

HOUSE BILL NO. 1360

Introduced by

Representatives Lemieux, Brandenburg, Nicholas

1 A BILL for an Act to provide for a privilege tax on certain agricultural chemicals and
2 pharmaceutical products based on price differentials of those goods in Canada and North
3 Dakota; and to provide a continuing appropriation for property tax relief.

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

5 **SECTION 1. Definitions.** As used in this Act, unless the context or subject matter
6 otherwise requires:

- 7 1. "Agricultural chemical" means commercial fertilizer, fungicide, seed treatment,
8 inoculant, fumigant, herbicide, insecticide, or adjuvant of such a product used by a
9 farmer or commercial applicator for agricultural purposes.
- 10 2. "Canadian retail price" means the manufacturer's suggested retail price of a
11 taxable product sold at retail in Canada within fifty miles [80.47 kilometers] of North
12 Dakota.
- 13 3. "North Dakota retail price" means the manufacturer's suggested retail price of a
14 taxable product sold at retail in North Dakota within fifty miles [80.47 kilometers] of
15 the Canadian border.
- 16 4. "Pharmaceutical product" means a drug sold at retail in North Dakota only under a
17 doctor's prescription.
- 18 5. "Taxable product" means an agricultural chemical or pharmaceutical product sold
19 or intended for sale at retail in this state.

20 **SECTION 2. Privilege tax on agricultural chemicals and pharmaceutical products.**

21 A privilege tax is imposed based on the price differential on the sale at retail in this state and
22 Canada of an agricultural chemical or pharmaceutical product sold or intended for sale at retail
23 in this state. The tax on sale of a taxable product is determined by subtracting the Canadian
24 retail price from the North Dakota retail price of the taxable product. There is no tax if the North

1 Dakota retail price of the product is equal to or less than the Canadian retail price. The tax
2 commissioner shall determine the North Dakota and Canadian retail price for each calendar
3 quarter for taxable products based upon the manufacturer's suggested retail price for sales of
4 taxable products within fifty miles [80.47 kilometers] on either side of the North
5 Dakota-Canadian border in the most recently completed calendar quarter for which the data is
6 available. The tax under this section is payable by the wholesaler upon the sale at wholesale in
7 this state of a taxable product or by the retailer upon the sale at retail of a taxable product for
8 use in this state for which the sale at wholesale occurred outside this state.

9 **SECTION 3. Administration.** The provisions of chapter 57-39.2 governing
10 administration of the sales tax including provisions for penalties, interest, liens, refunds, credits,
11 returns, and liability of limited liability company or corporation officers which are not in conflict
12 with the provisions of this Act govern the administration of the tax under this Act.

13 **SECTION 4. Allocation of revenue - Continuing appropriation.** The state tax
14 commissioner shall transfer all revenue from the tax imposed under this Act to the state
15 treasurer for deposit in the property tax relief fund and allocated for property tax relief to
16 counties in the first month after each quarterly period and allocated among counties in the same
17 proportion revenues are allocated among counties under subsection 1 of section 57-39.2-26.1.
18 Revenue from the tax under this Act is appropriated as a standing and continuing appropriation
19 to the state treasurer for allocation under this section.