

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Pomeroy

1 A BILL for an Act to amend and reenact section 57-39.2-02.1, subsection 1 of section  
2 57-40.2-02.1, and sections 57-40.3-02 and 57-40.5-02 of the North Dakota Century Code,  
3 relating to the rate of sales, use, motor vehicle excise, and aircraft excise taxes; to provide an  
4 effective date; and to provide an expiration date.

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

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

8 **57-39.2-02.1. Sales tax imposed.**

9 1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes  
10 used for residential or business purposes, and except as otherwise expressly  
11 provided in this chapter, there is imposed a tax of ~~five~~ four percent upon the gross  
12 receipts of retailers from all sales at retail including the leasing or renting of  
13 tangible personal property as provided in this section, within this state of the  
14 following to consumers or users:

- 15 a. Tangible personal property, consisting of goods, wares, or merchandise,  
16 except mobile homes used for residential or business purposes and including  
17 bundled transactions consisting entirely of tangible personal property.
- 18 b. The furnishing or service of communication services or steam other than  
19 steam used for processing agricultural products.
- 20 c. Tickets or admissions to places of amusement or entertainment or athletic  
21 events, including amounts charged for participation in an amusement,  
22 entertainment, or athletic activity and the playing of any machine for  
23 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. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:

(1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.

(4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.

(6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or

1 other creator to the specifications of a specific purchaser when it is sold  
2 to a person other than the purchaser. If a person modifies or enhances  
3 "computer software" of which the person is not the author or creator,  
4 the person is deemed to be the author or creator only of such person's  
5 modifications or enhancements. "Prewritten computer software" or a  
6 prewritten portion thereof that is modified or enhanced to any degree, if  
7 such modification or enhancement is designed and developed to the  
8 specifications of a specific purchaser, remains "prewritten computer  
9 software". However, if there is a reasonable, separately stated charge  
10 or an invoice or other statement of the price given to the purchaser for  
11 such modification or enhancement, such modification or enhancement  
12 shall not constitute "prewritten computer software".

- 13 2. There is imposed a tax of three percent upon the gross receipts of retailers from all  
14 sales at retail of mobile homes used for residential or business purposes, except  
15 as provided in subsection 35 of section 57-39.2-04.

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

- 18 1. Except as otherwise expressly provided in subsection 2 for purchases of mobile  
19 homes used for residential or business purposes, an excise tax is imposed on the  
20 storage, use, or consumption in this state of tangible personal property purchased  
21 at retail for storage, use, or consumption in this state, at the rate of ~~five~~ four  
22 percent of the purchase price of the property. Except as limited by section  
23 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this  
24 state of tangible personal property not originally purchased for storage, use, or  
25 consumption in this state at the rate of ~~five~~ four percent of the fair market value of  
26 the property at the time it was brought into this state.

27 **SECTION 3. AMENDMENT.** Section 57-40.3-02 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **57-40.3-02. Tax imposed.** There is hereby imposed an excise tax at the rate of ~~five~~  
30 four percent on the purchase price of any motor vehicle purchased or acquired either in or

1 outside of the state of North Dakota for use on the streets and highways of this state and  
2 required to be registered under the laws of this state.

3 **SECTION 4. AMENDMENT.** Section 57-40.5-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **57-40.5-02. Tax imposed.** There is imposed an excise tax at the rate of ~~five~~ four  
6 percent on the purchase price of any aircraft purchased or acquired either in or outside of the  
7 state of North Dakota or on the lease or rental cost of any aircraft, less fuel, if rented dry and  
8 required to be registered under the laws of this state, except on aircraft or helicopters designed  
9 or modified for exclusive use as agricultural aircraft for aerial application of agricultural  
10 chemicals, insecticides, fungicides, growth regulators, pesticides, dusts, fertilizer, or other  
11 agricultural materials, the excise tax is imposed at the rate of three percent on the purchase  
12 price of any such aircraft purchased or acquired in or outside of this state, including the leasing  
13 or renting of such agricultural aircraft to users for agricultural purposes.

14 **SECTION 5. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for taxable  
15 events occurring from July 1, 2009, through June 30, 2011, and is thereafter ineffective.