

Introduced by

Representatives Headland, Heller, Kreidt, Laning

Senators Cook, Unruh

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 tax exemption for tangible personal property used to construct  
3 or expand a facility for use of coal gasification byproducts; to amend and reenact section  
4 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for tangible  
5 personal property used to construct or expand a facility for use of coal gasification byproducts;  
6 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 **Sales tax exemption for materials used to construct a facility for coal gasification**  
11 **byproducts.**

- 12 1. Gross receipts from sales of tangible personal property used to construct or expand a  
13 facility in this state to extract or process byproducts associated with coal gasification  
14 are exempt from taxes under this chapter. To be exempt, the tangible personal  
15 property must be incorporated in the structure of the facility or used in the construction  
16 process to the point of having no residual economic value.
- 17 2. To receive the exemption at the time of purchase, the owner of the facility must receive  
18 from the commissioner a certificate that the tangible personal property used to  
19 construct the processing facility which the owner intends to purchase qualifies for the  
20 exemption. If a certificate is not received prior to the purchase, the owner shall pay the  
21 applicable tax imposed by this chapter and apply to the commissioner for a refund.
- 22 3. If the tangible personal property is purchased or installed by a contractor subject to the  
23 tax imposed by this chapter, the owner may apply for a refund of the difference

1           between the amount remitted by the contractor and the exemption imposed or allowed  
2           by this section.

3           4. For purposes of this section, "coal gasification" and "byproducts" have the same  
4           meaning as defined in chapter 57-60.

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

7           **57-40.2-03.3. Use tax on contractors.**

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

- 1 state or used to expand or build a gas-processing facility in this state as  
2 authorized or approved for exemption by the tax commissioner under section  
3 57-39.2-04.5; or  
4 d. Tangible personal property used to construct to expand a qualifying oil refinery as  
5 authorized or approved for exemption by the tax commissioner under section  
6 57-39.2-04.6.  
7 e. Tangible personal property used to construct or expand a qualifying facility as  
8 authorized or approved for exemption by the tax commissioner under section 1 of  
9 this Act.

10 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
11 June 30, 2013.