

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED 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 is required to hold a valid class B, C, or D license issued under
17 chapter 43-07 and does not enter a contract for the purchase of the tangible personal
18 property.
- 19 2. The provisions of this chapter pertaining to the administration of the tax imposed by
20 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
21 administration of the tax levied by this section.
- 22 3. The tax imposed by this section does not apply to medical equipment purchased as
23 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 2019.