

**FIRST ENGROSSMENT  
with Senate Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1086**

Introduced by

Agriculture Committee

Representatives Kingsbury, Dietrich

Senator Tallackson

(At the request of the North Dakota Potato Council)

1 A BILL for an Act to amend and reenact sections 4-10.1-03 and 4-10.1-13 of the North Dakota  
2 Century Code, relating to definitions and referendums by potato growers; to repeal section  
3 4-10.1-12 of the North Dakota Century Code, relating to refunds of nonparticipating potato  
4 growers; and to provide a contingent effective date.

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

6 **SECTION 1. AMENDMENT.** Section 4-10.1-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **4-10.1-03. Definitions.** Whenever used in this chapter:

- 9 1. "Commissioner" means agriculture commissioner.
- 10 2. "Council" means the North Dakota potato council.
- 11 3. "Designated handler" means any person who initially places potatoes, whether that  
12 person is an owner, agent, or otherwise, into the channels of trade and commerce,  
13 or who is engaged in the processing of potatoes into food for human consumption  
14 in any form. A grower selling that grower's unharvested potatoes, or delivering that  
15 grower's potatoes from the farm on which they are produced to storage facilities,  
16 packing shed, or processing plant, within the state, is not considered to be a  
17 designated handler.
- 18 4. "Grower" means any person who plants, raises, and harvests Irish potatoes from  
19 more than ten acres [4.05 hectares].
- 20 5. "Hundredweight" means a one hundred pound unit [45.36 kilograms] or  
21 combination of packages making a one hundred pound unit [45.36 kilograms] or  
22 any shipment of potatoes based on invoices or bills of lading records.

- 1           6. ~~Participating grower" means a grower who has not gained exemption from the~~  
2           ~~payment of taxes on potato production under this chapter for a particular year, or a~~  
3           ~~grower who is not exempt from the payment of taxes on potato production under~~  
4           ~~the terms of this chapter.~~
- 5           7. "Person" means an individual, partnership, corporation, limited liability company,  
6           association, grower, cooperative, or any other business unit.
- 7           8. ~~7.~~ The term "potatoes" means any and all varieties of Irish potatoes harvested within  
8           the state of North Dakota.
- 9           9. ~~8.~~ "Processor" means a person who is actively engaged in the processing of potatoes  
10          for human consumption.

11           **SECTION 2. AMENDMENT.** Section 4-10.1-13 of the North Dakota Century Code is  
12          amended and reenacted as follows:

13           **4-10.1-13. Referendum by growers.** Whenever fifteen percent of the ~~participating~~  
14          growers, but not more than fifty percent of the signatory parties from any one district, as  
15          disclosed by the records of the council for the preceding year, petition the council, the council  
16          shall conduct a referendum among the ~~participating~~ growers of the state to determine whether  
17          they wish the legislative assembly to raise or lower the tax imposed by section 4-10.1-09. Such  
18          referendum must be conducted only among ~~participating~~ growers who have paid all taxes  
19          assessed pursuant to this enactment for the preceding year, and the ballots must be prepared  
20          by the council and mailed to each ~~participating~~ grower at least thirty days prior to the last date  
21          for filing ballots. In addition, each ballot must be accompanied by a notice to each ~~participating~~  
22          grower:

- 23           1. Of the date of the filing of the petition by the growers for the referendum and the  
24           number of signatures contained thereon.
- 25           2. Of the date and place where the council will open and tabulate the ballots, which  
26           date must be not less than five days after the last date for filing the ballots.
- 27           3. Of the last date upon which ballots must be filed with the council, or postmarked if  
28           delivered to the council by mail.
- 29           4. That any ~~participating~~ grower may attend the meeting of the council at the time the  
30           ballots are opened and the votes tabulated.

1 If a majority of the ~~participating~~ growers voting upon the question are in favor of the proposed  
2 change, the council shall certify the result to the commissioner with the request that the  
3 department prepare a bill to submit to the legislative assembly at the next legislative session to  
4 modify this chapter in conformity therewith. The results of such referendum are advisory only  
5 and the legislative assembly is in no way obligated to adopt legislation enacting the proposals  
6 contained in any referendum.

7 **SECTION 3. REPEAL.** Section 4-10.1-12 of the North Dakota Century Code is  
8 repealed.

9 **SECTION 4. CONTINGENT EFFECTIVE DATE.**

- 10 1. This Act becomes effective on the date the potato council certifies to the secretary  
11 of state and the legislative council that:
- 12 a. The potato council has conducted a referendum among all potato growers in  
13 the state, as indicated on the records of the council for the preceding year, to  
14 determine whether the ability to obtain a refund of the assessment paid under  
15 section 4-10.1-09 should be repealed;
  - 16 b. The potato council prepared and mailed the ballots at least thirty days before  
17 the final date established by the council for filing ballots;
  - 18 c. Each ballot was accompanied by a notice indicating the date and place at  
19 which the ballots would be tabulated and indicating that any grower may  
20 attend the opening and tabulation of the ballots; and
  - 21 d. Sixty percent of those voting upon the question favored repealing the ability to  
22 obtain a refund of the assessment paid under section 4-10.1-09.
- 23 2. The certification required by subsection 1 must be completed before January 1,  
24 2008.