

Introduced by

Legislative Management

(Political Subdivision Taxation Committee)

1 A BILL for an Act to amend and reenact sections 57-39.2-04.9 and 57-40.2-03.3 of the North  
2 Dakota Century Code, relating to a sales and use tax exemption for equipment used in  
3 telecommunications infrastructure development; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-39.2-04.9 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-39.2-04.9. (~~Effective through June 30, 2017~~) Sales tax exemption for equipment**  
8 **used in telecommunications infrastructure development.**

- 9 1. Gross receipts from sales of tangible personal property used to construct or expand  
10 telecommunications service infrastructure that is capable of providing  
11 telecommunications service in this state are exempt from taxes under this chapter. To  
12 be exempt, the tangible personal property must be incorporated into  
13 telecommunications infrastructure owned by a telecommunications company.
- 14 2. To receive the exemption at the time of purchase, the purchaser must receive from the  
15 tax commissioner a certificate stating that the tangible personal property qualifies for  
16 the exemption. If a certificate is not received before the purchase, then the  
17 telecommunications company shall pay the applicable tax imposed and apply to the  
18 tax commissioner for a refund of sales and use taxes paid for which the exemption is  
19 claimed under this section. If the tangible personal property is purchased or installed  
20 by a contractor subject to the tax imposed by this chapter, the telecommunications  
21 company may apply for a refund of the difference between the amount remitted by the  
22 contractor and the exemption imposed or allowed under this section. Application for a  
23 refund must be made at the times and in the manner directed by the tax commissioner

1           and must include sufficient information to permit the tax commissioner to verify the  
2           sales and use taxes paid and the exempt status of the sale or use.

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

5           **57-40.2-03.3. (~~Effective through June 30, 2017~~) Use tax on contractors.**

- 6           1. When a contractor or subcontractor uses tangible personal property in the  
7           performance of that person's contract, or to fulfill contract or subcontract obligations,  
8           whether the title to such property be in the contractor, subcontractor, contractee,  
9           subcontractee, or any other person, or whether the titleholder of such property would  
10          be subject to pay the sales or use tax, such contractor or subcontractor shall pay a  
11          use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price  
12          or fair market value of such property, whichever is greater, unless such property has  
13          been previously subjected to a sales tax or use tax by this state, and the tax due  
14          thereon has been paid.
- 15          2. The provisions of this chapter pertaining to the administration of the tax imposed by  
16          section 57-40.2-02.1, not in conflict with the provisions of this section, govern the  
17          administration of the tax levied by this section.
- 18          3. The tax imposed by this section does not apply to medical equipment purchased as  
19          tangible personal property by a hospital or by a long-term care facility as defined in  
20          section 50-10.1-01 and subsequently installed by a contractor into such hospital or  
21          facility.
- 22          4. The tax imposed by this section does not apply to:
- 23              a. Production equipment or tangible personal property as authorized or approved  
24              for exemption by the tax commissioner under section 57-39.2-04.2;
- 25              b. Machinery, equipment, or other tangible personal property used to construct an  
26              agricultural commodity processing facility as authorized or approved for  
27              exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 28              c. Tangible personal property used to construct or expand a system used to  
29              compress, process, gather, or refine gas recovered from an oil or gas well in this  
30              state or used to expand or build a gas-processing facility in this state as

- 1 authorized or approved for exemption by the tax commissioner under section  
2 57-39.2-04.5;
- 3 d. Tangible personal property used to construct or expand a qualifying oil refinery as  
4 authorized or approved for exemption by the tax commissioner under section  
5 57-39.2-04.6;
- 6 e. Tangible personal property used to construct or expand a qualifying facility as  
7 authorized or approved for exemption by the tax commissioner under section  
8 57-39.2-04.10;
- 9 f. Tangible personal property used to construct or expand a qualifying facility as  
10 authorized or approved for exemption by the tax commissioner under section  
11 57-39.2-04.11;
- 12 g. Telecommunications infrastructure that is capable of providing  
13 telecommunications service as authorized or approved for exemption by the  
14 commissioner under chapter 57-39.2;
- 15 h. Materials used in compressing, gathering, collecting, storing, transporting, or  
16 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as  
17 provided in section 57-39.2-04.14; or
- 18 i. Tangible personal property used to construct a qualifying fertilizer or chemical  
19 processing facility as authorized or approved for exemption by the tax  
20 commissioner under section 57-39.2-04.15.

21 **(Effective after June 30, 2017) Use tax on contractors.**

- 22 1. ~~When a contractor or subcontractor uses tangible personal property in the~~  
23 ~~performance of that person's contract, or to fulfill contract or subcontract obligations,~~  
24 ~~whether the title to such property be in the contractor, subcontractor, contractee,~~  
25 ~~subcontractee, or any other person, or whether the titleholder of such property would~~  
26 ~~be subject to pay the sales or use tax, such contractor or subcontractor shall pay a~~  
27 ~~use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price~~  
28 ~~or fair market value of such property, whichever is greater, unless such property has~~  
29 ~~been previously subjected to a sales tax or use tax by this state, and the tax due~~  
30 ~~thereon has been paid.~~

- 1       2.    ~~The provisions of this chapter pertaining to the administration of the tax imposed by~~  
2       ~~section 57-40.2-02.1, not in conflict with the provisions of this section, govern the~~  
3       ~~administration of the tax levied by this section.~~
- 4       3.    ~~The tax imposed by this section does not apply to medical equipment purchased as~~  
5       ~~tangible personal property by a hospital or by a long-term care facility as defined in~~  
6       ~~section 50-10.1-01 and subsequently installed by a contractor into such hospital or~~  
7       ~~facility.~~
- 8       4.    ~~The tax imposed by this section does not apply to:~~
- 9       a.    ~~Production equipment or tangible personal property as authorized or approved~~  
10      ~~for exemption by the tax commissioner under section 57-39.2-04.2;~~
- 11      b.    ~~Machinery, equipment, or other tangible personal property used to construct an~~  
12      ~~agricultural commodity processing facility as authorized or approved for~~  
13      ~~exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;~~
- 14      c.    ~~Tangible personal property used to construct or expand a system used to~~  
15      ~~compress, process, gather, or refine gas recovered from an oil or gas well in this~~  
16      ~~state or used to expand or build a gas processing facility in this state as~~  
17      ~~authorized or approved for exemption by the tax commissioner under section~~  
18      ~~57-39.2-04.5;~~
- 19      d.    ~~Tangible personal property used to construct or expand a qualifying oil refinery as~~  
20      ~~authorized or approved for exemption by the tax commissioner under section~~  
21      ~~57-39.2-04.6;~~
- 22      e.    ~~Tangible personal property used to construct or expand a qualifying facility as~~  
23      ~~authorized or approved for exemption by the tax commissioner under section~~  
24      ~~57-39.2-04.10;~~
- 25      f.    ~~Tangible personal property used to construct or expand a qualifying facility as~~  
26      ~~authorized or approved for exemption by the tax commissioner under section~~  
27      ~~57-39.2-04.11;~~
- 28      g.    ~~Materials used in compressing, gathering, collecting, storing, transporting, or~~  
29      ~~injecting carbon dioxide for use in enhanced recovery of oil or natural gas as~~  
30      ~~provided in section 57-39.2-04.14; or~~

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

4           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
5           June 30, 2017.