

January 25, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1043

Page 1, line 6, after the comma insert "subsection 26 of section 57-39.2-04,"

Page 1, line 7, after the first comma insert "section 57-39.2-26.1,"

Page 2, line 25, after the first underscored comma insert "except for" and remove the second underscored comma

Page 2, line 26, remove "or alcoholic beverage gross receipts tax"

Page 5, line 8, after "57-39.2" insert ", 57-39.5, 57-39.6,"

Page 5, line 19, after "purposes" insert ", except for farm machinery gross receipts tax"

Page 7, line 14, replace the first underscored comma with "and" and remove ", and gross receipts"

Page 15, after line 15, insert:

**"SECTION 7. AMENDMENT.** Subsection 26 of section 57-39.2-04 of the North Dakota Century Code, as effective after December 31, 2005, is amended and reenacted as follows:

26. Gross receipts from sales of prosthetic devices, durable medical equipment, ~~or~~ mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:

- a. "Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:
- (1) Can withstand repeated use;
  - (2) Is primarily and customarily used to serve a medical purpose;
  - (3) Generally is not useful to a person in the absence of illness or injury; and
  - (4) Is not worn in or on the body.

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction.

- b. "Mobility-enhancing equipment" means equipment, not including durable medical equipment, including repair and replacement parts for mobility-enhancing equipment, which:
- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;
  - (2) Is not generally used by persons with normal mobility; and
  - (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

- c. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for such a device, worn on or in the body to:
- (1) Artificially replace a missing portion of the body;
  - (2) Prevent or correct a physical deformity or malfunction; or
  - (3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

- d. ~~"Prosthetic device" and "durable medical equipment" include~~ "Supplies for ostomy care or bladder dysfunction" includes:

- (1) ~~Artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual~~ Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
- (2) ~~Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body~~ Supplies to be used exclusively by a person with

bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

- ~~(3) Artificial teeth sold by a dentist.~~
- ~~(4) Eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.~~
- ~~(5) Crutches and wheelchairs for the use of disabled persons.~~
- ~~(6) Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.~~
- ~~(7) Equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.~~
- ~~(8) Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.~~
- ~~(9) Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.~~
- ~~(10) Supplies, equipment, and devices to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction."~~

Page 15, after line 25, insert:

**"SECTION 9. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-26.1. Allocation of revenues among political subdivisions.**

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to forty percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.

- a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
  - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
  - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
- b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
  - (1) Forty percent of the amount must be allocated equally among the counties; and
  - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period as provided in this subsection.
  - a. Nineteen and four-tenths percent of the amount must be allocated among cities with a population of eighty thousand or more, based upon the proportion each city's population bears to the total population of all such cities.
  - b. Thirty-four and five-tenths percent of the amount must be allocated among cities with a population of twenty thousand or more but fewer than eighty thousand, based upon the proportion each such city's population bears to the total population of all such cities.
  - c. Sixteen percent of the amount must be allocated among cities with a population of ten thousand or more but fewer than twenty thousand, based upon the proportion each such city's population bears to the total population of all such cities.
  - d. Four and nine-tenths percent of the amount must be allocated among cities with a population of five thousand or more but fewer than ten thousand, based upon the proportion each such city's population bears to the total population of all such cities.

- e. Thirteen and one-tenth percent of the amount must be allocated among cities with a population of one thousand or more but fewer than five thousand, based upon the proportion each such city's population bears to the total population of all such cities.
- f. Six and one-tenth percent of the amount must be allocated among cities with a population of five hundred or more but fewer than one thousand, based upon the proportion each such city's population bears to the total population of all such cities.
- g. Three and four-tenths percent of the amount must be allocated among cities with a population of two hundred or more but fewer than five hundred, based upon the proportion each such city's population bears to the total population of all such cities.
- h. Two and six-tenths percent of the amount must be allocated among cities with a population of fewer than two hundred, based upon the proportion each such city's population bears to the total population of all such cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution."

Page 22, after line 27, insert:

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction."

Page 23, after line 6, insert:

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person."

Page 23, after line 12, insert:

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the

individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser."

Page 23, line 13, replace "Prosthetic device" and "durable medical equipment" include: with "Supplies for ostomy care or bladder dysfunction" includes:

Page 23, line 14, remove "(1)" and overstrike "Artificial devices individually designed, constructed, or altered solely for"

Page 23, overstrike lines 15 through 17

Page 23, line 18, remove "(2)" and overstrike "Artificial limbs, artificial eyes, hearing aids, and other equipment worn"

Page 23, overstrike line 19

Page 23, line 20, remove "(3)" and overstrike "Artificial teeth sold by a dentist."

Page 23, line 21, remove "(4)" and overstrike "Eyeglasses when especially designed or prescribed by an"

Page 23, overstrike lines 22 and 23

Page 23, line 24, remove "(5)" and overstrike "Crutches and wheelchairs for the use of invalids and crippled persons."

Page 23, line 25, remove "(6)" and overstrike "Equipment, including manual control units, van lifts, van door opening"

Page 23, overstrike lines 26 and 27

Page 23, line 28, remove "(7)" and overstrike "Equipment, including elevators, dumbwaiters, chair lifts, and bedroom"

Page 23, overstrike lines 29 through 31

Page 24, line 1, remove "(8)" and overstrike "Equipment, including manual control units, for attaching to or modifying"

Page 24, overstrike lines 2 and 3

Page 24, line 4, replace "(9) Devices and supplies" with "(1) Supplies"

Page 24, line 8, replace "(10)" with "(2)" and remove ", equipment, and devices"

Page 28, line 18, replace "11" with "13"

Renumber accordingly