

**HOUSE BILL NO. 1052**

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North  
2 Dakota Century Code, relating to a sales and use tax exemption for sales and use of used farm  
3 machinery, farm machinery repair parts, and used irrigation equipment used exclusively for  
4 agricultural purposes; to amend and reenact sections 57-39.2-02.1 and 57-40.2-02.1 of the  
5 North Dakota Century Code, relating to imposition of sales tax on sales of used farm  
6 machinery, farm machinery repair parts, and used irrigation equipment used exclusively for  
7 agricultural purposes; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 57-39.2-02.1 of the North Dakota Century Code  
10 is amended and reenacted as follows:

11 **57-39.2-02.1. (Effective through June 30, 2001) Sales tax imposed.**

- 12 1. Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile  
13 homes used for residential or business purposes; for sales of farm machinery, farm  
14 machinery repair parts, and irrigation equipment used exclusively for agricultural  
15 purposes; and for sales of coal, and except as otherwise expressly provided in this  
16 chapter, there is imposed a tax of five percent upon the gross receipts of retailers  
17 from all sales at retail including the leasing or renting of tangible personal property  
18 as provided in this section, within this state of the following to consumers or users:
- 19 a. Tangible personal property, consisting of goods, wares, or merchandise,  
20 except mobile homes used for residential or business purposes and farm  
21 machinery, farm machinery repair parts, and irrigation equipment used  
22 exclusively for agricultural purposes.
  - 23 b. The furnishing or service of communication services or steam other than  
24 steam used for processing agricultural products.

- 1           c. Tickets or admissions to places of amusement or entertainment or athletic  
2           events, including amounts charged for participation in an amusement,  
3           entertainment, or athletic activity, and including the furnishing of bingo cards  
4           and the playing of any machine for amusement or entertainment in response  
5           to the use of a coin. The tax imposed by this section applies only to eighty  
6           percent of the gross receipts collected from coin-operated amusement  
7           devices.
- 8           d. Magazines and other periodicals.
- 9           e. The leasing or renting of a hotel or motel room or tourist court  
10          accommodations.
- 11          f. The leasing or renting of tangible personal property the transfer of title to  
12          which has not been subjected to a retail sales tax under this chapter or a use  
13          tax under chapter 57-40.2.
- 14          g. Coal used for heating buildings in this state and coal used in agricultural  
15          processing or sugar beet refining plants located within this state or adjacent  
16          states.
- 17          2. There is imposed a tax of three percent upon the gross receipts of retailers from all  
18          sales at retail of mobile homes used for residential or business purposes, except  
19          as provided in subsection 35 of section 57-39.2-04, and of new farm machinery  
20          and new irrigation equipment used exclusively for agricultural purposes, including  
21          the leasing or renting of new farm machinery and new irrigation equipment used  
22          exclusively for agricultural purposes within this state to consumers or users. There  
23          is imposed a tax of one and one-half percent upon the gross receipts of retailers  
24          from all sales at retail of used farm machinery, farm machinery repair parts, and  
25          used irrigation equipment used exclusively for agricultural purposes, including the  
26          leasing or renting of used farm machinery and used irrigation equipment used  
27          exclusively for agricultural purposes within this state to consumers or users. For  
28          purposes of this subsection, "used" means:
- 29               a. Tax under this chapter has been paid on a previous sale;
- 30               b. Originally purchased outside this state and previously owned by a farmer; or
- 31               c. Has been under lease or rental for three years or more.

- 1           3.    There is imposed a tax of seventy-five cents per ton of two thousand pounds  
2                   [907.18 kilograms] on all sales at retail of coal, except for coal used for heating  
3                   buildings in this state and coal used in agricultural processing or sugar beet  
4                   refining plants located within this state or adjacent states.
- 5           4.    In the case of a contract for the construction of highways, roads, streets, bridges,  
6                   and buildings for which the bid was submitted prior to December 9, 1986, the  
7                   contractor receiving the award is liable only for the sales or use tax at the rate of  
8                   tax in effect on the date the bid was submitted.

