

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2186

Introduced by

Senators Klein, Dotzenrod, Miller

Representatives Brandenburg, Pollert, Weisz

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota  
2 Century Code, relating to a sales and use tax exemption for purchases made by a contractor,  
3 subcontractor, or builder on behalf of a nonprofit hospital; to amend and reenact section  
4 57-40.2-03.3 of the North Dakota Century Code, relating to a use tax exemption for untaxed  
5 materials used by a contractor under contract with a nonprofit hospital; and to provide an  
6 effective date.

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

8 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is  
9 created and enacted as follows:

10 **Exemption for materials acquired by a contractor on behalf of a nonprofit**  
11 **hospital.**

- 12 1. A contractor, subcontractor, or builder that acquires materials, supplies, or  
13 equipment for use in the performance of a contract with a nonprofit hospital is  
14 entitled to a sales and use tax exemption for the acquisition of those items of  
15 tangible personal property. To qualify for the exemption under this section, the  
16 contractor, subcontractor, or builder shall present to the retailer a purchasing agent  
17 authorization letter and an exemption certificate or exemption number from the  
18 nonprofit hospital. Acquisition of building materials, supplies, or equipment is  
19 exempt under this exemption only to the extent the building materials, supplies, or  
20 equipment is installed or completely consumed in the performance of the contract  
21 with the nonprofit hospital.
- 22 2. If the contractor, subcontractor, or builder is also a retailer holding a retail sales tax  
23 permit under this chapter and transacting retail sales of materials, supplies, or  
24 equipment, the exemption under this section applies to building materials,

1           supplies, or equipment withdrawn from inventory for use in a contract with a  
2           nonprofit hospital if the person possesses a purchasing agent authorization letter  
3           and exemption certificate or exemption number from the nonprofit hospital.

4           3. For purposes of this section, "nonprofit hospital" means a hospital licensed by the  
5           state department of health and exempt from federal taxation under section  
6           501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)].

7           **SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code  
8 is amended and reenacted as follows:

9           **57-40.2-03.3. Use tax on contractors.**

10          1. When a contractor or subcontractor uses tangible personal property in the  
11           performance of that person's contract, or to fulfill contract or subcontract  
12           obligations, whether the title to such property be in the contractor, subcontractor,  
13           contractee, subcontractee, or any other person, or whether the titleholder of such  
14           property would be subject to pay the sales or use tax, such contractor or  
15           subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1  
16           measured by the purchase price or fair market value of such property, whichever is  
17           greater, unless such property has been previously subjected to a sales tax or use  
18           tax by this state, and the tax due thereon has been paid.

19          2. The provisions of this chapter pertaining to the administration of the tax imposed  
20           by section 57-40.2-02.1, not in conflict with the provisions of this section, govern  
21           the administration of the tax levied by this section.

22          3. The tax imposed by this section does not apply to ~~medical equipment purchased~~  
23           ~~as tangible personal property by a hospital or by a long term care facility as~~  
24           ~~defined in section 50-10.1-01 and subsequently installed by a contractor into such~~  
25           a nonprofit hospital or facility, licensed by the state department of health and  
26           exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code  
27           [26 U.S.C. 501(c)(3)], under a contract between the contractor and the nonprofit  
28           hospital.

29          4. The tax imposed by this section does not apply to:  
30           a. Production equipment or tangible personal property as authorized or  
31           approved for exemption by the commissioner under section 57-39.2-04.2; or

- 1                   b. Machinery, equipment, or other tangible personal property used to construct  
2                   an agricultural commodity processing facility as authorized or approved for  
3                   exemption by the commissioner under section 57-39.2-04.3 or 57-39.2-04.4.

4                   **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
5 June 30, 2009.