

Introduced by

Representatives Thoreson, Belter, Haak, Headland, Owens

Senators Cook, O'Connell, Oehlke

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subsection to  
2 section 57-39.2-04 of the North Dakota Century Code, relating to ~~a~~ sales tax  
3 ~~exemption~~ exemptions for materials used to construct a processing facility to produce liquefied  
4 natural gas and for liquified natural gas used for railroad purposes; to amend and reenact  
5 ~~section 57-39.2-04.5~~ subsection 4 of section 57-40.2-03.3, subsection 5 of section 57-40.2-04,  
6 and section 57-43.2-02.3 of the North Dakota Century Code, relating to exemption from sales  
7 and use and special fuels taxes for liquified natural gas used for railroad purposes and  
8 materials used to liquify natural gas; and to provide an effective date.

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

10 **SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is  
11 created and enacted as follows:

12 Gross receipts from sales of liquified natural gas used for railroad purposes as defined  
13 in section 57-43.2-01.

14 ~~SECTION 2. AMENDMENT. Section 57-39.2-04.5 of the North Dakota Century Code is~~  
15 ~~amended and reenacted as follows:~~

16 ~~57-39.2-04.5. Sales and use tax exemption for materials used in compressing,~~  
17 ~~processing, gathering, liquifying, or refining of gas.~~

18 ~~1. Gross receipts from sales of tangible personal property used to construct or expand a~~  
19 ~~system used to compress, process, gather, liquify, or refine gas recovered or sourced~~  
20 ~~from an oil or gas well in this state or used to expand or build a gas processing facility~~  
21 ~~in this state are exempt from taxes under this chapter. To be exempt, the tangible~~  
22 ~~personal property must be incorporated into a system used to compress, process,~~  
23 ~~gather, liquify, or refine gas. Tangible personal property used to replace an existing~~  
24 ~~system to compress, process, gather, liquify, or refine gas does not qualify for~~

1 exemption under this section unless the replacement creates an expansion of the  
2 system.

3 ~~2. To receive the exemption under this section at the time of purchase, the owner of the~~  
4 ~~gas compressing, processing, gathering, liquifying, or refining system must receive~~  
5 ~~from the tax commissioner a certificate that the tangible personal property used to~~  
6 ~~construct or expand a system used to compress, process, gather, liquify, or refine gas~~  
7 ~~recovered or sourced from an oil or gas well in this state or used to expand or build a~~  
8 ~~gas processing facility in this state which the owner intends to purchase qualifies for~~  
9 ~~exemption. If a certificate is not received before the purchase, the owner shall pay the~~  
10 ~~applicable tax imposed by this chapter and apply to the tax commissioner for a refund.~~

11 ~~3. If the tangible personal property is purchased or installed by a contractor subject to the~~  
12 ~~tax imposed by this chapter, the owner of the gas compressing, processing, gathering,~~  
13 ~~liquifying, or refining system may apply to the tax commissioner for a refund of the~~  
14 ~~difference between the amount remitted by the contractor and the exemption imposed~~  
15 ~~or allowed by this section. Application for a refund must be made at the times and in~~  
16 ~~the manner directed by the tax commissioner and must include sufficient information~~  
17 ~~to permit the tax commissioner to verify the sales and use taxes paid and the exempt~~  
18 ~~status of the sale or use.~~

19 **SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
20 and enacted as follows:

21 **Sales tax exemption for materials used to construct a processing facility to produce**  
22 **liquefied natural gas.**

23 1. Gross receipts from sales of tangible personal property used to construct or expand a  
24 processing facility in this state to produce liquefied natural gas are exempt from taxes  
25 under this chapter. To be exempt, the tangible personal property must be incorporated  
26 in the structure of the facility or used in the construction process to the point of having  
27 no residual economic value.

28 2. To receive the exemption at the time of purchase, the owner of the processing facility  
29 must receive from the commissioner a certificate that the tangible personal property  
30 used to construct the processing facility which the owner intends to purchase qualifies  
31 for the exemption. If a certificate is not received prior to the purchase, the owner shall

1 pay the applicable tax imposed by this chapter and apply to the commissioner for a  
2 refund.

3 3. If the tangible personal property is purchased or installed by a contractor subject to the  
4 tax imposed by this chapter, the owner may apply for a refund of the difference  
5 between the amount remitted by the contractor and the exemption imposed or allowed  
6 by this section.

7 **SECTION 3. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 4. The tax imposed by this section does not apply to:

- 10 a. Production equipment or tangible personal property as authorized or approved  
11 for exemption by the tax commissioner under section 57-39.2-04.2;
- 12 b. Machinery, equipment, or other tangible personal property used to construct an  
13 agricultural commodity processing facility as authorized or approved for  
14 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 15 c. Tangible personal property used to construct or expand a system used to  
16 compress, process, gather, or refine gas recovered from an oil or gas well in this  
17 state or used to expand or build a gas-processing facility in this state as  
18 authorized or approved for exemption by the tax commissioner under section  
19 57-39.2-04.5; ~~or~~
- 20 d. Tangible personal property used to construct to expand a qualifying oil refinery as  
21 authorized or approved for exemption by the tax commissioner under section  
22 57-39.2-04.6; or
- 23 e. Tangible personal property used to construct or expand a qualifying facility as  
24 authorized or approved for exemption by the tax commissioner under section 2 of  
25 this Act.

26 **SECTION 4. AMENDMENT.** Subsection 5 of section 57-40.2-04 of the North Dakota  
27 Century Code is amended and reenacted as follows:

- 28 5. Railway cars and locomotives used in interstate commerce; and tangible personal  
29 property which becomes a component part thereof and liquified natural gas used for a  
30 railroad purpose as defined in section 57-43.2-01.

1       **SECTION 5. AMENDMENT.** Section 57-43.2-02.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **57-43.2-02.3. Exemptions.**

- 4       1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax  
5 exemption purposes and sold for an agricultural, industrial, or railroad purpose is  
6 exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is  
7 sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03.  
8 Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes  
9 and sold for use as heating fuel is exempt from the special fuel tax imposed by  
10 sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor  
11 vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 12       2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad  
13 purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time  
14 the fuel is sold to the consumer and is subject instead to the tax imposed by section  
15 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax  
16 imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the  
17 consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel  
18 is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at  
19 the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor  
20 vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 21       3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a  
22 component part of tangible personal property intended to be sold ultimately at retail is  
23 exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax  
24 imposed by section 57-43.2-03.
- 25       4. Liquified natural gas sold or used for a railroad purpose is exempt from the special fuel  
26 tax imposed by sections 57-43.2-02 and 57-43.2-03.

27       **SECTION 6. EFFECTIVE DATE.** ~~This Act is~~ Sections 2 and 3 of this Act are effective for  
28 taxable events occurring after June 30, 2013. Sections 1, 4, and 5 of this Act are effective upon  
29 receipt of certification by the tax commissioner from the plant owner that construction of the gas  
30 liquefaction plant is complete.