

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Owens

1 A BILL for an Act to amend and reenact subsection 2 of section 11-09.1-05 and subsection 16
2 of section 40-05.1-06 of the North Dakota Century Code, relating to limitations on the rate of
3 sales, use, and gross receipts taxes imposed by counties or cities under home rule authority;
4 and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 11-09.1-05 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. Control its finances and fiscal affairs; appropriate money for its purposes, and
9 make payments of its debts and expenses; subject to the limitations of this section
10 levy and collect property taxes, sales and use taxes, farm machinery gross receipts
11 taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special
12 fuels taxes, motor vehicle registration fees, and special assessments for benefits
13 conferred, for its public and proprietary functions, activities, operations,
14 undertakings, and improvements; contract debts, borrow money, issue bonds,
15 warrants, and other evidences of indebtedness; establish charges for any county or
16 other services to the extent authorized by state law, and establish debt and mill
17 levy limitations; provided, that all property in order to be subject to the assessment
18 provisions of this subsection must be assessed in a uniform manner as prescribed
19 by the state board of equalization and the state supervisor of assessments. A
20 charter or ordinance or act of a governing body of a home rule county may not
21 supersede any state law that determines what property or acts are subject to, or
22 exempt from, ad valorem taxes. A charter or ordinance or act of the governing
23 body of a home rule county may not supersede section 11-11-55.1 relating to the
24 sixty percent petition requirement for improvements and of section 40-22-18

relating to the barring proceeding for improvement projects. ~~After December 31, 2005, sales~~ Sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of electricity, piped natural or artificial gas, or other heating fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1.
- e. May not be imposed at a rate exceeding two percent and may not be imposed within a city at a rate that, when combined with the rate of city sales, use, or gross receipts taxes under chapter 40-05.1 which were imposed previously, would result in a tax rate exceeding two percent.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm

1 machinery, farm irrigation equipment, and farm machinery repair parts used
2 exclusively for agricultural purposes, or on alcoholic beverages, which were in
3 effect on December 31, 2005, become gross receipts taxes after December 31,
4 2005.

5 **SECTION 2. AMENDMENT.** Subsection 16 of section 40-05.1-06 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 16. To impose registration fees on motor vehicles, farm machinery gross receipts
8 taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition
9 to any other taxes imposed by law. ~~After December 31, 2005, sales~~ Sales and use
10 taxes and gross receipts taxes levied under this chapter:

- 11 a. Must conform in all respects with regard to the taxable or exempt status of
12 items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be
13 imposed at multiple rates with the exception of sales of electricity, piped
14 natural or artificial gas, or other heating fuels delivered by the seller or the
15 retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes,
16 manufactured homes, or mobile homes.
- 17 b. May not be newly imposed or changed except to be effective on the first day
18 of a calendar quarterly period after a minimum of ninety days' notice to the tax
19 commissioner or, for purchases from printed catalogs, on the first day of a
20 calendar quarter after a minimum of one hundred twenty days' notice to the
21 seller.
- 22 c. May not be limited to apply to less than the full value of the transaction or item
23 as determined for state sales and use tax purposes, except for farm
24 machinery gross receipts tax.
- 25 d. Must be subject to collection by the tax commissioner under an agreement
26 under section 57-01-02.1.
- 27 e. May not be imposed at a rate exceeding two percent and may not be imposed
28 at a rate that, when combined with the rate of county sales, use, or gross
29 receipts taxes imposed under chapter 11-09.1 within the city previously, would
30 result in a tax rate exceeding two percent.

1 It is the intention of this chapter to grant and confirm to the people of all cities coming
2 within its provisions the full right of self-government in both local and city matters within the
3 powers enumerated herein. The statutes of the state of North Dakota, so far as applicable,
4 shall continue to apply to home rule cities, except insofar as superseded by the charters of such
5 cities or by ordinance passed pursuant to such charters.

6 After December 31, 2005, any portion of a charter or any portion of an ordinance
7 passed pursuant to a charter which does not conform to the requirements of subsection 16 is
8 invalid to the extent that it does not conform. The invalidity of a portion of a charter or
9 ordinance because it does not conform to subsection 16 does not affect the validity of any other
10 portion of the charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any
11 taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm
12 machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages,
13 which were in effect on December 31, 2005, become gross receipts taxes after December 31,
14 2005.

15 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
16 June 30, 2007.