

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2099
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact section 57-40.2-15.2 of the North Dakota Century Code, relating to governor and manager liability for use tax; and to amend and reenact sections 57-39.2-15.2, 57-39.2-18.1, and 57-40.2-15.1 of the North Dakota Century Code, relating to governor and manager liability for sales taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-15.2 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-15.2. Governor and manager liability. If a limited liability company ~~is an employer and required to hold a permit issued under this chapter~~ fails for any reason to file the required returns or to pay the taxes due under this chapter, the governor or manager, jointly or severally charged with the responsibility of supervising the preparation of ~~such the~~ returns and payments, is personally liable for ~~such the~~ failure. The dissolution of a limited liability company does not discharge a governor's or manager's liability for a prior failure of the limited liability company to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected under the provisions of this chapter.

SECTION 2. AMENDMENT. Section 57-39.2-18.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-39.2-18.1. Corporate officer ~~and limited liability company~~ ~~governor or manager~~ liability. If a corporation ~~or limited liability company holding~~ required to hold a permit issued pursuant to the provisions of this chapter fails for any reason to file the required returns or to pay the tax due, any of its officers, ~~governors, or managers~~ having control, or supervision of, or charged with the responsibility for making ~~such the~~ returns and payments ~~shall be~~ is personally liable for ~~such the~~ failure. The dissolution of a corporation ~~or limited liability company shall~~ does not discharge an officer's, ~~governor's, or manager's~~ liability for a prior failure of the corporation ~~or limited liability company~~ to make a return or remit the tax due. The sum due for ~~such a~~ the liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

SECTION 3. AMENDMENT. Section 57-40.2-15.1 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-15.1. Corporate officer ~~and limited liability company~~ ~~manager~~ liability. If a corporation ~~or limited liability company holding a permit issued pursuant to the provisions of this chapter~~ fails for any reason to file the required returns or to pay the tax due under this chapter, any of its officers ~~or managers~~ having control, or supervision of, or charged with the responsibility for making ~~such the~~ returns and payments ~~shall be~~ is personally liable for ~~such the~~ failure. The dissolution of a corporation ~~or limited liability company shall~~ does not discharge an officer's liability for a prior failure of the corporation ~~or limited liability company~~ to make a return or remit the tax due. The sum due for ~~such a~~ the liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

SECTION 4. Section 57-40.2-15.2 of the North Dakota Century Code is created and enacted as follows:

57-40.2-15.2. Governor and manager liability. If a limited liability company fails for any reason to file the required returns or to pay the taxes due under this chapter, the governor or manager,

jointly or severally charged with the responsibility of supervising the preparation of the returns and payments, is personally liable for the failure. The dissolution of a limited liability company does not discharge a governor's or manager's liability for a prior failure of the limited liability company to file a return or remit the tax due. The sum due for such a liability may be assessed and collected under the provisions of this chapter.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2099.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 91 Nays 0 Absent 7

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State