9           **(Effective after June 30, 2001) Sales tax imposed.**

- 10          1.    Except as otherwise expressly provided in subsections 2 and 3 for sales of mobile  
11                   homes used for residential or business purposes; ~~for sales of farm machinery, farm~~  
12                   ~~machinery repair parts, and irrigation equipment used exclusively for agricultural~~  
13                   ~~purposes; and,~~ for sales of coal, and except as otherwise expressly provided in this  
14                   chapter, there is imposed a tax of five percent upon the gross receipts of retailers  
15                   from all sales at retail including the leasing or renting of tangible personal property  
16                   as provided in this section, within this state of the following to consumers or users:
- 17                   a.    Tangible personal property, consisting of goods, wares, or merchandise,  
18                   except mobile homes used for residential or business purposes and new farm  
19                   ~~machinery, farm machinery repair parts,~~ and new irrigation equipment used  
20                   exclusively for agricultural purposes.
- 21                   b.    The furnishing or service of communication services or steam other than  
22                   steam used for processing agricultural products.
- 23                   c.    Tickets or admissions to places of amusement or entertainment or athletic  
24                   events, including amounts charged for participation in an amusement,  
25                   entertainment, or athletic activity, and including the furnishing of bingo cards  
26                   and the playing of any machine for amusement or entertainment in response  
27                   to the use of a coin. The tax imposed by this section applies only to eighty  
28                   percent of the gross receipts collected from coin-operated amusement  
29                   devices.
- 30                   d.    Magazines and other periodicals.

- 1 e. The leasing or renting of a hotel or motel room or tourist court  
2 accommodations.
- 3 f. The leasing or renting of tangible personal property the transfer of title to  
4 which has not been subjected to a retail sales tax under this chapter or a use  
5 tax under chapter 57-40.2.
- 6 g. Coal used for heating buildings in this state and coal used in agricultural  
7 processing or sugar beet refining plants located within this state or adjacent  
8 states.
- 9 2. There is imposed a tax of three percent upon the gross receipts of retailers from all  
10 sales at retail of mobile homes used for residential or business purposes, except  
11 as provided in subsection 35 of section 57-39.2-04, and of new farm machinery;  
12 ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for  
13 agricultural purposes, including the leasing or renting of new farm machinery and  
14 new irrigation equipment used exclusively for agricultural purposes within this state  
15 to consumers or users.
- 16 3. There is imposed a tax of seventy-five cents per ton of two thousand pounds  
17 [907.18 kilograms] on all sales at retail of coal, except for coal used for heating  
18 buildings in this state and coal used in agricultural processing or sugar beet  
19 refining plants located within this state or adjacent states.
- 20 4. In the case of a contract for the construction of highways, roads, streets, bridges,  
21 and buildings for which the bid was submitted prior to December 9, 1986, the  
22 contractor receiving the award is liable only for the sales or use tax at the rate of  
23 tax in effect on the date the bid was submitted.

24 **SECTION 2.** A new subsection to section 57-39.2-04 of the North Dakota Century Code  
25 is created and enacted as follows:

26 Gross receipts from the sale or lease of used farm machinery, farm machinery  
27 repair parts, or used irrigation equipment used exclusively for agricultural  
28 purposes. For purposes of this subsection, "used" means:

- 29 a. Tax under this chapter has been paid on a previous sale;  
30 b. Originally purchased outside this state and previously owned by a farmer; or  
31 c. Has been under lease or rental for three years or more.

1           **SECTION 3. AMENDMENT.** Section 57-40.2-02.1 of the North Dakota Century Code  
2 is amended and reenacted as follows:

3           **57-40.2-02.1. (Effective through June 30, 2001) Use tax imposed.**

- 4           1. Except as otherwise expressly provided in subsections 2 and 3 for purchases of  
5 mobile homes used for residential or business purposes, for purchases of farm  
6 machinery, farm machinery repair parts, and irrigation equipment used exclusively  
7 for agricultural purposes, and for purchases of coal used for heating buildings in  
8 this state and used in agricultural processing or sugar beet refining plants located  
9 within this state or adjacent states, an excise tax is imposed on the storage, use, or  
10 consumption in this state of tangible personal property purchased at retail for  
11 storage, use, or consumption in this state, at the rate of five percent of the  
12 purchase price of the property. Except as limited by section 57-40.2-11, an excise  
13 tax is imposed on the storage, use, or consumption in this state of tangible  
14 personal property not originally purchased for storage, use, or consumption in this  
15 state at the rate of five percent of the fair market value of the property at the time it  
16 was brought into this state.
- 17          2. An excise tax is imposed on the storage, use, or consumption in this state of  
18 mobile homes used for residential or business purposes, except as provided in  
19 subsection 19 of section 57-40.2-04, and of new farm machinery and new irrigation  
20 equipment used exclusively for agricultural purposes purchased at retail for  
21 storage, use, or consumption in this state at the rate of three percent of the  
22 purchase price thereof. Except as limited by section 57-40.2-11, and except as  
23 provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the  
24 storage, use, or consumption in this state of mobile homes used for residential or  
25 business purposes and of new farm machinery and new irrigation equipment used  
26 exclusively for agricultural purposes not originally purchased for storage, use, or  
27 consumption in this state at the rate of three percent of the fair market value of  
28 mobile homes used for residential or business purposes and of new farm  
29 machinery and new irrigation equipment used exclusively for agricultural purposes  
30 at the time it was brought into this state. An excise tax is imposed on the storage,  
31 use, or consumption in this state of used farm machinery, farm machinery repair

