

SENATE BILL NO. 2393

Introduced by

Senators Cook, Stenehjem, Urlacher

1 A BILL for an Act to amend and reenact section 57-40.2-02.1 of the North Dakota Century
2 Code, relating to use tax exemptions; to repeal subsections 12, 34, and 45 of section
3 57-39.2-04, sections 57-39.2-04.2, 57-39.2-04.3, 57-39.2-04.4, 57-39.2-28, 57-40.2-04.2, and
4 chapter 57-39.5 of the North Dakota Century Code, relating to sales and use tax exemptions
5 and rate reductions for residents of other states, steam used to process agricultural products,
6 farm machinery, power plant construction and production equipment, manufacturing or
7 recycling machinery and equipment, primary sector business computer and telecommunications
8 equipment, construction materials for agricultural commodity processing facilities, and farm
9 machinery and equipment and refunds of sales taxes for Canadian residents; to provide for a
10 legislative council study; and to provide an effective date.

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

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

14 **57-40.2-02.1. (Effective through December 31, 2005) Use tax imposed.**

15 1. Except as otherwise expressly provided in subsection 2 for purchases of mobile
16 homes used for residential or business purposes, an excise tax is imposed on the
17 storage, use, or consumption in this state of tangible personal property purchased
18 at retail for storage, use, or consumption in this state, at the rate of five percent of
19 the purchase price of the property. Except as limited by section 57-40.2-11, an
20 excise tax is imposed on the storage, use, or consumption in this state of tangible
21 personal property not originally purchased for storage, use, or consumption in this
22 state at the rate of five percent of the fair market value of the property at the time it
23 was brought into this state.

- 1 2. An excise tax is imposed on the storage, use, or consumption in this state of
2 mobile homes used for residential or business purposes, except as provided in
3 subsection 19 of section 57-40.2-04, and of new farm machinery and new irrigation
4 equipment used exclusively for agricultural purposes purchased at retail for
5 storage, use, or consumption in this state at the rate of three percent of the
6 purchase price thereof. Except as limited by section 57-40.2-11, and except as
7 provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the
8 storage, use, or consumption in this state of mobile homes used for residential or
9 business purposes and of new farm machinery and new irrigation equipment used
10 exclusively for agricultural purposes not originally purchased for storage, use, or
11 consumption in this state at the rate of three percent of the fair market value of
12 mobile homes used for residential or business purposes and of new farm
13 machinery and new irrigation equipment used exclusively for agricultural purposes
14 at the time it was brought into this state.
- 15 3. An excise tax is imposed on the storage, use, or consumption in this state of
16 natural gas consumed by a final user at the rate of four percent from January 1,
17 1993, through December 31, 1993; three percent from January 1, 1994, through
18 December 31, 1994; and two percent after December 31, 1994, if sales tax has not
19 been applied as provided by section 57-39.2-03.6.
- 20 4. In the case of a contract awarded for the construction of highways, roads, streets,
21 bridges, and buildings prior to December 1, 1986, the contractor receiving the
22 award shall be liable only for the sales or use tax at the rate of tax in effect on the
23 date of contract.

24 **(Effective after December 31, 2005) Use tax imposed.**

- 25 1. Except as otherwise expressly provided in subsection 2 for purchases of mobile
26 homes used for residential or business purposes, an excise tax is imposed on the
27 storage, use, or consumption in this state of tangible personal property purchased
28 at retail for storage, use, or consumption in this state, at the rate of five percent of
29 the purchase price of the property. Except as limited by section 57-40.2-11, an
30 excise tax is imposed on the storage, use, or consumption in this state of tangible
31 personal property not originally purchased for storage, use, or consumption in this

- 1 state at the rate of five percent of the fair market value of the property at the time it
2 was brought into this state.
- 3 2. An excise tax is imposed on the storage, use, or consumption in this state of
4 mobile homes used for residential or business purposes, except as provided in
5 subsection 19 of section 57-40.2-04, ~~and of new farm machinery and new irrigation~~
6 ~~equipment used exclusively for agricultural purposes~~ purchased at retail for
7 storage, use, or consumption in this state at the rate of three percent of the
8 purchase price thereof. Except as limited by section 57-40.2-11, and except as
9 provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the
10 storage, use, or consumption in this state of mobile homes used for residential or
11 business purposes ~~and of new farm machinery and new irrigation equipment used~~
12 ~~exclusively for agricultural purposes~~ not originally purchased for storage, use, or
13 consumption in this state at the rate of three percent of the fair market value of
14 mobile homes used for residential or business purposes ~~and of new farm~~
15 ~~machinery and new irrigation equipment used exclusively for agricultural purposes~~
16 at the time it was brought into this state.
- 17 3. An excise tax is imposed on the storage, use, or consumption in this state of
18 natural gas consumed by a final user at the rate of four percent from January 1,
19 1993, through December 31, 1993; three percent from January 1, 1994, through
20 December 31, 1994; and two percent after December 31, 1994, if sales tax has not
21 been applied as provided by section 57-39.2-03.6.
- 22 4. In the case of a contract awarded for the construction of highways, roads, streets,
23 bridges, and buildings prior to December 1, 1986, the contractor receiving the
24 award shall be liable only for the sales or use tax at the rate of tax in effect on the
25 date of contract.
- 26 5. An excise tax is imposed on the fair market value of sand or gravel severed when
27 sand or gravel is not sold at retail as tangible personal property by the person
28 severing the sand or gravel. If the sand or gravel is not sold at retail by the person
29 severing the sand or gravel, it must be presumed until the contrary is shown by the
30 commissioner or by the person severing the sand or gravel that the fair market
31 value is eight cents per ton of two thousand pounds [907.18 kilograms]. If records

1 are not kept as to the tonnage of sand or gravel severed from the soil, it must be
2 presumed for the purpose of this chapter that one cubic yard [764.55 liters] of sand
3 or gravel is equal to one and one-half tons [1360.78 kilograms] of sand or gravel.

4 **SECTION 2. REPEAL.** Subsections 12, 34, and 45 of section 57-39.2-04, sections
5 57-39.2-04.2, 57-39.2-04.3, 57-39.2-04.4, 57-39.2-28, 57-40.2-04.2, and chapter 57-39.5 of the
6 North Dakota Century Code are repealed.

7 **SECTION 3. LEGISLATIVE COUNCIL STUDY.** The legislative council shall study
8 each statutory provision affected by this Act including, for each exemption or rate reduction
9 eliminated by this Act, detailed analysis of the fiscal impact to the state, benefits to the state
10 economy of retaining the exemption or rate reduction, and who are the beneficiaries of each
11 exemption or rate reduction, specifically including the extent to which those benefits flow to
12 out-of-state concerns. The legislative council shall report its findings and recommendations,
13 together with any legislation required to implement the recommendations, to the sixtieth
14 legislative assembly.

15 **SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable
16 events occurring after December 31, 2007.