

**HOUSE BILL NO. 1402**

Introduced by

Representatives D. Johnson, Brandenburg, Hofstad, Mueller

Senators Taylor, Wanzek

1 A BILL for an Act to amend and reenact section 4-28-07.1 of the North Dakota Century Code or  
2 in the alternative to amend and reenact section 4.1-13-15 of the North Dakota Century Code,  
3 relating to the wheat assessment; to provide an effective date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 4-28-07.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **4-28-07.1. (Effective after June 30, 2009) Wheat tax levy.**

8 1. a. A tax of ~~twelve~~ fifteen mills per bushel [35.24 liters] by weight must be levied  
9 and imposed upon all wheat grown in this state, delivered into this state, or  
10 sold through commercial channels to a first purchaser in this state.

11 b. The tax must be levied and assessed at the time of sale and deducted by the  
12 purchaser from the price paid, or in the case of a lien, pledge, or mortgage,  
13 deducted from the proceeds of the loan or claim secured, subject to  
14 adjustment at the time of settlement in the event the number of bushels [liters]  
15 is not accurately determined at the time of the lien, pledge, or mortgage.

16 c. At the time of sale, the first purchaser in this state shall issue and deliver to  
17 the producer or seller a record of the transaction in the manner prescribed by  
18 the commission.

19 2. a. Any producer who sells wheat to a first purchaser in this state and who is  
20 subject to the deduction provided for in this chapter, within sixty days following  
21 the deduction or final settlement, may make application by personal letter to  
22 the wheat commission for a refund application blank.

- 1           b. Upon the return of the blank, properly executed by the producer,  
2           accompanied by a record of the deduction by the purchaser, the producer  
3           must be refunded the net amount of the deduction collected.
- 4           c. If no request for refund has been made within the period prescribed in this  
5           subsection, the producer is presumed to have agreed to the deduction. A  
6           producer that, for any reason, has paid the tax more than once on the same  
7           wheat, upon furnishing proof of that payment to the commission, is entitled to  
8           a refund of the overpayment.
- 9           3. To inform the producer, the commission shall develop and disseminate information  
10          and instructions relating to the purpose of the wheat tax and manner in which  
11          refunds may be claimed and to this extent shall cooperate with state and federal  
12          agencies and private businesses engaged in the purchase of wheat.
- 13          4. The commission shall expend an amount at least equal to that raised by two mills  
14          of the levy provided for in this section to contract for activities related to domestic  
15          wheat policy issues, wheat production, promotion, and sales. The contracts may  
16          be with no more than two trade associations that are incorporated in this state and  
17          which have as their primary purpose the representation of wheat producers. The  
18          contracts must require that any trade association receiving money under this  
19          section pay from the money all dues required as a condition of the trade  
20          association's membership in any national trade association. The contracts also  
21          must prohibit any trade association receiving money under this section from  
22          eliminating any dues required as a condition of membership in that trade  
23          association or from reducing such dues below the amount required for membership  
24          as of January 1, 2005.
- 25          5. When the wheat commission presents the report required by section 4-24-10, the  
26          commission shall present a separate report detailing the nature and extent of the  
27          commission's efforts to address trade and domestic policy issues. The  
28          commission may invite other entities with which it has contracted to assist in the  
29          presentations.
- 30          6. At the time the wheat commission presents the report required by section 4-24-10,  
31          each trade association with which the wheat commission has contracted under

1 subsection 4 also shall present a report detailing all activities in which the trade  
2 association engaged under the provisions of the contract.

3 **SECTION 2. AMENDMENT.** Section 4.1-13-15 of the North Dakota Century Code as  
4 created by House Bill No. 1025, as approved by the sixty-first legislative assembly, is amended  
5 and reenacted as follows:

6 **4.1-13-15. Assessment.** An assessment at the rate of ~~twelve~~ fifteen mills per bushel  
7 [35.24 liters] by weight is imposed upon:

- 8 1. All wheat grown in this state, at the time of its sale;
- 9 2. All wheat delivered into this state, at the time of its sale; and
- 10 3. All wheat sold through commercial channels to a first purchaser in this state.

11 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2009.

12 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.