, and Stutsman Counties;

d. District four: Burleigh, Emmons, Sheridan, and Wells Counties;

e. District five: Benson, Bottineau, McHenry, Pierce, Renville, and Rolette Counties;

f. District six: Burke, Divide, McKenzie, McLean, Mountrail, Ward, and Williams Counties;

g. District seven: Billings, Dunn, Golden Valley, Oliver, and Mercer Counties;

h. District eight: Adams, Bowman, Hettinger, Slope, and Stark Counties; and

i. District nine: Grant, Morton, and Sioux Counties.

2. The commission shall review the nine district boundaries and tally the number of cattle in each district at least once every seven years to ensure accurate producer representation. If the commission determines the nine districts do not accurately represent cattle industry representatives in the state, the commission may enact a redistricting plan to amend district boundaries, provided each district contains at least three undivided counties. If two-thirds of the elected commission members vote in favor of the proposed redistricting plan, the commission shall adopt the plan. If the commission adopts a redistricting plan, the commission shall submit a bill to the next legislative assembly to amend subsection 1 in a manner consistent with the results of the redistricting plan. The redistricting plan becomes effective on the date the amended district boundaries under subsection 1 become effective.

SECTION 8. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Director of the North Dakota state university extension service - Nomination and election of district commission candidates.

1. a. The director of the North Dakota state university extension service shall oversee district representative commission member nominations and elections.

b. Between October first and December thirty-first of each year, the director shall conduct the nominating and election process to elect successors for districts with terms expiring that fiscal year.

c. The director shall notify all known cattle industry representatives in the respective district and request nominations for district representative commission candidates no fewer than forty-five nor more than sixty days before the district representative commission election. The notice must be published in all official county newspapers within the district or by reliable electronic means.

d. To be eligible as a candidate in a district commission election, at least five cattle industry representatives who reside in the district shall nominate the candidate in writing. A cattle industry representative may not self-nominate.

e. Upon receiving the district commission nominations, the director shall certify that nominated candidates meet the requirements of section 4.1-03-02. The director shall prepare the election ballots with the names of the certified nominated district commission candidates. Each ballot also must include a statement indicating:

(1) The date, time, and location the director will open the ballots and tabulate the results;

(2) The last date by which the ballots must be postmarked or filed with the director; and

(3) Any cattle industry representative in the district may be present at the time the ballots are opened and tabulated.

f. The director shall hold the district commission election by mail paper ballot. The director shall mail the ballots to each known cattle industry representative in the district at least thirty days before the election.

g. The director shall canvass the votes. The director shall notify the commission and the governor that the election has taken place, and provide to the commission and the governor the name and address and term of the newly elected district representative commission member.

2. If the cattle industry representatives in a district fail to elect an individual, as required by this section, the director shall notify the commission and the governor. The governor shall appoint a cattle industry representative who meets the requirements of section 4.1-03-02 to serve as the district commission member for the district. An individual appointed under this subsection has the same rights, duties, and privileges as an elected commission member.

3. Each eligible voter is entitled to one vote and must vote in the district in which the voter's livestock operation headquarters is located. If an eligible voter has multiple livestock operation headquarters in more than one district, the eligible voter shall cast their vote in the district in which the voter physically resides.

4. To determine whether an individual is eligible to vote under this chapter, the commission may:

   a. Obtain a list of livestock producers from the United States department of agriculture farm service agency through the process under title 7, Code of Federal Regulations, part 798; or

   b. Require the beef producer to certify to the North Dakota state university extension service the producer is an eligible voter under this chapter.

SECTION 9. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Election costs - Responsibility.

All costs of holding district commission member nominations and elections under section 7 of this Act are the responsibility of the commission.

SECTION 10. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Referendums - Assessments.

1. If petitioned by at least fifteen percent of the cattle industry representatives of the state, the commission shall conduct a referendum among the cattle industry representatives to determine the amount by which the assessment imposed under section 4.1-03-11 should be adjusted.

2. No more than fifty percent of the cattle industry representatives who signed the petition may reside in the same district.

3. The commission shall hold an assessment referendum by mail paper ballot. The commission shall prepare the ballots with the petitioned amount by which the assessment imposed under section 4.1-03-11 is proposed to be adjusted and distribute the ballots to each cattle industry representative at least thirty days before the last date for filing ballots.

4. Each ballot must include a statement indicating:

a. The date the petition was filed and the number of signatures on the petition;

b. The date, time, and location the commission will open the ballots and tabulate the results;

c. The last date by which the ballots must be postmarked or filed with the commission; and

d. Any cattle industry representative may be present at the time the ballots are opened and tabulated.

5. The date selected by the commission for the opening and tabulation of the ballots must be at least five days after the date by which the ballots must be postmarked or filed with the commission.

6. The commission shall canvass the votes. If the majority of voting cattle industry representatives vote in favor of the proposed change, the commission shall submit a bill to the next legislative assembly to amend the statutory assessment in a manner consistent with the results of the vote.

7. Assessment funds collected under this chapter may not be used to fund an election. All costs of holding an assessment referendum under this section are the responsibility of the commission.

SECTION 11. EFFECTIVE DATE. Section 2 of this Act becomes effective on January 1, 2026.