

Fifty-seventh
Legislative Assembly
of North Dakota

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 sections 57-39.2-02.1 and 57-40.2-02.1 of the
5 North Dakota Century Code, relating to imposition of sales tax on sales of used farm
6 machinery, farm machinery repair parts, and used irrigation equipment used exclusively for
7 agricultural purposes; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 57-39.2-02.1 of the North Dakota Century Code
10 is amended and reenacted as follows:

11 **57-39.2-02.1. (Effective through June 30, 2001) Sales tax imposed.**

- 12 1. Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile
13 homes used for residential or business purposes; for sales of farm machinery, farm
14 machinery repair parts, and irrigation equipment used exclusively for agricultural
15 purposes; and for sales of coal, and except as otherwise expressly provided in this
16 chapter, there is imposed a tax of five percent upon the gross receipts of retailers
17 from all sales at retail including the leasing or renting of tangible personal property
18 as provided in this section, within this state of the following to consumers or users:
- 19 a. Tangible personal property, consisting of goods, wares, or merchandise,
20 except mobile homes used for residential or business purposes and farm
21 machinery, farm machinery repair parts, and irrigation equipment used
22 exclusively for agricultural purposes.
- 23 b. The furnishing or service of communication services or steam other than
24 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 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. There is imposed a tax of one and one-half percent upon the gross receipts of retailers from all sales at retail of used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes, including the 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.

- 1 3. There is imposed a tax of seventy-five cents per ton of two thousand pounds
2 [907.18 kilograms] on all sales at retail of coal, except for coal used for heating
3 buildings in this state and coal used in agricultural processing or sugar beet
4 refining plants located within this state or adjacent states.
- 5 4. In the case of a contract for the construction of highways, roads, streets, bridges,
6 and buildings for which the bid was submitted prior to December 9, 1986, the
7 contractor receiving the award is liable only for the sales or use tax at the rate of
8 tax in effect on the date the bid was submitted.

9 **(Effective after June 30, 2001) Sales tax imposed.**

- 10 1. Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile
11 homes used for residential or business purposes; ~~for sales of farm machinery, farm~~
12 ~~machinery repair parts, and irrigation equipment used exclusively for agricultural~~
13 ~~purposes; and,~~ for sales of coal, and except as otherwise expressly provided in this
14 chapter, there is imposed a tax of five percent upon the gross receipts of retailers
15 from all sales at retail including the leasing or renting of tangible personal property
16 as provided in this section, within this state of the following to consumers or users:
 - 17 a. Tangible personal property, consisting of goods, wares, or merchandise,
18 except mobile homes used for residential or business purposes and new farm
19 machinery, ~~farm machinery repair parts,~~ and new irrigation equipment used
20 exclusively for agricultural purposes.
 - 21 b. The furnishing or service of communication services or steam other than
22 steam used for processing agricultural products.
 - 23 c. Tickets or admissions to places of amusement or entertainment or athletic
24 events, including amounts charged for participation in an amusement,
25 entertainment, or athletic activity, and including the furnishing of bingo cards
26 and the playing of any machine for amusement or entertainment in response
27 to the use of a coin. The tax imposed by this section applies only to eighty
28 percent of the gross receipts collected from coin-operated amusement
29 devices.
 - 30 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 2. 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.

1 **SECTION 3. AMENDMENT.** Section 57-40.2-02.1 of the North Dakota Century Code
2 is amended and reenacted as follows:

3 **57-40.2-02.1. (Effective through June 30, 2001) Use tax imposed.**

- 4 1. Except as otherwise expressly provided in subsections 2 and 3 for purchases of
5 mobile homes used for residential or business purposes, for purchases of farm
6 machinery, farm machinery repair parts, and irrigation equipment used exclusively
7 for agricultural purposes, and for purchases of coal used for heating buildings in
8 this state and used in agricultural processing or sugar beet refining plants located
9 within this state or adjacent states, an excise tax is imposed on the storage, use, or
10 consumption in this state of tangible personal property purchased at retail for
11 storage, use, or consumption in this state, at the rate of five percent of the
12 purchase price of the property. Except as limited by section 57-40.2-11, an excise
13 tax is imposed on the storage, use, or consumption in this state of tangible
14 personal property not originally purchased for storage, use, or consumption in this
15 state at the rate of five percent of the fair market value of the property at the time it
16 was brought into this state.
- 17 2. An excise tax is imposed on the storage, use, or consumption in this state of
18 mobile homes used for residential or business purposes, except as provided in
19 subsection 19 of section 57-40.2-04, and of new farm machinery and new irrigation
20 equipment used exclusively for agricultural purposes purchased at retail for
21 storage, use, or consumption in this state at the rate of three percent of the
22 purchase price thereof. Except as limited by section 57-40.2-11, and except as
23 provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the
24 storage, use, or consumption in this state of mobile homes used for residential or
25 business purposes and of new farm machinery and new irrigation equipment used
26 exclusively for agricultural purposes not originally purchased for storage, use, or
27 consumption in this state at the rate of three percent of the fair market value of
28 mobile homes used for residential or business purposes and of new farm
29 machinery and new irrigation equipment used exclusively for agricultural purposes
30 at the time it was brought into this state. An excise tax is imposed on the storage,
31 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, 2001) 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~~

1 ~~for agricultural purposes~~, and for purchases of coal used for heating buildings in
2 this state and used in agricultural processing or sugar beet refining plants located
3 within this state or adjacent states, an excise tax is imposed on the storage, use, or
4 consumption in this state of tangible personal property purchased at retail for
5 storage, use, or consumption in this state, at the rate of five percent of the
6 purchase price of the property. Except as limited by section 57-40.2-11, an excise
7 tax is imposed on the storage, use, or consumption in this state of tangible
8 personal property not originally purchased for storage, use, or consumption in this
9 state at the rate of five percent of the fair market value of the property at the time it
10 was brought into this state.

- 11 2. An excise tax is imposed on the storage, use, or consumption in this state of
12 mobile homes used for residential or business purposes, except as provided in
13 subsection 19 of section 57-40.2-04, and of new farm machinery, ~~farm machinery~~
14 ~~repair parts~~, and new irrigation equipment used exclusively for agricultural
15 purposes purchased at retail for storage, use, or consumption in this state at the
16 rate of three percent of the purchase price thereof. Except as limited by section
17 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an
18 excise tax is imposed on the storage, use, or consumption in this state of mobile
19 homes used for residential or business purposes and of new farm machinery, ~~farm~~
20 ~~machinery repair parts~~, and new irrigation equipment used exclusively for
21 agricultural purposes not originally purchased for storage, use, or consumption in
22 this state at the rate of three percent of the fair market value of mobile homes used
23 for residential or business purposes and of new farm machinery, ~~farm machinery~~
24 ~~repair parts~~, and new irrigation equipment used exclusively for agricultural
25 purposes at the time it was brought into this state.

- 26 3. An excise tax is imposed on the storage, use, or consumption in this state of coal
27 at the rate of seventy-five cents per ton of two thousand pounds [907.18
28 kilograms], except for coal used for heating buildings in this state and coal used in
29 agricultural processing or sugar beet refining plants located within this state or
30 adjacent states.

- 1 4. An excise tax is imposed on the storage, use, or consumption in this state of
2 natural gas consumed by a final user at the rate of four percent from January 1,
3 1993, through December 31, 1993; three percent from January 1, 1994, through
4 December 31, 1994; and two percent after December 31, 1994, if sales tax has not
5 been applied as provided by section 57-39.2-03.6.
- 6 5. In the case of a contract awarded for the construction of highways, roads, streets,
7 bridges, and buildings prior to December 1, 1986, the contractor receiving the
8 award shall be liable only for the sales or use tax at the rate of tax in effect on the
9 date of contract.

10 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
11 June 30, 2001.