

**OPINION
74-472**

January 16, 1974 (OPINION)

Mr. Rich Slagle
Executive Director
North Dakota Beef Commission
107 South Fifth Street
Bismarck, North Dakota 58501

Dear Mr. Slagle:

This is in response to your letter of January 9, 1974, wherein you request an opinion concerning the North Dakota Beef Promotion Act, found in Chapter 4-34 of the North Dakota Century Code, as amended. You submit the following facts and inquiry in your letter:

"According to this Act, not less than 50 percent of assessments collected shall go to the National Live Stock and Meat Board and no less than 25 percent shall be used for research. This leaves only 25 percent for in-state promotion and financing of the Commission's operating expenses.

"The maximum amount collected can only reach \$100,000.00 thus leaving \$25,000.00 for the Commission. My question is - can certain necessary operating expenses be deducted from the total gross assessments collected before the split, thus it would be the net assessments collected? The operating expenses would include:

Executive and clerical bookkeeping salaries

Commissioner's expenses (three meetings)

Postage, office supplies and telephone

"These expenses, I feel, are necessary for collection procedures and should be shared by all before the assessments are split into three major areas."

The specific provision which calls for the allocation of assessments collected is Section 4-34-01 of the North Dakota Century Code, as amended, which provides as follows:

"4-34-01. PURPOSES. - The purposes of this chapter are:

1. To provide programs to increase the consumption of domestic beef through such means as advertising and local and national sales promotion and education, but at no time shall false or unwarranted claims be made on behalf of the beef industry.
2. To support research and educational activities of the national livestock and meat board and its beef industry council with not less than fifty percent of the assessments collected.

3. To support research efforts toward solving problems, primarily health, involved in the production of North Dakota beef cattle with no less than twenty-five percent of assessments collected.
4. To enhance the sale of North Dakota cattle." (emphasis supplied)

The foregoing statute does not distinguish between nor specify "gross assessments" nor "net assessments", for which reason we must interpret that particular provision according to the usual and common meaning of the words used. In both instances we would note that the specification is applicable to a given percentage "of the assessments collected" and "of assessments collected". This clearly means that the percentages are applicable to the total of assessments collected, which, if taken in the literal sense, would mean about the same as the "gross assessments".

It is, therefore, the opinion of this office that necessary operating expenses of the North Dakota Beef Commission shall be taken from the remaining 25 percent of assessments collected and that the provisions of Section 4-34-01 of the North Dakota Century Code, as amended, relating to and specifying the percentages of assessments collected which shall be allocated to specific purposes are percentages of the total amount of assessments collected and that administrative and operating expenses may not first be deducted from the total amount of assessments received, applying the specified percentages to the remaining amounts.

Sincerely yours,

ALLEN I. OLSON

Attorney General