

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1360

Introduced by

Representatives Lemieux, Brandenburg, Nicholas

1 A BILL for an Act to provide for a privilege tax on certain agricultural chemicals based on price  
2 differentials of those goods in Canada and North Dakota; and to provide a continuing  
3 appropriation for property tax relief.

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

5 **SECTION 1. Definitions.** As used in this Act, unless the context or subject matter  
6 otherwise requires:

- 7 1. "Agricultural chemical" means commercial fertilizer, fungicide, seed treatment,  
8 inoculant, fumigant, herbicide, insecticide, or adjuvant of such a product used by a  
9 farmer or commercial applicator for agricultural purposes.
- 10 2. "Canadian retail price" means the manufacturer's suggested retail price of an  
11 agricultural chemical sold at retail in Canada within fifty miles [80.47 kilometers] of  
12 North Dakota.
- 13 3. "North Dakota retail price" means the manufacturer's suggested retail price of an  
14 agricultural chemical sold at retail in North Dakota within fifty miles [80.47  
15 kilometers] of the Canadian border.

16 **SECTION 2. Privilege tax on agricultural chemicals.** A privilege tax is imposed  
17 based on the price differential on the sale at retail in this state and Canada of an agricultural  
18 chemical sold or intended for sale at retail in this state. The tax on sale of an agricultural  
19 chemical is determined by subtracting the Canadian retail price from the North Dakota retail  
20 price of the agricultural chemical. There is no tax if the North Dakota retail price of the product  
21 is equal to or less than the Canadian retail price. The tax commissioner shall determine the  
22 North Dakota and Canadian retail price for each calendar quarter for agricultural chemicals  
23 based upon the manufacturer's suggested retail price for sales of agricultural chemicals within  
24 fifty miles [80.47 kilometers] on either side of the North Dakota-Canadian border in the most

1 recently completed calendar quarter for which the data is available. The tax under this section  
2 is payable by the wholesaler upon the sale at wholesale in this state of an agricultural chemical  
3 or by the retailer upon the sale at retail of an agricultural chemical for use in this state for which  
4 the sale at wholesale occurred outside this state.

5 **SECTION 3. Administration.** The provisions of chapter 57-39.2 governing  
6 administration of the sales tax including provisions for penalties, interest, liens, refunds, credits,  
7 returns, and liability of limited liability company or corporation officers which are not in conflict  
8 with the provisions of this Act govern the administration of the tax under this Act.

9 **SECTION 4. Allocation of revenue - Continuing appropriation.** The state tax  
10 commissioner shall transfer all revenue from the tax imposed under this Act to the state  
11 treasurer for distribution in the first month after each quarterly period to the county in which the  
12 taxable sale occurred. Revenue from the tax under this Act is appropriated as a standing and  
13 continuing appropriation to the state treasurer for allocation under this section. Revenue  
14 received by the county must be deposited in the county general fund.