

SENATE BILL NO. 2035

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

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 a fertilizer or chemical processing facility; to amend and reenact subsection 4 of section
4 57-40.2-03.3 of the North Dakota Century Code, relating to a use tax exemption for tangible
5 personal property used to construct a fertilizer or chemical processing facility; and to provide for
6 a retroactive 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 and use tax exemption for materials used to construct a fertilizer or chemical**
11 **processing facility.**

- 12 1. Gross receipts from sales of tangible personal property used to construct or expand a
13 fertilizer or chemical processing facility in this state are exempt from taxes under this
14 chapter. To be exempt, the tangible personal property must be incorporated in the
15 structure of the facility or used in the construction process to the point of having no
16 residual economic value. Tangible personal property used to replace an existing facility
17 or portion of a facility does not qualify for exemption under this section unless the
18 replacement creates an expansion of the facility.
- 19 2. To receive the exemption under this section at the time of purchase, the owner of the
20 processing facility must receive from the tax commissioner a certificate that the
21 tangible personal property used to construct or expand the processing facility which
22 the owner intends to purchase qualifies for exemption. If a certificate is not received
23 before the purchase, the owner shall pay the applicable tax imposed by this chapter
24 and apply to the tax commissioner for a refund.

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

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

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

- 13 4. The tax imposed by this section does not apply to:
- 14 a. Production equipment or tangible personal property as authorized or approved
15 for exemption by the tax commissioner under section 57-39.2-04.2;
 - 16 b. Machinery, equipment, or other tangible personal property used to construct an
17 agricultural commodity processing facility as authorized or approved for
18 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
 - 19 c. Tangible personal property used to construct or expand a system used to
20 compress, process, gather, or refine gas recovered from an oil or gas well in this
21 state or used to expand or build a gas-processing facility in this state as
22 authorized or approved for exemption by the tax commissioner under section
23 57-39.2-04.5;
 - 24 d. Tangible personal property used to construct or expand a qualifying oil refinery as
25 authorized or approved for exemption by the tax commissioner under section
26 57-39.2-04.6;
 - 27 e. Tangible personal property used to construct or expand a qualifying facility as
28 authorized or approved for exemption by the tax commissioner under section
29 57-39.2-04.10;

- 1 f. Tangible personal property used to construct or expand a qualifying facility as
2 authorized or approved for exemption by the tax commissioner under section
3 57-39.2-04.11; ~~or~~
- 4 g. Telecommunications infrastructure that is capable of providing
5 telecommunications service as authorized or approved for exemption by the
6 commissioner under chapter 57-39.2; or
- 7 h. Tangible personal property used to construct or expand a qualifying fertilizer or
8 chemical processing facility as authorized or approved for exemption by the tax
9 commissioner under section 1 of this Act.

10 **SECTION 3. EFFECTIVE DATE - RETROACTIVE APPLICATION.** This Act is retroactively
11 effective, and applies to taxable events occurring after December 31, 2014.