

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1052

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North
2 Dakota Century Code, relating to a sales and use tax exemption for sales and use of used farm
3 machinery, farm machinery repair parts, and used irrigation equipment used exclusively for
4 agricultural purposes; to amend and reenact subsection 3 of section 57-39.2-01 and sections
5 57-39.2-02.1 and 57-40.2-02.1 of the North Dakota Century Code, relating to imposition of
6 sales tax on sales of used farm machinery, farm machinery repair parts, and used irrigation
7 equipment used exclusively for agricultural purposes; to provide an effective date; and to
8 provide an expiration date.

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

10 **SECTION 1. AMENDMENT.** Subsection 3 of section 57-39.2-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

12 3. "Gross receipts" means the total amount of sales of retailers, valued in money,
13 whether received in money or otherwise. Provided, discounts for any purposes
14 allowed and taken on sales are not included, nor is the sale price of property
15 returned by customers when the full sale price is refunded either in cash or by
16 credit. Provided, further, when tangible personal property is taken in trade or in a
17 series of trades as a credit or part payment of a retail sale taxable under this
18 chapter, if the tangible personal property traded in will be subject to the sales tax
19 imposed by this chapter when sold ~~or~~, will be subject to the motor vehicle excise
20 tax imposed by chapter 57-40.3, or if the tangible personal property traded in is
21 used farm machinery or used irrigation equipment, the credit or trade-in value
22 allowed by the retailer are not gross receipts. Provided, further, on all sales of
23 retailers, valued in money, when the sales are made under a conditional sales
24 contract, or under other forms of sale wherein the payment of the principal sum is

to be extended over a period longer than sixty days from the date of sale that only the portion of the sale amount shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. When a farm machine is purchased as a replacement for machinery which was stolen or totally destroyed, a credit or trade-in credit is allowed in an amount equal to the compensation received for the loss from an insurance company. The purchaser shall provide the seller with a notarized statement from the insurance company verifying that the original farm machine is a total loss and indicating the amount of compensation. The notarized statement must be retained by the seller to verify the amount of credit or trade-in credit allowed. "Gross receipts" also means, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. For the purpose of this chapter, gross receipts shall also include the total amount of sales of every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer.

SECTION 2. AMENDMENT. Section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-02.1. (Effective through June 30, ~~2004~~ 2003) Sales tax imposed.

1. Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile homes used for residential or business purposes; for sales of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes; and for sales of coal, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm

- 1 machinery, farm machinery repair parts, and irrigation equipment used
2 exclusively for agricultural purposes.
- 3 b. The furnishing or service of communication services or steam other than
4 steam used for processing agricultural products.
- 5 c. Tickets or admissions to places of amusement or entertainment or athletic
6 events, including amounts charged for participation in an amusement,
7 entertainment, or athletic activity, and including the furnishing of bingo cards
8 and the playing of any machine for amusement or entertainment in response
9 to the use of a coin. The tax imposed by this section applies only to eighty
10 percent of the gross receipts collected from coin-operated amusement
11 devices.
- 12 d. Magazines and other periodicals.
- 13 e. The leasing or renting of a hotel or motel room or tourist court
14 accommodations.
- 15 f. The leasing or renting of tangible personal property the transfer of title to
16 which has not been subjected to a retail sales tax under this chapter or a use
17 tax under chapter 57-40.2.
- 18 g. Coal used for heating buildings in this state and coal used in agricultural
19 processing or sugar beet refining plants located within this state or adjacent
20 states.
- 21 2. There is imposed a tax of three percent upon the gross receipts of retailers from all
22 sales at retail of mobile homes used for residential or business purposes, except
23 as provided in subsection 35 of section 57-39.2-04, and of new farm machinery
24 and new irrigation equipment used exclusively for agricultural purposes, including
25 the leasing or renting of new farm machinery and new irrigation equipment used
26 exclusively for agricultural purposes within this state to consumers or users. There
27 is imposed a tax of one and one-half percent upon the gross receipts of retailers
28 from all sales at retail of used farm machinery, farm machinery repair parts, and
29 used irrigation equipment used exclusively for agricultural purposes, including the
30 leasing or renting of used farm machinery and used irrigation equipment used

exclusively for agricultural purposes within this state to consumers or users. For purposes of this subsection, "used" means:

- a. Tax under this chapter has been paid on a previous sale;
- b. Originally purchased outside this state and previously owned by a farmer; or
- c. Has been under lease or rental for three years or more.

3. There is imposed a tax of seventy-five cents per ton of two thousand pounds [907.18 kilograms] on all sales at retail of coal, except for coal used for heating buildings in this state and coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states.

4. In the case of a contract for the construction of highways, roads, streets, bridges, and buildings for which the bid was submitted prior to December 9, 1986, the contractor receiving the award is liable only for the sales or use tax at the rate of tax in effect on the date the bid was submitted.

(Effective after June 30, 2004 ~~2003~~) Sales tax imposed.

1. Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile homes used for residential or business purposes; ~~for sales of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes; and,~~ for sales of coal, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:

- a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and new farm machinery, ~~farm machinery repair parts,~~ and new irrigation equipment used exclusively for agricultural purposes.
- b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards

and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.

d. Magazines and other periodicals.

e. The leasing or renting of a hotel or motel room or tourist court accommodations.

f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.

g. Coal used for heating buildings in this state and coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states.

2. There is imposed a tax of three percent upon the gross receipts of retailers from all sales at retail of mobile homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04, and of new farm machinery; ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for agricultural purposes, including the leasing or renting of new farm machinery and new irrigation equipment used exclusively for agricultural purposes within this state to consumers or users.

3. There is imposed a tax of seventy-five cents per ton of two thousand pounds [907.18 kilograms] on all sales at retail of coal, except for coal used for heating buildings in this state and coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states.

4. In the case of a contract for the construction of highways, roads, streets, bridges, and buildings for which the bid was submitted prior to December 9, 1986, the contractor receiving the award is liable only for the sales or use tax at the rate of tax in effect on the date the bid was submitted.

SECTION 3. A new subsection to section 57-39.2-04 of the North Dakota Century

Code is created and enacted as follows:

Gross receipts from the sale or lease of used farm machinery, farm machinery repair parts, or used irrigation equipment used exclusively for agricultural purposes. For purposes of this subsection, "used" means:

- a. Tax under this chapter has been paid on a previous sale;
- b. Originally purchased outside this state and previously owned by a farmer; or
- c. Has been under lease or rental for three years or more.

SECTION 4. AMENDMENT. Section 57-40.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-02.1. (Effective through June 30, ~~2004~~ 2003) Use tax imposed.

1. Except as otherwise expressly provided in subsections 2 and 3 for purchases of mobile homes used for residential or business purposes, for purchases of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes, and for purchases of coal used for heating buildings in this state and used in agricultural processing or sugar beet refining plants located within this state or adjacent states, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of five percent of the purchase price of the property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of five percent of the fair market value of the property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in subsection 19 of section 57-40.2-04, and of new farm machinery and new irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of three percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of new farm machinery and new irrigation equipment used

exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of three percent of the fair market value of mobile homes used for residential or business purposes and of new farm machinery and new irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state. An excise tax is imposed on the storage, use, or consumption in this state of used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of one and one-half percent of the purchase price thereof. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of one and one-half percent of the fair market value of the used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state. For purposes of this subsection, "used" means:

- a. Tax under this chapter has been paid on a previous sale;
- b. Originally purchased outside this state and previously owned by a farmer; or
- c. Has been under lease or rental for three years or more.

3. An excise tax is imposed on the storage, use, or consumption in this state of coal at the rate of seventy-five cents per ton of two thousand pounds [907.18 kilograms], except for coal used for heating buildings in this state and coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states.
4. An excise tax is imposed on the storage, use, or consumption in this state of natural gas consumed by a final user at the rate of four percent from January 1, 1993, through December 31, 1993; three percent from January 1, 1994, through December 31, 1994; and two percent after December 31, 1994, if sales tax has not been applied as provided by section 57-39.2-03.6.
5. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to December 1, 1986, the contractor receiving the

award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.

(Effective after June 30, 2004 ~~2003~~) Use tax imposed.

1. Except as otherwise expressly provided in subsections 2 and 3 for purchases of mobile homes used for residential or business purposes, ~~for purchases of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes,~~ and for purchases of coal used for heating buildings in this state and used in agricultural processing or sugar beet refining plants located within this state or adjacent states, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of five percent of the purchase price of the property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of five percent of the fair market value of the property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in subsection 19 of section 57-40.2-04, and of new farm machinery, ~~farm machinery repair parts,~~ and new irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of three percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of new farm machinery, ~~farm machinery repair parts,~~ and new irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of three percent of the fair market value of mobile homes used for residential or business purposes and of new farm machinery, ~~farm machinery repair parts,~~ and new irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state.

- 1 3. An excise tax is imposed on the storage, use, or consumption in this state of coal
2 at the rate of seventy-five cents per ton of two thousand pounds [907.18
3 kilograms], except for coal used for heating buildings in this state and coal used in
4 agricultural processing or sugar beet refining plants located within this state or
5 adjacent states.
- 6 4. An excise tax is imposed on the storage, use, or consumption in this state of
7 natural gas consumed by a final user at the rate of four percent from January 1,
8 1993, through December 31, 1993; three percent from January 1, 1994, through
9 December 31, 1994; and two percent after December 31, 1994, if sales tax has not
10 been applied as provided by section 57-39.2-03.6.
- 11 5. In the case of a contract awarded for the construction of highways, roads, streets,
12 bridges, and buildings prior to December 1, 1986, the contractor receiving the
13 award shall be liable only for the sales or use tax at the rate of tax in effect on the
14 date of contract.

15 **SECTION 5. EFFECTIVE DATE.** Sections 2 and 4 of this Act are effective for taxable
16 events occurring after June 30, 2001. Sections 1 and 3 of this Act are effective for taxable
17 events occurring after June 30, 2003.