

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1243**

Introduced by

Representatives Hawken, Grande, S. Kelsh

Senators Grindberg, Sorvaag, Triplett

1 A BILL for an Act to amend and reenact section 53-06.1-12 and subsection 1 of section  
2 57-39.2-02.1 of the North Dakota Century Code, relating to the excise tax on bingo.

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

4 **SECTION 1. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **53-06.1-12. Gaming and excise taxes - Exception - Deposits and allocations.**

7 1. A gaming tax is imposed on the total adjusted gross proceeds earned by a licensed  
8 organization in a quarter and it must be computed and paid to the attorney general on  
9 a quarterly basis on the tax return. This tax must be paid from adjusted gross  
10 proceeds and is not part of the allowable expenses. The tax rates are:

11 a. On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax  
12 of five percent.

13 b. On adjusted gross proceeds exceeding two hundred thousand dollars but not  
14 exceeding four hundred thousand dollars, a tax of ten percent.

15 c. On adjusted gross proceeds exceeding four hundred thousand dollars but not  
16 exceeding six hundred thousand dollars, a tax of fifteen percent.

17 d. On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of  
18 twenty percent.

19 2. Except as provided in subsection 3, in addition to any other tax provided by law and in  
20 place of sales or use taxes, there is imposed on a licensed organization an excise tax  
21 of three percent on the gross proceeds from the sale at retail of pull tabs ~~and three-~~  
22 ~~percent on the gross proceeds from the sale at retail of bingo cards~~ to final users. This  
23 includes pull tabs ~~or bingo cards~~ provided to a player in exchange for redeemed

winning pull tabs ~~or bingo cards~~. The tax must be paid to the attorney general at the time tax returns are filed.

3. For organizations whose gross proceeds of pull tabs do not exceed four thousand dollars per calendar quarter, no excise tax may be imposed on the gross proceeds from the sale at retail of pull tabs to final users.

4. Except as provided in subsection 5, the attorney general shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.

5. The attorney general shall deposit three percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

**SECTION 2. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, 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 including bundled transactions consisting entirely of tangible personal property.
- b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.

- 1           c.    Tickets or admissions to places of amusement or entertainment or athletic  
2               events, not including the furnishing of bingo cards, but including amounts  
3               charged for participation in an amusement, entertainment, or athletic activity and  
4               the playing of any machine for amusement or entertainment in response to the  
5               use of a coin. The tax imposed by this section applies only to eighty percent of  
6               the gross receipts collected from coin-operated amusement devices.
- 7           d.    Magazines and other periodicals.
- 8           e.    The leasing or renting of a hotel or motel room or tourist court accommodations.
- 9           f.    The leasing or renting of tangible personal property the transfer of title to which  
10               has not been subjected to a retail sales tax under this chapter or a use tax under  
11               chapter 57-40.2.
- 12          g.    Sale, lease, or rental of a computer and prewritten computer software, including  
13               prewritten computer software delivered electronically or by load and leave. For  
14               purposes of this subdivision:
- 15               (1) "Computer" means an electronic device that accepts information in digital or  
16                   similar form and manipulates it for a result based on a sequence of  
17                   instructions.
- 18               (2) "Computer software" means a set of coded instructions designed to cause a  
19                   computer or automatic data processing equipment to perform a task.
- 20               (3) "Delivered electronically" means delivered from the seller to the purchaser  
21                   by means other than tangible storage media.
- 22               (4) "Electronic" means relating to technology having electrical, digital, magnetic,  
23                   wireless, optical, electromagnetic, or similar capabilities.
- 24               (5) "Load and leave" means delivery to the purchaser by use of a tangible  
25                   storage media when the tangible storage media is not physically transferred  
26                   to the purchaser.
- 27               (6) "Prewritten computer software" means computer software, including  
28                   prewritten upgrades, which is not designed and developed by the author or  
29                   other creator to the specifications of a specific purchaser. The combining of  
30                   two or more "prewritten computer software" programs or prewritten portions  
31                   thereof does not cause the combination to be other than "prewritten

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

- 14 h. A mandatory computer software maintenance contract for prewritten computer  
15 software.
- 16 i. An optional computer software maintenance contract for prewritten computer software  
17 that provides only software upgrades or updates or an optional computer software  
18 maintenance contract for prewritten computer software that is a bundled transaction  
19 and provides software upgrades or updates and support services.