Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE BILL NO. 1185
(Representatives Rennerfeldt, Monson, Aarsvold)
(Senators Kinnoin, Urlacher, Thane)

AN ACT to amend and reenact sections 4-10.4-03, 4-10.4-08, and 4-10.4-12 of the North Dakota Century Code, relating to the state barley council and the tax assessment on barley production.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-10.4-03 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-03. Council - Membership - Election - Term. The council is composed of one participating grower elected from each of the districts established in section 4-10.4-04. The chairman of the council must be an elected member of the council elected by a majority vote of the council. The commissioner is an ex officio member of the council and does not have a vote. Every elected council member must be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member is three years and begins on April first of the year of election, except that initially two members must be elected for a three-year term; two members must be elected for a two-year term; and one member must be elected for a one-year term as designated by the commissioner. Notwithstanding the terms provided for members elected before August 1, 1997, the board, before December 31, 1997, shall determine by lot the order of subsequent elections for its members so that two members are elected for a four-year term during 1998, and one member is elected for a four-year term during each of the subsequent three years. The term of each member elected after July 31, 1997, is four years and begins on April first of the year of election. If at any time during a member's term a member ceases to possess any of the qualifications provided for in this chapter, the member's office is vacant and the remaining members of the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. All such elections must be completed ~~at least sixty days~~ prior to expiration of the members' terms. No ~~elected~~ member ~~of~~ serving on the council before August 1, 1997, is eligible to serve more than two consecutive ~~three-year~~ four-year terms. No member elected to the council after July 31, 1997, is eligible to serve more than three consecutive four-year terms.

SECTION 2. AMENDMENT. Section 4-10.4-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.4-08. Tax levied.

1. A tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] must be levied and imposed upon all barley grown in the state, delivered into the state, or sold to a first purchaser in the state. This tax is due upon any identifiable lot or quantity of barley.

2. Every first purchaser of barley shall collect the tax imposed by this section by charging and collecting from the seller the tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] by deducting the tax from the purchase price of all barley subject to the tax and purchased by the first purchaser.

3. Every first purchaser shall keep as a part of its permanent records a record of all purchases, sales, and shipments of barley, which may be examined by the council at all reasonable times. Every first purchaser shall report to the council by the ~~twentieth~~ thirtieth

day of each calendar quarter stating the quantity of barley received, sold, or shipped by it, except that if less than twenty-five thousand bushels [880.98 cubic meters] have been purchased, in any calendar quarter, the tax may be reported and remitted with the following quarter's return, provided that all taxes collected must be remitted at least annually. The remittance of the tax as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid to the council for deposit in the state treasury to the credit of an account or accounts designated "barley fund" to be used exclusively to carry out the intent and purposes of this chapter. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

4.   The tax provided for by this section must be deducted as provided by this chapter whether the barley is stored or sold in this or any other state, but if agreements have not been made with dealers and first purchasers outside of the state for collecting the tax, the grower shall remit the tax to the council on all barley sold by the grower outside the state.

SECTION 3. AMENDMENT. Section 4-10.4-12 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-12. Penalty for nonpayment of tax. Any first purchaser who fails to pay any tax levied by this chapter on the date the tax becomes due is delinquent and the. The council shall may levy a penalty on the delinquent payments of ten percent of the tax due, plus interest at the rate of six percent per annum from the due date. The council shall collect the any penalty and interest in the manner prescribed by section 4-10.4-11.

_____   _____
Speaker of the House   President of the Senate

_____   _____
Chief Clerk of the House   Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1185.

House Vote: Yeas   71   Nays   24   Absent   2

Senate Vote: Yeas   46   Nays   1   Absent   2

                                        _____
                                        Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

                                        _____
                                        Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

                                        _____
                                        Secretary of State