

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1106

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subdivision e of subsection 2 of section 57-38-45 and
2 subsection 1 of section 57-39.2-18 of the North Dakota Century Code, relating to penalty and
3 interest on delinquent income, sales, and use taxes; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subdivision e of subsection 2 of section 57-38-45 of the
6 North Dakota Century Code is amended and reenacted as follows:

7 e. An employer, required to file returns under subsection 1 of section 57-38-60,
8 with four to eight delinquent original tax returns or payments is subject to a
9 penalty of ten percent of the tax due or twenty-five dollars, whichever is
10 greater. An employer with nine or more delinquent original returns or
11 payments is subject to a penalty of fifteen percent of the tax due or one
12 hundred dollars, whichever is greater. The enhanced penalties under this
13 subdivision for persons with previous delinquent original returns do not apply
14 to a person who has had no delinquent original returns or payments for a
15 period of eighteen months immediately preceding the return or payment for
16 which the penalty is determined under this subsection.

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-39.2-18 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 1. If any person fails to file a return or corrected return or to pay any tax within the
20 time required by this chapter or, if upon audit, is found to owe additional tax, the
21 person is subject to a penalty of five percent of the amount of tax due or of five
22 dollars, whichever is greater, plus interest of one percent of the tax per month or
23 fraction of a month of delay except the first month after the return or the tax
24 became due. Any person on a monthly filing schedule with seven to fourteen

1 delinquent original returns or payments, and any person other than a monthly filer
2 with four to eight delinquent original returns or payments, is subject to a penalty of
3 ten percent of the tax due or twenty-five dollars, whichever is greater, plus interest
4 of one percent of the tax per month or fraction of a month of delay except the first
5 month after the return or the tax became due. Any person on a monthly filing
6 schedule with fifteen or more delinquent original returns or payments, and any
7 person other than a monthly filer with nine or more delinquent original returns or
8 payments, is subject to a penalty of fifteen percent of the tax due or one hundred
9 dollars, whichever is greater, plus interest of one percent of the tax due per month
10 or fraction of a month of delay except the first month after the return or the tax
11 became due. The enhanced penalties under this subsection for persons with
12 previous delinquent original returns do not apply to a person who has had no
13 delinquent original returns or payments for a period of eighteen months
14 immediately preceding the return or payment for which the penalty is determined
15 under this subsection. The commissioner, if satisfied that the delay was
16 excusable, may waive, and if paid, refund all or any part of the penalty and interest.
17 The penalty and interest must be paid to the commissioner and disposed of in the
18 same manner as other receipts under this chapter. Unpaid penalties and interest
19 may be enforced in the same manner as the tax imposed by this chapter.

20 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after

21 July 31, 1997.