

**SENATE BILL NO. 2202**

Introduced by

Senators Klein, Hogue, Sorvaag

Representatives Hatlestad, Heller, Streyle

1 A BILL for an Act to amend and reenact sections 57-39.2-04.5, 57-39.2-04.6, and 57-40.2-03.3  
2 of the North Dakota Century Code, relating to the sales and use tax exemption for materials  
3 used in compressing, processing, gathering, or refining gas, the sales and use tax exemption  
4 for materials used in construction or expansion of an oil refinery, and the use tax on contractors;  
5 and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 57-39.2-04.5 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **57-39.2-04.5. Sales and use tax exemption for materials used in compressing,**  
10 **processing, gathering, or refining of gas.**

- 11 1. Gross receipts from sales of tangible personal property used to construct or expand a  
12 system used to compress, process, gather, or refine gas recovered from an oil or gas  
13 well in this state or used to expand or build a gas-processing facility in this state are  
14 exempt from taxes under this chapter. To be exempt, the tangible personal property  
15 must be incorporated into a system used to compress, process, gather, or refine gas.  
16 Tangible personal property used to replace an existing system to compress, process,  
17 gather, or refine gas does not qualify for exemption under this section unless the  
18 replacement creates an expansion of the system.
- 19 2. To receive the exemption under this section at the time of purchase, the owner of the  
20 gas compressing, processing, gathering, or refining system must receive from the tax  
21 commissioner a certificate that the tangible personal property used to construct or  
22 expand a system used to compress, process, gather, or refine gas recovered from an  
23 oil or gas well in this state or used to expand or build a gas-processing facility in this  
24 state which the owner intends to purchase qualifies for exemption. If a certificate is not

1 received before the purchase, the owner shall pay the applicable tax imposed by this  
2 chapter and apply to the tax commissioner for a refund.

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

12 **SECTION 2. AMENDMENT.** Section 57-39.2-04.6 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **57-39.2-04.6. Sales and use tax exemption for materials used in construction or**  
15 **expansion of an oil refinery.**

16 1. Gross receipts from sales of tangible personal property used in expanding or  
17 constructing an oil refinery that has a nameplate capacity of processing at least five  
18 thousand barrels of oil per day in this state are exempt from taxes under this chapter.

19 2. ~~The~~To receive the exemption at the time of purchase, the owner of the tangible-  
20 ~~personal property~~oil refinery must apply to receive from the tax commissioner for a  
21 ~~refund of sales and use taxes paid by any contractor, subcontractor, or builder for~~  
22 ~~which the sales or use is claimed as exempt under this section~~a certificate that the  
23 tangible personal property used to construct or expand an oil refinery qualifying under  
24 this section which the owner intends to purchase qualifies for the exemption. If a  
25 certificate is not received before the purchase, the owner shall pay the applicable tax  
26 imposed by this chapter and apply to the tax commissioner for a refund.

27 3. If the tangible personal property is purchased or installed by a contractor subject to the  
28 tax imposed by this chapter, the owner of the oil refinery may apply for a refund of the  
29 difference between the amount remitted by the contractor and the exemption imposed  
30 or allowed under this section. Application for a refund must be made at the times and  
31 in the manner directed by the tax commissioner and must include sufficient information

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

3 ~~3.4.~~ This chapter and chapter 57-40.2 apply to the exemption under this section.

4 **SECTION 3. 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 property be in the contractor, subcontractor, contractee,  
10 subcontractee, or any other person, or whether the titleholder of such property would  
11 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a  
12 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price  
13 or fair market value of such property, whichever is greater, unless such property has  
14 been previously subjected to a sales tax or use tax by this state, and the tax due  
15 thereon has been paid.
- 16 2. The provisions of this chapter pertaining to the administration of the tax imposed by  
17 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the  
18 administration of the tax levied by this section.
- 19 3. The tax imposed by this section does not apply to medical equipment purchased as  
20 tangible personal property by a hospital or by a long-term care facility as defined in  
21 section 50-10.1-01 and subsequently installed by a contractor into such hospital or  
22 facility.
- 23 4. The tax imposed by this section does not apply to:
- 24 a. Production equipment or tangible personal property as authorized or approved  
25 for exemption by the tax commissioner under section 57-39.2-04.2; or
- 26 b. Machinery, equipment, or other tangible personal property used to construct an  
27 agricultural commodity processing facility as authorized or approved for  
28 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4.;
- 29 c. Tangible personal property used to construct or expand a system used to  
30 compress, process, gather, or refine gas recovered from an oil or gas well in this  
31 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; or  
3                    d. Tangible personal property used to construct to 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                    **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
7 June 30, 2011.