

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2177**

Introduced by

Senators Wardner, Taylor

Representatives Kreidt, Onstad

1 A BILL for an Act to create and enact section 57-39.2-04.5 and a new section to chapter  
2 57-39.5 of the North Dakota Century Code, relating to a sales and use tax exemption for dairy  
3 farm machinery, equipment, and structural materials; and to provide an effective date.

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

5 **SECTION 1.** Section 57-39.2-04.5 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **59-39.2-04.5. Sales tax exemption for machinery, equipment, and structural**  
8 **materials for dairy farm.**

- 9 1. Gross receipts from sales of machinery, equipment, and structural materials used  
10 directly and exclusively in the milking operation of a dairy farm are exempt from  
11 taxes under this chapter. Purchase of replacement machinery, equipment, or  
12 construction materials is exempt if it otherwise qualifies under this section.
- 13 2. To qualify for the exemption under this section at the time of purchase, a dairy  
14 farmer must receive from the commissioner a certificate stating that the machinery,  
15 equipment, or construction materials qualify for the exemption. If a dairy farmer  
16 does not obtain a certificate for the purchase to qualify for a refund, the dairy  
17 farmer must pay the tax and apply to the commissioner for a refund.
- 18 3. If the machinery, equipment, or construction material is purchased or installed by a  
19 contractor subject to tax under this chapter to qualify for a refund, the dairy farmer  
20 must apply for a refund of the amount remitted by the contractor.
- 21 4. For purposes of this section:
- 22 a. "Equipment" means any tangible personal property, other than machinery,  
23 used directly and exclusively in milk collection, handling, and storage; heating  
24 or cooling of the structure in which the milking operation is conducted, or

1                   tangible personal property, other than machinery, used directly and  
2                   exclusively for waste handling and disposal directly related to the milking  
3                   operation, and which tangible personal property is not commonly usable in  
4                   other agricultural operations.

5                   b. "Machinery" means mechanical devices used directly and exclusively in milk  
6                   collection, handling, and storage; heating or cooling of the structure in which  
7                   the milking operation is conducted; or mechanical devices used directly and  
8                   exclusively for waste handling and disposal directly related to the milking  
9                   operation. The term includes electrical, mechanical, and electronic  
10                  components that are part of machinery and necessary for a machine to  
11                  produce its effect or result and environmental control equipment required to  
12                  maintain certain levels of humidity or temperature. The term includes  
13                  computer equipment that controls or monitors the functions of machinery  
14                  used directly in the milking operation.

15                  c. "Machinery" and "equipment" do not include handtools or transportation  
16                  equipment commonly usable in other agricultural operations or machines and  
17                  equipment used primarily in administrative, accounting, sales, or other  
18                  segments of the dairy farm operation besides milk production, handling, and  
19                  storage.

20                  d. "Structural materials" means materials incorporated in the structure in which  
21                  the milking operation is conducted or materials incorporated in the waste  
22                  handling and disposal system associated with that structure.

23                  **SECTION 2.** A new section to chapter 57-39.5 of the North Dakota Century Code is  
24                  created and enacted as follows:

25                  **Gross receipts tax exemption - Farm machinery and equipment for dairy farm.**

26                  1. Gross receipts from the sale of farm machinery and equipment used directly and  
27                  exclusively in the milking operation of a dairy farm are exempt from taxes under  
28                  this chapter.

29                  2. For purposes of this section:

30                  a. "Equipment" means any tangible personal property, other than machinery,  
31                  used directly and exclusively in milk collection, handling, and storage; heating

1 or cooling of the structure in which the milking operation is conducted; or  
2 tangible personal property, other than machinery, used directly and  
3 exclusively for waste handling and disposal directly related to the milking  
4 operation, and which tangible personal property is not commonly usable in  
5 other agricultural operations.

6 b. "Machinery" means mechanical devices used directly and exclusively in milk  
7 collection, handling, and storage; heating or cooling of the structure in which  
8 the milking operation is conducted; or mechanical devices used directly and  
9 exclusively for waste handling and disposal directly related to the milking  
10 operation. The term includes electrical, mechanical, and electronic  
11 components that are part of machinery and necessary for a machine to  
12 produce its effect or result and environmental control equipment required to  
13 maintain certain levels of humidity or temperature. The term includes  
14 computer equipment that controls or monitors the functions of machinery  
15 used directly in the milking operation.

16 c. "Machinery" and "equipment" do not include handtools or transportation  
17 equipment commonly usable in other agricultural operations or machines and  
18 equipment used primarily in administrative, accounting, sales, or other  
19 segments for the dairy farm operation besides milk production, handling, and  
20 storage.

21 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable events  
22 occurring after June 30, 2005, and section 2 of this Act is effective for taxable events occurring  
23 after December 31, 2005.