

Sixty-second
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2159

Introduced by

Senators Klein, Miller, Murphy

Representatives Weisz, Pollert, Damschen

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~~ materials used to construct, expand, or improve a nonprofit
4 hospital; ~~to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating~~
5 ~~to a use tax exemption for untaxed materials used by a contractor under contract with a~~
6 ~~nonprofit hospital;~~ and to provide an 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 created
9 and enacted as follows:

10 ~~Exemption for materials acquired by a contractor on behalf~~ Sales tax exemption for
11 construction, expansion, or improvement of a nonprofit hospital.

- 12 1. ~~A contractor, subcontractor, or builder that acquires materials, supplies, or equipment~~
13 ~~for use in the performance of a contract with a nonprofit hospital is entitled to a sales~~
14 ~~and use tax exemption for the acquisition of those items of tangible personal property.~~
15 ~~The exemption under this section and section 57-40.2-03.3 may not exceed a total~~
16 ~~exemption of more than five thousand dollars of sales and use taxes per year for each~~
17 ~~nonprofit hospital's contractors, subcontractors, or builders. To qualify for the~~
18 ~~exemption under this section, the contractor, subcontractor, or builder shall present to~~
19 ~~the retailer a purchasing agent authorization letter and an exemption certificate or~~
20 ~~exemption number from the nonprofit hospital. Acquisition of building materials,~~
21 ~~supplies, or equipment is exempt under this exemption only to the extent the building~~
22 ~~materials, supplies, or equipment is installed or completely consumed in the~~
23 ~~performance of the contract with the nonprofit hospital.~~ Gross receipts from building
24 materials, supplies, equipment, or other tangible personal property used to construct,

1 expand, or improve a nonprofit hospital in this state are exempt from the taxes under
2 this chapter. To qualify for the exemption, the building materials, supplies, equipment,
3 or other tangible personal property must be incorporated into the structure of the
4 hospital or consumed in the construction process to the point of not having any
5 residual economic value.

6 ~~2. If the contractor, subcontractor, or builder is also a retailer holding a retail sales tax~~
7 ~~permit under this chapter and transacting retail sales of materials, supplies, or~~
8 ~~equipment, the exemption under this section applies to building materials, supplies, or~~
9 ~~equipment withdrawn from inventory for use in a contract with a nonprofit hospital if~~
10 ~~the person possesses a purchasing agent authorization letter and exemption~~
11 ~~certificate or exemption number from the nonprofit hospital. If a contractor purchases~~
12 and installs the building materials, supplies, equipment, or other tangible personal
13 property, the hospital must apply to the commissioner for a refund of the sales tax paid
14 by the contractor for the qualifying tangible personal property. The refund amount for
15 each hospital claiming an exemption may not exceed five thousand dollars in any
16 fiscal year beginning after June 30, 2011, and each subsequent fiscal year. The
17 commissioner shall direct the time and manner by which the hospital must apply for
18 the refund. The application must include sufficient information to verify the correctness
19 of the refund claim.

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

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

25 ~~— 57-40.2-03.3. Use tax on contractors.~~

26 ~~— 1. — When a contractor or subcontractor uses tangible personal property in the~~
27 ~~performance of that person's contract, or to fulfill contract or subcontract obligations,~~
28 ~~whether the title to such property be in the contractor, subcontractor, contractee,~~
29 ~~subcontractee, or any other person, or whether the titleholder of such property would~~
30 ~~be subject to pay the sales or use tax, such contractor or subcontractor shall pay a~~
31 ~~use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price~~

1 or fair market value of such property, whichever is greater, unless such property has
2 been previously subjected to a sales tax or use tax by this state, and the tax due
3 thereon has been paid.

4 ~~2.~~ The provisions of this chapter pertaining to the administration of the tax imposed by
5 section ~~57-40.2-02.1~~, not in conflict with the provisions of this section, govern the
6 administration of the tax levied by this section.

7 ~~3.~~ The tax imposed by this section does not apply to medical equipment purchased as
8 tangible personal property by a hospital or by a long-term care facility as defined in
9 section ~~50-10.1-01~~ and subsequently installed by a contractor into such hospital or
10 facility or to tangible personal property completely consumed or installed by a
11 contractor into a nonprofit hospital licensed by the state department of health and
12 exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code
13 [26 U.S.C. 501(c)(3)] under a contract between the contractor and the nonprofit
14 hospital.

15 ~~4.~~ The tax imposed by this section does not apply to:

16 ~~a.~~ Production equipment or tangible personal property as authorized or approved
17 for exemption by the commissioner under section ~~57-39.2-04.2~~; or

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

21 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
22 June 30, 2011.