

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1518
(Representatives Nicholas, Boucher, Brandenburg, Mueller, Uglem)
(Senator Warner)

AN ACT to create and enact a new section to chapter 4-28 of the North Dakota Century Code, relating to the wheat tax levy; to amend and reenact sections 4-28-06 and 4-28-07 of the North Dakota Century Code, relating to the North Dakota wheat commission; to repeal section 4-28-07 of the North Dakota Century Code, relating to the wheat tax levy; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. To foster and promote programs aimed at increasing the sale, utilization, and development of wheat, both at home and abroad.
2. To publish and disseminate reliable information on the value of wheat and wheat products for any purpose for which they are valuable and useful to both processor and consumer.
3. To search for and promote new uses of wheat and wheat products.
4. To contract and cooperate with any person, firm, corporation, limited liability company, or association, or with any local, state, or federal department or agency for executing or carrying on a program or programs of research, education, and publicity.
5. To lease, purchase, own, equip, maintain, and operate a commission office.
6. To appoint, employ, bond, discharge, fix the compensation and prescribe the duties of such administrative, clerical, technical and other personnel, employees, and agents as it may deem necessary to conduct the business and affairs of the commission.
7. To accept donations of funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the work and objectives of the commission, depositing all funds so received in the state wheat commission fund in the state treasury.
8. To ~~promote North Dakota opportunities as afforded by the development of the St. Lawrence seaway~~ provide market maintenance and development services, utilization research, transportation research, and education.
9. To address trade and domestic issues.
- ~~10.~~ 11. To seek improvement in the export quality of wheat.
- ~~40.~~ 11. To exercise all express and implied rights, powers, and authority that may be necessary to perform and carry out the expressed purposes of this chapter and all of the purposes reasonably implied incidentally thereto or lawfully connected therewith and to adopt, rescind, modify, and amend all necessary and proper orders, resolutions, rules, and regulations for the procedure and exercise of its powers and the performance of its duties.

44. 12. To prosecute in the name of the state of North Dakota any suit or action to enforce collection or assure payment of the tax or assessment authorized by the provisions of this chapter, and to sue and be sued in the name of the commission.
13. To engage in any other related activities.

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

4-28-07. Wheat tax levy.

1. a. A tax of ~~ten~~ fifteen mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels to a first purchaser in this state.
- b. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels [liters] is not accurately determined at the time of the lien, pledge, or mortgage.
- c. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in the manner prescribed by the commission.
2. a. Any producer who sells wheat to a first purchaser in this state and who is subject to the deduction provided in this chapter, within sixty days following the deduction or final settlement, may make application by personal letter to the wheat commission for a refund application blank.
- b. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected.
- c. If no request for refund has been made within the period prescribed above, then the producer is presumed to have agreed to the deduction. However, a producer, for any reason, having paid the tax more than once on the same wheat, upon furnishing proof of this to the commission, is entitled to a refund of the overpayment.
3. The commission, to inform the producer, shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed and to this extent shall cooperate with governmental agencies, state and federal, and private businesses engaged in the purchase of wheat.
4. ~~The commission may use the amount raised by two mills of the levy provided for in this section to support the commission's involvement in trade issues throughout the world.~~
5. ~~The commission may use the~~ shall expend an amount at least equal to that raised by up to two mills of the levy provided for in this section for the purposes of providing market maintenance and development services, utilization research, transportation research, and education; addressing domestic policy issues; and engaging in other related activities; or for the purposes of contracting for market maintenance and development services, utilization research, transportation research, and education; addressing domestic policy issues; and engaging in other related activities, to contract for activities related to domestic wheat policy issues, wheat production, promotion, and sales. The contracts may be with no more than two trade associations that are incorporated in this state and which have as their primary purpose the representation of wheat producers. The contracts must require that any trade association receiving money under this section pay from that money all dues

required as a condition of the trade association's membership in any national trade association. The contracts also must prohibit any trade association receiving money under this section from eliminating any dues required as a condition of membership in that trade association or from reducing such dues below the amount required for membership as of January 1, 2005.

5. The commission shall expend an amount at least equal to that raised by three mills of the levy provided for in this section to pay any debts for legal services incurred by the commission, until the debts for legal services are paid in full.
6. When the wheat commission presents the report required by section 4-24-10, the commission shall present a separate report detailing the nature and extent of the commission's efforts to address trade and domestic policy issues. The commission may invite other entities with which it has contracted to assist in the presentations.
7. At the time the wheat commission presents the report required by section 4-24-10, each trade association with which the wheat commission has contracted under subsection 4 also shall present a report detailing all activities in which the trade association engaged under the provisions of the contract.

SECTION 3. A new section to chapter 4-28 of the North Dakota Century Code is created and enacted as follows:

Wheat tax levy.

1.
 - a. A tax of twelve mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels to a first purchaser in this state.
 - b. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels [liters] is not accurately determined at the time of the lien, pledge, or mortgage.
 - c. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in the manner prescribed by the commission.
2.
 - a. Any producer who sells wheat to a first purchaser in this state and who is subject to the deduction provided for in this chapter, within sixty days following the deduction or final settlement, may make application by personal letter to the wheat commission for a refund application blank.
 - b. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected.
 - c. If no request for refund has been made within the period prescribed in this subsection, the producer is presumed to have agreed to the deduction. A producer that, for any reason, has paid the tax more than once on the same wheat, upon furnishing proof of that payment to the commission, is entitled to a refund of the overpayment.
3. To inform the producer, the commission shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed and to this extent shall cooperate with state and federal agencies and private businesses engaged in the purchase of wheat.

4. The commission shall expend an amount at least equal to that raised by two mills of the levy provided for in this section to contract for activities related to domestic wheat policy issues, wheat production, promotion, and sales. The contracts may be with no more than two trade associations that are incorporated in this state and which have as their primary purpose the representation of wheat producers. The contracts must require that any trade association receiving money under this section pay from the money all dues required as a condition of the trade association's membership in any national trade association. The contracts also must prohibit any trade association receiving money under this section from eliminating any dues required as a condition of membership in that trade association or from reducing such dues below the amount required for membership as of January 1, 2005.
5. When the wheat commission presents the report required by section 4-24-10, the commission shall present a separate report detailing the nature and extent of the commission's efforts to address trade and domestic policy issues. The commission may invite other entities with which it has contracted to assist in the presentations.
6. At the time the wheat commission presents the report required by section 4-24-10, each trade association with which the wheat commission has contracted under subsection 4 also shall present a report detailing all activities in which the trade association engaged under the provisions of the contract.

SECTION 4. REPEAL. Section 4-28-07 of the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. The increase in the levy imposed by section 2 of this Act applies to all sales occurring on and after the day of the next calendar quarter occurring at least thirty days after the effective date of this Act.

SECTION 6. EFFECTIVE DATE. Sections 3 and 4 of this Act become effective on July 1, 2009.

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-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1518.

House Vote: Yeas 60 Nays 31 Absent 3

Senate Vote: Yeas 33 Nays 12 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State