

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact section 57-01-11, subsection 5 of section 57-39.2-12.1,
2 and subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the
3 assessment of taxes and compensation allowance to retailers for administrative expenses.

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

5 **SECTION 1. AMENDMENT.** Section 57-01-11 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-01-11. Assessment of or determination of additional tax liability by tax**
8 **commissioner - Hearing - Appeal.**

9 1. In any case in which the provisions of any tax law are administered by the tax
10 commissioner and the tax is collected by the tax commissioner or the amount thereof
11 is certified by the tax commissioner to any other official for collection and the law
12 providing for such tax authorizes the tax commissioner to assess or determine a tax
13 liability that is in addition to that reported by the taxpayer, the taxpayer has a right to a
14 hearing before the tax commissioner on such assessment or determination and has a
15 right to appeal to the courts from the decision of the tax commissioner on such hearing
16 and all of the provisions of chapter 28-32 relating to proceedings before an
17 administrative agency, including the right to appeal to the courts from the decision of
18 the tax commissioner in such a proceeding, are applicable to and govern the notice of
19 hearing, the hearing, and the right of appeal from the tax commissioner's decision
20 thereon. Notwithstanding the provisions of any other law heretofore or hereafter
21 enacted, it is the intent and purpose of this section to provide that in those
22 circumstances hereinbefore described every taxpayer shall have both the right to a
23 hearing before the tax commissioner and the right to appeal to the courts from the tax
24 commissioner's decision on such hearing in accordance with the provisions of chapter

1 28-32 unless the provisions of any such law expressly provide that the decision of the
2 tax commissioner is final or expressly provide that the provisions of chapter 28-32 are
3 not applicable.

4 2. If a tax administered by the tax commissioner is assessed under any provision of law
5 that expressly provides the assessed tax is final and nonreviewable and the assessed
6 tax has not been paid, the tax commissioner may accept for legal settlement
7 purposes, a reduced amount of tax if information is received from the taxpayer that the
8 tax as assessed exceeds the actual amount due. If the tax commissioner receives
9 information that the tax was under-assessed, the additional amount of tax that is
10 determined to be due may be assessed by the tax commissioner, notwithstanding the
11 fact that the assessment made by the tax commissioner is final and nonreviewable.

12 **SECTION 2. AMENDMENT.** Subsection 5 of section 57-39.2-12.1 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 5. Compensation may not be deducted and retained under this section unless the tax
15 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or
16 chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax
17 commissioner may, for good cause shown, allow the retailer to deduct and retain the
18 compensation under this section.

19 **SECTION 3. AMENDMENT.** Subsection 5 of section 57-40.2-07.1 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 5. Compensation may not be deducted and retained under this section unless the tax
22 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or
23 chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax
24 commissioner may, for good cause shown, allow the retailer to deduct and retain the
25 compensation under this section.