- 1 parts, and used irrigation equipment used exclusively for agricultural purposes  
2 purchased at retail for storage, use, or consumption in this state at the rate of one  
3 and one-half percent of the purchase price thereof. Except as limited by section  
4 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this  
5 state of used farm machinery, farm machinery repair parts, and used irrigation  
6 equipment used exclusively for agricultural purposes not originally purchased for  
7 storage, use, or consumption in this state at the rate of one and one-half percent of  
8 the fair market value of the used farm machinery, farm machinery repair parts, and  
9 used irrigation equipment used exclusively for agricultural purposes at the time it  
10 was brought into this state. For purposes of this subsection, "used" means:
- 11 a. Tax under this chapter has been paid on a previous sale;
  - 12 b. Originally purchased outside this state and previously owned by a farmer; or
  - 13 c. Has been under lease or rental for three years or more.
- 14 3. An excise tax is imposed on the storage, use, or consumption in this state of coal  
15 at the rate of seventy-five cents per ton of two thousand pounds [907.18  
16 kilograms], except for coal used for heating buildings in this state and coal used in  
17 agricultural processing or sugar beet refining plants located within this state or  
18 adjacent states.
- 19 4. An excise tax is imposed on the storage, use, or consumption in this state of  
20 natural gas consumed by a final user at the rate of four percent from January 1,  
21 1993, through December 31, 1993; three percent from January 1, 1994, through  
22 December 31, 1994; and two percent after December 31, 1994, if sales tax has not  
23 been applied as provided by section 57-39.2-03.6.
- 24 5. In the case of a contract awarded for the construction of highways, roads, streets,  
25 bridges, and buildings prior to December 1, 1986, the contractor receiving the  
26 award shall be liable only for the sales or use tax at the rate of tax in effect on the  
27 date of contract.

28 **(Effective after June 30, 2001) Use tax imposed.**

- 29 1. Except as otherwise expressly provided in subsections 2 and 3 for purchases of  
30 mobile homes used for residential or business purposes, ~~for purchases of farm~~  
31 ~~machinery, farm machinery repair parts, and irrigation equipment used exclusively~~

- 1           ~~for agricultural purposes~~, and for purchases of coal used for heating buildings in  
2           this state and used in agricultural processing or sugar beet refining plants located  
3           within this state or adjacent states, an excise tax is imposed on the storage, use, or  
4           consumption in this state of tangible personal property purchased at retail for  
5           storage, use, or consumption in this state, at the rate of five percent of the  
6           purchase price of the property. Except as limited by section 57-40.2-11, an excise  
7           tax is imposed on the storage, use, or consumption in this state of tangible  
8           personal property not originally purchased for storage, use, or consumption in this  
9           state at the rate of five percent of the fair market value of the property at the time it  
10          was brought into this state.
- 11          2. An excise tax is imposed on the storage, use, or consumption in this state of  
12          mobile homes used for residential or business purposes, except as provided in  
13          subsection 19 of section 57-40.2-04, and of new farm machinery, ~~farm machinery~~  
14          ~~repair parts~~, and new irrigation equipment used exclusively for agricultural  
15          purposes purchased at retail for storage, use, or consumption in this state at the  
16          rate of three percent of the purchase price thereof. Except as limited by section  
17          57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an  
18          excise tax is imposed on the storage, use, or consumption in this state of mobile  
19          homes used for residential or business purposes and of new farm machinery, ~~farm~~  
20          ~~machinery repair parts~~, and new irrigation equipment used exclusively for  
21          agricultural purposes not originally purchased for storage, use, or consumption in  
22          this state at the rate of three percent of the fair market value of mobile homes used  
23          for residential or business purposes and of new farm machinery, ~~farm machinery~~  
24          ~~repair parts~~, and new irrigation equipment used exclusively for agricultural  
25          purposes at the time it was brought into this state.
- 26          3. An excise tax is imposed on the storage, use, or consumption in this state of coal  
27          at the rate of seventy-five cents per ton of two thousand pounds [907.18  
28          kilograms], except for coal used for heating buildings in this state and coal used in  
29          agricultural processing or sugar beet refining plants located within this state or  
30          adjacent states.

- 1           4.   An excise tax is imposed on the storage, use, or consumption in this state of  
2           natural gas consumed by a final user at the rate of four percent from January 1,  
3           1993, through December 31, 1993; three percent from January 1, 1994, through  
4           December 31, 1994; and two percent after December 31, 1994, if sales tax has not  
5           been applied as provided by section 57-39.2-03.6.
- 6           5.   In the case of a contract awarded for the construction of highways, roads, streets,  
7           bridges, and buildings prior to December 1, 1986, the contractor receiving the  
8           award shall be liable only for the sales or use tax at the rate of tax in effect on the  
9           date of contract.
- 10           **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
11   June 30, 2001.