

**HOUSE BILL NO. 1159**

Introduced by

Representatives B. Koppelman, Delzer, Dockter, Ertelt, Hatlestad, Headland, Kasper,  
Kempenich, Schmidt

Senators Clemens, Kannianen, Unruh

1 A BILL for an Act to amend and reenact section 57-40.2-03.3 of the North Dakota Century  
2 Code, relating to payment of use tax by contractors; and to provide an effective date.

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

4 **SECTION 1. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **57-40.2-03.3. Use tax on contractors.**

- 7 1. When a contractor or subcontractor uses tangible personal property in the  
8 performance of that person's contract, or to fulfill contract or subcontract obligations,  
9 whether the title to ~~such~~the property be in the contractor, subcontractor, contractee,  
10 subcontractee, or any other person, or whether the titleholder of ~~such~~the property  
11 would be subject to pay the sales or use tax, ~~such~~the contractor or subcontractor shall  
12 pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the  
13 purchase price or fair market value of ~~such~~the property, whichever is greater, unless  
14 ~~such~~the property has been previously subjected to a sales tax or use tax by this state,  
15 and the tax due ~~thereon~~ has been paid. This section does not apply to a contractor or  
16 subcontractor that does not enter a contract for the purchase of the tangible personal  
17 property.
- 18 2. The provisions of this chapter pertaining to the administration of the tax imposed by  
19 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the  
20 administration of the tax levied by this section.
- 21 3. ~~The tax imposed by this section does not apply to medical equipment purchased as~~  
22 ~~tangible personal property by a hospital or by a long-term care facility as defined in-~~

1           ~~section 50-10.1-01 and subsequently installed by a contractor into such hospital or~~  
2           ~~facility.~~

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

4           a. Production equipment or tangible personal property as authorized or approved  
5           for exemption by the tax commissioner under section 57-39.2-04.2;

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

9           c. Tangible personal property used to construct or expand a system used to  
10          compress, process, gather, or refine gas recovered from an oil or gas well in this  
11          state or used to expand or build a gas-processing facility in this state as  
12          authorized or approved for exemption by the tax commissioner under section  
13          57-39.2-04.5;

14          d. Tangible personal property used to construct or expand a qualifying oil refinery as  
15          authorized or approved for exemption by the tax commissioner under section  
16          57-39.2-04.6;

17          e. Tangible personal property used to construct or expand a qualifying facility as  
18          authorized or approved for exemption by the tax commissioner under section  
19          57-39.2-04.10;

20          f. Tangible personal property used to construct or expand a qualifying facility as  
21          authorized or approved for exemption by the tax commissioner under section  
22          57-39.2-04.11;

23          g. Materials used in compressing, gathering, collecting, storing, transporting, or  
24          injecting carbon dioxide for use in enhanced recovery of oil or natural gas as  
25          provided in section 57-39.2-04.14; or

26          h. Tangible personal property used to construct a qualifying fertilizer or chemical  
27          processing facility as authorized or approved for exemption by the tax  
28          commissioner under section 57-39.2-04.15.

29           **SECTION 2. EFFECTIVE DATE.** This Act is effective for contracts entered after June 30,  
30    2018.