

**HOUSE BILL NO. 1298**

Introduced by

Representatives Wrangham, Froelich, Onstad

Senators Heitkamp, Urlacher

1 A BILL for an Act to amend and reenact subsection 2 of section 11-09.1-05 and subsection 16  
2 of section 40-05.1-06 of the North Dakota Century Code, relating to a limitation on sales, use,  
3 and gross receipts taxes imposed by a county or city under home rule authority; and to provide  
4 an effective date.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 11-09.1-05 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 2. Control its finances and fiscal affairs; appropriate money for its purposes, and  
9 make payments of its debts and expenses; subject to the limitations of this section  
10 levy and collect property taxes, sales and use taxes, farm machinery gross receipts  
11 taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special  
12 fuels taxes, motor vehicle registration fees, and special assessments for benefits  
13 conferred, for its public and proprietary functions, activities, operations,  
14 undertakings, and improvements; contract debts, borrow money, issue bonds,  
15 warrants, and other evidences of indebtedness; establish charges for any county or  
16 other services to the extent authorized by state law, and establish debt and mill  
17 levy limitations; provided, that all property in order to be subject to the assessment  
18 provisions of this subsection must be assessed in a uniform manner as prescribed  
19 by the state board of equalization and the state supervisor of assessments. A  
20 charter or ordinance or act of a governing body of a home rule county may not  
21 supersede any state law that determines what property or acts are subject to, or  
22 exempt from, ad valorem taxes. A charter or ordinance or act of the governing  
23 body of a home rule county may not supersede section 11-11-55.1 relating to the  
24 sixty percent petition requirement for improvements and of section 40-22-18

- 1 relating to the barring proceeding for improvement projects. After ~~December 31,~~  
2 2005 July 31, 2007, sales and use taxes, farm machinery gross receipts taxes, and  
3 alcoholic beverage gross receipts taxes levied under this chapter:
- 4 a. Must conform in all respects with regard to the taxable or exempt status of  
5 items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be  
6 imposed at multiple rates with the exception of sales of electricity, piped  
7 natural or artificial gas, or other heating fuels delivered by the seller or the  
8 retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes,  
9 manufactured homes, or mobile homes.
  - 10 b. May not be newly imposed or changed except to be effective on the first day  
11 of a calendar quarterly period after a minimum of ninety days' notice to the tax  
12 commissioner or, for purchases from printed catalogs, on the first day of a  
13 calendar quarter after a minimum of one hundred twenty days' notice to the  
14 seller.
  - 15 c. May not be limited to apply to less than the full value of the transaction or item  
16 as determined for state sales and use tax, except for farm machinery gross  
17 receipts tax purposes.
  - 18 d. Must be subject to collection by the tax commissioner under an agreement  
19 under section 57-01-02.1.
  - 20 e. May not be imposed at a rate exceeding one percent.
- 21 After ~~December 31, 2005~~ July 31, 2007, any portion of a charter or any portion of  
22 an ordinance or act of a governing body of a home rule county passed pursuant to  
23 a charter which does not conform to the requirements of this subsection is invalid  
24 to the extent that it does not conform. The invalidity of a portion of a charter or  
25 ordinance or act of a governing body of a home rule county because it does not  
26 conform to this subsection does not affect the validity of any other portion of the  
27 charter or ordinance or act of a governing body of a home rule county or the  
28 eligibility for a refund under section 57-01-02.1. Any taxes imposed under this  
29 chapter on farm machinery, farm irrigation equipment, and farm machinery repair  
30 parts used exclusively for agricultural purposes, or on alcoholic beverages, which

1                   were in effect on December 31, 2005, become gross receipts taxes after  
2                   December 31, 2005.

3                   **SECTION 2. AMENDMENT.** Subsection 16 of section 40-05.1-06 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5                   16. To impose registration fees on motor vehicles, farm machinery gross receipts  
6 taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition  
7 to any other taxes imposed by law. After ~~December 31, 2005~~ July 31, 2007, sales  
8 and use taxes and gross receipts taxes levied under this chapter:

- 9                   a. Must conform in all respects with regard to the taxable or exempt status of  
10 items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be  
11 imposed at multiple rates with the exception of sales of electricity, piped  
12 natural or artificial gas, or other heating fuels delivered by the seller or the  
13 retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes,  
14 manufactured homes, or mobile homes.
- 15                   b. May not be newly imposed or changed except to be effective on the first day  
16 of a calendar quarterly period after a minimum of ninety days' notice to the tax  
17 commissioner or, for purchases from printed catalogs, on the first day of a  
18 calendar quarter after a minimum of one hundred twenty days' notice to the  
19 seller.
- 20                   c. May not be limited to apply to less than the full value of the transaction or item  
21 as determined for state sales and use tax purposes, except for farm  
22 machinery gross receipts tax.
- 23                   d. Must be subject to collection by the tax commissioner under an agreement  
24 under section 57-01-02.1.
- 25                   e. May not be imposed at a rate exceeding one percent. Sales and use taxes or  
26 gross receipts taxes levied under this chapter before August 1, 2007, at a rate  
27 exceeding one percent may continue to be imposed at the rate in effect on  
28 July 31, 2007, until the expiration of the period for which the tax rate in excess  
29 of one percent was approved but may not thereafter be reimposed at a rate  
30 exceeding one percent.

1           **SECTION 3. EFFECTIVE DATE.** This Act is effective for sales, use, and gross receipts  
2 taxes imposed by a city or county under home rule authority after July 31, 2007.