

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

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 sales tax exemption for tangible personal property used to
3 construct a fertilizer or chemical processing facility; to amend and reenact subsection 4 of
4 section 57-40.2-03.3 of the North Dakota Century Code, relating to an use tax exemptions
5 for tangible personal property used to construct a fertilizer or chemical processing facility;
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
9 created and enacted as follows:

10 **Sales and use tax exemption for materials used to construct a fertilizer or**
11 **chemical processing facility.**

12 1. Gross receipts from sales of tangible personal property used to construct or expand
13 a fertilizer or chemical processing facility in this state are exempt from taxes under
14 this chapter. To be exempt, the tangible personal property must be incorporated in
15 the structure of the facility or used in the construction process to the point of having
16 no residual economic value. Tangible personal property used to replace an existing
17 facility or portion of a facility does not qualify for exemption under this section unless
18 the replacement creates an expansion of the facility.

19 2. To receive the exemption under this section at the time of purchase, the owner of
20 the processing facility must receive from the tax commissioner a certificate that the

Sixty-fourth
Legislative Assembly

1 tangible personal property used to construct or expand the processing facility which
2 the owner intends to purchase qualifies for exemption. If a certificate is not received
3 before the purchase, the owner shall pay the applicable tax imposed by this chapter
4 and apply to the tax commissioner for a refund.

5 3. If the tangible personal property is purchased or installed by a contractor subject to
6 the tax imposed by this chapter, the owner may apply for a refund of the difference
7 between the amount remitted by the contractor and the exemption imposed or
8 allowed by this section. Application for refund must be made at the times and in the
9 manner directed by the tax commissioner and must include sufficient information to
10 permit the tax commissioner to verify the sales and use taxes paid and the exempt
11 status of the sale or use.

12 4. For purposes of this section, a fertilizer or chemical processing facility means a
13 processing plant that produces for retail or wholesale a fertilizer, chemical, or
14 chemical derivative from natural gas, natural gas liquids, or crude oil components.

15 **SECTION 2. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota
16 Century Code is amended and reenacted as follows:

- 17 4. The tax imposed by this section does not apply to:
- 18 a. Production equipment or tangible personal property as authorized or approved
19 for exemption by the tax commissioner under section 57-39.2-04.2;
 - 20 b. Machinery, equipment, or other tangible personal property used to construct an
21 agricultural commodity processing facility as authorized or approved for
22 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
 - 23 c. Tangible personal property used to construct or expand a system used to
24 compress, process, gather, or refine gas recovered from an oil or gas well in

Sixty-fourth
Legislative Assembly

1 this 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;

4 d. Tangible personal property used to construct to expand a qualifying oil refinery
5 as authorized or approved for exemption by the tax commissioner under section
6 57-39.2-04.6; or

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
9 57-39.2-04.10;

10 f. Tangible personal property used to construct or expand a qualifying facility as
11 authorized or approved for exemption by the tax commissioner under section
12 57-39.2-04.11; or

13 g. Telecommunications infrastructure that is capable of providing
14 telecommunications service as authorized or approved for exemption by the
15 commissioner under chapter 57-39.2; or

16 h. Tangible personal property used to construct or expand a qualifying fertilizer or
17 chemical processing facility as authorized or approved for exemption by the tax
18 commissioner under section 1 of this Act.

19 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring
20 after June 30, 2015.